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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–1170; Project Identifier MCAI–2020–01572–G; Amendment 39–21970; AD 2022–06–04]

RIN 2120–AA64

Airworthiness Directives; Schempp-Hirth Flugzeugbau GmbH Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Schempp-Hirth Flugzeugbau GmbH Model Janus, Mini-Nimbus HS–7, Nimbus-2, and Standard Cirrus gliders. 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 disconnected pendulum elevator. This AD requires installing colored markings and revising the existing aircraft flight manual (FM) and service manual (SM). The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 9, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 9, 2022.

ADDRESSES: For service information identified in this final rule, contact Schempp-Hirth Flugzeugbau GmbH, Krebenstrasse 25, 73230 Kirchheim/Teck, Germany; phone: +49 7021 7298–0; fax: +49 7021 7298–199; email: *info@schempp-hirth.com;* website: *https://www.schempp-hirth.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1170.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1170; 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: Jim Rutherford, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 901 Locust, Room 301, Kansas City, MO 64106; phone: (816) 329–4165; email: *jim.rutherford@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 Schempp-Hirth Flugzeugbau GmbH Model Janus, Mini-Nimbus HS–7, Nimbus-2, and Standard Cirrus gliders. The NPRM published in the **Federal Register** on January 3, 2022 (87 FR 55). The NPRM was prompted by MCAI originated by the European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union. EASA issued AD 2020–0260, dated November 26, 2020 (referred to after this as ''the MCAI''), to address an unsafe condition on certain serial numbered Schempp-Hirth Flugzeugbau GmbH Model Janus, Mini-Nimbus HS 7, Nimbus-2, Standard Cirrus, Standard Cirrus B, Standard Cirrus CS 11–75L, and Nimbus-2M gliders. The MCAI states:

> During an aero tow of a Standard Cirrus, the pendulum elevator disconnected. The technical investigation concluded that the elevator attachment was not properly locked. Due to similarity of design, this kind of event could also occur on other Schempp-Hirth sailplanes, including Nimbus-2M powered sailplanes.
>
> This condition, if not corrected, could lead to failure of the elevator connection and loss of control of the (powered) sailplane.
>
> To address this potential unsafe condition, Schempp-Hirth published the [technical note] TN, providing instructions to install an optical indicator and to update the Aircraft Flight Manual (AFM).
>
> For the reasons described above, this [EASA] AD requires installation of an optical indicator and amendment of the AFM.

You may examine the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1170.

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed Schempp-Hirth Flugzeugbau GmbH Technical Note No. 278–40/286–36/295–33/328–14/798–4, Revision 1, dated November 12, 2020 (issued as one document). The service information specifies procedures for installing colored markings to the top of the elevator on both sides of the locking mechanism and revising the existing aircraft FM and SM. 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 applies to Schempp-Hirth Flugzeugbau GmbH Model Standard

Cirrus B, Standard Cirrus CS 11–75L, and Nimbus-2M gliders, and this AD does not because these models do not have an FAA type certificate.

Costs of Compliance

The FAA estimates that this AD affects 87 gliders 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
Install markings	1 work-hour × $85 per hour = $85	$10	$95	$8,265
Revise FM and SM	1 work-hour × $85 per hour = $85	0	85	7,395

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 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:

2022–06–04 Schempp-Hirth Flugzeugbau GmbH: Amendment 39–21970; Docket No. FAA–2021–1170; Project Identifier MCAI–2020–01572–G.

(a) Effective Date

This airworthiness directive (AD) is effective May 9, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Schempp-Hirth Flugzeugbau GmbH Model Janus, Mini-Nimbus HS–7, Nimbus-2, and Standard Cirrus gliders, with a serial number listed in Schempp-Hirth Flugzeugbau GmbH Technical Note No. 278–40/286–36/295–33/328–14/798–4, Revision 1, dated November 12, 2020 (issued as one document), certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 2700, Flight Control 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 disconnected pendulum elevator. The FAA is issuing this AD to prevent an improperly locked elevator attachment. The unsafe condition, if not addressed, could result in failure of the elevator connection and loss of control of the glider.

(f) Compliance

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

(g) Required Actions

Within 90 days after the effective date of this AD, do the following actions concurrently.

(1) Install colored markings on the elevator in accordance with Action 1 in Schempp-Hirth Flugzeugbau GmbH Technical Note No. 278–40/286–36/295–33/328–14/798–4, Revision 1, dated November 12, 2020 (issued as one document).

(2) Revise the existing aircraft flight manual (FM) and service manual (SM) for your glider by replacing the pages specified in Action 2 in Schempp-Hirth Flugzeugbau GmbH Technical Note No. 278–40/286–36/295–33/328–14/798–4, Revision 1, dated November 12, 2020 (issued as one document), as applicable to your glider, with the revised pages for the manual applicable to your glider dated June 2020.

(3) The action required by paragraph (g)(2) of this AD may be performed by the owner/operator (pilot) holding at least a private pilot certificate and must be entered into the aircraft records showing compliance with this AD in accordance with 14 CFR 43.9(a)(1) through (4) and 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (i)(1) of this AD 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 Jim Rutherford, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 901 Locust, Room 301, Kansas City, MO 64106; phone: (816) 329–4165; email: *jim.rutherford@faa.gov.*

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2020–0260, dated November 26, 2020, for more information.

You may examine the EASA AD in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1170.

(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) Schempp-Hirth Flugzeugbau GmbH Technical Note No. 278–40/286–36/295–33/328–14/798–4, Revision 1, dated November 12, 2020 (issued as one document).

Note 1 to paragraph (j)(2)(i): This service information contains German to English translation. EASA used the English translation in referencing the document from Schempp-Hirth Flugzeugbau GmbH. For enforceability purposes, the FAA will cite references to the service information in English as it appears on the document.

(ii) [Reserved]

(3) For service information identified in this AD, contact Schempp-Hirth Flugzeugbau GmbH, Krebenstrasse 25, 73230 Kirchheim/Teck, Germany; phone: +49 7021 7298–0; fax: +49 7021 7298–199; email: *info@schempp-hirth.com;* website: *https://www.schempp-hirth.com.*

(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 March 10, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–06959 Filed 4–1–22; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0006; Project Identifier AD–2021–01298–R; Amendment 39–21989; AD 2022–07–02]

RIN 2120–AA64

Airworthiness Directives; Bell Textron Inc. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Bell Textron Inc. Model 205A, 205A–1, 205B, 210, 212, 412, 412CF, and 412EP helicopters with a certain part-numbered tailboom left hand fin spar cap (spar cap) installed. This AD was prompted by reports of cracked spar caps. This AD requires inspecting each spar cap and depending on the inspection results, removing the spar cap from service. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 9, 2022.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of May 9, 2022.

ADDRESSES: For service information identified in this final rule, contact Bell Textron, Inc., P.O. Box 482, Fort Worth, TX 76101, United States; phone: (450) 437–2862 or (800) 363–8023; fax (450) 433–0272; email *productsupport@bellflight.com;* or at *https://www.bellflight.com/support/contact-support.* You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0006.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0006; 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: Ameet Shrotriya, Aviation Safety Engineer, DSCO Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177–1524; phone: (817) 222–5525; email: *Ameet.Shrotriya@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 Bell Textron Inc. Model 205A, 205A–1, 205B, 210, 212, 412, 412CF, and 412EP helicopters with a spar cap part number 212–030–447–117 installed. The NPRM published in the **Federal Register** on January 21, 2022 (87 FR 3244). The NPRM was prompted by multiple reports of fatigue cracking in the spar caps. Metallurgical lab reports identified that the cracks originate at the rivet holes, possibly from mechanical damage caused during deburring. In the NPRM, the FAA proposed to require inspecting each spar cap and depending on the inspection results, removing the spar cap from service before further flight. The FAA is issuing this AD to address the unsafe condition on these products.

Discussion of Final Airworthiness Directive

Comments

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

Conclusion

The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, this AD is adopted as proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

The FAA reviewed the following Bell Alert Service Bulletins, each dated April 15, 2020 (ASB):

- ASB 205–20–116 for Model 205A and 205A–1 helicopters, serial numbers (S/N) 30001 through 30065, 30067 through 30165, 30167 through 30187, 30189 through 30296, and 30298 through 30332;
- ASB 205B–20–69 for Model 205B helicopters, S/N 30066, 30166, 30188, and 30297;
- ASB 210–20–13 for all serial-numbered Model 210 helicopters;
- ASB 212–20–162 for Model 212 helicopters, S/N 30502 through 30603, 30611 through 30999, 31101 through 31311, 32101 through 32142, and 35001 through 35103;
- ASB 412–20–180 for Model 412 and 412EP helicopters, S/N 33001 through 33213, 34001 through 34036, 36001 through 36999, 37002 through 37999, 38001 through 38999, and 39101 through 39999; and
- ASB 412CF–20–67 for Model 412CF helicopters, S/N 46400 through 46499.

Bell received a report of a fractured fin spar cap that occurred at vertical fin station (F.S.) 71 through the first rivet hole attaching the skin to the spar cap. Bell states that if undetected, the spar

cap cracking may lead to additional structural damage. Each ASB specifies procedures for inspecting both flanges of the spar cap between F.S. 50 and F.S. 71 for cracks, loose rivets, and other damage using a 10x magnifying glass and flashlight and inspecting the exterior of the fin skin where it contacts the spar cap for cracks, loose rivets, and/or distortion. If no cracks or other damage are found, each ASB specifies returning the helicopter to service; if a crack or other damage is found, each ASB specifies contacting Bell's Product Support Engineering before further flight. Additionally, each ASB specifies that these inspections are to be accomplished within the next 100 flight hours or 90 days after the ASB's release, whichever occurs first, and every 100 flight hours thereafter.

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

Interim Action

The FAA considers this AD to be an interim action. The design approval holder may develop a modification that will address the unsafe condition identified in this AD. Once this modification is developed, approved, and available, the FAA might consider additional rulemaking.

Costs of Compliance

The FAA estimates that this AD affects 226 helicopters of U.S. registry. The FAA estimates the following costs to comply with this AD, using an average labor rate of $85 per work-hour.

Each inspection takes about 1 work-hour, and there are no parts costs, for an estimated cost of $85 per inspection and $19,210 for the U.S. fleet per inspection cycle. Replacing a spar cap, if required, takes about 50 work-hours and parts costs about $2,000, for an estimated cost of $6,250 per spar cap replacement.

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:

2022–07–02 Bell Textron Inc.: Amendment 39–21989; Docket No. FAA–2022–0006; Project Identifier AD–2021–01298–R.

(a) Effective Date

This airworthiness directive (AD) is effective May 9, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the following Bell Textron Inc. helicopters certificated in any category, with a tailboom left hand fin spar cap (spar cap) part number 212–030–447–117 installed.

(1) Model 205A and 205A–1 helicopters, serial number (S/N) 30001 through 30065 inclusive, 30067 through 30165 inclusive, 30167 through 30187 inclusive, 30189 through 30296 inclusive, and 30298 through 30332 inclusive;

(2) Model 205B helicopters, S/N 30066, 30166, 30188, and 30297;

(3) Model 210 helicopters, all S/Ns;

(4) Model 212 helicopters, S/N 30502 through 30603 inclusive, 30611 through 30999 inclusive, 31101 through 31311 inclusive, 32101 through 32142 inclusive, and 35001 through 35103 inclusive;

(5) Model 412 and 412EP helicopters, S/N 33001 through 33213 inclusive, 34001 through 34036 inclusive, 36001 through 36999 inclusive, 37002 through 37999 inclusive, 38001 through 38999 inclusive, and 39101 through 39999 inclusive; and

(6) Model 412CF helicopters, S/N 46400 through 46499 inclusive.

(d) Subject

Joint Aircraft System Component (JASC) Code 5302, Rotorcraft Tail Boom.

(e) Unsafe Condition

This AD was prompted by the discovery of fatigue cracking in the spar cap. A crack in the spar cap, if not detected and corrected, could create stress concentrations at the edge of the rivet holes, resulting in reduced structural integrity of the helicopter and subsequent loss of control of the helicopter. The FAA is issuing this AD to detect and prevent this unsafe condition.

(f) Compliance

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

(g) Required Actions

Within 100 hours time-in-service (TIS) after the effective date of this AD, and thereafter at intervals not to exceed 100 hours TIS:

(1) Using a 10x or higher power magnifying glass and a flashlight, inspect both flanges of the spar cap between fin station (F.S.) 50 and F.S. 71 for any crack, loose rivet, and other damage such as a scratch, dent, spalling, or corrosion, as depicted in Figure 1 of Bell Alert Service Bulletin (ASB) 205–20–116, ASB 205B–20–69, ASB 210–20–13, ASB 212–20–162, ASB 412–20–180, or ASB 412CF–20–67, each dated April 15, 2020, as applicable to your helicopter. If either spar cap flange is cracked, has a loose rivet, or has other damage, remove the spar cap from service before further flight.

(2) Inspect the exterior of the fin skin in the area that contacts the spar cap for any crack, loose rivets, and distortion. If there is any crack, loose rivet, or distortion in the fin skin in the area that contacts the spar cap, remove the spar cap from service before further flight.

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, DSCO 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: *9-ASW-190-COS@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 Ameet Shrotriya, Aviation Safety Engineer, DSCO Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177–1524; phone: (817) 222–5525; email: *Ameet.Shrotriya@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) Bell Alert Service Bulletin 205–20–116, dated April 15, 2020.

(ii) Bell Alert Service Bulletin 205B–20–69, dated April 15, 2020.

(iii) Bell Alert Service Bulletin 210–20–13, dated April 15, 2020.

(iv) Bell Alert Service Bulletin 212–20–162, dated April 15, 2020.

(v) Bell Alert Service Bulletin 412–20–180, dated April 15, 2020.

(vi) Bell Alert Service Bulletin 412CF–20–67, dated April 15, 2020.

(3) For service information identified in this AD, contact Bell Textron Inc., P.O. Box 482, Fort Worth, TX 76101; telephone (450) 437–2862 or (800) 363–8023; fax (450) 433–0272; email *productsupport@bellflight.com;* or at *https://www.bellflight.com/support/contact-support.*

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

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

Issued on March 15, 2022.

Derek Morgan,

Acting Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–06973 Filed 4–1–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0005; Project Identifier MCAI–2021–01062–R; Amendment 39–21983; AD 2022–06–17]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus Helicopters Model EC130T2 helicopters. This AD was prompted by the determination of a certain part needing a life limit and re-identification. This AD requires re-identifying a certain part-numbered engine-to-main gearbox (engine-MGB) coupling shaft, and creating a log card or equivalent record, 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 May 9, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 9, 2022.

ADDRESSES: For EASA material incorporated by reference (IBR) in this final rule, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find the EASA material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0005.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0005; 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 EASA AD, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Andrea Jimenez, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; telephone (516) 228–7330; email *andrea.jimenez@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0216, dated September 23, 2021 (EASA AD 2021–0216), to correct an unsafe condition for Airbus Helicopters (AH), formerly Eurocopter, Model EC 130 T2 helicopters, all serial numbers.

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 Helicopters Model EC130T2 helicopters. The NPRM published in the **Federal Register** on January 20, 2022 (87 FR 3050). The NPRM was prompted by the determination from recent analysis related to service life, for the need to introduce a service life limit (life limit) in torque cycles for engine-MGB coupling shaft part number (P/N) 350A35–1100–21. The NPRM proposed to require re-identifying a certain part-numbered engine-MGB coupling shaft by crossing out the old P/N and marking a new P/N and serial number (S/N) on the engine-MGB coupling shaft. The NPRM also proposed to require creating a log card or equivalent record indicating the new P/N, S/N, and the initial value of accumulated torque cycles for the engine-MGB coupling shaft. The NPRM also proposed to prohibit installing an affected engine-MGB coupling shaft on any helicopter.

The FAA is issuing this AD to prevent fatigue failure of the engine-MGB coupling shaft, which if not corrected, could result in loss of control of the helicopter. See EASA AD 2021–0216 for additional background information.

Discussion of Final Airworthiness Directive

Comments

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

Conclusion

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA about the unsafe condition described in its AD. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these helicopters. This AD is adopted as proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

EASA AD 2021–0216 requires re-identifying each affected engine-MGB coupling shaft, by crossing out the old P/N and marking the new P/N and S/N, and creating a log card indicating the new P/N, S/N, and the initial value of accumulated torque cycles. EASA AD 2021–0216 also prohibits installing an affected engine-MGB coupling shaft 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. EC130–04A010, dated July 15, 2021 (ASB EC130–04A010). This service information specifies procedures for re-identifying the engine-MGB coupling shaft by crossing out the old P/N and marking the new P/N and a new S/N using a vibration scriber. ASB EC130–04A010 also specifies instructions for creating a log card for the engine-MGB coupling shaft indicating the new P/N, the new S/N, and the number of torque cycles. Finally, ASB EC130–04A010 specifies instructions for calculating the number of torque cycles that are required to be indicated on the log card.

Differences Between This AD and EASA AD 2021–0216

Service information referenced in EASA AD 2021–0216 specifies sending certain information to the manufacturer; this AD does not. Paragraph (1) of EASA AD 2021–0216 specifies a compliance time of before exceeding 660 flight hours or 24 months after the effective date of EASA AD 2021–0216, whichever occurs first. However, this AD requires compliance before exceeding 660 hours time-in-service or 24 months after the effective date of this AD, whichever occurs first.

Costs of Compliance

The FAA estimates that this AD affects 264 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this AD.

Re-identifying the engine-MGB coupling shaft takes about 4 work-hours for an estimated cost of $340 per helicopter and up to $89,760 for the U.S. fleet.

Creating a log card or equivalent record takes about 1 work-hour for an estimated cost of $85 per log card and up to $22,440 for the U.S. fleet.

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:

2022–06–17 Airbus Helicopters: Amendment 39–21983; Docket No. FAA–2022–0005; Project Identifier MCAI–2021–01062–R.

(a) Effective Date

This airworthiness directive (AD) is effective May 9, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus Helicopters Model EC130T2 helicopters, certificated in any category.

(d) Subject

Joint Aircraft Service Component (JASC) Code: 6300, Main Rotor Drive System.

(e) Unsafe Condition

This AD was prompted by the determination of a certain part needing a life limit and re-identification. The FAA is issuing this AD to prevent fatigue failure of the engine-to-main gearbox (engine-MGB) coupling shaft, which if not corrected, could result in loss of 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 2021–0216, dated September 23, 2021 (EASA AD 2021–0216).

(h) Exceptions to EASA AD 2021–0216

(1) Where EASA AD 2021–0216 requires compliance in terms of flight hours, this AD requires using hours time-in-service.

(2) Where EASA AD 2021–0216 refers to its effective date, this AD requires using the effective date of this AD.

(3) Where paragraph (1) of EASA AD 2021–0216 specifies ''in accordance with the instructions of section 3.B of the ASB,'' for this AD replace ''in accordance with the instructions of section 3.B of the ASB'' with ''in accordance with the Accomplishment Instructions, paragraphs 3.B.2. through 3.B.2.b. of the of the ASB.''

(4) Where Note 1 of the service information referenced in EASA AD 2021–0216 specifies to contact Airbus Helicopters if you have more than one non-installed engine-MGB coupling shaft, this AD does not require contacting Airbus Helicopters.

(5) Where the service information referenced in EASA AD 2021–0216 specifies to use a vibration scriber to re-identify the engine-MGB coupling shaft, this AD allows the use of equivalent tooling.

(6) Where the service information referenced in EASA AD 2021–0216 specifies creating a log card for the engine-MGB coupling shaft, this AD requires creating a log card or equivalent record.

(7) This AD does not mandate compliance with the ''Remarks'' section of EASA AD 2021–0216.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2021–0216 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Special Flight Permit

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199, provided no passengers are onboard.

(k) Alternative Methods of Compliance (AMOCs)

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

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

(l) Related Information

For more information about this AD, contact Andrea Jimenez, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; telephone (516) 228–7330; email *andrea.jimenez@faa.gov.*

(m) 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 2021–0216, dated September 23, 2021.

(ii) [Reserved]

(3) For EASA AD 2021–0216, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find the EASA material on the EASA website at *https://ad.easa.europa.eu.*

(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 at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0005.

(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 March 10, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–06942 Filed 4–1–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–1174; Project Identifier MCAI–2021–00246–R; Amendment 39–21988; AD 2022–07–01]

RIN 2120–AA64

Airworthiness Directives; Leonardo S.p.a. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2020–23–07, which applied to certain Leonardo S.p.a. Model AB139 and AW139 helicopters. AD 2020–23–07 required removing certain life raft reservoirs (reservoirs) from service, inspecting the reservoirs and actuator cables, and depending on the inspection results, replacing the reservoir or adjusting the actuator cable. This AD was prompted by the inadvertent activation and deployment of an emergency life raft while the helicopter was in flight. This AD retains the requirements of AD 2020–23–07, and requires expanding the required actions to include additional serial-numbered reservoirs, and updates applicable service information. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 9, 2022.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of May 9, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of December 4, 2020 (85 FR 73610, November 19, 2020).

ADDRESSES: For service information identified in this final rule, contact Leonardo S.p.A. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://customerportal.leonardocompany.com/en-US/.* You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1174.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1174; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the European Union Aviation Safety Agency (EASA) AD, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Darren Gassetto, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; telephone (516) 228–7323; email *Darren.Gassetto@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2020–23–07, Amendment 39–21323 (85 FR 73610, November 19, 2020) (AD 2020–23–07). AD 2020–23–07 applied to Leonardo S.p.a. Model AB139 and AW139 helicopters, with emergency flotation kit part number (P/N) 4G9560F00111 (15 passengers) or 4G9560F00211 (18 passengers). The NPRM published in

the **Federal Register** on January 12, 2022 (87 FR 1706). In the NPRM, the FAA proposed to retain all of the requirements of AD 2020–23–07, and proposed to require expanding the required actions to include additional serial-numbered reservoirs identified in the applicable service information. The NPRM also proposed to allow alternative service information to be used for specific portions of certain inspections and corrective actions. Additionally, the NPRM proposed an exemption for certain required actions for reservoirs marked with an ''R'' after the serial number (S/N).

The NPRM was prompted by EASA AD 2021–0054, dated February 25, 2021 (EASA AD 2021–0054), issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for Leonardo S.p.A. Helicopters, formerly Finmeccanica S.p.A, AgustaWestland S.p.A., Agusta S.p.A.; and AgustaWestland Philadelphia Corporation, formerly Agusta Aerospace Corporation, Model AB139 and AW139 helicopters, all S/Ns, if equipped with emergency flotation kit, having P/N 4G9560F00111 (15 passengers) or P/N 4G9560F00211 (18 passengers).

EASA advises that additional serial-numbered reservoirs are affected by the same unsafe condition. EASA further advises that Leonardo Helicopters issued Alert Service Bulletin (ASB) No. 139–662, dated February 15, 2021 (ASB 139–662), which includes a Table listing the S/Ns of the additional batch of affected reservoirs and provides additional replacement and inspection instructions. Furthermore, EASA advises some of the affected reservoirs could become serviceable after an inspection and after these reservoirs are re-identified and marked with an ''R.'' This condition, if not addressed, could result in deployment of a life raft (raft) during flight, separation of the raft with possible impact on the rotors, and subsequent reduced control of the helicopter.

Accordingly, EASA AD 2021–0054 retains the requirements of EASA AD 2020–0185, dated August 19, 2020 (EASA AD 2020–0185), which prompted AD 2020–23–07, and requires for certain helicopters replacement of affected reservoirs and, for other helicopters, inspections of the valve pull rod and the actuator cable of the raft. Depending on the findings, EASA AD 2021–0054 requires accomplishment of the applicable corrective actions. EASA AD 2021–0054 also prohibits re-installation of an affected reservoir on any helicopter.

Discussion of Final Airworthiness Directive

Comments

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

Conclusion

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA about the unsafe condition described in its AD. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these helicopters. This AD is adopted as proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Leonardo Helicopters ASB No. 139–648, dated August 10, 2020 (referred to as ''ASB 139–648 First Issue'') and ASB No. 139–648, Revision A, dated February 15, 2021 (ASB 139–648 Rev A). ASB 139–648 First Issue specifies procedures to replace certain reservoirs and return them to the supplier, inspect the valve pull rod by measuring the actuator cable between the face of the pull rod and the back of the valve cap, inspect the actuator cable by verifying the presence of a clearance between the sphere at the end of the actuator cable and the activation system, and adjust the actuator cable. ASB 139–648 Rev A specifies the same procedures as ASB 139–648 First Issue, except ASB 139–648 Rev A includes a Note clarifying that LH and RH reservoirs with S/Ns marked (or recorded on the component Log Card) with the suffix ''R'' after the S/N are not affected by Part I of ASB 139–648 Rev A, even if they have an S/N listed in Table 1 of ASB 139–648 Rev A.

The FAA also reviewed ASB 139–662, which specifies additional serial-numbered reservoirs that are affected by the same unsafe condition. ASB 139–662 also provides additional actuator cable inspection procedures for these affected reservoirs. 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 EASA AD 2021–0054

EASA AD 2021–0054 uses flight hours (FH) for certain compliance times, whereas this AD uses hours time-in-service (TIS). EASA AD 2021–0054 specifies the compliance time for certain serial-numbered reservoirs to be replaced is within 25 FH after August 26, 2020 (the effective date of EASA AD 2020–0185), whereas this AD requires certain serial-numbered reservoirs to be removed from service within 25 hours TIS after December 4, 2020 (the effective date of AD 2020–23–07). EASA AD 2021–0054 specifies the compliance time for certain serial-numbered reservoirs to be replaced is within 25 FH after March 4, 2021 (the effective date of EASA AD 2021–0054), whereas this AD requires certain serial-numbered reservoirs to be removed from service within 25 hours TIS after the effective date of this AD.

EASA AD 2021–0054 specifies the compliance time to inspect the valve pull rod for certain helicopters is after replacement of the affected reservoir and within 5 FH after the serviceable reservoir exceeds 50 FH since installation, whereas this AD requires the valve pull rod inspection for certain helicopters within 25 hours TIS or before the reservoir accumulates 55 total hours TIS since first installation on a helicopter, whichever occurs later after December 4, 2020 (the effective date of AD 2020–23–07).

EASA AD 2021–0054 specifies the compliance time to inspect the actuator cable for certain helicopters is before next flight after the replacement of the affected reservoir and for certain other helicopters within 25 FH after August 26, 2020 (the effective date of EASA AD 2020–0185), whereas this AD requires the actuator cable inspection for certain helicopters within 25 hours TIS after December 4, 2020 (the effective date of AD 2020–23–07).

EASA AD 2021–0054 requires returning removed reservoirs to the supplier, whereas this AD requires removing certain reservoirs from service and replacing other reservoirs instead.

Costs of Compliance

The FAA estimates that this AD affects 15 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this AD.

Replacing a reservoir takes about 1 work-hour and parts cost up to $3,710 for an estimated cost of up to $3,795 per reservoir.

Inspecting the valve pull rod of a reservoir takes about 1 work-hour for an estimated cost of $85 per reservoir and up to $2,550 for the U.S. fleet.

Inspecting an actuator cable takes about 0.25 work-hour for an estimated

cost of $21 per inspection and up to $630 for the U.S. fleet.

If required, adjusting an actuator cable takes about 0.75 work-hour for an estimated cost of $64 per cable.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive 2020–23–07, Amendment 39–21323 (85 FR 73610, November 19, 2020); and

■ b. Adding the following new airworthiness directive:

2022–07–01 Leonardo S.p.a.: Amendment 39–21988; Docket No. FAA–2021–1174; Project Identifier MCAI–2021–00246–R.

(a) Effective Date

This airworthiness directive (AD) is effective May 9, 2022.

(b) Affected ADs

This AD replaces AD 2020–23–07, Amendment 39–21323 (85 FR 73610, November 19, 2020) (AD 2020–23–07).

(c) Applicability

This AD applies to Leonardo S.p.a. Model AB139 and AW139 helicopters, certificated in any category, with emergency flotation kit part number (P/N) 4G9560F00111 (15 passengers) or 4G9560F00211 (18 passengers) installed.

(d) Subject

Joint Aircraft Service Component (JASC) Codes: 2560, Emergency Equipment, and 2564, Life Raft.

(e) Unsafe Condition

This AD was prompted by the inadvertent activation and deployment of an emergency life raft while the helicopter was in flight. The FAA is issuing this AD to prevent the unintended deployment of a life raft (raft). The unsafe condition, if not addressed, could result in the deployment of a raft during flight, separation of the raft with possible impact on the rotors, and subsequent reduced control of the helicopter.

(f) Compliance

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

(g) Required Actions

(1) For helicopters with a right-hand (RH) or left-hand (LH) life raft reservoir (reservoir) P/N 3G2560V01951 or P/N 3G2560V01251 and with a serial number (S/N) listed in Table 1 of Leonardo Helicopters Alert Service Bulletin (ASB) No. 139–648, dated August 10, 2020 (referred to as ''ASB 139–648 First Issue''), within 25 hours time-in-service (TIS) after December 4, 2020 (the effective date of AD 2020–23–07), remove each affected reservoir from service. Any reservoir with the letter ''R'' after the S/N is excluded from this requirement.

(2) For helicopters with a RH or LH reservoir P/N 3G2560V01951 or P/N 3G2560V01251 and with an S/N listed in Table 1 of Leonardo Helicopters ASB No. 139–662, dated February 15, 2021 (ASB 139–662) within 25 hours TIS after the effective date of this AD, remove each affected reservoir from service. Any reservoir with the letter ''R'' after the S/N is excluded from this requirement.

(3) For helicopters with a RH or LH reservoir P/N 3G2560V01951 or P/N 3G2560V01251 and with an S/N not listed in Table 1 of ASB 139–648 First Issue or Table 1 of ASB 139–662 installed, within 25 hours TIS or before the reservoir accumulates 55 total hours TIS since first installation on a helicopter, whichever occurs later after December 4, 2020 (the effective date of AD 2020–23–07), inspect the valve pull rod of each reservoir by following the Accomplishment Instructions, Part II, paragraphs 3. through 5.1, of ASB 139–648 First Issue. Any reservoir with the letter ''R'' after the S/N is included in this requirement. If the measurement of the actuator cable between the face of the pull rod and the back of the valve cap exceeds 68.5 mm, before further flight, replace the reservoir. As an alternative to using the specified portions of ASB 139–648 First Issue, you may accomplish the valve pull rod inspection by following the Accomplishment Instructions, Part II, paragraphs 3. through 5.1, of Leonardo Helicopters ASB No. 139–648, Revision A, dated February 15, 2021 (ASB 139–648 Rev A).

Note 1 to paragraph (g)(3): An actuator cable, which is referenced in paragraphs (g)(3) and (4) of this AD, is also known as an actuation cable.

(4) For helicopters with a RH or LH reservoir P/N 3G2560V01951 or P/N 3G2560V01251 and with an S/N not listed in Table 1 of ASB 139–648 First Issue or Table 1 of ASB 139–662 installed, within 25 hours TIS after December 4, 2020 (the effective date of AD 2020–23–07), inspect the actuator cable of each reservoir by following the Accomplishment Instructions, Part III, paragraphs 3. through 5.1, of ASB 139–648 First Issue. Any reservoir with the letter ''R'' after the S/N in included in this requirement. If the clearance between the sphere at the end of the actuator cable and the activation system exceeds 5.0 +0.00/ − 2.0 mm, before further flight, adjust the actuator cable by following Annex A of ASB 139–648 First Issue. As an alternative to using the specified portions of ASB 139–648 First Issue, you may accomplish the actuator cable inspection and corrective action by following:

(i) The Accomplishment Instructions, Part III, paragraphs 3. through 5.1, and Annex A, as applicable, of ASB 139–648 Rev A, or

(ii) The Accomplishment Instructions, paragraphs 4 through 4.3.1, and Annex A, as applicable, of ASB 139–662.

(5) As of the effective date of this AD, do not install reservoir P/N 3G2560V01951 or P/N 3G2560V01251 with an S/N listed in Table 1 of ASB 139–648 First Issue, Table 1 of ASB 139–648 Rev A, or Table 1 of ASB 139–662 on any helicopter. Any reservoir with the letter ''R'' after the S/N is excluded from this requirement.

(6) As of the effective date of this AD, do not install a reservoir P/N 3G2560V01951 or P/N 3G2560V01251 with an S/N other than an S/N listed in Table 1 of ASB 139–648 First Issue, Table 1 of ASB 139–648 Rev A, or Table 1 of ASB 139–662, on any helicopter unless you have complied with the requirements in paragraphs (g)(3) and (4) of this AD, as applicable to your helicopter.

(h) Alternative Methods of Compliance (AMOCs)

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

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

(i) Related Information

(1) For more information about this AD, contact Darren Gassetto, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; telephone (516) 228–7323; email *Darren.Gassetto@faa.gov.*

(2) Service information identified in this AD is available at the contact information specified in paragraphs (j)(5) and (6) of this AD.

(3) The subject of this AD is addressed in European Union Aviation Safety Agency (EASA) AD 2021–0054, dated February 25, 2021. You may view the EASA AD at *https://www.regulations.gov* in Docket No. FAA–2021–1174.

(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.

(3) The following service information was approved for IBR on May 9, 2022.

(i) Leonardo Helicopters Alert Service Bulletin No. 139–648, Revision A, dated February 15, 2021.

(ii) Leonardo Helicopters issued Alert Service Bulletin No. 139–662, dated February 15, 2021.

(4) The following service information was approved for IBR on December 4, 2020 (85 FR 73610, November 19, 2020).

(i) Leonardo Helicopters Alert Service Bulletin No. 139–648, dated August 10, 2020.

(ii) [Reserved]

(5) For Leonardo S.p.a. service information identified in this AD, contact Leonardo S.p.A. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://customerportal.leonardocompany.com/en-US/.*

(6) 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.

(7) 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 March 14, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–06971 Filed 4–1–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–1176; Project Identifier MCAI–2021–00755–R; Amendment 39–21978; AD 2022–06–12]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus Helicopters Model SA330J helicopters. This AD was prompted by a review of Model EC225LP helicopter data that revealed potential tightening torque loss of the attachment screws of the upper deck fittings of the three main gearbox (MGB) suspension bars. Due to design similarities, the MGB right-hand (RH) rear fittings and MGB RH rear fitting attachment screws on Model SA330J helicopters could also be affected. Additional analysis confirmed that the service life limit (life limit) (SLL) for these affected MGB RH rear fittings needs to be reduced for helicopters on which these affected parts were operated concurrently with metallic main rotor blades installed. This AD requires determining the damage value and SLL of each affected MGB RH rear fitting, replacing each affected MGB RH rear fitting with a new part, and replacing the MGB RH rear fitting attachment screws, 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 May 9, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 9, 2022.

ADDRESSES: For EASA material incorporated by reference (IBR) in this final rule, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone: +49 221 8999 000; email: *ADs@easa.europa.eu;* internet: *www.easa.europa.eu.* You may find the EASA material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1176.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1176; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the European Union Aviation Safety Agency (EASA) AD, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0152R1, dated July 20, 2021 (EASA AD 2021–0152R1), to correct an unsafe condition for Airbus Helicopters (formerly Eurocopter, Eurocopter France, Aerospatiale, Sud Aviation) Model SA 330 J helicopters, all serial numbers, which were modified in service in accordance with the instructions of Eurocopter France Service Bulletin (SB) No. 01.20 (part of which is the in-service retrofit Modification (Mod) 07 40043), except those on which each affected part (as defined in EASA AD 2021–0152R1) was replaced with a new part (not previously installed) during

embodiment of Eurocopter France SB No. 01.20 in service.

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 Helicopters Model SA330J helicopters. The NPRM published in the **Federal Register** on January 13, 2022 (87 FR 2085). The NPRM was prompted by a review of Model EC225LP helicopter in-service data that revealed potential tightening torque loss of the attachment screws of the upper deck fittings of the three MGB suspension bars. The FAA issued AD 2020–06–12, Amendment 39–19881 (85 FR 19077, April 6, 2020) to address the unsafe condition on Model EC225LP helicopters). Due to design similarities, the MGB RH rear fittings and MGB RH rear fitting attachment screws on Model SA330J helicopters could also be affected. Additional analysis confirmed that the SLL for these affected MGB RH rear fittings needs to be reduced for helicopters on which these affected parts were operated concurrently with metallic main rotor blades (pre-Airbus Helicopters Modification 07 40043) installed. Airbus Helicopters Modification 07 40043 introduced the installation of composite main rotor blades. The NPRM proposed to require determining the damage value and SLL of each affected MGB RH rear fitting, replacing each affected MGB RH rear fitting with a new part, and replacing the MGB RH rear fitting attachment screws, as specified in EASA AD 2021–0152R1.

The FAA is issuing this AD to address tightening torque loss of the attachment screws of the upper deck fittings of the three MGB suspension bars. The unsafe condition, if not addressed, could result in structural failure of the MGB RH rear fittings and MGB RH rear fitting attachment screws, resulting in detachment of the MGB suspension bars and consequent loss of control of the helicopter. See EASA AD 2021–0152R1 for additional background information.

Discussion of Final Airworthiness Directive

Comments

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

Conclusion

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA about the unsafe condition described in its AD. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these helicopters. Except for minor editorial changes, this AD is adopted as proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

EASA AD 2021–0152R1 requires determining the damage value of each affected MGB RH rear fitting by calculating the damage caused during the time each affected part was operated concurrently with metallic main rotor blades installed on the helicopter, calculating the SLL for each affected MGB RH rear fitting, and eventually replacing each affected MGB RH rear fitting and the MGB RH rear fitting attachment screws with new parts. 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 15 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this AD.

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Determine damage value and SLL	1 work-hours × $85 per hour = $85	$0	$85	$1,275
Replace parts	8 work-hours × $85 per hour = $680	7,540	8,220	123,300

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:

2022–06–12 Airbus Helicopters: Amendment 39–21978; Docket No.

FAA–2021–1176; Project Identifier MCAI–2021–00755–R.

(a) Effective Date

This airworthiness directive (AD) is effective May 9, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Helicopters Model SA330J helicopters, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2021–0152R1, dated July 20, 2021 (EASA AD 2021–0152R1).

(d) Subject

Joint Aircraft Service Component (JASC) Code: 6300, Main Rotor Drive System.

(e) Unsafe Condition

This AD was prompted by a review of Airbus Helicopters Model EC225LP helicopter data that revealed potential tightening torque loss of the attachment screws of the upper deck fittings of the three main gearbox (MGB) suspension bars. Due to design similarities, the MGB right-hand (RH) rear fittings and MGB RH rear fitting attachment screws on Model SA330J helicopters could also be affected. Additional analysis confirmed that the service life limit (life limit) (SLL) for the affected MGB RH rear fittings needs to be reduced for helicopters on which these affected parts were operated concurrently with metallic main rotor blades installed. The FAA is issuing this AD to address tightening torque loss of the attachment screws of the upper deck fittings of the three MGB suspension bars. The unsafe condition, if not addressed, could result in structural failure of the MGB RH rear fittings and MGB RH rear fitting attachment screws, resulting in detachment of the MGB suspension bars and consequent loss of 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, EASA AD 2021–0152R1.

(h) Exceptions to EASA AD 2021–0152R1

(1) Where EASA AD 2021–0152R1 requires compliance in terms of flight hours, this AD requires using hours time-in-service.

(2) Where EASA AD 2021–0152R1 refers to July 9, 2021 (the effective date of EASA AD 2021–0152R1, dated June 25, 2021), this AD requires using the effective date of this AD.

(3) Where the service information referenced in EASA AD 2021–0152R1 specifies discarding parts, this AD requires removing those parts from service.

(4) Although the service information referenced in EASA AD 2021–0152R1 specifies that ''The work must be performed on the helicopter by the operator.'' this AD does not require that the operator perform the work.

(5) This AD does not mandate compliance with the ''Remarks'' section of EASA AD 2021–0152R1.

(6) The preliminary steps specified in paragraph 3.B.1. of the service information referenced in EASA AD 2021–0152R1 are not required for compliance with this AD.

(7) Although the service information referenced in EASA AD 2021–0152R1 specifies contacting Airbus Helicopters if the time since new (TSN) is unknown at the retrofit date, this AD requires determining the damage value and the SLL of each affected part but does not require contacting Airbus Helicopters if the TSN is unknown at the retrofit date.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2021–0152R1 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, FAA, 950 L'Enfant Plaza 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 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 2021–0152R1, dated July 20, 2021.

(ii) [Reserved].

(3) For EASA AD 2021–0152R1, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone: +49 221 8999 000; email: *ADs@easa.europa.eu;* internet: *www.easa.europa.eu.* You may find the EASA material on the EASA website at *https://ad.easa.europa.eu.*

(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 at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1176.

(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 March 10, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–06940 Filed 4–1–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0999; Project Identifier MCAI–2021–00036–A; Amendment 39–21991; AD 2022–07–04]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Pilatus Aircraft Ltd. (Pilatus) Model PC–12/47E airplanes. 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 identifies the unsafe condition as inward vent valves installed during production without chromate conversion coating on the bonding surface. This AD requires modifying the inward vent valves and prohibits installing unmodified inward vent valves. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 9, 2022.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of May 9, 2022.

ADDRESSES: For service information identified in this final rule, contact Pilatus Aircraft Ltd., CH–6371, Stans, Switzerland; phone: +41 848 247 365; email: *techsupport.ch@pilatus-aircraft.com;* website: *https://www.pilatus-aircraft.com/.* You may

view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0999.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0999; 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, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 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 Pilatus Model PC–12/47E airplanes. The NPRM published in the **Federal Register** on November 12, 2021 (86 FR 62746). The NPRM was prompted by MCAI from the European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union. EASA issued AD 2021–0010, dated January 11, 2021 (referred to after this as ''the MCAI''), to correct an unsafe condition for Pilatus Model PC–12/47E airplanes with serial number 1720 and serial number 2001 and higher. The MCAI states:

> An occurrence was reported where, on the production line, a batch of inward vent valves without a chromate conversion coating on the bonding surface were installed on some PC–12/47E aeroplanes. Such inward vent valves are not in compliance with the latest approved design data.
>
> This condition, if not corrected, could lead to corrosion, consequent degradation of the electrical bonding to Rib 16, and in case of lightning strike, to arcing between the ungrounded equipment and the primary structure, possibly resulting in a fire and reduced control of the aeroplane.
>
> To address this potential unsafe condition, Pilatus issued the SB [Service Bulletin] to provide modification instructions.
>
> For the reason described above, this [EASA] AD requires modification of each affected part, as defined in this AD. This [EASA] AD also prohibits (re-) installation of affected parts.

You may examine the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0999.

In the NPRM, the FAA proposed to require modifying the inward vent valves and proposed to prohibit installing unmodified inward vent valves. 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 Pilatus and PlaneSense Inc. (PlaneSense). The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Correct Service Bulletin References

Pilatus and PlaneSense requested that the FAA correct an error in the service bulletin (SB) references in paragraphs (g)(1) and (2) of the proposed AD. Pilatus stated these paragraphs read ''Pilatus SB 20–015'' when they should read ''Pilatus SB 28–015.''

The FAA agrees and has corrected the service bulletin references.

Request To Revise the Definition of Group 2 Airplanes

Pilatus requested the FAA revise the definition of Group 2 airplanes in paragraph (g)(2) of the proposed AD from ''Airplanes without an inward vent valve P/N 963.04.26.520 installed with a serial number listed in section 1.C(1) of Pilatus SB 20–015'' to ''Airplanes with an inward vent valve P/N 963.04.26.520 installed with a serial number not listed in section 1.C(1) of the Pilatus SB 28–015.'' Pilatus stated the proposed definition is difficult to read and could be misinterpreted by an operator.

The FAA disagrees. The language requested by Pilatus would change the scope of the prohibition installation in paragraph (i) of the proposed AD, such that it only applies to airplanes with inward vent valve P/N 963.04.26.520 installed. The FAA intended the prohibition installation to apply to all airplanes that are not Group 1 airplanes, even those with a different inward vent valve P/N (such as valves manufactured by the holder of a parts manufacturer approval or if there is a part number change to the vent in the future). The FAA did not change the proposed AD as a result of this comment.

PlaneSense requested the FAA limit the applicability in paragraph (c) of the proposed AD to those airplanes defined as Group 1 in the proposed AD, so that it matches the effectivity of Pilatus Service Bulletin 28–015.

The FAA disagrees. Although the applicability of the proposed AD is broader than the Pilatus SB, it proposed to require that only Group 1 airplanes have the inward vent valves modified in accordance with the Pilatus SB. The FAA proposed a broader applicability to prohibit installation of an affected inward vent valve on all airplanes that are not Group 1 airplanes. The FAA did not change the applicability of the proposed AD as a result of this comment.

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, considered the 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 Pilatus Service Bulletin No. 28–015, dated October 12, 2020, which contains information for identifying affected inward vent valves, removing the affected inward vent valve, and installing a modified inward vent valve.

The FAA also reviewed Pall Corporation Service Bulletin SB9337–01–29–01, Issue 1, dated September 22, 2020, which contains instructions for modifying the inward vent valve by applying corrosion protective chromate conversation coating.

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.

Costs of Compliance

The FAA estimates that this AD will affect 24 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
Modification per airplane if both sides affected.	3 work-hours × $85 per hour = $255	$50	$305	$7,320

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 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:

2022–07–04 Pilatus Aircraft Ltd.: Amendment 39–21991; Docket No. FAA–2021–0999; Project Identifier MCAI–2021–00036–A.

(a) Effective Date

This airworthiness directive (AD) is effective May 9, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pilatus Aircraft Ltd. Model PC–12/47E airplanes, serial number (S/N) 1720 and S/N 2001 and larger, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 2800, Aircraft Fuel 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 identifies the unsafe condition as inward vent valves installed during production without chromate conversion coating on the bonding surface. The FAA is issuing this AD to prevent corrosion and degradation of the electrical bonding to Rib 16. This condition, if not addressed, could lead to arcing between the ungrounded equipment and the primary structure in the event of a lightning strike, resulting in a fire and reduced airplane control.

(f) Compliance

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

(g) Definitions

(1) *Group 1 airplanes:* Airplanes with an inward vent valve part number (P/N) 963.04.26.520 installed with a serial number listed in section 1.C(1) of Pilatus Service Bulletin No. 28–015, dated October 12, 2020 (Pilatus SB 28–015).

(2) *Group 2 airplanes:* Airplanes without an inward vent valve P/N 963.04.26.520 installed with a serial number listed in section 1.C(1) of Pilatus SB 28–015.

(h) Modification of Inward Vent Valves

For Group 1 airplanes, within 1,200 hours time-in-service after the effective date of this AD or within 9 months after the effective date of this AD, whichever occurs first, modify each inward vent valve in accordance with the Accomplishment Instructions and Rework Instructions in Pall Corporation Service Bulletin SB9337–01–29–01, Issue 1, dated September 22, 2020 (Pall SB9337–01–29–01, Issue 1).

(i) Prohibited Installation

For all airplanes, as of the effective date of this AD, do not install an inward vent valve P/N 963.04.26.520 that has a serial number listed in section 1.C(1) of Pilatus SB 28–015 on any airplane, unless it is modified in accordance with the Accomplishment Instructions and Rework Instructions of Pall SB9337–01–29–01, Issue 1.

(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 certification office, send it to the attention of the person identified in paragraph (k)(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.

(k) Related Information

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

(2) Refer to MCAI European Union Aviation Safety Agency (EASA) AD 2021–0010, dated January 11, 2021, for related information. You may examine the EASA AD at *https://www.regulations.gov* by searching for and locating Docket No. Docket No. FAA–2021–0999.

(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) Pall Corporation Service Bulletin SB9337–01–29–01, Issue 1, dated September 22, 2020.

(ii) Pilatus Service Bulletin No. 28–015, dated October 12, 2020.

(3) For service information identified in this AD, contact Pilatus Aircraft Ltd., CH–6371, Stans, Switzerland; phone: +41 848 247 365; email: *techsupport.ch@pilatus-aircraft.com;* website: *https://www.pilatus-aircraft.com/.*

(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 March 16, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–06975 Filed 4–1–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–1077; Project Identifier MCAI–2021–00607–A; Amendment 39–21974; AD 2022–06–08]

RIN 2120–AA64

Airworthiness Directives; Diamond Aircraft Industries GmbH Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2017–18–10, which applied to certain Diamond Aircraft Industries GmbH (DAI) Model DA 42, DA 42 M–NG, and DA 42 NG airplanes. AD 2017–18–10 required modifying the flap control system, repetitively inspecting the flap bell crank, and replacing the flap bell crank as necessary. Since the FAA issued AD 2017–18–10, the European Union Aviation Safety Agency (EASA) superseded its mandatory continuing airworthiness information (MCAI) to correct an unsafe condition on these products. This AD retains the actions required by AD 2017–18–10, expands the applicability, and prohibits the installation of certain flap bell cranks. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 9, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 9, 2022.

ADDRESSES: For service information identified in this final rule, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straße 5, A–2700 Wiener Neustadt, Austria; phone: +43 2622 26700; email: *office@diamond-air.at;* website: *https://www.diamondaircraft.com.* You may view this service information at the Airworthiness Products Section, Operational Safety Branch, FAA, 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–2021–1077.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1077; 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: Penelope Trease, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 26805 E 68th Avenue, Denver, CO 80249; phone: (303) 342–1094; email: *penelope.trease@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2017–18–10, Amendment 39–19019 (82 FR 42029, September 6, 2017) (AD 2017–18–10). AD 2017–18–10 applied to certain serial-numbered DAI Model DA 42, DA 42 M–NG, and DA 42 NG airplanes. AD 2017–18–10 required modifying the flap control system by installing two spacers to replace a single long spacer, repetitively inspecting the flap bell crank, and replacing the flap bell crank with an improved part as necessary. The FAA issued AD 2017–18–10 to prevent failure of the flap bell crank, which could result in reduced control of the airplane.

The NPRM published in the **Federal Register** on December 23, 2021 (86 FR 72895). The NPRM was prompted by AD 2020–0008, dated January 20, 2020 (referred to after this as ''the MCAI''), issued by EASA, which is the Technical Agent for the Member States of the European Union. The MCAI states:

> Occurrences were reported of finding cracks and deformation on certain flap bell cranks. Investigation results identified frequent high load conditions as the cause for these events.
>
> This condition, if not detected and corrected, could lead to failure of the flap bell crank, possibly resulting in reduced control of the aeroplane.
>
> To address this potential unsafe condition, DAI issued [Mandatory Service Bulletin] MSB 42–126/42NG–066 and the corresponding [Work Instructions] WI MSB 42–126/42NG–066 (single document), providing inspection and modification instructions. Consequently, EASA issued AD 2017–0074 to require modification of the flap control system by installing two spacers to replace a single long spacer, repetitive inspections of the flap bell crank, and, depending on findings, replacement of the flap bell crank with an improved part. That [EASA] AD also provided an optional terminating action by installing an improved flap bell crank.
>
> Since that [EASA] AD was issued, it was determined that early 'Revisions' of P/N D60–2757–11–00 flap bell cranks are no longer acceptable and should be removed from service. Prompted by that determination, DAI issued the applicable MSB, as defined in this [EASA] AD, to provide the relevant instructions.
>
> For the reason described above, this [EASA] AD retains the requirements of EASA AD 2017–0074, which is superseded, expands the applicability, and requires removal from service of certain affected parts.

You may examine the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1077.

EASA made the determination to increase the applicability during a continued operational safety review. EASA determined that the earlier versions of the bellcranks could be installed on all serial-numbered airplanes and expanded the applicability accordingly.

In the NPRM, the FAA proposed to retain the actions of AD 2017–18–10 but expand the applicability and prohibit installing a flap bell crank with part number D60–2757–11–00, up to and including revision ''d.''

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 referenced above. The FAA reviewed the relevant data and determined that air safety requires adoption of the 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 Diamond Aircraft Mandatory Service Bulletin MSB 42–126/1 and MSB 42NG–066/1, dated November 14, 2019 (issued as one document) published with Diamond Aircraft Industries GmbH Work Instruction WI–MSB 42–126 and WI–MSB 42NG–066, Revision 1, dated November 14, 2019 (issued as one document) attached. This service information specifies procedures for inspecting the flap bell crank for cracks, installing two spacers instead of one long spacer, and replacing early revisions of the affected flap bell crank up to and including revision ''d'' with an improved flap bell crank. 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 Diamond Aircraft Mandatory Service Bulletin MSB 42–126 and MSB 42NG–066, dated March 27, 2017 (issued as one document) published with Diamond Aircraft Industries GmbH Work Instruction WI–MSB 42–126 and WI–MSB 42NG–066, dated March 27, 2017 (issued as one document) attached. This service information specifies procedures for inspecting the flap bell crank for cracks, installing two spacers instead of one long spacer, and replacing early revisions of the affected flap bell crank.

Differences Between This AD and the MCAI

The MCAI applies to DAI Model DA 42 M airplanes, and this AD does not because it does not have an FAA type certificate.

Costs of Compliance

The FAA estimates that this AD affects 200 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
Initial inspection and modification	4 work-hours × $85 per hour = $340	$10	$350	$70,000.
Repetitive inspection	2 work-hours × $85 per hour = $170	Not applicable	$170 per inspection cycle.	$34,000 per inspection cycle.

The FAA estimates the following costs to replace the flap bell crank based on the results of the inspection. The agency has no way of determining the number of airplanes that might need this replacement:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Flap bell crank replacement	1 work-hour × $85 per hour = $85	$475	$560

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:
■ a. Removing Airworthiness Directive 2017–18–10, Amendment 39–19019 (82 FR 42029, September 6, 2017); and
■ b. Adding the following new airworthiness directive:

2022–06–08 Diamond Aircraft Industries GmbH: Amendment 39–21974; Docket No. FAA–2021–1077; Project Identifier MCAI–2021–00607–A.

(a) Effective Date

This airworthiness directive (AD) is effective May 9, 2022.

(b) Affected ADs

This AD replaces AD 2017–18–10, Amendment 39–19019 (82 FR 42029, September 6, 2017).

(c) Applicability

This AD applies to Diamond Aircraft Industries GmbH Model DA 42, DA 42 M–NG, and DA 42 NG airplanes, all serial numbers, certificated in any category, with a flap bell crank part number (P/N) D60–2757–11–00, up to and including revision ''f'' installed.

(d) Subject

Joint Aircraft System Component (JASC) Code 2700, Flight Control 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 cracks and deformation on certain flap bell cranks. The FAA is issuing this AD to prevent failure of the flap bell crank. The unsafe condition, if not addressed, could result in reduced control of the airplane.

(f) Compliance

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

(g) Actions

(1) Comply with paragraph (g)(2) or (3) of this AD at whichever compliance time in paragraph (g)(1)(i) or (ii) of this AD occurs later.

(i) Before the flap bell crank accumulates 600 hours time-in-service (TIS); or

(ii) Within 100 hours TIS after the effective date of this AD or within 6 months after the effective date of this AD, whichever occurs first.

(2) For airplanes with a flap bell crank revision ''e'' or ''f'': Inspect the flap bell crank P/N D60–2757–11–00 for cracks and deformation and modify the flap control system by installing two spacers, P/N DS BU2–10–06–0065–C, by following section III Instructions in Diamond Aircraft Industries GmbH Work Instruction WI–MSB 42–126 and WI–MSB 42NG–066, Revision 1, dated November 14, 2019 (issued as one document) attached to Diamond Aircraft Mandatory Service Bulletin MSB 42–126/1 and MSB 42NG–066/1, dated November 14, 2019 (issued as one document).

(i) If there is a crack or any deformation, you must replace the flap bell crank with P/N D60–2757–11–00_01, as required by step 6 of the Instructions, before further flight.

(ii) If there are no cracks and no deformation, repeat the inspection (not the modification) at intervals not to exceed 200 hours TIS until the flap bell crank is replaced with flap bell crank P/N D60–2757–11–00_01.

(3) For airplanes with a flap bell crank up to revision ''d'': Replace the flap bell crank with P/N D60–2757–11–00_01 in accordance with section III Instructions in Diamond Aircraft Industries GmbH Work Instruction WI–MSB 42–126 and WI–MSB 42NG–066, Revision 1, dated November 14, 2019 (issued as one document) attached to Diamond Aircraft Mandatory Service Bulletin MSB 42–126/1 and MSB 42NG–066/1, dated November 14, 2019 (issued as one document).

(h) Prohibited Installation

As of the effective date of this AD, do not install on any airplane a flap bell crank P/N D60–2757–11–00 with a revision up to and including revision ''d.''

(i) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraphs (g)(2) and (3) of this AD, if done before the effective date of this AD using Diamond Aircraft Industries GmbH Work Instruction WI–MSB 42–126 and WI–MSB 42NG–066, dated March 27, 2017 (issued as one document) attached to Diamond Aircraft Mandatory Service Bulletin MSB 42–126 and MSB 42NG–066, dated March 27, 2017 (issued as one document).

(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 certification office, send it to the attention of the person identified in paragraph (k)(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.

(k) Related Information

(1) For more information about this AD, contact Penelope Trease, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 26805 E 68th Avenue, Denver, CO 80249; phone: (303) 342–1094; email: *penelope.trease@faa.gov.*

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2020–0008, dated January 20, 2020, for more information. You may examine the EASA AD at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1077.

(3) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (l)(3) and (4) of this AD.

(l) Material Incorporated by Reference

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

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

(i) Diamond Aircraft Mandatory Service Bulletin MSB 42–126/1 and MSB 42NG–066/1, dated November 14, 2019 (issued as one document) published with Diamond Aircraft Industries GmbH Work Instruction WI–MSB 42–126 and WI–MSB 42NG–066, Revision 1, dated November 14, 2019 (issued as one document) attached.

(ii) [Reserved]

(3) For service information identified in this AD, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straße 5, A–2700 Wiener Neustadt, Austria; phone: +43 2622 26700; email: *office@diamond-air.at;* website: *https://www.diamondaircraft.com.*

(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 March 10, 2022.

Ross Landes,

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

[FR Doc. 2022–06961 Filed 4–1–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2022–0188]

Safety Zone; Navy Week New Orleans 2022 Fireworks Display Event, New Orleans, LA

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a temporary safety zone for a fireworks display located on the navigable waters of the Lower Mississippi River between Mile Marker (MM) 94.5 and MM 95.5. This action is needed to provide for the safety of life on these navigable waterways during the event. During the enforcement periods, the operator of any vessel in the regulated area must comply with directions from the Captain of the Port or designated representative.

DATES: The regulations in 33 CFR 165.845 will be enforced from 7:30 p.m. to 8:30 p.m. on April 20, 2022.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email Lieutenant Commander William Stewart, Sector New Orleans, U.S. Coast Guard; telephone 504–365–2246, email *William.A.Stewart@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce safety zone located in 33 CFR 165.845 for the Navy Week New Orleans 2022 Fireworks Display event. The regulations will be enforced from 7:30 p.m. through 8:30 p.m. on April 20, 2022. This action is being taken to provide for the safety of life on navigable waterways during this event, which will be located between MM 94.5 and MM 95.5 above Head of Passes, Lower Mississippi River, LA. During the enforcement periods, if you are the operator of a vessel in the regulated area you must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

In addition to this notification of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via Marine Safety Information Bulletins (MSIBs), Local Notice to Mariners (LNMs), and/or Broadcast Notice to Mariners (BNMs).

Dated: March 29, 2022.

W.E. Watson,

Captain, U.S. Coast Guard, Captain of the Port Sector New Orleans.

[FR Doc. 2022–07022 Filed 4–1–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0149]

RIN 1625–AA87

Security Zone; Lower Mississippi River, New Orleans, LA

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone for all navigable waters within 400 yards of the Left Descending Bank (LDB) of the Lower Mississippi River (LMR) between Mile Marker (MM) 94.5 and MM 96, Above Head of Passes (AHP), New Orleans, LA. This security zone is necessary to provide security and protection for visiting vessels and personnel during the events related to the Navy Week New Orleans 2022. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector New Orleans (COTP) or a designated representative.

DATES: This rule is effective from 7 a.m. on April 19, 2022, through noon on April 22, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0149 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander William A. Stewart, Sector New Orleans, U.S. Coast Guard; telephone 504–365–2246, email *William.A.Stewart@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

AHP Above Head of Passes
CFR Code of Federal Regulations
COTP Captain of the Port Sector New Orleans
DHS Department of Homeland Security
FR Federal Register
LDB Left Descending Bank
LMR Lower Mississippi River
MM Mile Marker
TFR Temporary Final Rule
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it would be impracticable. We must establish this security zone by April 19, 2022, in order to provide proper security for visiting vessels and personnel, and we do not have sufficient time to request and respond to comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because immediate action is needed to provide adequate security to protect the public during the Navy Week event.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Secor New Orleans (COTP) has determined that the increased number of personnel and vessels anticipated to be visiting the city during the Navy Week New Orleans 2022 requires certain security measures to ensure that the persons and property are kept secure during the events. The Coast Guard determined that a temporary security zone is needed for this and related events that will be taking place adjacent to a portion of Lower Mississippi River (LMR).

IV. Discussion of the Rule

This rule establishes a temporary security zone from 7 a.m. to 7 p.m. on April 19, 2022 through April 21, 2022 and from 7 a.m. to noon on April 22, 2022. The security zone will cover all navigable waters within 400 yards of the Left Descending Bank (LDB) of the LMR between Mile Marker (MM) 94.5 to MM

96, AHP, New Orleans, LA. This temporary zone is necessary in order to provide waterside security for the protection of vessels and visitors attending the events related to the Navy Week New Orleans 2022. No vessel or person will be permitted to enter the security zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of USCG Sector New Orleans. They may be contacted on VHF–FM Channel 16 or 67 or by telephone at 504–365–2545.

Persons and vessels permitted to enter this security zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

The COTP or a designated representative will inform the public of the enforcement times and date for this regulated area through Broadcast Notices to Mariners (BNMs), Local Notice to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs), as appropriate.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on size, location, and duration of the security zone. The security zone will cover all navigable waters within 400 yards of the Left Descending Bank (LDB) of the LMR between Mile Marker (MM) 94.5 to MM 96, AHP, New Orleans, LA and will be enforced for only four days. Vessel traffic will be able to safely transit around this security zone which will impact a small designated area of the Mississippi River near New Orleans, LA for a limited number of days and will not overly impede vessel traffic during the period in effect. Moreover, rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishing a security zone to protect the public in a small designated area of the Mississippi River near New Orleans, LA for a limited number of days. It is categorically excluded from further review under paragraph L60 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the

person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.2.

■ 2. Add § 165.T08–0149 to read as follows:

§ 165.T08–0149 Security Zone; Mississippi River, New Orleans, LA.

(a) *Location.* The following area is a security zone: All navigable waters of Mississippi River, New Orleans, LA, within 400 yards of the Left Descending Bank (LDB) of the Lower Mississippi River (LMR) between Mile Marker (MM) 94.5 and MM 96, Above Head of Passes (AHP), New Orleans, Louisiana.

(b) *Definitions.* As used in this section, a *designated representative* is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of USCG Sector New Orleans.

(c) *Regulations.* (1) Under the general security zone regulations in subpart D of this part, you may not enter the security zone described in paragraph (a) of this section unless authorized by the Captain of the Port Sector New Orleans (COTP) or the COTP's designated representative.

(2) Vessel requiring entry into this regulated area must request permission from the COTP or a designated representative. They may be contacted on VHF–FM Channel 16 or 67 or by telephone at 504–365–2545.

(3) Persons and vessels permitted to enter this security zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

(d) *Enforcement period.* This section will be enforced from 7 a.m. to 7 p.m. on April 19, 2022, through April 21, 2022, and from 7 a.m. to noon on April 22, 2022.

(e) *Informational broadcasts.* The COTP or a designated representative will inform the public of the enforcement times and date for this regulated area through Broadcast Notices to Mariners (BNMs), Local Notice to Mariners (LNMs), and/or Marine Safety Information Bulletins (MSIBs), as appropriate.

Dated: March 29, 2022.

W.E. Watson,

Captain, U.S. Coast Guard, Captain of the Port Sector New Orleans.

[FR Doc. 2022–07023 Filed 4–1–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0216]

RIN 1625–AA00

Safety Zone for Pollution Responders; Neva Strait, Sitka, AK

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters within a 100-yard radius of oil spill recovery vessels in Neva Strait. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by pollution response efforts. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Southeast Alaska.

DATES: This rule is effective without actual notice from April 4, 2022, until 6 p.m. on April 29, 2022. For the purposes of enforcement, actual notice will be used from noon on March 25, 2022, until April 4, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0216 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Jesse Collins, Waterways Management Division, U.S. Coast Guard; telephone 907–463–2846, email *Jesse.O.Collins@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because a vessel ran aground, causing a significant oil spill, and immediate action is needed to respond to the potential safety hazards associated with pollution response efforts. It is impracticable to publish an NPRM because we must establish this safety zone by March 27, 2022.

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

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Southeast Alaska (COTP) has determined that potential hazards associated with on-going pollution response efforts will be a safety concern for anyone within a 100-yard radius of oil spill recovery vessels in Neva Strait. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone for the duration of pollution response efforts.

IV. Discussion of the Rule

This rule establishes a safety zone effective twenty-four hours per day from 6 p.m. on March 27, 2022, until 6 p.m. on April 29, 2022. The safety zone will cover all navigable waters within 100 yards of vessels and machinery being used by personnel to respond to a significant oil spill. The duration of the zone is intended to protect personnel, vessels, and the marine environment in

these navigable waters for the duration of pollution response efforts. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit through the safety zone which would impact a small designated area of Neva Strait. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow vessel to seek permission to enter the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting twenty-four hours per day that will prohibit entry within 100 yards of vessels and machinery being used by personnel to respond to a significant oil spill. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAGIVATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.2.

■ 2. Add § 165.T17–0216 to read as follows:

§ 165.T17–0216 Safety Zone for Pollution Responders; Neva Strait, Sitka, AK.

(a) *Location.* The following area is a safety zone: All waters of Neva Strait with a 100-yard radius of oil spill recovery vessels.

(b) *Definitions.* As used in this section:

(1) *Captain of the Port (COTP)* means the Commander, U.S. Coast Guard Sector Juneau.

(2) *Designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the COTP Southeast Alaska in the enforcement of the safety zone.

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

(2) To seek permission to enter, contact the COTP or the COTP's designated representative by telephone at 907–463–2980 or on Marine Band Radio VHF–FM channel 16 (156.8 MHz). The designated representative on-scene can be contacted on Marine Band Radio VHF–FM channel 16 (156.8 MHz).

(3) Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced twenty-four hours per day from 6 p.m. on March 27, 2022, until 6 p.m. on April 29, 2022.

Dated: March 25, 2022.

D.A. Jensen,

Captain, U.S. Coast Guard, Captain of the Port Southeast Alaska.

[FR Doc. 2022–07001 Filed 4–1–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Chapter II

[Docket ID ED–2021–OESE–0148]

Final Definition—Supporting Effective Educator Development Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Final definition.

SUMMARY: The Department of Education (Department) announces a definition under the Supporting Effective Educator Development (SEED) program, Assistance Listing Number 84.423A. We may use this definition for competitions in fiscal year (FY) 2022 and later years. We take this action to clarify the conditions under which a nonprofit entity may be defined as a national entity.

DATES: This definition is effective May 4, 2022.

FOR FURTHER INFORMATION CONTACT: Christine Miller, U.S. Department of Education, 400 Maryland Avenue SW, Room 3C152, Washington, DC 20202. Telephone: (202) 260–7350. Email: *christine.miller@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Purpose of Program: The SEED program provides funding to increase the number of highly effective educators by supporting the implementation of evidence-based practices that prepare, develop, or enhance the skills of educators. SEED grants allow eligible entities to develop, expand, and evaluate practices that can serve as models to be sustained and disseminated.

Program Authority: Section 2242 of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 6672).

We published a notice of proposed definition (NPP) for this program in the **Federal Register** on December 15, 2021 (86 FR 71207). The NPP contained background information and our reasons for proposing the definition.

Except for minor editorial and technical revisions, there are no differences between the proposed definition and the final definition.

Public Comment: In response to our invitation in the NPP, we received seven comments, six of which were relevant to the proposed definition and considered in the analysis. Of the six comments addressing the proposed definition, three expressed support for the definition. Of these three comments, one commenter offered a specific recommendation for revising the definition, and the other two commenters raised concerns that the definition de-emphasized the SEED program's requirement that national nonprofit entities demonstrate evidence of educational effectiveness. The remaining three comments expressed disagreement with the definition, arguing that the definition would be too restrictive and would limit the potential pool of applicants from the nonprofit sector. Two commenters raised concerns that the definition would impose restrictions on nonprofit entities but not on institutions of higher education, which are also eligible applicants under the SEED program. Responses to these comments are found in the *Analysis of the Comments and Changes* below.

Analysis of the Comments and Changes: An analysis of the comments and of any changes to the proposed definition follows. Generally, we do not address technical and other minor changes, or suggested changes we are not authorized to make under the applicable statutory authority. In addition, we do not address general comments that raised concerns not directly related to the NPP. We group major issues according to subject.

Comment: In response to the proposed definition of ''national nonprofit entity,'' multiple commenters expressed general support for the definition. However, one commenter, while expressing general support for the definition, suggested a change to the language to specify that the national nonprofit entity provides services to teachers, principals, *or other* school leaders, rather than teachers, principals, and school leaders.

Discussion: We appreciate the comment regarding the educators to be served by the national nonprofit entity and recognize the significance of the specific area they recommend emphasizing in the definition. Upon further review, we concur with the comment and recognize that this revision to the definition is consistent with the purposes of the program in section 2242(a) of the ESEA, which generally contemplate that services be provided to teachers, principals, or other school leaders. We are also clarifying in the definition that ''school leader'' has the meaning ascribed it in section 8101 of the ESEA.

Changes: We have revised paragraph (2) of the definition to clarify that a national nonprofit entity serves teachers, principals, *or other* school leaders and that ''school leader'' has the meaning ascribed it in section 8101 of the ESEA.

Comment: Multiple commenters opposed the definition's requirement that a nonprofit entity provide services in three or more States to be qualified as national in scope. The commenters noted that the requirement seemed to narrow the pool of eligible applicants unnecessarily. The commenters suggested that the Department focus instead on the overall impact of a nonprofit entity and look at the number of educators served by an entity rather than quantifying its geographic reach.

Discussion: We appreciate the comments on the requirement that

nonprofit entities serve educators in three or more States to be considered national in scope. While we recognize the commenters' concerns about potentially narrowing the pool of eligible entities and the impact of the SEED program, we think that the definition provides needed clarity that is currently missing from the statute. The SEED statute, by modifying the term ''nonprofit'' with the term ''national,'' contemplates that only nonprofit entities that are national in scope receive awards. To give meaning to this requirement, the Department has determined that a nonprofit entity must have tangible effects on educators in multiple States to be deemed national. At the same time, the Department shares the commenters' concerns about unduly narrowing the pool of eligible applicants and has addressed that concern by setting a threshold of three or more States, a threshold that it deems both reasonable and easy to document in SEED applications. This requirement provides clarity and transparency for applicants responding to the SEED program but is not unduly burdensome.

Changes: None.

Comment: Multiple commenters raised concern that the provision on serving educators in three or more States only applies to nonprofit entities but does not apply to institutions of higher education (IHEs). The commenters argued that this approach was inconsistent and imposes unreasonable restrictions on one class of applicants but not the other.

Discussion: The SEED statute does not require IHEs to have a national scope or presence.

Changes: None.

Comment: Multiple commenters expressed concern that the definition appears to move the SEED program away from the statutory requirement that nonprofit entities have a demonstrated record of raising student academic achievement, graduation rates, and rates of higher education attendance, matriculation, or completion, or of effectiveness in providing preparation and professional development activities and programs for teachers, principals, or other school leaders.

Discussion: The definition does not remove any statutory requirements; rather, it clarifies that eligible nonprofit entities, in addition to demonstrating the characteristics noted by commenters, must carry out their work in three or more States.

Changes: None.

Final Definition

The Department establishes the following definition for use in any SEED competition in which the term ''national nonprofit entity'' is used in connection with the eligibility requirement in section 2242 of the ESEA:

National nonprofit entity means an entity that—

(a) Meets the definition of ''nonprofit'' under 34 CFR 77.1(c); and

(b) Is of national scope, which requires that the entity—

(1) Provides services in three or more States; and

(2) Demonstrates a proven record of serving or benefitting teachers, principals, or other school leaders (as defined in section 8101 of the ESEA) across these States.

This document does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria subject to meeting applicable rulemaking requirements.

Note: This document does *not* solicit applications. In any year in which we choose to use this definition, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

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

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

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

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

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

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

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

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

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

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

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

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

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

We are issuing the final definition only on a reasoned determination that its benefits justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on an analysis of anticipated costs and benefits, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

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

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both

quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

Regulatory Flexibility Act Certification: The Secretary certifies that this regulatory action does not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define proprietary institutions as small businesses if they are independently owned and operated, are not dominant in their field of operation, and have total annual revenue below $7,000,000. Nonprofit institutions are defined as small entities if they are independently owned and operated and not dominant in their field of operation. Public institutions are defined as small organizations if they are operated by a government overseeing a population below 50,000. The small entities that this regulatory action will affect are nonprofit organizations and IHEs. We believe that the costs imposed on an applicant by the final definition will be limited to paperwork burden related to preparing an application and that the benefits of the final definition will outweigh any costs incurred by the applicant. Participation in the SEED program is voluntary. We expect that in determining whether to apply for SEED program funds, an eligible entity will evaluate the costs of preparing an application and weigh them against the benefits likely to be achieved by receiving a SEED program grant. An eligible entity will probably apply only if it determines that the likely benefits exceed the costs of preparing an application. Therefore, we believe that the definition will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act of 1995: The final definition contains information collection requirements that are approved by OMB under OMB control number 1894–0006; the final definition does not affect the currently approved data collection.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of Federal financial assistance. This document provides early notification of our specific plans and actions for this program.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at: *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

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

Ruth E. Ryder,

Deputy Assistant Secretary for Policy and Programs Office of Elementary and Secondary Education.

[FR Doc. 2022–06965 Filed 4–1–22; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2022–0075; FRL–9428–02–R7]

Air Plan Approval; Kansas; 2015 Ozone NAAQS Interstate Transport Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Kansas as meeting the Clean Air Act (CAA) requirement that each State's SIP contain adequate provisions to prohibit emissions that will significantly contribute to nonattainment or interfere with maintenance of the 2015 8-hour ozone national ambient air quality standards (NAAQS) in any other state. This action is being taken in accordance with the CAA.

DATES: This final rule is effective on May 4, 2022.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2022–0075. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: William Stone, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551–7714; email address: *stone.william@epa.gov.*

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

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I. Background and Purpose

On February 7, 2022, EPA published a Notice of Proposed Rulemaking (NPRM) for the State of Kansas. *See* 87 FR 7071. The NPRM proposed approval of a Kansas SIP revision that addresses the CAA requirement prohibiting emissions from the state that significantly contribute to nonattainment or interfere with maintenance of the 2015 8-hour ozone NAAQS in other states. *See* CAA section 110(a)(2)(D)(i)(I) (the ''good neighbor provision''). The SIP revision was submitted to EPA by Kansas on September 27, 2018. The rationale for EPA's proposed action is given in the NPRM and will not be repeated here. In section IV. of the NPRM, EPA erroneously stated that Kansas submitted the Kansas submission on October 1, 2018. The submission was received on September 27, 2018.

EPA received one public comment in support of the proposed action.

II. Final Action

EPA is approving a Kansas SIP revision, which was submitted on September 27, 2018. This submission is approved as meeting CAA section 110(a)(2)(D)(i)(I) requirements that Kansas's SIP includes adequate provisions prohibiting any source or other type of emissions activity within the state from emitting any air pollutant in amounts that will contribute significantly to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other state.

III. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 3, 2022. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: March 28, 2022.

Meghan A. McCollister,

Regional Administrator, Region 7.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart R—Kansas

■ 2. In § 52.870, the table in paragraph (e) is amended by adding the entry ''(47)'' in numerical order to read as follows:

§ 52.870 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED KANSAS NONREGULATORY PROVISIONS

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
*	*	*	*	* * *
(47) Transport SIP for the 2015 Ozone Standard.	Statewide	9/27/2018	4/4/2022, [insert **Federal Register** citation].	[EPA–R07–OAR–2022–0075; FRL–9428–02–R7]. This transport SIP shows that Kansas does not significantly contribute to ozone nonattainment or maintenance in any other state. This submittal is approved as meeting the requirements of Clean Air Act section 110(a)(2)(D)(i)(I).

[FR Doc. 2022–06937 Filed 4–1–22; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2021–0953; FRL–9396–02–R7]

Air Plan Approval; Missouri; Control of Emissions From the Manufacturing of Paints, Varnishes, Lacquers, Enamels and Other Allied Surface Coating Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the State Implementation Plan (SIP) for the State of Missouri. This final action will amend a Missouri regulation that controls emissions from facilities in St. Louis City and Jefferson, St. Charles, Franklin, and St. Louis Counties. The revisions to this rule include adding incorporations by reference to other State rules, including definitions specific to the rule, removing unnecessary words, making other administrative wording changes, and adding alternative test methods. These revisions do not impact the stringency of the SIP or air quality. Approval of these revisions will ensure consistency between state and federally approved rules.

DATES: This final rule is effective on May 4, 2022.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2021–0953. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: Allie Donohue, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551–7986; email address: *donohue.allie@epa.gov*.

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

Table of Contents

I. What is being addressed in this document?

The EPA is taking final action to approve revisions to 10 Code of State Regulations (CSR) 10–5.390, Control of Emissions from the Manufacturing of Paints, Varnishes, Lacquers, Enamels and Other Allied Surface Coating Products in the Missouri SIP. On January 27, 2022, the EPA published a notice of proposed rulemaking (NPRM) which proposed to approve the SIP revision as submitted by Missouri on June 10, 2021. (87 FR 4181) The revisions move previously SIP-approved definitions from 10 CSR 10–6.020, 40 CFR 63.11607, and 40 CFR 63.5781 to this chapter to streamline the rule. The revisions also reorganize reporting and recordkeeping requirements to improve readability, add specific test methods applicable to sources subject to the rule, and make minor edits. More detail on the EPA's analysis of the revisions can be found in the NPRM and technical support document (TSD) included in this docket.

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

The State's submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice on this SIP revision from January 2, 2020 to April 2, 2020 and received five comments. The State revised the rule based on the comments submitted. In addition, as explained in more detail in the NPRM and technical support document (TSD) which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

III. What action is the EPA taking?

On January 27, 2022, the EPA published a NPRM proposing to approve Missouri's June 10, 2021, SIP revision submittal. (87 FR 4180) The EPA sought public comment on the NPRM and received no comments. Therefore, the EPA is taking final action to amend the Missouri SIP to include revisions to 10 Code of State Regulations (CSR) 10–5.390, Control of Emissions from the Manufacturing of Paints, Varnishes, Lacquers, Enamels and Other Allied Surface Coating Products. Approval of these revisions will ensure consistency between State and federally approved rules. As described in the NPRM and the TSD, the EPA has determined that these changes will not adversely impact air quality or the stringency of the SIP.

IV. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Missouri Regulations described in Section I of this preamble and set forth the amendments to 40 CFR part 52 below. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

Therefore, these materials have been approved by the EPA for inclusion in the State Implementation Plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[1]

V. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

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

• Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and

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

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

• This action is subject to the Congressional Review Act, 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).

• Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 3, 2022. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: March 28, 2022.

Meghan A. McCollister,

Regional Administrator, Region 7.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart AA—Missouri

■ 2. In § 52.1320, the table in paragraph (c) is amended by revising the entry for ''10–5.390'' to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
*	*	*	*	*
Chapter 5—Air Quality Standards and Air Pollution Control Regulations for the St. Louis Metropolitan Area				
*	*	*	*	*
10–5.390	Control of Emissions from the Manufacturing of Paints, Varnishes, Lacquers, Enamels and Other Allied Surface Coating Products.	9/30/2020	4/4/2022, [insert **Federal Register** citation].	
*	*	*	*	*

* * * * *

[FR Doc. 2022–06938 Filed 4–1–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 21–93; DA 22–309; FR ID 80121]

Establishing Emergency Connectivity Fund To Close the Homework Gap

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Wireline Competition Bureau (Bureau) announces that a third application filing window for the Emergency Connectivity Fund (ECF) Program will open on Thursday, April 28, 2022, and close on Friday, May 13, 2022. The Bureau anticipates that a minimum of $1 billion will be available for commitment and disbursement for this third window. In view of outstanding demand, eligible

schools and libraries may request funding during this 15-day filing window for a maximum of 12 months of eligible services and equipment that will be received or delivered between July 1, 2022, and December 31, 2023. Accordingly, the Bureau also modifies the Federal Communication Commission's (Commission) ECF rules to establish December 31, 2023, as the service delivery date for equipment, other non-recurring services, and recurring services requests submitted during the third application filing window.

DATES: Effective April 4, 2022.

FOR FURTHER INFORMATION CONTACT: Molly O'Conor, Wireline Competition Bureau, (202) 418–7400 or by email at *Molly.OConor@fcc.gov.* The Federal Communications Commission (Commission or FCC) 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 Bureau's Public Notice in WC Docket No. 21–93; DA 22–309, released March 23, 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-announces-third-ecf-application-window.*

1. Pursuant to the authority delegated to the Bureau in the Emergency Connectivity Fund Report and Order, 86 FR 29136, May 28, 2021, the Bureau announces that a third application filing window for the ECF Program will open on Thursday, April 28, 2022, and close on Friday, May 13, 2022. The Bureau anticipates that a minimum of $1 billion will be available for commitment and disbursement for this third window. In view of outstanding demand, eligible schools and libraries may request funding during this 15-day filing window for a maximum of 12 months of eligible services and equipment that will be received or delivered between July 1, 2022, and December 31, 2023. Accordingly, the Bureau also modifies § 54.1711(e) of the Commission's rules to establish December 31, 2023, as the service delivery date for equipment, other non-recurring services, and recurring services requests submitted during the third application filing window.

2. As part of the American Rescue Plan Act of 2021, Congress appropriated $7.171 billion to the ECF and directed the Commission to promulgate rules providing for the distribution of funding to eligible schools and libraries for the purchase of eligible equipment and/or advanced telecommunications and information services for use by students, school staff, and library patrons at locations that include locations other than a school or library. On May 10, 2021, the Commission adopted a Report and Order establishing the rules for the ECF Program to distribute the funding to eligible schools and libraries. The Commission and the Universal Service Administrative Company (USAC) opened an initial 45-day application filing window from June 29, 2021, to August 13, 2021, and a second 15-day application filing window from September 28, 2021, to October 13, 2021. During the first two application filing windows, applicants could request funding for eligible equipment and services received or delivered between July 1, 2021, and June 30, 2022. On December 2, 2021, the Bureau established June 30, 2022, as the service delivery date for ECF requests for equipment, other non-recurring services, and recurring services submitted for the July 1, 2021, through June 30, 2022, funding period. Subsequently, in February 2022, the Bureau extended the service delivery date from June 30, 2022, to June 30, 2023, for funding requests for equipment and services submitted during the first and second application filing windows, recognizing that multiple factors outside of the applicants' control resulted in them having less time to use the funded equipment and services.

3. The Bureau will open a third application filing window to provide ECF support for eligible equipment and services received or delivered between July 1, 2022, and December 31, 2023, in light of the continuing demand for prospective equipment and services and ECF stakeholders' concerns about meeting the persisting unmet connectivity needs of students, school staff, and library patrons during the upcoming school year. Specifically, the Schools, Health & Libraries Broadband (SHLB) Coalition and the State E-rate Coordinators' Alliance (SECA) urged the Commission to open a third prospective filing window this spring to enable schools and libraries to receive ''additional funding needed to continue engaging in online instruction to students and patrons in need'' because it makes the ''best policy sense to be forward looking and consider the future rather than the past needs of school students, educators, and library patrons.''

4. In the third application filing window, applicants can request support and reimbursement for a maximum of 12 months of costs associated with eligible equipment or services during the 18-month funding period (*i.e.,* July 1, 2022, to December 31, 2023). In establishing an 18-month funding period, the Bureau seeks to maximize flexibility for applicants, allowing first and second window applicants the full benefit of their 12-month ECF funding commitments and ensuring continuity of service, regardless of their term of service. The Bureau expects that this approach will address requests by SHLB and SECA to tailor third window ECF funding requests based on the service end dates of existing ECF-supported services, while facilitating the efficient administration of the program by establishing a firm service delivery end date. The Bureau believes these actions will maximize the use of the limited ECF funds and allow applicants to continue to provide eligible equipment and services to their students, school staff, and library patrons who would otherwise be unable to fully engage in remote learning without the continuation of the ECF-supported services.

5. The Bureau also establishes December 31, 2023, as the service delivery date for equipment, other non-recurring services, and recurring services funding requests submitted in the third application filing window. As a result, the invoice filing deadline for these third window funding requests will be 60 days from the date of the funding commitment decision letter; a revised funding commitment decision letter approving a post-commitment change or a successful appeal of previously denied or reduced funding; or February 29, 2024 (*i.e.,* 60 days after December 31, 2023), whichever is later. The Bureau reminds applicants seeking support for the construction of new networks or the provision of customer premises equipment for datacasting services that they will continue to have one year from the date of their funding commitment decision letter to demonstrate that construction is completed and the services have been provided.

6. Recognizing that the service delivery date for many first and second window ECF funding requests was extended to June 30, 2023, the Bureau emphasizes that applicants are not allowed to request duplicative funding during the third application filing window for equipment or services that are committed and were or will be

funded through the applicant's first or second window funding requests. To avoid duplicative support and expedite the review of the third filing window applications, applicants should include in the narrative section of the ECF FCC Form 471 application information regarding services funded during the first or second filing windows, including the ECF FCC Form 471 application number(s) and the service end date(s) for any services funded during the first or second window that an applicant is seeking to continue between July 1, 2022, through December 31, 2023. If an applicant does not have any first or second window funding commitments that will be used to fund eligible equipment or services during the July 1, 2022, through December 31, 2023, funding period, the applicant should provide the service start and end dates for up to 12 months of service that will be requested on their ECF FCC Form 471. Applicants may only request support for up to 12 months of eligible services during the third application filing window that covers eligible equipment and services received or delivered between July 1, 2022, and December 31, 2023.

7. The Commission received over $6.4 billion in funding requests during the first and second ECF application filing windows. Therefore, in the event that demand exceeds available funding during the third ECF application filing window, the Bureau reminds applicants that requests will be prioritized based on applicants' E-Rate Program discount rate for category one services, adjusted to provide a five percent increase for rural schools and libraries.

8. The procedural rule modification for § 54.1711(e) is below. The Bureau makes this modification without notice and comment in accordance with the exception to the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(A), for procedural rules. The updated rule will become effective April 4, 2022.

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.

Cheryl Callahan,

Assistant Chief, Telecommunications Access Policy Division, Wireline Competition Bureau.

Final Rule

For the reasons set forth above, the Federal Communications Commission amends 47 CFR part 54 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, 1601–1609, and 1752, unless otherwise noted.

■ 2. Amend § 54.1711 by revising paragraph (e) to read as follows:

§ 54.1711 Emergency Connectivity Fund requests for reimbursement.

* * * * *

(e) *Service delivery date.* (1) For the initial filing window set forth in § 54.1708(b) and second application filing window, the service delivery date for equipment, other non-recurring services, and recurring services is June 30, 2023.

(2) For the third application filing window and any subsequent filing windows covering funding for purchases made between July 1, 2022, and December 31, 2023, the service delivery date for equipment, other non-recurring services, and recurring services is December 31, 2023.

[FR Doc. 2022–07021 Filed 4–1–22; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 22016–0049; RTID 0648–XB793]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Greater Than or Equal to 50 Feet Length Overall Using Hook-and-Line Gear in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by catcher vessels greater than or equal to 50 feet (15.2 meters (m)) length overall using hook-and-line (HAL) gear in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the 2022 total allowable catch (TAC) apportioned to catcher vessels greater than or equal to 50 feet (15.2 m) length overall using HAL gear in the Central Regulatory Area of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), March 30, 2022, through 1200 hours, A.l.t., June 10, 2022.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7241.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The A season allowance of the 2022 Pacific cod TAC apportioned to catcher vessels greater than or equal to 50 feet (15.2 m) length overall using HAL gear in the Central Regulatory Area of the GOA is 823 metric tons (mt) as established by the final 2022 and 2023 harvest specifications for groundfish in the GOA (87 FR 11599, March 2, 2022).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the A season allowance of the 2022 Pacific cod TAC apportioned to catcher vessels greater than or equal to 50 feet (15.2 m) length overall using HAL gear in the Central Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 753 mt and is setting aside the remaining 70 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for catcher vessels greater than or equal to 50 feet (15.2 m) length overall using HAL gear in the Central Regulatory Area of the GOA.

While this closure is effective the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR

part 679, which was issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific cod by catcher vessels greater than or equal to 50 feet (15.2 m) length overall using HAL gear in the Central Regulatory Area of the GOA. NMFS was unable to publish a notification providing time for public comment because the most recent, relevant data only became available as of March 29, 2022.

The Assistant Administrator for Fisheries, NOAA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

Dated: March 30, 2022.

Ngagne Jafnar Gueye,

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

[FR Doc. 2022–07058 Filed 3–30–22; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 220223–0054; RTID 0648–XB753]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by catcher vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the A season apportionment of the 2022 Pacific cod total allowable catch (TAC) allocated to catcher vessels using trawl gear in the BSAI.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), March 30, 2022, through 1200 hours, A.l.t., April 1, 2022.

FOR FURTHER INFORMATION CONTACT: Krista Milani, 907–581–2062.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The A season apportionment of the 2022 Pacific cod TAC allocated to catcher vessels using trawl gear in the BSAI is 21,944 metric tons (mt) as established by the final 2022 and 2023 harvest specifications for groundfish in the BSAI (87 FR 11626, March 2, 2022).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the A season apportionment of the 2022 Pacific cod TAC allocated to trawl catcher vessels in the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 3,000 mt and is setting aside the remaining 18,944 mt as incidental catch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher vessels using trawl gear in the BSAI.

While this closure is effective the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific cod by catcher vessels using trawl gear in the BSAI. NMFS was unable to publish a notification providing time for public comment because the most recent, relevant data only became available as of March 28, 2022.

The Assistant Administrator for Fisheries, NOAA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

Dated: March 30, 2022.

Ngagne Jafnar Gueye,

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

[FR Doc. 2022–07079 Filed 3–30–22; 4:15 pm]

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Proposed Rules

Federal Register
Vol. 87, No. 64
Monday, April 4, 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.

FARM CREDIT ADMINISTRATION

12 CFR Parts 619 and 627

RIN 3052–AD48

Conservators and Receivers

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA, we, our) proposes a rule to update, restructure and reorganize our regulations that govern the appointment of the Farm Credit System Insurance Corporation (FCSIC) as the conservator or receiver of Farm Credit System (FCS or System) banks, associations, service corporations, and the Federal Farm Credit Banks Funding Corporation (Funding Corporation). This proposed rule also ensures that FCA conservatorship and receivership regulations are consistent with section 5412 of the Agricultural Improvement Act of 2018 (2018 Farm Bill), which strengthens, updates, and clarifies FCSIC's powers as the conservator or receiver of these FCS institutions. Additionally, we propose consolidating and reorganizing our conservatorship and receivership regulations so they are easier to understand and use. The proposed rule makes conforming amendments to definitional regulations to clarify that bridge System banks are not subject to FCA regulations that apply to other System institutions, pursuant to new section 5.61C(h) of the Act, which expressly exempts bridge banks from certain legal requirements.

DATES: Comments on this proposed rule must be submitted on or before June 3, 2022.

ADDRESSES: We offer a variety of methods for you to submit comments. For accuracy and efficiency reasons, commenters are encouraged to submit comments by email or through the FCA's website. As facsimiles (fax) are difficult for us to process and achieve compliance with section 508 of the Rehabilitation Act, we do not accept comments submitted by fax. Regardless of the method you use, please do not submit your comment multiple times via different methods. You may submit comments by any of the following methods:

- *Email:* Send us an email at *reg-comm@fca.gov.*
- *FCA website: https://www.fca.gov.* Click inside the ''I want to . . .'' field near the top of the page; select ''comment on a pending regulation'' from the dropdown menu; and click ''Go.'' This takes you to an electronic public comment form.
- *Mail:* Autumn R. Agans, Deputy Director, Office of Regulatory Policy, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

You may review copies of all comments we receive at our office in McLean, Virginia, or on our website at *https://www.fca.gov.* Once you are in the website, click inside the ''I want to . . .'' field near the top of the page; select ''find comments on a pending regulation'' from the dropdown menu; and click ''Go.'' This will take you to the Comment Letters page where you can select the regulation for which you would like to read the public comments. We will show your comments as submitted, but for technical reasons we may omit some items such as logos and special characters. Identifying information that you provide, such as phone numbers and addresses, will be publicly available. However, we will attempt to remove email addresses to help reduce internet spam.

FOR FURTHER INFORMATION CONTACT:

Technical information: Jason Moore, Senior Accountant, Office of Regulatory Policy, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4414, TTY (703) 883–4056.

Legal information: Richard A. Katz, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4056.

SUPPLEMENTARY INFORMATION:

I. Objectives

The objectives of this proposed rule are to:

- Consolidate, reorganize, and update our regulations governing FCA's appointment of FCSIC as the conservator or receiver of any System bank, association, service corporation, or the Funding Corporation.
- Ensure that our conservatorship and receivership regulations in part 627 are consistent with section 5412 of the 2018 Farm Bill, which added section 5.61C to the Farm Credit Act of 1971, as amended (Act).[1]
- Restructure and reorganize part 627 so it is easier for FCA examiners, FCS institutions and other interested parties to understand and use, and to make conforming or technical revisions to other FCA regulations.
- Make conforming changes to two definitions in part 619 to implement various provisions in section 5.61C(h) of the Act that create specific exceptions so that bridge System banks are not subject to certain provisions of laws, including FCA regulations, that apply to FCS banks, associations, and service corporations.

II. Background

Section 4.12 of the Act governs the dissolution of System institutions through voluntary and involuntary liquidations, mergers, and conservatorships or receiverships.[2] The FCA has ''exclusive power and jurisdiction'' under section 4.12(b) of the Act to appoint FCSIC as the conservator or receiver for any FCS institution [3] that meets one or more of six specific statutory criteria for determining whether it is insolvent or unviable.[4] Since 1992, FCA regulations

[1] Public Law 115–334, 132 Stat. 4490 (Dec. 20, 2018).

[2] Section 4.12 of the Act governs both the voluntary and involuntary dissolution of System institutions. Subpart D of part 627 addresses the voluntary liquidation of System banks, associations, service corporations, and the Funding Corporation. However, the voluntary liquidation of these System institutions is outside the scope of this rulemaking.

[3] In contrast to all other FCS institutions, section 8.41(c)(1)(A) of the Act allows, but does not require, FCA to appoint FCSIC as the conservator or receiver of the Federal Agricultural Mortgage Corporation (Farmer Mac). Section 8.41 of the Act and the regulations in part 650, subpart B, govern the conservatorship or receivership of Farmer Mac. Accordingly, this rulemaking does not apply to the conservatorship or receivership of Farmer Mac.

[4] More specifically, section 4.12(b) of the Act authorizes the FCA Board to appoint FCSIC as the conservator or receiver of a System institution once it determines that one or more of the following conditions exists or is occurring at the institution: (1) Insolvency, in that the assets of the institutions are less than its obligations to its creditors and others, including its members; (2) substantial dissipation of assets or earnings due to any violation of law, rules, or regulations, or to any unsafe or unsound practice; (3)an unsafe or unsound condition to transact business; (4) willful violation of a cease and desist order that has become final; (5) concealment of books, papers, records, or assets of the institution, or refusal to

Continued

in part 627 have implemented section 4.12 of the Act.

As noted earlier, the 2018 Farm Bill added a new section to the Act, 5.61C, which strengthens, clarifies, and updates the powers and duties of FCSIC after FCA appoints it as the conservator or receiver of any FCS institution. Additionally, section 5.61C of the Act enhances FCSIC's authority to handle claims by various parties against a System institution in conservatorship or receivership. FCSIC's new statutory conservatorship and receivership authorities are comparable to those of the Federal Deposit Insurance Corporation (FDIC), National Credit Union Administration (NCUA), and Federal Housing Finance Agency (FHFA), and the legislative history further reveals that Congress intended FCSIC's authorities ''to be functionally equivalent to the parallel authorities of the [FDIC].'' [5]

Bridge System banks are one of the new tools that the 2018 Farm Bill gave FCSIC, in its capacity as receiver, for the resolution or liquidation of failing or failed System banks. Section 5.61C(h) of the Act authorizes FCA to charter bridge System banks at FCSIC's request and dissolve them once a failing or failed Farm Credit bank is resolved.[6] The statutory provisions governing the creation, operation, capitalization, and termination and dissolution of bridge System banks are comprehensive, unambiguous, and prescriptive.[7]

This is our second rulemaking within the last year to update our conservatorship and receivership regulations to address changes that section 5412 of the 2018 Farm Bill made to the Act. In March of 2021, we issued a direct final rule that rescinded ten regulations in part 627 that section 5412 of the 2018 Farm Bill superseded and rendered obsolete.[8] The preamble to the direct final rule indicated that future rulemakings could revise our conservatorship and receivership regulations in part 627 to make them consistent with new section 5.61C of the Act.

In this phase of the rulemaking, FCA proposes to update, restructure, and consolidate its regulations governing the appointment and role of FCSIC as the conservator or receiver of an FCS institution, other than Farmer Mac. More specifically, the proposed rule combines the four remaining conservatorship regulations into a single regulation, while the three receivership regulations that we retained are also consolidated together. We believe that consolidating and restructuring the conservatorship and receivership regulations in part 627 will make it easier for both FCA examiners and FCS institutions to understand and follow them. We explain these revisions in greater detail in the section-by-section analysis below.

As explained above, section 5.61C(h) of the Act establishes unambiguous, comprehensive, and prescriptive requirements concerning FCA's authority over bridge System banks. For this reason, new regulations are not necessary to implement FCA's statutory authority regarding bridge System banks, and we are not proposing any in this rulemaking. Instead, FCA relies on its chartering and supervisory powers, as well as coordination with FCSIC, to fulfill its responsibilities and obligations under the Act concerning bridge System banks. Other Federal regulators of financial institutions, such as the Comptroller of the Currency, the NCUA, and the FHFA have not enacted regulations to implement similar statutory provisions. Additionally, section 5.61C of the Act grants FCSIC authority to organize, control, manage, and operate bridge System banks.

Under this new statutory framework, the successor to the bridge System bank is created by a: (1) Merger or consolidation with an existing System institution, (2) sale of the bridge System bank's capital stock and converting its charter to that of the new institution, or (3) purchase or assumption transaction by the replacement institution. At the end of this process, FCA cancels the bridge System bank's charter. As noted earlier, bridge System banks are a new instrument for resolving a failing or failed FCS bank. Replacing the bridge System bank with a successor FCS institution raises novel issues of first impression for both FCA and FCSIC.[9] Both agencies are exploring and consulting about this matter. FCA may propose new regulations in the future to implement sections 5.61C(h)(9) and (h)(10) concerning the processes and procedures for replacing a bridge System bank with a solvent and viable FCS bank.

Although we are not proposing substantive regulations governing the chartering, operations, activities, and termination of bridge System banks, we are introducing the concept into FCA regulations for the first time. As discussed below, we are adding two new regulations that exclude bridge System banks, chartered pursuant to section 5.61C(h) of the Act, from the definitions of FCS institutions and System banks. The first place that this proposed amendment appears is in subpart A of the conservatorship and receivership regulations in part 627. We also propose to exclude bridge System banks from the definitions of ''Farm Credit bank'' and ''Farm Credit institutions'' in part 619, which apply to all FCA regulations in chapter VI of the Code of Federal Regulations, unless specific regulations provide a specific and specialized definition of these terms. These two amendments are consistent with section 5.61C(h)(4) of the Act, which states that bridge System banks have all corporate powers, and are subject to the same provisions of law, as any System bank, except for specific exceptions enumerated in various provisions of section 5.61C(h).

III. Section-by-Section Analysis

We discuss the specifics of our proposal for part 627 in the same chronological order they appear in the regulations. Conforming changes to part

submit books, papers, records, or other material relating to the affairs of the instituton for inspection to any examiner or to any lawful agent of the Farm Credit Administration; (6) the institution is unable to timely pay principal or interest on any insured obligation (as defined in section 5.51(3)) issued by the institution.

[5] Conf. Report No. 115–1072, 115th Cong., 2nd Sess., (Dec. 10, 2018) p. 648.

[6] According to section 5.61C(h)(2)(A) of the Act, FCA may charter a bridge System bank only if it determines that: (1) The amount which is reasonably necessary to operate the bridge System bank will not exceed the amount which is reasonbly necessary to save the cost of liquidating 1 or more System banks in default or danger of default; (2) chartering a bridge System bank is essential to continue providing adequate farm credit services in communities where such System bank(s) in default or danger of default provides such farm credit services; or (3) the continued operation of such System bank(s) in default or danger of default with respect to which the bridge System bank is chartered is in the best interest of the FCS or the public.

[7] More specifically, section 5.61C(h) of the Act addresses several aspects of a bridge System bank from cradle to grave, such as: (1) Organization; (2) chartering; (3) transfer of the assets and liabilities of failing or failed System banks to the bridge System bank; (4) the powers of bridge System banks under FCSIC management and control; (5) capital; (6) employee status; (7) FCSIC assistance to the bridge System bank; (8) duration of the bridge System bank; and (9) termination and dissolution of a bridge System bank.

[8] *See* 86 FR 15081 (Mar. 22, 2021). The rule became effective on May 13, 2021. *See* 86 FR 27510 (May 21, 2021).

[9] Under sections 1.3 and 3.0 of the Act, Farm Credit banks established pursuant to provisions of previous Farm Credit statutes continue as Federally-chartered instrumentalities of the United States. Although sections 7.0 and 7.12 of the Act allow existing Farm Credit banks operating under the same or different titles of the Act to merge, FCA had no statutory authority, prior to the 2018 Farm Bill, to charter an entirely new System bank that did not exist before. New section 5.61C(h)(10)(B) of the Act grants FCA authority to convert the charter of a bridge System bank into the charter of a successor System bank.

619 appear last in this section-by-section analysis.

A. Organization

FCA proposes to restructure, redesignate, and renumber the regulations in part 627. As noted earlier, section 5412 of the 2018 Farm Bill strengthened, clarified, and updated FCSIC's conservatorship and receivership authorities. As a result, new section 5.61C of the Act superseded several regulations in part 627 and rendered them obsolete. For this reason, our recent direct final rule repealed ten regulations that were no longer consistent with FCSIC's new statutory authorities to administer conservatorships and receiverships of System institutions. The 2018 Farm Bill also realigned and clarified the roles of FCA and FCSIC pertaining to the conservatorship and receivership of failing and failed FCS institutions. Accordingly, we are restructuring and reorganizing our regulations in part 627 so they focus on the implementation of FCA's specific conservatorship and receivership authorities under section 4.12(b) and 5.61C of the Act, while deferring to FCSIC about how to carry out its own statutory authorities.

Additionally, we propose to restructure, reorganize, redesignate, renumber, and revise the style and language of our regulations in part 627 to improve their clarity and readability. Our intent is to make it easier for FCA examiners, System institutions and borrowers, and other members of the public who may be affected by the conservatorship or receivership of an FCS institution, to understand, use, and rely on these regulations. We do not intend to change the substantive meaning of the affected regulatory provisions unless the preamble discussion of a specific provision explicitly states otherwise.

Reorganizing and restructuring the conservatorship and receivership regulations in part 627 are intended to consolidate similar provisions, eliminate redundancies, and improve their clarity. More specifically, we propose to consolidate the four remaining conservatorship regulations in existing subpart C, §§ 627.2770, 627.2775, 627.2785, and 627.2790, in a single regulation: New § 627.10. Similarly, the proposed rule also combines the three remaining receivership regulations, §§ 627.2720, 627.2735, and 627.2765 in current subpart B, into new § 627.20. As explained in greater detail below, both proposed §§ 627.10 and 627.20 implement provisions in sections 4.12(b) and 5.61C pertaining to FCA's powers and responsibilities when it places a System institution into conservatorship or receivership. Ten separate regulations in part 627 were superseded by the 2018 Farm Bill and repealed by FCA because authority over the priority of claims and other aspects relating to the administration and management of conservatorships and receiverships are now among FCSIC's enhanced powers. For all these reasons, consolidating and reorganizing the remaining regulations achieves FCA's goal of simplifying, clarifying, and making them more user-friendly.

The proposed rule also reverses the chronological order of the existing regulations by presenting the conservatorship regulation first and the receivership regulation second. This change is logical from FCA's perspective because: (1) It follows the order and flow of section 4.12 of the Act, and (2) an institution in conservatorship can be placed into receivership if its condition worsens. FCA is also simplifying the numbering system for the regulations in part 627. As a result, these regulations will have no more than a two-digit number after the decimal point, which is consistent with the way FCA has numbered regulations in recent years.

B. Subpart A—General Provisions

The proposed rule changes the title of subpart A from ''General'' to ''General Provisions.'' Existing §§ 627.2700, 627.2705, 627.2710, and 627.2715 are redesignated as §§ 627.1, 627.2, 627.3, and 627.4, respectively. All of the amendments are stylistic and non-substantive.

1. Applicability—§ 627.1

Proposed § 627.1 states that the ''provisions in this part apply to conservatorships, receiverships, and voluntary liquidations of System institutions chartered under titles I, II, III, IV, and VII of the Act.'' This provision is similar, but not identical, to existing § 627.2700. The only substantive difference is that we propose to add specific references to System institutions chartered under titles I, II, III, IV, and VII of the Act. This proposed amendment clarifies that the regulations in part 627 do not apply to Farmer Mac. Instead, as mentioned earlier, the regulations in subpart B of part 650 govern the conservatorship, receivership, or voluntary liquidation of Farmer Mac.

Separately, we propose two minor amendments to redesignated § 627.1, which do not substantively change the regulation's meaning. First, the proposed rule omits the word ''General'' and the hyphen after it from the title. Second, we are making a grammatical correction in the first sentence so the verb ''apply'' appears in the present, not future, tense.

2. Definitions—§ 627.2

The definitions that apply to part 627 are located in proposed and redesignated § 627.2. We propose to remove the paragraph designations for the definitions in existing § 627.2705 and instead list these definitions alphabetically, which is the practice that FCA has followed in recent rulemakings. Under this proposal, the regulations in part 627 refer to the Farm Credit System Insurance Corporation as ''FCSIC'' instead of the ''Insurance Corporation'' as they do now. As a result, references to FCSIC are the same throughout all FCA regulations. We also propose to amend the definition of ''Farm Credit institution(s) or institution(s)'' by: (1) Removing the reference to the now-defunct Farm Credit System Financial Assistance Corporation; [10] and (2) adding a final sentence to this provision stating that these terms do not include bridge System banks chartered by FCA, in accordance with section 5.61C(h)(2) of the Act. Finally, we propose to improve the clarity of the regulatory definitions of ''conservator'' and ''receiver'' in redesignated § 627.2 by adding the words ''of a Farm Credit institution'' at the end of each.

3. Grounds for Appointing FCSIC as Conservator or Receiver—§ 627.3

The proposed rule redesignates § 627.2710 as § 627.3 and amend this regulation, which specifies the grounds for FCA appointing FCSIC as the conservator or receiver of a System institution pursuant to sections 4.12(b) and 5.61C(l) of the Act. We propose to delete outdated provisions in redesignated § 627.3 and streamline its language so it is concise and clear. These proposed amendments are technical and stylistic, rather than substantive.

As amended, proposed § 627.3(a) provides that FCA may, in its discretion, appoint a conservator or receiver of a Farm Credit institution if it determines that one or more of the conditions in § 627.3(b) exists. FCA must also appoint FCSIC as conservator or receiver of a Farm Credit institution. We are deleting obsolete language in this regulation from 1992 that states that FCSIC is the ''sole entity'' that FCA can appoint as

[10] Section 5411(39) of the 2018 Farm Bill repealed title VI of the Act. Subpart B of former title VI of the Act established the Farm Credit System Financial Assistance Corporation. *See* Public Law 115–334, *supra* at 4683.

conservator or receiver after January 5, 1993. Proposed § 627.2 identifies which FCS institutions are subject to these conservatorship and receivership regulations. For this reason, we propose to remove the reference to ''any bank, association, or other institution of the System'' from this provision. Finally, we add a new sentence at the end of proposed § 627.3(a) to implement new section 5.61C(l)(1) of the Act, which requires FCA, to the extent practicable, to consult with FCSIC before taking a pre-resolution action that could result in a conservatorship or receivership for a distressed FCS institution.[11]

As before, paragraph (b) of this regulation identifies six grounds for FCA appointing FCSIC as the conservator or receiver of a System institution, which derives from section 4.12(b) of the Act. We are proposing the following revisions to redesignated § 627.3, which will bring it into conformity with more recent amendments to other FCA regulations, or make technical, grammatical, or language corrections that will improve its clarity and readability:

- In the first sentence of paragraph (b)(1), ''in that the assets of the institution'' changes to ''because the value of its assets.'' The reason for this revision is that referring to the values of the institution's assets and liabilities improves the technical accuracy of this provision. Replacing ''in that'' with ''because'' is a plain language and a grammatical correction.
- In the second sentence of paragraph (b)(1), which excludes borrower stock and allocated equities from the phrase ''obligations to members,'' we change ''shall not'' to ''does not'' to improve this provision's clarity by expressing it in the present, rather than future tense.
- In paragraph (b)(2), we replace ''the conduct of an unsafe or unsound practice'' with ''one or more unsafe or unsound practice(s)'' which is more technically accurate and grammatically correct.
- In the introductory paragraph of paragraph (b)(3), we change ''this regulation'' to ''this part'' because it applies to all conservatorship and receivership regulations in part 627.
- Existing paragraph (b)(3)(ii) is redesignated as paragraph (b)(3)(i), which was previously reserved. Existing paragraph (b)(3)(iii) is redesignated as paragraph (b)(3)(ii).
- In redesignated paragraph (b)(3)(i), ''funding bank'' replaces ''affiliated bank'' to improve the accuracy and clarity of this provision.
- Existing paragraph (b)(3)(iv) is redesignated as paragraph (b)(3)(iii), with no other changes. Existing paragraph (b)(3)(iv) was previously reserved.

FCA proposes no changes to the grounds for appointing FCSIC as the conservator or receiver of FCS institutions in redesignated § 627.3(b)(4) and (5). However, we propose to substitute ''A Farm Credit bank'' for ''The institution'' in redesignated § 627.3(b)(6) because only FCS banks have authority to issue debt obligations insured by FCSIC to fund System loans and other assets.

4. Action for the Removal of the Conservator or Receiver—§ 627.4

The proposed rule redesignates § 627.2715 as § 627.4. This regulation implements provisions in section 4.12(b) of the Act that allows an FCS institution, within 30 days after FCA appoints FCSIC as its conservator or receiver, to bring an action in certain United States district courts to remove the conservator or receiver. Only the board of directors of the institution has authority under this regulation to initiate an action to remove the conservator or receiver. As discussed later in greater detail, once an institution is placed in conservatorship or receivership, all of the powers, rights, and privileges of its board, management, and employees are transferred to FCSIC, and the charter of an institution in receivership is canceled. Redesignated § 627.4 carves out an exception so the institution's board subsequent to the appointment of FCSIC as conservator or receiver can bring this legal action.

We propose two revisions to redesignated § 627.4. First, we streamlined the language in the first sentence of this regulation and rewrote it in the active voice. Second, we deleted language that stated that the institution's board is empowered to bring an action to remove the conservator or receiver in Federal court ''notwithstanding any other provision in subparts B or C of this part.'' Instead, we propose to cross-reference this regulation in §§ 627.10 and 627.20.

C. Subpart B—Conservator and Conservatorships

As discussed above, the proposed rule relocates our conservator and conservatorship regulations from subpart C to subpart B of part 627, and it combines the four remaining applicable regulations into a single regulation. As proposed, redesignated § 627.10 is not substantively different from the four regulations it replaces, which are existing §§ 627.2770, 627.2775, 627.2785, and 627.2790. This is because the current regulations effectively carry out FCA's statutory powers and responsibilities concerning the conservatorship of FCS institutions. A conservator continues the ongoing operations of the financial institution while taking measures to preserve its assets and restore its financial viability so it can resume its normal business activities when it emerges from conservatorship. The purpose of a conservatorship is to resuscitate a troubled institution, not to liquidate it. In this context, our conservatorship regulations implement FCA's authority to: (1) Appoint FCSIC as the conservator of a System institution; (2) turn the day-to-day operations of the institution over to FCSIC; (3) examine the institution in conservatorship; (4) require audits and published financial reports of such institutions; (5) terminate the conservatorship and discharge FCSIC as conservator.

Proposed § 627.10(a) replaces existing § 627.2775 as the regulation governing the appointment of the conservator. According to proposed § 627.10(a)(1), the FCA Board may exercise its authority under section 4.12(b) of the Act and § 627.3 to appoint FCSIC as the conservator of a System institution once it finds that one or more of the grounds in § 627.3(b) exists. This provision also allows FCA to appoint FCSIC as the conservator of a System institution *ex parte* and without notice. Proposed § 627.10(a)(1) is substantively the same as existing § 627.2775(a). However, we propose to change the order and flow of this regulatory provision. As rewritten, the redesignated rule recognizes that we must first find that legal grounds exist for appointing the conservator before we decide to do so *ex parte* and without notice. This revision makes the regulation more logical and easier to read and understand.

Proposed § 627.10(a)(2) is virtually the same as the first sentence of existing § 627.2775(b). Upon the appointment of the conservator, this regulation requires the FCA Chairman to immediately notify the affected institution, and if it is an association, its funding bank. This regulation also requires FCA to publish notice in the **Federal Register** whenever it appoints FCSIC as the conservator of a System institution. The proposed rule makes two non-substantive, stylistic changes to this regulation. First, we propose to change ''district bank'' to

[11] We note that section 5.61C(l) of the Act establishes a reciprocal requirement on FCSIC. According to section 5.61C(l)(2) of the Act, FCSIC ''acting in the capacity of the Corporation as a conservator or receiver, shall consult with the [FCA] prior to taking any significant action impacting System institutions or service to System borrowers.''

''funding bank.'' Second, the provision about publishing the notice in the **Federal Register** becomes a separate sentence in proposed § 627.10(a)(2). We propose to delete the rest of existing § 627.2775(b), which requires FCSIC to notify all holders of the institution's voting stock and participation certificates, by first class mail, about the establishment of the conservatorship, and its effects on the: (1) Institution's operations, and (2) borrowers' loans and equity holdings. Section 5.61C strengthened FCSIC's powers as the conservator of FCS institutions, and under the circumstances, FCA regulations should not instruct FCSIC how to administer conservatorships unless a specific statutory provision explicitly requires us to do so. Providing notice and information to the shareholders of System institutions about how a conservatorship will affect them is now within FCSIC's jurisdiction.

Proposed § 627.10(b) addresses FCA's responsibilities, powers, and prerogatives once it places an FCS institution into conservatorship. It incorporates many of the provisions that are currently scattered throughout existing §§ 627.2775 and 627.2785.

We propose to redesignate existing § 627.2775(c) as § 627.10(b)(1). According to this regulation, once the FCA Board issues an order placing an FCS institution into conservatorship, all rights, privileges, and powers of its members, board of directors, and employees are transferred to and vested exclusively in FCSIC as conservator. Except for a few insignificant word changes, both versions of this regulation are identical in substance and meaning. The proposed rule, however, adds a passage at the end of redesignated § 627.10(b)(1) that states ''the board of directors of the institution retains authority to initiate an action in Federal court to remove the conservator pursuant to proposed § 627.4.'' As explained in the preamble to § 627.4, this provision replaces the more ambiguous ''notwithstanding'' passage in existing § 627.2715.

FCA proposes to transfer all but one of the provisions in existing § 627.2785 to the next four paragraphs of redesignated § 627.10(b). The existing regulation establishes requirements concerning the inventory, examination, auditing, and financial reporting of a System institution in conservatorship.

First, we propose to repeal § 627.2785(a), which requires the conservator to take an inventory of the assets and liabilities of the institution from the date that FCA places it into conservatorship. This regulatory provision also requires the conservator to file one copy of the inventory with FCA. Conducting an inventory of the assets and liabilities of a System institution in conservatorship falls within FCSIC's new powers and duties under section 5.61C(b) of the Act. Indeed, it is routine practice for conservators to conduct inventories of the assets and liabilities of the financial institution immediately after appointment. FCA has the right to obtain a copy of the inventory because a System institution in conservatorship is still chartered as an ongoing FCS institution and remains subject to FCA examination, supervision, and regulation. Yet, FCA regulations apply to FCS institutions, including those in conservatorship, but not to FCSIC. FCA still has authority under the 2018 Farm Bill to receive a copy of the conservator's inventory of the institution's assets and liabilities. However, in light of the new legislation, a regulation is no longer necessary to require FCSIC, as conservator, to conduct the inventory and share a copy of it with us.

The proposed rule redesignates existing § 627.2785(b), which confirms FCA's authority to examine an institution in conservatorship pursuant to section 5.19 of the Act, as § 627.10(b)(2). Similarly, the requirement in § 627.2785(b) that a certified public accountant audit a System institution in conservatorship pursuant to part 621 becomes a separate regulatory provision, which we redesignate as § 627.10(b)(3). We also rewrote these two provisions in the active voice. Although these revisions improve the clarity and readability of these provisions, they do not change the substantive meaning or scope of these regulatory requirements.

The proposed rule also redesignates existing § 627.2785(c) and (d) as § 627.10(b)(4) and (5), respectively. Proposed and redesignated § 627.10(b)(4) continues to require each System institution in conservatorship to file the financial reports required by part 621. Under § 621.14, each System institution must certify that its financial reports have been prepared in accordance with applicable regulations and instructions, and they are a true and accurate representation of the institution's financial condition and performance. Additionally, § 621.14 also requires an officer of the institution to certify these financial reports. Since FCSIC replaces the management of an FCS institution in conservatorship, FCSIC is required by both existing § 627.2785(c) and redesignated § 627.10(b)(4) to certify the reports of financial conditions that the institution submits to FCA. The proposed rule condenses the two sentences in existing § 627.2785(c) into a single, shorter sentence, without changing its meaning. Existing § 627.2785(d) requires System institutions in conservatorship to prepare and publish financial reports for their shareholders in accordance with part 620. Under this regulation, the conservator must sign and certify the disclosures that the institution's former board of directors or management previously provided to shareholders pursuant to § 620.3. The substance and meaning of redesignated § 627.10(b)(5) is the same as the existing regulation. However, we shortened the passage requiring FCSIC, as conservator, to sign and certify the disclosure to the institution's shareholders.

Proposed § 627.10(c) addresses the termination of the conservatorship. Essentially, a conservatorship ends in one of two ways. In the first scenario, the conservatorship corrects and resolves the problems and conditions that beleaguered the institution, and FCA determines that it is ready to resume normal operations under new management. In the alternative, the institution's conditions continue to deteriorate, and FCA decides to place it into receivership. In this scenario, FCA appoints FCSIC as the receiver, and FCSIC determines the best course of action for liquidating and resolving the institution, as we will discuss in greater detail below.

Proposed § 627.10(c) is a restatement of the last two sentences of existing § 627.2770(a). Under proposed § 627.10(c)(1), the FCA Board may terminate the conservatorship by determining that the institution is in a position to resume normal operations. In this situation, our Board will instruct FCSIC to turn the institution's operations over to management that we designate. Once new management is in place, the conservatorship terminates and FCA discharges FCSIC as conservator. In the alternative, the conservatorship will end when the FCA places the institution in receivership and appoints FCSIC as receiver pursuant to § 627.10(c)(2). The proposed rule makes minor wording changes to the current regulatory provisions but does not change their meaning.

We propose to rescind the requirement in existing § 627.2790 that FCSIC submit a report to FCA on its conservatorship activities before its discharge as the institution's conservator. Filing a report is not a statutory requirement for terminating a conservatorship. FCA and FCSIC will jointly determine what documentation

is appropriate to share at the end of the conservatorship.

D. Subpart C—Receiver and Receiverships

FCA proposes to consolidate its remaining receivership regulations into a single regulation, § 627.20, and transfer it from subpart B to subpart C of part 627. To a large extent, proposed and redesignated § 627.20 follows the same format and structure as the revised conservatorship regulation, § 627.20. However, a receivership is fundamentally different from a conservatorship. A receivership liquidates and resolves a failing institution rather than correcting its problems. For this reason, there are some key distinctions between these two regulations, and many of the amendments that we propose to the receivership regulation are more substantive than those for the conservatorship regulation.

Proposed § 627.20(a) addresses FCA's appointment of FCSIC as the receiver of an FCS institution. Paragraph (a)(1) of proposed § 627.20(a) states that the FCA Board ''may exercise its authority under section 4.12(b) of the Act and § 627.3 to appoint FCSIC as the receiver of an FCS institution upon finding that one or more of the grounds identified in § 627.3(b) exists.'' Under proposed § 627.20(a)(1), the FCA Board may appoint FCSIC as the receiver of any System institution *ex parte* and without notice.

In this context, § 627.20(a)(1) is virtually identical to § 627.10(a)(1), which is the corresponding provision in the proposed conservatorship regulation above. The proposed rule also makes the same technical and stylistic changes to the existing receivership regulation, § 627.20(a), as it does to the current conservatorship regulation. We explained the reasons for these changes in the preamble to § 627.10(a)(1), which discusses the appointment of a conservator, and the same rationale applies to the appointment of receiver under proposed § 627.20(a)(1).

Upon the appointment of FCSIC as receiver, proposed § 627.20(a)(2) requires FCA's Chairman to immediately notify the affected institution and its funding bank if it is an association. This regulation also requires FCA to publish a notice in the **Federal Register** whenever it appoints FCSIC as the conservator of a System institution. Again, the technical changes we propose for this provision mirror our proposed changes to redesignated § 627.10(a)(2), which is the companion provision in the conservatorship regulations. The explanation and rationale for these changes in the applicable preamble passage for the conservatorship regulations above apply to this receivership regulation as well.

The proposed rule redesignates existing § 627.2720(d) as § 627.20(b). This regulation continues to require the funding bank, in the event of a voluntary or involuntary liquidation of an affiliated association, to institute appropriate measures to minimize the adverse effect of liquidation on those borrowers whose loans are purchased or otherwise transferred to another institution. At this time, we propose only two minor word changes to this provision. As noted earlier, FCA does not propose substantive amendments to its voluntary liquidation regulations in this rulemaking. For this reason, redesignated § 627.20(b) continues to apply to both voluntary liquidations and receiverships for the time being.

The proposed rule, which redesignates existing § 627.2720(e) as § 627.20(c), continues to state that ''all rights, privileges, and powers of its members, the board of directors, officers, and employees are transferred to and vested exclusively in FCSIC'' once the FCA Board issues the order that places it into receivership. The proposed rule adds a provision at the end § 627.20(c)(1) that carves out an exception that enables the board of directors of the institution to initiate an action in Federal court to remove the receiver pursuant to § 627.4. The reasons for these changes have already been explained twice above.

Proposed § 627.20(c)(2) revises the last sentence of existing § 627.2720(e). This provision pertains to the cancelation of a System institution's charter when the FCA appoints FCSIC as its receiver. Under the existing regulation, FCA may cancel the charter either simultaneously or at any time thereafter. Research reveals that in 1992 we added the provision to the final rule that allows us to cancel the charter at a later time in response to a comment from a System trade association.[12] FCA decided that the final rule should provide flexibility so it could consider the merits about when to cancel the charter on a case-by-case basis.[13] However, the preamble expressed FCA's expectation that it would ordinarily cancel the charter when it appointed FCSIC as the receiver of a System institution.[14]

We propose to amend this provision to require cancelation of the charter when FCSIC is appointed as the institution's receiver. Canceling the charter means that the institution is out of business and undergoing liquidation and resolution. A ''live'' corporate charter is inconsistent with the rights, powers, and duties of the receiver in section 5.61C of the Act, as added by Congress in 2018. As long as the charter is active, the institution is not defunct as a matter of law, and FCSIC's authority and ability to resolve the estate by disposing of its assets and liabilities can more easily be challenged by creditors, shareholder-members, and other parties, contrary to Congressional intent to provide for an orderly liquidation process comparable to that of other federally chartered financial institutions. Federal statutes comparable to section 4.12(b) of the Act permit commercial banks, credit unions, and Federal Home Loan Banks to challenge, in Federal court, decisions by the three Federal banking regulatory agencies, the NCUA, and FHFA to appoint receivers and seek their removal. These agencies cancel the charters of institutions they supervise at the time they place them into receivership to ensure an orderly liquidation and resolution.

Redesignated and amended § 627.20(d) implements section 4.37 of the Act,[15] which addresses the treatment of uninsured voluntary and involuntary accounts of a System institution that is in receivership. As revised, this regulation provides that once the FCA Board has placed an institution into receivership, FCSIC, in accordance with section 4.37 of the Act, will, as soon as practicable, notify every borrower who holds an uninsured voluntary or involuntary account, as described in § 614.4175, at the institution that: (1) [s]uch accounts ceased earning interest from the date that the FCA Board placed the institution into receivership; and (2) FCSIC, as receiver, will immediately apply the funds in a borrower's account(s) as payment against the outstanding balance of the borrower's loan(s). The only substantive

[12] This commenter expressed concerns that canceling the charter at the same time that FCA appoints the receiver ''clouds'' the issue of whether the institution had standing to challenge the receivership. FCA rejected this claim because section 4.12(b) of the Act expressly authorizes the institutions' board to challenge the receivership in Federal court and seek removal of the receiver within 30 days after appointment. *See* 57 FR 46482 (Oct. 9, 1992).

[13] *Id.*

[14] *Id.*

[15] Section 4.37 of the Act requires that money of a borrower held in an uninsured voluntary or involuntary account at a System institution must be immediately applied as payment against the borrower's outstanding loans if the institution is placed in liquidation. This statutory provision also requires FCA to enact regulations that: (1) Define the term ''uninsured voluntary or involuntary account''; and (2) effectively carry out section 4.37 of the Act.

amendment we propose to this regulation is to delete the provision in existing § 627.2735(a) that allows the borrower, within 15 days of receiving the notice, to direct FCSIC to apply the funds in the account for some other purpose specified in the loan documents. We propose to delete this provision because these accounts are uninsured and unsecured, and section 4.37 of the Act explicitly states that these funds must be applied to reduce the outstanding balance of the borrower's loans. All other proposed changes to this regulation are designed to improve its readability and clarity.

Section 4.37 requires FCA to enact regulations about how uninsured voluntary and involuntary accounts at System institutions in receivership are to be resolved by FCSIC, as receiver. For this reason, redesignated § 627.20(d) specifies how FCSIC will address the resolution of these specific liabilities of an FCS institution in receivership.

FCA proposes to repeal existing § 627.2735(b), which requires FCSIC to provide certain notices to the stockholders of FCS institutions in liquidation. Existing § 627.2735(b) is not needed to implement statutory provisions that protect the rights of borrowers. Section 4.9A(c) of the Act, which requires FCSIC to retire borrower stock at par at a System institution in receivership, provides clear and unambiguous guidance to FCSIC.

Finally, redesignated § 627.20(e) is a restatement of existing § 627.2765, which addresses the final discharge and release of the receiver. According to this regulation, a receivership terminates once FCSIC makes a final distribution of the assets of the liquidated institution. At that time, the regulation specifies that FCA's Board will cancel the charter if it has not done so earlier, and it completely and finally releases and discharges the receiver. The proposed rule removes a provision in the existing regulation that states that FCA will cancel the charter if it has not done so previously because, as discussed earlier, proposed § 627.20(c)(2) requires FCA to cancel the charter when the FCA Board places the institution in receivership.

E. Conforming Amendments

We propose conforming amendments to other regulations in parts 619 and 627.

1. Definitions in Part 619

Our regulations in part 619 define terms that apply to all FCA regulations unless a part, subpart, or section states a different definition applies. We propose to amend the definitions of ''Farm Credit bank'' in § 619.9140 and ''Farm Credit institutions'' in § 619.9146, so both terms explicitly exclude bridge System banks that FCA charters at FCSIC's request under section 5.61C(h)(2) of the Act. As discussed in great detail above, bridge System banks are vehicles to resolve FCS banks. These conforming amendments to §§ 619.9140 and 619.9146 explicitly exempt bridge System banks from FCA regulations that govern the activities and operations of ongoing FCS institutions. Thus, FCA regulations governing the organization and governance, capitalization, funding, and other activities of other System institutions do not apply to bridge System banks unless we enact a regulation in part 627 or elsewhere that explicitly states otherwise.

Separately, we propose to delete the explicit reference to the Funding Corporation from the definition of the ''Farm Credit institution'' in § 619.9146. The reason for this revision is that section 5411(2) of the 2018 Farm Bill amended section 1.2(a) of the Act to expressly identify the Funding Corporation as a System institution.

2. B. Voluntary Liquidation Regulations in Subpart D of Part 627

We noted earlier that FCA does not propose to revise its voluntary liquidation regulations in subpart D of part 627. However, we propose non-substantive conforming amendments, so these regulations are consistent with other changes to conservatorship and receivership regulations in part 627. First, we propose to renumber the two regulations in subpart D so they conform to numbering changes we are making to subparts A, B, and C of part 627. As a result, this proposed rule redesignates § 627.2795 as § 627.40 and § 627.2797 as § 627.41. Second, the proposed rule changes the reference to ''subpart B'' in redesignated § 627.40(a) to ''subpart C'' because we propose to relocate our receivership regulations to subpart C. Finally, we propose to remove the passage at the end of the final sentence in existing § 627.2797(a), which states, ''except that if the Farm Credit institution is placed in receivership, the provisions of § 627.2730(a) shall govern further disposition of the equities of the Farm Credit institution.'' We are deleting this passage because the direct final rule that FCA enacted in 2021 repealed § 627.2730.

IV. Regulatory Flexibility Act and Congressional Review Act Conclusions

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), FCA hereby certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Each of the banks in the Farm Credit System, considered together with its affiliated associations, has assets and annual income in excess of the amounts that would qualify them as small entities. Therefore, Farm Credit System institutions are not ''small entities'' as defined in the Regulatory Flexibility Act.

List of Subjects

12 CFR Part 619

Agriculture, Banks, banking, Rural areas.

12 CFR Part 627

Agriculture, Banks, banking, Claims, Rural areas.

For the reasons stated in the preamble, parts 619 and 627 of chapter VI, title 12 of the Code of Federal Regulations are proposed to be amended as follows:

PART 619—DEFINITIONS

■ 1. The authority citation for part 619 is revised to read as follows:

Authority: Secs. 1.4, 1.5, 1.7, 2.1, 2.2, 2.4, 2.11, 2.12, 3.1, 3.2, 4.9, 5.9, 5.17, 5.19, 5.61C, 7.0, 7.1, 7.6, 7.8 and 7.12 of the Farm Credit Act (12 U.S.C. 2012, 2013, 2015, 2072, 2073, 2075, 2092, 2093, 2122, 2123, 2160, 2243, 2252, 2254, 2279a, 2279a–1, 2279b, 2279c–1, 2279f); sec. 514, Pub. L. 102–552, 106 Stat. 4102.

■ 2. Revise § 619.9140 to read as follows:

§ 619.9140 Farm Credit bank(s).

Except as otherwise defined, the term *Farm Credit bank(s)* includes Farm Credit Banks, agricultural credit banks, and banks for cooperatives, but excludes bridge System banks chartered by the Farm Credit Administration Board pursuant to section 5.61C(h)(2) of the Act.

■ 3. Revise § 619.9146 to read as follows:

§ 619.9146 Farm Credit institutions.

Except as otherwise defined, the term *Farm Credit institutions* refers to all institutions that are identified in section 1.2 of the Act and are chartered and regulated by the Farm Credit Administration, but it excludes bridge System banks chartered by the Farm Credit Administration Board pursuant to section 5.61C(h)(2) of the Act.

PART 627—TITLE IV CONSERVATORS, RECEIVERS, AND VOLUNTARY LIQUIDATIONS

■ 4. The authority citation for part 627 is revised to read as follows:

Authority: Secs. 4.2, 5.9, 5.10, 5.17, 5.51, 5.58, 5.61, 5.61C of the Farm Credit Act (12 U.S.C. 2183, 2243, 2244, 2252, 2277a, 2277a–7, 2277a–10, 2277a–10c).

■ 5. Subparts A, B, and C are revised to read as follows:

Subpart A—General Provisions

Sec.
627.1 Applicability.
627.2 Definitions.
627.3 Grounds for appointing FCSIC as conservator or receiver.
627.4 Action for the removal of the conservator or receiver.

Subpart B—Conservator and Conservatorships

627.10 FCSIC as conservator.

Subpart C—Receiver and Receiverships

627.20 FCSIC as receiver.

* * * * *

Subpart A—General Provisions

§ 627.1 Applicability.

The provisions of this part apply to conservatorships, receiverships, and voluntary liquidations of System institutions chartered under titles I, II, III, IV, and VII of the Act.

§ 627.2 Definitions.

For the purposes of this part, the following definitions apply:

Act means the Farm Credit Act of 1971, as amended.

Conservator means the Farm Credit System Insurance Corporation acting in its capacity as the conservator of a Farm Credit institution.

Farm Credit institution(s) or *institution(s)* means all Farm Credit banks, associations, service corporations chartered under title IV of the Act, and the Federal Farm Credit Banks Funding Corporation. These two terms do not include any bridge System bank chartered by the Farm Credit Administration (FCA), in accordance with section 5.61C(h)(2) of the Act.

FCSIC means the Farm Credit System Insurance Corporation.

Receiver means FCSIC acting in its capacity as the receiver of a Farm Credit institution.

§ 627.3 Grounds for appointing FCSIC as conservator or receiver.

(a) FCA may, in its discretion, appoint a conservator or receiver of a Farm Credit institution if it determines that one or more of the grounds in paragraph (b) of this section exists. FCA must appoint FCSIC as conservator or receiver of a Farm Credit institution. To the extent practicable, FCA will consult with FCSIC before taking a pre-resolution action that may result in a conservatorship or receivership of a Farm Credit institution.

(b) The grounds for appointing FCSIC as a conservator or receiver of a System institution are:

(1) The institution is insolvent because the value of its assets is less than its obligations to creditors and others, including its members. For the purpose of determining insolvency, ''obligations to members'' does not include stock or allocated equites held by current or former borrowers.

(2) There has been a substantial dissipation of assets or earnings of the institution due to the violation of any law, rule, or regulation, or one or more unsafe or unsound practice(s).

(3) The institution is in an unsafe or unsound condition to transact business, including having insufficient capital levels or otherwise. For the purpose of this part, ''unsafe or unsound condition'' includes, but is not limited to, the following conditions:

(i) For associations, a default by the association of one or more terms of its general financing agreement with its funding bank that the Farm Credit Administration determines to be a material default;

(ii) For all institutions, permanent capital of less than one-half the minimum required level for the institution; or

(iii) For associations, stock impairment.

(4) The institution has committed a willful violation of a final cease and desist order issued by the Farm Credit Administration Board.

(5) The institution is concealing its books, papers, records, or assets, or is refusing to submit its books, papers, records, assets, or other material relating to the affairs of the institution for inspection to any examiner or to any lawful agent of the Farm Credit Administration Board.

(6) A Farm Credit bank is unable to make a timely payment of principal or interest on any insured obligation(s) defined in section 5.51(3) of the Act issued by the bank individually, or on which it is primarily liable.

§ 627.4 Action for the removal of the conservator or receiver.

Within 30 days after the Farm Credit Administration Board appoints FCSIC as the conservator or receiver of a Farm Credit institution pursuant to § 627.3, the institution may bring an action in the United States District Court for the judicial district in which its home office is located, or the United States District Court for the District of Columbia, for an order requiring the Farm Credit Administration Board to remove such conservator or receiver and, if the charter has been canceled, to rescind the cancellation of the charter. The institution's board of directors is empowered to meet subsequent to the appointment of a conservator or receiver and authorize the filing of an action in Federal court to remove the conservator or receiver. Only the institution's board of directors has the power to authorize an action to remove the conservator or receiver.

Subpart B—Conservator and Conservatorships

§ 627.10 FCSIC as conservator.

(a) *Appointment.* (1) The Farm Credit Administration Board may exercise its authority under section 4.12(b) of the Act and § 627.3 to appoint FCSIC as the conservator of a Farm Credit institution upon finding that one or more of the grounds identified in § 627.3(b) exists. The Farm Credit Administration Board may appoint, *ex parte* and without notice, FCSIC as conservator for any Farm Credit institution.

(2) Upon appointing FCSIC as the conservator of an institution, the Chairman of the Farm Credit Administration shall immediately notify such institution and, in the case of an association, its funding bank. The Farm Credit Administration will immediately publish notice of the appointment of the conservator in the **Federal Register**.

(b) *Conservatorship.* (1) Once the Farm Credit Administration Board issues the order placing a Farm Credit institution in conservatorship, all rights, privileges, and powers of its members, board of directors, officers, and employees, are transferred to and vested exclusively in FCSIC as conservator, except that the board of directors of the institution retains authority to initiate an action in a Federal district court to remove the conservator pursuant to § 627.4.

(2) The Farm Credit Administration will continue to examine Farm Credit institutions in conservatorship in accordance with section 5.19 of the Act.

(3) A qualified public accountant must audit a Farm Credit institution in conservatorship in accordance with part 621 of this chapter.

(4) Pursuant to the requirements of part 621 of this chapter, each institution in conservatorship must prepare and file

with the Farm Credit Administration financial reports, certified by FCSIC, as required by § 621.14.

(5) Each institution in conservatorship must prepare and issue published financial reports in accordance with the requirements of part 620 of this chapter. FCSIC, as the conservator of the institution, will provide the signatures and certifications required by § 620.3.

(c) *Termination of the conservatorship.* (1) Whenever the Farm Credit Administration Board determines that the problem(s) or condition(s) that led to the conservatorship have been corrected and resolved, and the institution is in a position to resume normal operations, it may terminate the conservatorship and direct FCSIC to turn over the institution's operations to such management that FCA designates. Once new management is in place, the conservatorship terminates and FCA discharges FCSIC as conservator; or

(2) Whenever the Farm Credit Administration Board determines that the institution should be placed in receivership, the Farm Credit Administration Board will appoint FCSIC as the receiver of such institution.

Subpart C—Receiver and Receiverships

§ 627.20 FCSIC as receiver.

(a) *Appointment.* (1) The Farm Credit Administration Board may exercise its authority under section 4.12(b) of the Act and § 627.3 to appoint FCSIC as the receiver of a Farm Credit institution upon finding that one or more of the grounds identified in § 627.3(b) exists. The Farm Credit Administration Board may appoint, *ex parte* and without notice, FCSIC as receiver for any Farm Credit institution.

(2) Upon appointing FCSIC as the receiver of an institution, the Chairman of the Farm Credit Administration shall immediately notify such institution and, in the case of an association, its funding bank. The Farm Credit Administration will immediately publish notice of the appointment of the receiver in the **Federal Register**.

(b) *Funding bank role for association in liquidation.* In the event of the voluntary or involuntary liquidation of an association, the funding bank must institute appropriate measures to minimize the adverse effect of the liquidation on those borrowers whose loans are purchased by, or otherwise transferred to another System institution.

(c) *Receivership.* (1) Once the Farm Credit Administration Board issues the order placing a Farm Credit institution in receivership, all rights, privileges, and powers of its members, the board of directors, officers, and employees, are transferred to and vested exclusively in FCSIC as receiver, except that the institution's board of directors retains authority to initiate an action in a Federal district court to remove the receiver pursuant to § 627.4.

(2) The Farm Credit Administration Board simultaneously will cancel the charter of the institution when it appoints FCSIC as receiver.

(d) *Uninsured accounts.* Once the Farm Credit Administration Board has placed an institution into receivership, FCSIC, in accordance with section 4.37 of the Act, will, as soon as practicable, notify every borrower who holds an uninsured voluntary or involuntary account, as described in § 614.4175 of this chapter, at the institution that:

(1) Such accounts ceased earning interest from the date that the Farm Credit Administration Board placed the institution into receivership; and

(2) FCSIC, as receiver, will immediately apply the funds in a borrower's uninsured account(s) as payment against the outstanding balance of the borrower's loan(s).

(e) *Final discharge and release of the receiver.* The receivership terminates after FCSIC makes a final distribution of the assets of the liquidated institution. Then, the Farm Credit Administration Board will completely and finally release and discharge the receiver.

§ 627.2795 [Redesignated as § 627.40]

■ 6. Redesignate § 627.2795 as § 627.40.

§ 627.40 [Amended]

■ 7. In newly redesignated § 627.40(a), remove ''subpart B'' and add ''subpart C'' in its place.

§ 627.2797 [Redesignated as § 627.41]

■ 8. Redesignate § 627.2797 as § 627.41.

§ 627.41 [Amended]

■ 9. In newly redesignated § 627.41, revise the last sentence in paragraph (a) to read as follows:

§ 627.41 Preservation of equity.

(a) * * * In the event the resolution to liquidate is approved by the stockholders of the Farm Credit institution and the liquidation plan is approved by the Farm Credit Administration Board, the liquidation plan shall govern disposition of the equities of the Farm Credit institution.

* * * * *

Dated: March 17, 2022.

Ashley Waldron,

Secretary, Farm Credit Administration Board.

[FR Doc. 2022–05999 Filed 4–1–22; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0384; Project Identifier AD–2022–00027–E]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2021–14–06, which applies to all Pratt & Whitney (PW) PW1519G, PW1521G, PW1521G–3, PW1521GA, PW1524G, PW1524G–3, PW1525G, PW1525G–3, PW1919G, PW1921G, PW1922G, PW1923G, and PW1923G–A model turbofan engines. AD 2021–14–06 requires repetitive borescope inspections (BSI) of certain low-pressure compressor (LPC) rotor 1 (R1) until replacement of electronic engine control (EEC) full authority digital electronic control (FADEC) software with updated software. AD 2021–14–06 also requires a BSI after installation of the updated EEC FADEC software if certain Onboard Maintenance Message fault codes are displayed and meet specified criteria. AD 2021–14–06 also requires, depending on the results of the BSI, replacement of the LPC R1. Since the FAA issued AD 2021–14–06, the manufacturer redesigned the compressor intermediate case (CIC) assembly to incorporate a shortened bleed duct configuration and updated the EEC FADEC software. This proposed AD would continue to require repetitive BSI of certain LPC R1s until replacement of EEC FADEC software with updated software and also a BSI after installation of the updated EEC FADEC software if certain Onboard Maintenance Message fault codes are displayed and meet specified criteria. This proposed AD would continue to require, depending on the results of the BSI, replacement of the LPC R1. This proposed AD would also require removal and replacement of the existing CIC assembly with a CIC assembly eligible for installation. The FAA is

proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by May 19, 2022.

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

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

For service information identified in this NPRM, contact Pratt & Whitney, 400 Main Street, East Hartford, CT 06118; phone: (800) 565–0140; email: *help24@pw.utc.com*; website: *http://fleetcare.pw.utc.com.* You may view this service information at the Airworthiness Products Section, FAA, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0384; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Mark Taylor, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7229; email: *Mark.Taylor@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–0384; Project Identifier AD–2022–00027–E'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Mark Taylor, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2021–14–06, Amendment 39–21633 (86 FR 36061, July 8, 2021), (AD 2021–14–06), for all PW PW1519G, PW1521G, PW1521G–3, PW1521GA, PW1524G, PW1524G–3, PW1525G, PW1525G–3, PW1919G, PW1921G, PW1922G, PW1923G, and PW1923G–A model turbofan engines. AD 2021–14–06 was prompted by reports of in-flight shutdowns due to failure of the LPC R1 and by subsequent findings of cracked LPC R1s during inspection. Additionally, the manufacturer performed further root cause analysis of the LPC R1 failures and determined the need to update the EEC FADEC software to automate rotor speed management and limit the maximum climb and maximum continuous thrust ratings. AD 2021–14–06 requires repetitive BSIs of certain LPC R1s until replacement of EEC FADEC software with the updated software, and a BSI after installation of the updated EEC FADEC software if certain Onboard Maintenance Message fault codes are displayed and meet specified criteria. AD 2021–14–06 also requires, depending on the results of the BSI, replacement of the LPC R1. The agency issued AD 2021–14–06 to prevent failure of the LPC R1.

Actions Since AD 2021–14–06 Was Issued

Since the FAA issued AD 2021–14–06, the manufacturer performed further analysis and determined the need for corrective action. The manufacturer redesigned the CIC assembly to incorporate a shortened bleed duct configuration. The shortened bleed duct will address the unsafe condition by preventing the coincidence between bleed and the acoustic excitation. The manufacturer also updated the EEC FADEC software to provide compatibility with both current and future operation of engines and airplanes with the redesigned CIC assembly installed.

FAA's Determination

The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Related Service Information

The FAA reviewed PW Service Bulletin (SB) PW1000G–A–73–00–0025–00B–930A–D, Issue No. 001, dated November 23, 2021; PW SB PW1000G–A–72–00–0125–00A–930A–D, Issue No. 004, dated October 13, 2021; PW SB PW1000G–A–72–00–0075–00B–930A–D, Issue No. 004, dated July 21, 2021; PW SB PW1000G–A–73–00–0052–00A–930A–D, Issue No. 001, dated October 7, 2021; PW SB PW1000G–A–72–00–0121–00B–930A–D, Issue No. 001, dated July 9, 2021; PW SB PW1000G–A–72–00–0175–00A–930A–D, Issue No. 001, dated July 1, 2021.

PW SB PW1000G–A–73–00–0025–00B–930A–D, Issue No. 001, dated November 23, 2021, describes procedures for replacing or modifying the EEC to incorporate EEC FADEC software version V9.6.5.6 in PW1919G, PW1921G, PW1922G, PW1923G, and PW1923G–A model turbofan engines. PW SBs PW1000G–A–72–00–0125–00A–930A–D, Issue No. 004, dated October 13, 2021, and PW1000G–A–72–00–0075–00B–930A–D, Issue No. 004, dated July 21, 2021, describe procedures for performing repetitive BSIs of LPC R1s. PW SB PW1000G–A–73–00–0052–00A–930A–D, Issue No. 001, dated October 7, 2021, describes procedures for replacing or modifying the EEC to

incorporate EEC FADEC software version V2.11.12 in PW1519G, PW1521G, PW1521G–3, PW1521GA, PW1524G, PW1524G–3, PW1525G, PW1525G–3 model turbofan engines. PW SBs PW1000G–A–72–00–0121–00B–930A–D, Issue No. 001, dated July 9, 2021, and PW1000G–A–72–00–0175–00A–930A–D, Issue No. 001, dated July 1, 2021, describe procedures for replacing or modifying the CIC assembly.

The FAA also reviewed Section PW1000G–A–72–00–00–02A–0B5A–A of PW engine maintenance manual (EMM), Issue No. 016, dated January 15, 2021; and Section PW1000G–A–72–31–00–00A–312A–D of PW EMM, Issue No. 017, dated March 19, 2021. Section PW1000G–A–72–00–00–02A–0B5A–A of PW EMM, Issue No. 016, dated January 15, 2021, describes procedures for inspecting the engine for possible engine damage after receiving notification of an N1 or N2 overspeed operation. Section PW1000G–A–72–31–00–00A–312A–D of PW EMM, Issue No. 017, dated March 19, 2021, describes procedures for performing a BSI of the LPC.

Proposed AD Requirements in This NPRM

This proposed AD would retain certain requirements of AD 2021–14–06. This proposed AD would continue to require removal from service of certain EEC FADEC software and the installation of a software version eligible for installation. This proposed AD would require a BSI of LPC R1 for damage and cracks after replacing certain EEC FADEC software versions and would continue to require a BSI of LPC R1 after installation of an eligible EEC FADEC software version if certain Onboard Maintenance Message fault codes are displayed and meet specified criteria. This proposed AD would continue to require, depending on the results of the BSI, replacement of the LPC R1. This proposed AD would also require removal and replacement of certain CIC assemblies, identified by part number, with a CIC assembly eligible for installation.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 114 engines installed on airplanes of U.S. registry. The FAA estimates that five percent of engines installed on airplanes of U.S. registry would require BSI of the LPC R1, as proposed in paragraph (g)(3) of this AD, after installation of the EEC FADEC software version eligible for installation.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replace EEC FADEC software	2 work-hours × $85 per hour = $170	$0	$170	$19,380
BSI of the LPC R1	2 work-hours × $85 per hour = $170	0	170	969
Replace CIC assembly	428 work-hours × $85 per hour = $36,380	124,522	160,902	18,342,828

The FAA estimates the following costs to do any necessary inspection if certain Onboard Maintenance Message fault codes are displayed or if any necessary replacement 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 replacements or inspections:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace LPC R1	40 work-hours × $85 per hour = $3,400	$156,000	$159,400
BSI of the LPC R1 if Onboard Maintenance Message fault codes are displayed and meet specified criteria.	2 work-hours × $85 per hour = $170	0	170

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that the proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:
■ a. Removing Airworthiness Directive 2021–14–06, Amendment 39–21633 (86 FR 36061, July 8, 2021); and
■ b. Adding the following new airworthiness directive:

Pratt & Whitney: Docket No. FAA–2022–0384; Project Identifier AD–2022–00027–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) action by May 19, 2022.

(b) Affected ADs

This AD replaces AD 2021–14–06, Amendment 39–21633 (86 FR 36061, July 8, 2021).

(c) Applicability

This AD applies to Pratt & Whitney PW1519G, PW1521G, PW1521G–3, PW1521GA, PW1524G, PW1524G–3, PW1525G, PW1525G–3, PW1919G, PW1921G, PW1922G, PW1923G, and PW1923G–A model turbofan engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7230, Turbine Engine Compressor Section.

(e) Unsafe Condition

This AD was prompted by reports of in-flight shutdowns due to failure of the low-pressure compressor (LPC) rotor 1 (R1) and by subsequent findings of cracked LPC R1s during inspection. The FAA is issuing this AD to prevent failure of the LPC R1. The unsafe condition, if not addressed, could result in an uncontained release of the LPC R1, damage to the engine, damage to the airplane, and loss of the airplane.

(f) Compliance

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

(g) Required Actions

(1) For PW1519G, PW1521G, PW1521G–3, PW1521GA, PW1524G, PW1524G–3, PW1525G, and PW1525G–3 model turbofan engines with installed electronic engine control (EEC) full authority digital electronic control (FADEC) software earlier than EEC FADEC software version V2.11.10.4, before further flight, remove the EEC FADEC software and install EEC FADEC software version eligible for installation.

(2) For PW1919G, PW1921G, PW1922G, PW1923G, and PW1923G–A model turbofan engines with installed EEC FADEC software earlier than EEC FADEC software version V9.5.6.7, before further flight, remove the EEC FADEC software and install EEC FADEC software version eligible for installation.

(3) For the model turbofan engines identified in paragraphs (g)(1) and (g)(2) of this AD, after installation of the EEC FADEC software version eligible for installation as required by paragraphs (g)(1) and (g)(2) of this AD, before further flight, perform a one-time borescope inspection (BSI) of the LPC R1 for damage and cracks at the following LPC R1 locations:

(i) The blade tip;

(ii) The leading edge;

(iii) The leading edge fillet to rotor platform radius; and

(iv) The airfoil convex side root fillet to rotor platform radius.

(4) Based on the results of the BSI required by paragraph (g)(3) of this AD, before further flight, remove and replace the LPC R1 if:

(i) There is damage on an LPC R1 that exceeds serviceable limits; or

(ii) Any crack in the LPC R1 exists.

Note 1 to paragraph (g)(4): Guidance on determining the serviceable limits in paragraphs (g)(4) and (6) of this AD can be found in Pratt & Whitney (PW) Service Bulletin (SB) PW1000G–A–72–00–0125–00A–930A–D, Issue No. 004, dated October 13, 2021, and PW SB PW1000G–A–72–00–0075–00B–930A–D, Issue No. 004, dated July 21, 2021.

(5) For PW1519G, PW1521G, PW1521G–3, PW1521GA, PW1524G, PW1524G–3, PW1525G, and PW1525G–3 model turbofan engines with EEC FADEC software version V2.11.10.4 or later installed, within 15 flight cycles after receipt of Onboard Maintenance Message fault code 7100F0029 or 7100F0030, perform a BSI of the LPC R1 for damage and cracks at the locations specified in paragraph (g)(3) of this AD if the fault code is displayed on the Active Failure Messages and meets the following criteria:

(i) N1 Exceedance is above 95.2%;

(ii) N1 Exceedance occurred above 29,100 feet;

(iii) N1 Exceedance occurs for a duration of 40 seconds (15 seconds of cockpit display) or more during any flight; and

(iv) Compressor intermediate case (CIC) assembly installed has part number (P/N) 5379926, P/N 5379940, P/N 5379946, or P/N 5379926–001.

Note 2 to paragraph (g)(5): Guidance on determining the N1 Exceedance duration can be found in Section PW1000G–A–72–00–00–02A–0B5A–A of PW engine maintenance manual (EMM), Issue No. 016, dated January 15, 2021.

Note 3 to paragraph (g)(5): Guidance on performing the BSI can be found in Section PW1000G–A–72–31–00–00A–312A–D of PW EMM, Issue No. 017, dated March 19, 2021.

(6) Based on the results of the BSI required by paragraph (g)(5) of this AD, before further flight, remove and replace the LPC R1 if:

(i) There is damage on an LPC R1 that exceeds serviceable limits; or

(ii) Any crack in the LPC R1 exists.

(7) For all affected model turbofan engines, at the next engine shop visit after the effective date of this AD, remove CIC assembly with P/N 5379926, P/N 5379940, P/N 5379946, or P/N 5379926–001 and replace with a CIC assembly eligible for installation.

(8) For PW1519G, PW1521G, PW1521G–3, PW1521GA, PW1524G, PW1524G–3, PW1525G, and PW1525G–3 model turbofan engines with installed EEC FADEC software version V2.11.10.4, at the next engine shop visit after the effective date of this AD, remove the EEC FADEC software and install EEC FADEC software version eligible for installation.

(9) For PW1919G, PW1921G, PW1922G, PW1923G, and PW1923G–A model turbofan engines with installed EEC FADEC software version V9.5.6.7, at the next engine shop visit after the effective date of this AD, remove the EEC FADEC software and install EEC FADEC software version eligible for installation.

(h) Definitions

(1) For the purpose of this AD, ''EEC FADEC software version eligible for installation'' is EEC FADEC software version V2.11.12.4 or later for PW1519G, PW1521G, PW1521G–3, PW1521GA, PW1524G, PW1524G–3, PW1525G, and PW1525G–3 model turbofan engines, and EEC FADEC software version V9.6.5.6 or later for PW1919G, PW1921G, PW1922G, PW1923G, and PW1923G–A model turbofan engines.

(2) For the purpose of this AD, an ''engine shop visit'' is the induction of an engine into the shop for maintenance involving the separation of the LPC Flange 1 or separation of the LPC Flange 4, except for the following situations, which do not constitute an engine shop visit.

(i) Separation of engine flanges solely for the purposes of transportation without subsequent engine maintenance.

(ii) Separation of engine flanges solely for the purpose of replacing the fan without subsequent maintenance.

(3) For the purpose of this AD, a ''CIC assembly eligible for installation'' is any CIC assembly that does not have P/N 5379926, P/N 5379940, P/N 5379946, or P/N 5379926–001.

(i) 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 (j)(1) of this AD and email 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.

(j) Related Information

(1) For more information about this AD, contact Mark Taylor, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7229; email: *Mark.Taylor@faa.gov.*

(2) For service information identified in this AD, contact Pratt & Whitney, 400 Main Street, East Hartford, CT 06118; phone: (800) 565–0140; email: *help24@pw.utc.com*; website: *http://fleetcare.pw.utc.com.*

(3) 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.

Issued on March 25, 2022.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–07013 Filed 4–1–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0311; Airspace Docket No. 22–AAL–20]

RIN 2120–AA66

Proposed Revocation of Colored Federal Airway Blue 37 (B–37); Level Island, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to revoke Colored Federal airway Blue 37 (B–37) in the vicinity of Level Island, AK due to the pending decommissioning of the Sumner Strait, AK, (SQM) Non-directional Beacon (NDB).

DATES: Comments must be received on or before May 19, 2022.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: (800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2022–0311; Airspace Docket No. 22–AAL–20 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

FAA Order JO 7400.11F, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Christopher McMullin, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify the route structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System (NAS).

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2022–0311; Airspace Docket No. 22–AAL–20) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2022–0311; Airspace Docket No. 22–AAL–20.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified comment closing date will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Operations Support Group, Western Service Center, Federal Aviation Administration, 2200 South 216th St., Des Moines, WA 98198.

Availability and Summary of Documents for Incorporation by Reference

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

Background

The aviation industry/users have indicated a desire for the FAA to transition the Alaskan en route navigation structure away from the dependency on NDBs. The advances in technology have allowed for alternate navigation methods to support decommissioning of high cost ground navigation equipment. The FAA conducted a non-rulemaking study in accordance with FAA Order JO 7400.2, Procedures for Handling Airspace Matters in 2021 on SQM due to the ongoing high cost of maintenance and

repairs. As a result of the study, there were no objections received and the FAA added SQM to the schedule to be decommissioned.

Colored Federal airway B–37 navigates from SQM to the Elephant, AK, (EEF) NDB and then to an intersecting point on Amber 1 (A–1) to the west of EEF. The decommissioning of SQM would render the segment of the route between SQM and EEF unusable. This proposal would revoke B–37 in its entirety. The mitigation to the loss of B–37 is currently in place with VHF Omnidirectional Range (VOR) Federal airway V–317 overlying the entire route. Additionally, United States Navigational (RNAV) route T–278 provides guidance along the route west of EEF to V–440 and T–269.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to revoke Colored Federal airway B–37 in the vicinity of Level Island, AK due to the decommissioning of SQM. B–37 currently navigates from SQM to a point west of EEF that intersects A–1. The FAA proposes to revoke B–37 in its entirety.

Colored Federal airways are published in paragraph 6009(d) of FAA Order JO 7400.11F dated August 10, 2021 and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The Colored Federal airway listed in this document would be removed subsequently in FAA Order JO 7400.11.

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

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

Paragraph 6009(d) Colored Federal Airways

* * * * *

B–37 [Remove]

* * * * *

Issued in Washington, DC, on March 29, 2022.

Scott M. Rosenbloom,

Manager, Airspace Rules and Regulations.

[FR Doc. 2022–07028 Filed 4–1–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0299; Airspace Docket No. 22–AAL–18]

RIN 2120–AA66

Proposed Revocation of Colored Federal Airway Amber 6 (A–6); St. Mary's, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to revoke Colored Federal airway Amber 6 (A–6) in the vicinity of St. Mary's, AK due to the pending decommissioning of St. Mary's, AK, (SMA) Non-Directional Beacon (NDB).

DATES: Comments must be received on or before May 19, 2022.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: (800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2022–0299; Airspace Docket No. 22–AAL–18 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov*.

FAA Order JO 7400.11F, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/*. For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Christopher McMullin, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify the route structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System (NAS).

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory

decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2022–0299; Airspace Docket No. 22–AAL–18) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2022–0299; Airspace Docket No. 22–AAL–18.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified comment closing date will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Operations Support Group, Western Service Center, Federal Aviation Administration, 2200 South 216th St., Des Moines, WA 98198.

Availability and Summary of Documents for Incorporation by Reference

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

Background

The aviation industry/users have indicated a desire for the FAA to transition the Alaskan en route navigation structure away from the dependency on NDBs. The advances in technology have allowed for alternate navigation methods to support decommissioning of high cost ground navigation equipment. The FAA conducted a non-rulemaking study in accordance with FAA Order JO 7400.2, Procedures for Handling Airspace Matters in 2021 on SMA, due to the high cost of maintenance and repairs. As a result of the study, there were no objections received and the FAA added SMA to the schedule to be decommissioned.

Colored Federal airway A–6 navigates from SMA to the North River, AK, (JNR) NDB. The decommissioning of SMA would result in A–6 being unusable. Therefore, the FAA is proposing to revoke A–6. The proposed revocation will be mitigated by a future United States Area Navigation route that would overlay the current route.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to revoke Colored Federal airway A–6 in the vicinity of St. Mary's, AK due to the decommissioning of SMA. A–6 currently navigates between SMA and JNR. The FAA proposes to revoke A–6 in its entirety.

Colored Federal airways are published in paragraph 6009(c) of FAA Order JO 7400.11F dated August 10, 2021 and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The Colored Federal airway listed in this document would be removed subsequently in FAA Order JO 7400.11.

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

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

Paragraph 6009(c) Colored Federal Airways.

* * * * *

A–6 [Remove]

* * * * *

Issued in Washington, DC, on March 29, 2022.

Scott M. Rosenbloom,

Manager, Airspace Rules and Regulations.

[FR Doc. 2022–07027 Filed 4–1–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0267; Airspace Docket No. 22–ASO–4]

Proposed Revocation of Class E Airspace; Winfield, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to remove Class E airspace in Winfield, FL, as I–10 Helistop Heliport has been abandoned, and controlled airspace is no longer required. This action would enhance the safety and management of controlled airspace within the national airspace system.

DATES: Comments must be received on or before May 19, 2022.

ADDRESSES: Send comments on this proposal to: The U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; Telephone: (800) 647–5527, or (202) 366–9826. You must identify the Docket No. FAA–2021–0267; Airspace Docket No. 22–ASO–4, at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

FAA Order JO 7400.11F Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; Telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This proposed rulemaking is promulgated under the authority described in Subtitle VII, part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority, as it would remove Class E airspace extending upward from 700 feet above the surface at I–10 Helistop Heliport, Winfield, FL, due to the closing of the heliport.

Comments Invited

Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2021–0267 and Airspace Docket No. 22–ASO–4) and be submitted in triplicate to the DOT Docket Operations (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2021–0267; Airspace Docket No. 22–ASO–4.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays, at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA proposes an amendment to 14 CFR 71 to remove Class E airspace extending upward from 700 feet above the surface at I–10 Helistop Heliport, Winfield, FL, as the heliport has closed. Therefore, the airspace is no longer necessary. This action would enhance the safety and management of controlled airspace within the national airspace system.

Class E airspace designations are published in Paragraph 6005 of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in FAA Order JO 7400.11F.

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

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February

26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal would be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

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

* * * * *

ASO FL E5 Winfield, FL [Removed]

Issued in College Park, Georgia, on March 29, 2022.

Andreese C. Davis,

Manager, Airspace & Procedures Team South, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2022–06962 Filed 4–1–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0301; Airspace Docket No. 22–AAL–21]

RIN 2120–AA66

Proposed Revocation of Colored Federal Airway Green 7 (G–7); Nome, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to revoke Colored Federal airway Green 7 (G–7) in the vicinity of Nome, AK due to the pending decommissioning of the Fort Davis, AK, (FDV) Non-directional Beacon (NDB).

DATES: Comments must be received on or before May 19, 2022.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: (800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2022–0301; Airspace Docket No. 22–AAL–21 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.* FAA Order JO 7400.11F, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Christopher McMullin, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify the route structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System (NAS).

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2022–0301; Airspace Docket No22–AAL–21) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2022–0301; Airspace Docket No. 22–AAL–21.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified comment closing date will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Operations Support Group, Western Service Center, Federal Aviation Administration, 2200 South 216th St., Des Moines, WA 98198.

Availability and Summary of Documents for Incorporation by Reference

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

Background

The aviation industry/users have indicated a desire for the FAA to transition the Alaskan en route navigation structure away from the dependency on NDBs. The advances in technology have allowed for alternate navigation methods to support decommissioning of high cost ground navigation equipment. The FAA conducted a non-rulemaking study in accordance with FAA Order JO 7400.2, Procedures for Handling Airspace Matters in 2021 on FDV due to the ongoing high cost of maintenance and repairs. As a result of the study, there were no objections received and the FAA added FDV to the schedule to be decommissioned.

Colored Federal airway G–7 navigates from the Gambell, AK, (GAM) NDB to the Norton Bay, AK, (OAY) NDB. The decommissioning of FDV would render G–7 unusable. This proposal would revoke G–7 in its entirety. The loss of G–7 would be mitigated by utilizing VHF Omnidirectional Range (VOR) Federal airways V–414 and V–452.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to revoke Colored Federal airway G–7 in the vicinity of Nome, AK due to the decommissioning of FDV. G–7 currently navigates between GAM and OAY. The FAA proposes to revoke G–7 in its entirety.

Colored Federal airways are published in paragraph 6009(a) of FAA Order JO 7400.11F dated August 10, 2021 and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The Colored Federal airway listed in this document would be removed subsequently in FAA Order JO 7400.11.

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

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

Paragraph 6009(a) Colored Federal Airways.

* * * * *

G–7 [Remove]

* * * * *

Issued in Washington, DC, on March 29, 2022.

Scott M. Rosenbloom,

Manager, Airspace Rules and Regulations.

[FR Doc. 2022–07029 Filed 4–1–22; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2020–0730; EPA–R05–OAR–2020–0731; EPA–R05–OAR–2022–0004; FRL–9629–03–R5]

Air Plan Approval; Michigan; Redesignation of the Detroit, MI Area to Attainment of the 2015 Ozone Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of public comment period.

SUMMARY: The Environmental Protection Agency (EPA) is extending the comment period for a proposed rule published March 14, 2022. In response to a request from Sierra Club, EPA is extending the comment period for 14 days.

DATES: The comment period for the proposed rule published on March 14, 2022, at 87 FR 14210, is extended. Comments must be received on or before April 27, 2022.

ADDRESSES: Submit comments, identified by Docket ID No. EPA–R05–OAR–2020–0730, EPA–R05–OAR–2020–0731, or EPA–R05–OAR–2022–0004, at *http://www.regulations.gov,* or via email to *arra.sarah@epa.gov.* Additional instructions to comment can be found in the notice of proposed rulemaking published March 14, 2022 (87 FR 14210).

FOR FURTHER INFORMATION CONTACT: Eric Svingen, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–4489, *svingen.eric@epa.gov.* The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID–19.

SUPPLEMENTARY INFORMATION: On March 14, 2022 (87 FR 14210), EPA proposed to find that the Detroit, Michigan area is attaining the 2015 primary and secondary ozone National Ambient Air Quality Standards (NAAQS), and to act in accordance with a request from the Michigan Department of Environment, Great Lakes, and Energy (EGLE) to redesignate the area to attainment for the 2015 ozone NAAQS because the request meets the statutory requirements for redesignation under the Clean Air Act. The Detroit area includes Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne Counties. EGLE submitted this request on January 3, 2022. EPA also proposed to approve, as a revision to the Michigan State Implementation Plan, the State's plan for maintaining the 2015 ozone NAAQS through 2035 in the Detroit area. EPA also proposed to approve Michigan's 2025 and 2035 volatile organic compound and oxides of nitrogen motor vehicle emissions budgets (budgets) for the Detroit area and initiating the adequacy review process for these budgets. Finally, EPA also proposed to approve portions of separate December 18, 2020, submittals as meeting the applicable requirements for a base year emissions inventory and emissions statement program. On March 21, 2022, Sierra Club requested that EPA extend the comment period by 21 days, to allow Sierra Club additional time to ''review the basis for EPA's proposal and confer with local partners.'' In response, EPA is extending the comment period for 14 days. This extension provides additional time to Sierra Club and its local partners, while also allowing time for EPA and EGLE to plan for additional upcoming rulemakings that relate to EPA's findings on this proposed action.

Dated: March 28, 2022.

Debra Shore,

Regional Administrator, Region 5.

[FR Doc. 2022–07007 Filed 4–1–22; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 412

[CMS–1769–P]

RIN 0938–AU80

Medicare Program; FY 2023 Inpatient Psychiatric Facilities Prospective Payment System—Rate Update and Quality Reporting—Request for Information

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would update the prospective payment rates, the outlier threshold, and the wage index for Medicare inpatient hospital services provided by Inpatient Psychiatric Facilities (IPF), which include psychiatric hospitals and excluded psychiatric units of an acute care hospital or critical access hospital. This proposed rule would also establish a permanent mitigation policy to smooth the impact of year-to-year changes in IPF payments related to decreases in the IPF wage index. In addition, this proposed rule includes a request for comment on the results of the data analysis of the IPF Prospective Payment System adjustments. The proposed changes in this rule would be effective for IPF discharges occurring during the Fiscal Year (FY) beginning October 1, 2022 through September 30, 2023 (FY 2023). Lastly, this proposed rule requests information on Measuring Equity and Healthcare Quality Disparities Across CMS Quality Programs.

DATES: To be assured consideration, comments must be received at one of the addresses provided below by May 31, 2022.

ADDRESSES: In commenting, please refer to file code CMS–1769–P.

Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1769–P, P.O. Box 8010, Baltimore, MD 21244–8010.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1769–P, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: The IPF Payment Policy mailbox at *IPFPaymentPolicy@cms.hhs.gov* for general information.

Mollie Knight (410) 786–7948 or Eric Laib (410) 786–9759, for information regarding the market basket update or the labor-related share.

Nick Brock (410) 786–5148 or Theresa Bean (410) 786–2287, for information regarding the regulatory impact analysis.

Lauren Lowenstein, (410) 786–4507, for information regarding the inpatient psychiatric facilities quality reporting program.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that website to view public comments. CMS will not post on *Regulations.gov* public comments that make threats to individuals or institutions or suggest that the individual will take actions to harm the individual. CMS continues to encourage individuals not to submit duplicative comments. We will post acceptable comments from multiple unique commenters even if the content is identical or nearly identical to other comments.

Availability of Certain Tables Exclusively Through the Internet on the CMS Website

Addendum A to this proposed rule summarizes the FY 2023 IPF PPS payment rates, outlier threshold, cost of living adjustment factors (COLA) for Alaska and Hawaii, national and upper limit cost-to-charge ratios, and adjustment factors. In addition, the B Addenda to this proposed rule shows

the complete listing of ICD–10 Clinical Modification (CM) and Procedure Coding System (PCS) codes, the FY 2023 IPF PPS comorbidity adjustment, and electroconvulsive therapy (ECT) procedure codes. The A and B Addenda are available online at: *https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientPsychFacilPPS/tools.html.*

Tables setting forth the FY 2023 Wage Index for Urban Areas Based on Core-Based Statistical Area (CBSA) Labor Market Areas and the FY 2023 Wage Index Based on CBSA Labor Market Areas for Rural Areas are available exclusively through the internet, on the CMS website at *https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/IPFPPS/WageIndex.html.*

I. Executive Summary

A. Purpose

This proposed rule would update the prospective payment rates, the outlier threshold, and the wage index for Medicare inpatient hospital services provided by Inpatient Psychiatric Facilities (IPFs) for discharges occurring during Fiscal Year (FY) 2023 beginning October 1, 2022 through September 30, 2023. This proposed rule would also establish a permanent mitigation policy to smooth the impact of year-to-year changes in IPF payments related to changes in the IPF wage index. In addition, this proposed rule includes a request for comment on the results of the data analysis of the IPF Prospective Payment System (PPS) adjustments. Lastly, this proposed rule requests information on Measuring Equity and Healthcare Quality Disparities Across CMS Quality Programs.

B. Summary of the Major Provisions

1. Inpatient Psychiatric Facilities Prospective Payment System

For the IPF PPS, we are proposing to—

- Establish a permanent mitigation policy in order to smooth the impact of year-to-year changes in IPF payments related to decreases to the IPF wage index.
- Solicit comments on the results of the data analysis of the IPF PPS adjustments, which have been summarized in a technical report posted to the Centers for Medicare & Medicaid Services (CMS) website at *https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientPsychFacilPPS.*
- Update the IPF PPS base rate by the 2016-based IPF market basket update (3.1 percent) adjusted for economy-wide productivity (0.4 percentage point) as required by section 1886(s)(2)(A)(i) of the Social Security Act (the Act), resulting in a proposed IPF payment rate update of 2.7 percent for FY 2023.
- Make technical rate setting updates: The IPF PPS payment rates would be adjusted annually for inflation, as well as statutory and other policy factors. This rule proposes to update:

++ The IPF PPS Federal per diem base rate from $832.94 to $856.80.

++ The IPF PPS Federal per diem base rate for providers who failed to report quality data to $840.11.

++ The ECT payment per treatment from $358.60 to $368.87.

++ The ECT payment per treatment for providers who failed to report quality data to $361.69.

++ The labor-related share from 77.2 percent to 77.4 percent.

++ The wage index budget-neutrality factor to 1.0016.

++ The fixed dollar loss threshold amount from $16,040 to $24,270 to maintain estimated outlier payments at 2 percent of total estimated aggregate IPF PPS payments.

2. Inpatient Psychiatric Facilities Quality Reporting (IPFQR) Program

We are not proposing any changes to the IPFQR Program. However, we are including a request for information (RFI) on the Overarching Principles for Measuring Healthcare Quality Disparities Across CMS Quality Programs. Feedback provided will inform future efforts in all CMS Quality programs and, as applicable, may be introduced in the IPFQR as future RFIs or proposals.

C. Summary of Impacts

Provision description	Total transfers & cost reductions
FY 2023 IPF PPS payment update	The overall economic impact of this proposed rule is an estimated $50 million in increased payments to IPFs during FY 2023.

II. Background

A. Overview of the Legislative Requirements of the IPF PPS

Section 124 of the Medicare, Medicaid, and State Children's Health Insurance Program Balanced Budget Refinement Act of 1999 (BBRA) (Pub. L. 106–113) required the establishment and implementation of an IPF PPS. Specifically, section 124 of the BBRA mandated that the Secretary of the Department of Health and Human Services (the Secretary) develop a per diem PPS for inpatient hospital services furnished in psychiatric hospitals and excluded psychiatric units including an adequate patient classification system that reflects the differences in patient resource use and costs among psychiatric hospitals and excluded psychiatric units. ''Excluded psychiatric unit'' means a psychiatric unit of an acute care hospital or of a Critical Access Hospital (CAH), which is excluded from payment under the Inpatient Prospective Payment System (IPPS) or CAH payment system, respectively. These excluded psychiatric units will be paid under the IPF PPS.

Section 405(g)(2) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108–173) extended the IPF PPS to psychiatric distinct part units of CAHs. Sections 3401(f) and 10322 of the Patient Protection and Affordable Care Act (Pub. L. 111–148) as amended by section 10319(e) of that Act and by section 1105(d) of the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152) (hereafter referred to jointly as ''the Affordable Care Act'') added subsection (s) to section 1886 of the Act.

Section 1886(s)(1) of the Act titled ''Reference to Establishment and Implementation of System,'' refers to section 124 of the BBRA, which relates to the establishment of the IPF PPS. Section 1886(s)(2)(A)(i) of the Act requires the application of the productivity adjustment described in section 1886(b)(3)(B)(xi)(II) of the Act to the IPF PPS for the rate year (RY) beginning in 2012 (that is, a RY that coincides with a FY) and each subsequent RY.

Section 1886(s)(2)(A)(ii) of the Act required the application of an ''other adjustment'' that reduced any update to an IPF PPS base rate by a percentage point amount specified in section 1886(s)(3) of the Act for the RY beginning in 2010 through the RY beginning in 2019. As noted in the FY 2020 IPF PPS final rule, for the RY beginning in 2019, section 1886(s)(3)(E) of the Act required that the other adjustment reduction be equal to 0.75 percentage point; this was the final year

the statute required the application of this adjustment. Because FY 2021 was a RY beginning in 2020, FY 2021 was the first-year section 1886(s)(2)(A)(ii) did not apply since its enactment.

Sections 1886(s)(4)(A) through (D) of the Act require that for RY 2014 and each subsequent RY, IPFs that fail to report required quality data with respect to such a RY will have their annual update to a standard Federal rate for discharges reduced by 2.0 percentage points. This may result in an annual update being less than 0.0 for a RY, and may result in payment rates for the upcoming RY being less than such payment rates for the preceding RY. Any reduction for failure to report required quality data will apply only to the RY involved, and the Secretary will not consider such reduction in computing the payment amount for a subsequent RY. Additional information about the specifics of the current Inpatient Psychiatric Facilities Quality Reporting (IPFQR) Program is available in the FY 2020 IPF PPS and Quality Reporting Updates for FY Beginning October 1, 2019 final rule (84 FR 38459 through 38468).

To implement and periodically update these provisions, we have published various proposed and final rules and notices in the **Federal Register**. For more information regarding these documents, see the CMS website at *https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientPsychFacilPPS/index.html?redirect=/InpatientPsychFacilPPS/*.

B. Overview of the IPF PPS

On November 15, 2004, we published the IPF PPS final rule in the **Federal Register** (69 FR 66922). The November 2004 IPF PPS final rule established the IPF PPS, as required by section 124 of the BBRA and codified at 42 CFR part 412, subpart N. The November 2004 IPF PPS final rule set forth the Federal per diem base rate for the implementation year (the 18-month period from January 1, 2005 through June 30, 2006), and provided payment for the inpatient operating and capital costs to IPFs for covered psychiatric services they furnish (that is, routine, ancillary, and capital costs, but not costs of approved educational activities, bad debts, and other services or items that are outside the scope of the IPF PPS). Covered psychiatric services include services for which benefits are provided under the fee-for-service Part A (Hospital Insurance Program) of the Medicare program.

The IPF PPS established the Federal per diem base rate for each patient day in an IPF derived from the national average daily routine operating, ancillary, and capital costs in IPFs in FY 2002. The average per diem cost was updated to the midpoint of the first year under the IPF PPS, standardized to account for the overall positive effects of the IPF PPS payment adjustments, and adjusted for budget-neutrality.

The Federal per diem payment under the IPF PPS is comprised of the Federal per diem base rate described previously and certain patient- and facility-level payment adjustments for characteristics that were found in the regression analysis to be associated with statistically significant per diem cost differences; with statistical significance defined as p less than 0.05. A complete discussion of the regression analysis that established the IPF PPS adjustment factors can be found in the November 2004 IPF PPS final rule (69 FR 66933 through 66936).

The patient-level adjustments include age, Diagnosis-Related Group (DRG) assignment, and comorbidities, as well as adjustments to reflect higher per diem costs at the beginning of a patient's IPF stay and lower costs for later days of the stay. Facility-level adjustments include adjustments for the IPF's wage index, rural location, teaching status, a cost-of-living adjustment for IPFs located in Alaska and Hawaii, and an adjustment for the presence of a qualifying emergency department (ED).

The IPF PPS provides additional payment policies for outlier cases, interrupted stays, and a per treatment payment for patients who undergo electroconvulsive therapy (ECT). During the IPF PPS mandatory 3-year transition period, stop-loss payments were also provided; however, since the transition ended as of January 1, 2008, these payments are no longer available.

C. Annual Requirements for Updating the IPF PPS

Section 124 of the BBRA did not specify an annual rate update strategy for the IPF PPS and was broadly written to give the Secretary discretion in establishing an update methodology. Therefore, in the November 2004 IPF PPS final rule, we implemented the IPF PPS using the following update strategy:

- Calculate the final Federal per diem base rate to be budget-neutral for the 18-month period of January 1, 2005 through June 30, 2006.
- Use a July 1 through June 30 annual update cycle.
- Allow the IPF PPS first update to be effective for discharges on or after July 1, 2006 through June 30, 2007.

The November 2004 final rule (69 FR 66922) implemented the IPF PPS. In developing the IPF PPS, and to ensure that the IPF PPS can account adequately for each IPF's case-mix, we performed an extensive regression analysis of the relationship between the per diem costs and certain patient and facility characteristics to determine those characteristics associated with statistically significant cost differences on a per diem basis. That regression analysis is described in detail in our November 28, 2003 IPF proposed rule (68 FR 66923; 66928 through 66933) and our November 15, 2004 IPF final rule (69 FR 66933 through 66960). For characteristics with statistically significant cost differences, we used the regression coefficients of those variables to determine the size of the corresponding payment adjustments.

In the November 2004 IPF final rule, we explained the reasons for delaying an update to the adjustment factors, derived from the regression analysis, including waiting until we have IPF PPS data that yields as much information as possible regarding the patient-level characteristics of the population that each IPF serves. We indicated that we did not intend to update the regression analysis and the patient-level and facility-level adjustments until we complete that analysis. Until that analysis is complete, we stated our intention to publish a notice in the **Federal Register** each spring to update the IPF PPS (69 FR 66966).

On May 6, 2011, we published a final rule in the **Federal Register** titled, ''Inpatient Psychiatric Facilities Prospective Payment System—Update for Rate Year Beginning July 1, 2011 (RY 2012)'' (76 FR 26432), which changed the payment rate update period to a RY that coincides with a FY update. Therefore, final rules are now published in the **Federal Register** in the summer to be effective on October 1st. When proposing changes in IPF payment policy, a proposed rule is issued in the spring, and the final rule in the summer to be effective on October 1st. For a detailed list of updates to the IPF PPS, we refer readers to our regulations at 42 CFR 412.428.

The most recent IPF PPS annual update was published in a final rule on August 4, 2021 in the **Federal Register** titled, ''Medicare Program; FY 2022 Inpatient Psychiatric Facilities Prospective Payment System and Quality Reporting Updates for Fiscal Year Beginning October 1, 2021 (FY 2022)'' (86 FR 42608), which updated the IPF PPS payment rates for FY 2022. That final rule updated the IPF PPS Federal per diem base rates that were

published in the FY 2021 IPF PPS Rate Update final rule (85 FR 47042) in accordance with our established policies.

III. Provisions of the FY 2023 IPF PPS Proposed Rule

A. Proposed FY 2023 Market Basket Update and Productivity Adjustment for the IPF PPS

1. Background

Originally, the input price index that was used to develop the IPF PPS was the ''Excluded Hospital with Capital'' market basket. This market basket was based on 1997 Medicare cost reports for Medicare participating inpatient rehabilitation facilities (IRFs), IPFs, long-term care hospitals (LTCHs), cancer hospitals, and children's hospitals. Although ''market basket'' technically describes the mix of goods and services used in providing health care at a given point in time, this term is also commonly used to denote the input price index (that is, cost category weights and price proxies) derived from that market basket. Accordingly, the term market basket as used in this document, refers to an input price index.

Since the IPF PPS inception, the market basket used to update IPF PPS payments has been rebased and revised to reflect more recent data on IPF cost structures. We last rebased and revised the IPF market basket in the FY 2020 IPF PPS rule, where we adopted a 2016-based IPF market basket, using Medicare cost report data for both Medicare participating freestanding psychiatric hospitals and psychiatric units. We refer readers to the FY 2020 IPF PPS final rule for a detailed discussion of the 2016-based IPF PPS market basket and its development (84 FR 38426 through 38447). References to the historical market baskets used to update IPF PPS payments are listed in the FY 2016 IPF PPS final rule (80 FR 46656).

2. Proposed FY 2023 IPF Market Basket Update

For FY 2023 (beginning October 1, 2022 and ending September 30, 2023), we are proposing to update the IPF PPS payments by a market basket increase factor with a productivity adjustment as required by section 1886(s)(2)(A)(i) of the Act. Consistent with historical practice, we are proposing to estimate the market basket update for the IPF PPS based on the most recent forecast available at the time of rulemaking from IHS Global Inc. (IGI). IGI is a nationally recognized economic and financial forecasting firm with which CMS contracts to forecast the components of the market baskets and productivity adjustment. For the proposed rule, based on IGI's fourth quarter 2021 forecast with historical data through the third quarter of 2021, the 2016-based IPF market basket increase factor for FY 2023 is 3.1 percent.

Section 1886(s)(2)(A)(i) of the Act requires that, after establishing the increase factor for a FY, the Secretary shall reduce such increase factor for FY 2012 and each subsequent FY, by the productivity adjustment described in section 1886(b)(3)(B)(xi)(II) of the Act. Section 1886(b)(3)(B)(xi)(II) of the Act sets forth the definition of this productivity adjustment. The statute defines the productivity adjustment to be equal to the 10-year moving average of changes in annual economy-wide, private nonfarm business multifactor productivity (MFP) (as projected by the Secretary for the 10-year period ending with the applicable FY, year, cost reporting period, or other annual period) (the ''productivity adjustment''). The United States Department of Labor's Bureau of Labor Statistics (BLS) publishes the official measures of productivity for the United States economy. We note that previously the productivity measure referenced in section 1886(b)(3)(B)(xi)(II) of the Act was published by BLS as private nonfarm business MFP. Beginning with the November 18, 2021 release of productivity data, BLS replaced the term ''multifactor productivity'' with ''total factor productivity'' (TFP). BLS noted that this is a change in terminology only and will not affect the data or methodology. As a result of the BLS name change, the productivity measure referenced in section 1886(b)(3)(B)(xi)(II) of the Act is now published by BLS as private nonfarm business total factor productivity. However, as mentioned previously, the data and methods are unchanged. We refer readers to *www.bls.gov* for the BLS historical published TFP data. A complete description of IGI's TFP projection methodology is available on the CMS website at *https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/MedicareProgramRatesStats/MarketBasketResearch.* In addition, in the FY 2022 IPF final rule (86 FR 42611), we noted that effective with FY 2022 and forward, CMS changed the name of this adjustment to refer to it as the productivity adjustment rather than the MFP adjustment.

Section 1886(s)(2)(A)(i) of the Act requires the application of the productivity adjustment described in section 1886(b)(3)(B)(xi)(II) of the Act to the IPF PPS for the RY beginning in 2012 (a RY that coincides with a FY) and each subsequent RY. For this FY 2023 IPF PPS proposed rule, based on IGI's fourth quarter 2021 forecast, the proposed productivity adjustment for FY 2023 (the 10-year moving average of TFP for the period ending FY 2023) is projected to be 0.4 percent. Accordingly, we are proposing to reduce the 3.1 percent IPF market basket update by this 0.4 percentage point productivity adjustment, as mandated by the Act. This results in a proposed FY 2023 IPF PPS payment rate update of 2.7 percent ($3.1 - 0.4 = 2.7$). We are also proposing that if more recent data become available, we would use such data, if appropriate, to determine the FY 2023 IPF market basket update and productivity adjustment for the final rule.

3. Proposed FY 2023 IPF Labor-Related Share

Due to variations in geographic wage levels and other labor-related costs, we believe that payment rates under the IPF PPS should continue to be adjusted by a geographic wage index, which would apply to the labor-related portion of the Federal per diem base rate (hereafter referred to as the labor-related share). The labor-related share is determined by identifying the national average proportion of total costs that are related to, influenced by, or vary with the local labor market. We are proposing to continue to classify a cost category as labor-related if the costs are labor-intensive and vary with the local labor market.

Based on our definition of the labor-related share and the cost categories in the 2016-based IPF market basket, we are proposing to continue to include in the labor-related share the sum of the relative importance of Wages and Salaries; Employee Benefits; Professional Fees: Labor-related; Administrative and Facilities Support Services; Installation, Maintenance, and Repair Services; All Other: Labor-related Services; and a portion of the Capital-Related relative importance from the 2016-based IPF market basket. For more details regarding the methodology for determining specific cost categories for inclusion in the 2016-based IPF labor-related share, see the FY 2020 IPF PPS final rule (84 FR 38445 through 38447).

The relative importance reflects the different rates of price change for these cost categories between the base year (FY 2016) and FY 2023. Based on IGI's fourth quarter 2021 forecast of the 2016-based IPF market basket, the sum of the FY 2023 relative importance moving average of Wages and Salaries; Employee Benefits; Professional Fees:

Labor-related; Administrative and Facilities Support Services; Installation, Maintenance, and Repair Services; All Other: Labor-related Services is 74.4 percent. We also propose, consistent with prior rulemaking, that the portion of Capital-Related costs that are influenced by the local labor market is 46 percent. Since the relative importance for Capital-Related costs are 6.6 percent of the 2016-based IPF market basket for FY 2023, we propose to take 46 percent of 6.6 percent to determine a labor-related share of Capital-Related costs for FY 2023 of 3.0 percent. Therefore, we propose a total labor-related share for FY 2023 of 77.4 percent (the sum of 74.4 percent for the labor-related share of operating costs and 3.0 percent for the labor-related share of Capital-Related costs). We are also proposing that if more recent data become available, we would use such data, if appropriate, to determine the FY 2023 labor-related share for the final rule. For more information on the labor-related share and its calculation, we refer readers to the FY 2020 IPF PPS final rule (84 FR 38445 through 38447).

Table 1 shows the proposed FY 2023 labor-related share and the final FY 2022 labor-related share using the 2016-based IPF market basket relative importance.

TABLE 1—FY 2023 PROPOSED IPF LABOR-RELATED SHARE AND FY 2022 IPF LABOR-RELATED SHARE

	Relative importance, proposed labor-related share FY 2023 [1]	Relative importance, labor-related share FY 2022 [2]
Wages and Salaries	53.3	52.8
Employee Benefits	13.4	13.6
Professional Fees: Labor-related	4.3	4.3
Administrative and Facilities Support Services	0.6	0.6
Installation, Maintenance and Repair	1.3	1.3
All Other Labor-related Services	1.5	1.5
Subtotal	74.4	74.1
Labor-related portion of Capital-Related (.46)	3.0	3.1
Total Labor-Related Share	77.4	77.2

[1] Based on the 4th quarter 2021 IHS Global Inc. forecast of the 2016-based IPF market basket.
[2] Based on the 2nd quarter 2021 IHS Global Inc. forecast of the 2016-based IPF market basket.

We invite public comments on the proposed labor-related share for FY 2023.

B. Proposed Updates to the IPF PPS Rates for FY Beginning October 1, 2022

The IPF PPS is based on a standardized Federal per diem base rate calculated from the IPF average per diem costs and adjusted for budget-neutrality in the implementation year. The Federal per diem base rate is used as the standard payment per day under the IPF PPS and is adjusted by the patient-level and facility-level adjustments that are applicable to the IPF stay. A detailed explanation of how we calculated the average per diem cost appears in the November 2004 IPF PPS final rule (69 FR 66926).

1. Determining the Standardized Budget-Neutral Federal Per Diem Base Rate

Section 124(a)(1) of the BBRA required that we implement the IPF PPS in a budget-neutral manner. In other words, the amount of total payments under the IPF PPS, including any payment adjustments, must be projected to be equal to the amount of total payments that would have been made if the IPF PPS were not implemented. Therefore, we calculated the budget-neutrality factor by setting the total estimated IPF PPS payments to be equal to the total estimated payments that would have been made under the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) (Pub. L. 97–248) methodology had the IPF PPS not been implemented. A step-by-step description of the methodology used to estimate payments under the TEFRA payment system appears in the November 2004 IPF PPS final rule (69 FR 66926).

Under the IPF PPS methodology, we calculated the final Federal per diem base rate to be budget-neutral during the IPF PPS implementation period (that is, the 18-month period from January 1, 2005 through June 30, 2006) using a July 1 update cycle. We updated the average cost per day to the midpoint of the IPF PPS implementation period (October 1, 2005), and this amount was used in the payment model to establish the budget-neutrality adjustment.

Next, we standardized the IPF PPS Federal per diem base rate to account for the overall positive effects of the IPF PPS payment adjustment factors by dividing total estimated payments under the TEFRA payment system by estimated payments under the IPF PPS. The information concerning this standardization can be found in the November 2004 IPF PPS final rule (69 FR 66932) and the RY 2006 IPF PPS final rule (71 FR 27045). We then reduced the standardized Federal per diem base rate to account for the outlier policy, the stop loss provision, and anticipated behavioral changes. A complete discussion of how we calculated each component of the budget-neutrality adjustment appears in the November 2004 IPF PPS final rule (69 FR 66932 through 66933) and in the RY 2007 IPF PPS final rule (71 FR 27044 through 27046). The final standardized budget-neutral Federal per diem base rate established for cost reporting periods beginning on or after January 1, 2005 was calculated to be $575.95.

The Federal per diem base rate has been updated in accordance with applicable statutory requirements and § 412.428 through publication of annual notices or proposed and final rules. A detailed discussion on the standardized budget-neutral Federal per diem base rate and the electroconvulsive therapy (ECT) payment per treatment appears in the FY 2014 IPF PPS update notice (78 FR 46738 through 46740). These documents are available on the CMS website at *https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientPsychFacilPPS/index.html.*

IPFs must include a valid procedure code for ECT services provided to IPF beneficiaries in order to bill for ECT

services, as described in our Medicare Claims Processing Manual, Chapter 3, Section 190.7.3 (available at *https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/clm104c03.pdf.*) There were no changes to the ECT procedure codes used on IPF claims as a result of the final update to the ICD–10–PCS code set for FY 2023. Addendum B to this proposed rule shows the ECT procedure codes for FY 2023 and is available on our website at *https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientPsychFacilPPS/tools.html.*

2. Proposed Update of the Federal per Diem Base Rate and Electroconvulsive Therapy Payment per Treatment

The current (FY 2022) Federal per diem base rate is $832.94 and the ECT payment per treatment is $358.60. For the proposed FY 2023 Federal per diem base rate, we applied the payment rate update of 2.7 percent—that is, the proposed 2016-based IPF market basket increase for FY 2023 of 3.1 percent less the proposed productivity adjustment of 0.4 percentage point—and the proposed wage index budget-neutrality factor of 1.0016 (as discussed in section III.D.1 of this proposed rule) to the FY 2022 Federal per diem base rate of $832.94, yielding a proposed Federal per diem base rate of $856.80 for FY 2023. Similarly, we applied the proposed 2.7 percent payment rate update and the proposed 1.0016 wage index budget-neutrality factor to the FY 2022 ECT payment per treatment of $358.60, yielding a proposed ECT payment per treatment of $368.87 for FY 2023.

Section 1886(s)(4)(A)(i) of the Act requires that for RY 2014 and each subsequent RY, in the case of an IPF that fails to report required quality data with respect to such RY, the Secretary will reduce any annual update to a standard Federal rate for discharges during the RY by 2.0 percentage points. Therefore, we are applying a 2.0 percentage point reduction to the Federal per diem base rate and the ECT payment per treatment as follows:

- For IPFs that fail to report required data under the IPFQR Program, we applied a 0.7 percent payment rate update—that is, the proposed IPF market basket increase for FY 2023 of 3.1 percent less the proposed productivity adjustment of 0.4 percentage point for an update of 2.7 percent, and further reduced by 2.0 percentage points in accordance with section 1886(s)(4)(A)(i) of the Act—and the proposed wage index budget-neutrality factor of 1.0016 to the FY 2022 Federal per diem base rate of $832.94, yielding a proposed Federal per diem base rate of $840.11 for FY 2023.
- For IPFs that fail to report required data under the IPFQR Program, we applied the proposed 0.7 percent annual payment rate update and the proposed 1.0016 wage index budget-neutrality factor to the FY 2022 ECT payment per treatment of $358.60, yielding a proposed ECT payment per treatment of $361.69 for FY 2023.

Lastly, we are also proposing that if more recent data become available, we would use such data, if appropriate, to determine the FY 2023 Federal per diem base rate and ECT payment per treatment for the final rule.

C. Proposed Updates to the IPF PPS Patient-Level Adjustment Factors

1. Overview of the IPF PPS Adjustment Factors

The IPF PPS payment adjustments were derived from a regression analysis of 100 percent of the FY 2002 Medicare Provider and Analysis Review (MedPAR) data file, which contained 483,038 cases. For a more detailed description of the data file used for the regression analysis, see the November 2004 IPF PPS final rule (69 FR 66935 through 66936). We are proposing to continue to use the existing regression-derived adjustment factors established in 2005 for FY 2023. However, we have used more recent claims data to simulate payments to finalize the outlier fixed dollar loss threshold amount and to assess the impact of the IPF PPS updates.

2. IPF PPS Patient-Level Adjustments

The IPF PPS includes payment adjustments for the following patient-level characteristics: Medicare Severity Diagnosis Related Groups (MS–DRGs) assignment of the patient's principal diagnosis, selected comorbidities, patient age, and the variable per diem adjustments.

a. Proposed Update to MS–DRG Assignment

We believe it is important to maintain for IPFs the same diagnostic coding and Diagnosis Related Group (DRG) classification used under the IPPS for providing psychiatric care. For this reason, when the IPF PPS was implemented for cost reporting periods beginning on or after January 1, 2005, we adopted the same diagnostic code set (ICD–9–CM) and DRG patient classification system (MS–DRGs) that were utilized at the time under the IPPS. In the RY 2009 IPF PPS notice (73 FR 25709), we discussed CMS' effort to better recognize resource use and the severity of illness among patients. CMS adopted the new MS–DRGs for the IPPS in the FY 2008 IPPS final rule with comment period (72 FR 47130). In the RY 2009 IPF PPS notice (73 FR 25716), we provided a crosswalk to reflect changes that were made under the IPF PPS to adopt the new MS–DRGs. For a detailed description of the mapping changes from the original DRG adjustment categories to the current MS–DRG adjustment categories, we refer readers to the RY 2009 IPF PPS notice (73 FR 25714).

The IPF PPS includes payment adjustments for designated psychiatric DRGs assigned to the claim based on the patient's principal diagnosis. The DRG adjustment factors were expressed relative to the most frequently reported psychiatric DRG in FY 2002, that is, DRG 430 (psychoses). The coefficient values and adjustment factors were derived from the regression analysis discussed in detail in the November 28, 2003 IPF proposed rule (68 FR 66923; 66928 through 66933) and the November 15, 2004 IPF final rule (69 FR 66933 through 66960). Mapping the DRGs to the MS–DRGs resulted in the current 17 IPF MS–DRGs, instead of the original 15 DRGs, for which the IPF PPS provides an adjustment. For FY 2023, we are not proposing any changes to the IPF MS–DRG adjustment factors. Therefore, we are retaining the existing IPF MS–DRG adjustment factors.

In the FY 2015 IPF PPS final rule published August 6, 2014 in the **Federal Register** titled, ''Inpatient Psychiatric Facilities Prospective Payment System—Update for FY Beginning October 1, 2014 (FY 2015)'' (79 FR 45945 through 45947), we finalized conversions of the ICD–9–CM–based MS–DRGs to ICD–10–CM/PCS–based MS–DRGs, which were implemented on October 1, 2015. Further information on the ICD–10–CM/PCS MS–DRG conversion project can be found on the CMS ICD–10–CM website at *https://www.cms.gov/Medicare/Coding/ICD10/ICD-10-MS-DRG-Conversion-Project.html.*

For FY 2023, we are proposing to continue to make the existing payment adjustment for psychiatric diagnoses that group to one of the existing 17 IPF MS–DRGs listed in Addendum A. Addendum A is available on our website at *https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientPsychFacilPPS/tools.html.* Psychiatric principal diagnoses that do not group to one of the 17 designated MS–DRGs will still receive the Federal per diem base rate and all other applicable adjustments;

however, the payment will not include an MS–DRG adjustment. The diagnoses for each IPF MS–DRG will be updated as of October 1, 2022, using the final IPPS FY 2023 ICD–10–CM/PCS code sets. The FY 2023 IPPS/LTCH PPS final rule includes tables of the changes to the ICD–10–CM/PCS code sets, which underlie the FY 2023 IPF MS–DRGs. Both the FY 2023 IPPS final rule and the tables of final changes to the ICD–10–CM/PCS code sets, which underlie the FY 2023 MS–DRGs, are available on the CMS IPPS website at *https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/AcuteInpatientPPS/index.html.*

Code First

As discussed in the ICD–10–CM Official Guidelines for Coding and Reporting, certain conditions have both an underlying etiology and multiple body system manifestations due to the underlying etiology. For such conditions, ICD–10–CM has a coding convention that requires the underlying condition be sequenced first followed by the manifestation. Wherever such a combination exists, there is a ''use additional code'' note at the etiology code, and a ''code first'' note at the manifestation code. These instructional notes indicate the proper sequencing order of the codes (etiology followed by manifestation). In accordance with the ICD–10–CM Official Guidelines for Coding and Reporting, when a primary (psychiatric) diagnosis code has a ''code first'' note, the provider will follow the instructions in the ICD–10–CM Tabular List. The submitted claim goes through the CMS processing system, which will identify the principal diagnosis code as non-psychiatric and search the secondary codes for a psychiatric code to assign a DRG code for adjustment. The system will continue to search the secondary codes for those that are appropriate for comorbidity adjustment.

For more information on the code first policy, we refer readers to the November 2004 IPF PPS final rule (69 FR 66945) and see sections I.A.13 and I.B.7 of the FY 2020 ICD–10–CM Coding Guidelines, available at *https://www.cdc.gov/nchs/data/icd/10cmguidelines-FY2020_final.pdf.* In the FY 2015 IPF PPS final rule, we provided a code first table for reference that highlights the same or similar manifestation codes where the code first instructions apply in ICD–10–CM that were present in ICD–9–CM (79 FR 46009). In FY 2022 there were 18 codes finalized for deletion from the ICD–10–CM codes in the IPF Code First table. For FY 2023, we are proposing to delete 2 ICD–10–PCS codes and proposing to add 48 ICD–10–PCS codes to the IPF Code First table. The proposed FY 2023 Code First table is shown in Addendum B on the CMS website at *https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientPsychFacilPPS/tools.html.*

b. Proposed Payment for Comorbid Conditions

The intent of the comorbidity adjustments is to recognize the increased costs associated with comorbid conditions by providing additional payments for certain existing medical or psychiatric conditions that are expensive to treat. In our RY 2012 IPF PPS final rule (76 FR 26451 through 26452), we explained that the IPF PPS includes 17 comorbidity categories and identified the new, revised, and deleted ICD–9–CM diagnosis codes that generate a comorbid condition payment adjustment under the IPF PPS for RY 2012 (76 FR 26451).

Comorbidities are specific patient conditions that are secondary to the patient's principal diagnosis and that require treatment during the stay. Diagnoses that relate to an earlier episode of care and have no bearing on the current hospital stay are excluded and must not be reported on IPF claims. Comorbid conditions must exist at the time of admission or develop subsequently, and affect the treatment received, length of stay (LOS), or both treatment and LOS.

For each claim, an IPF may receive only one comorbidity adjustment within a comorbidity category, but it may receive an adjustment for more than one comorbidity category. Current billing instructions for discharge claims, on or after October 1, 2015, require IPFs to enter the complete ICD–10–CM codes for up to 24 additional diagnoses if they co-exist at the time of admission, or develop subsequently and impact the treatment provided.

The comorbidity adjustments were determined based on the regression analysis using the diagnoses reported by IPFs in FY 2002. The principal diagnoses were used to establish the DRG adjustments and were not accounted for in establishing the comorbidity category adjustments, except where ICD–9–CM code first instructions applied. In a code first situation, the submitted claim goes through the CMS processing system, which will identify the principal diagnosis code as non-psychiatric and search the secondary codes for a psychiatric code to assign an MS–DRG code for adjustment. The system will continue to search the secondary codes for those that are appropriate for comorbidity adjustment.

As noted previously, it is our policy to maintain the same diagnostic coding set for IPFs that is used under the IPPS for providing the same psychiatric care. The 17 comorbidity categories formerly defined using ICD–9–CM codes were converted to ICD–10–CM/PCS in our FY 2015 IPF PPS final rule (79 FR 45947 through 45955). The goal for converting the comorbidity categories is referred to as replication, meaning that the payment adjustment for a given patient encounter is the same after ICD–10–CM implementation as it will be if the same record had been coded in ICD–9–CM and submitted prior to ICD–10–CM/PCS implementation on October 1, 2015. All conversion efforts were made with the intent of achieving this goal. For FY 2023, we are proposing to continue to use the same comorbidity adjustment factors in effect in FY 2022. The proposed FY 2023 comorbidity adjustment factors are found in Addendum A, available on the CMS website at *https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientPsychFacilPPS/tools.html.*

For FY 2023, we are proposing to add 10 ICD–10–CM/PCS codes and remove 1 ICD–10–CM/PCS code from the Coagulation Factor category; proposing to add 3 ICD–10–CM/PCS codes and remove 11 ICD–10–CM/PCS codes from the Oncology Treatment comorbidity category; and proposing to add 4 ICD–10–CM/PCS codes to the Poisoning comorbidity category. The proposed FY 2023 comorbidity codes are shown in Addenda B, available on the CMS website at *https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientPsychFacilPPS/tools.html.*

In accordance with the policy established in the FY 2015 IPF PPS final rule (79 FR 45949 through 45952), we reviewed all new FY 2023 ICD–10–CM codes to remove codes that were site ''unspecified'' in terms of laterality from the FY 2023 ICD–10–CM/PCS codes in instances where more specific codes are available. As we stated in the FY 2015 IPF PPS final rule, we believe that specific diagnosis codes that narrowly identify anatomical sites where disease, injury, or a condition exists should be used when coding patients' diagnoses whenever these codes are available. We finalized in the FY 2015 IPF PPS rule, that we would remove site ''unspecified'' codes from the IPF PPS ICD–10–CM/PCS codes in instances when laterality codes (site specified codes) are available, as the clinician should be able to identify a more

specific diagnosis based on clinical assessment at the medical encounter. There were no proposed changes to the FY 2023 ICD–10–CM/PCS codes, therefore, we are not proposing to remove any of the new codes.

c. Proposed Patient Age Adjustments

As explained in the November 2004 IPF PPS final rule (69 FR 66922), we analyzed the impact of age on per diem cost by examining the age variable (range of ages) for payment adjustments. In general, we found that the cost per day increases with age. The older age groups are costlier than the under 45 age group, the differences in per diem cost increase for each successive age group, and the differences are statistically significant. For FY 2023, we are proposing to continue to use the patient age adjustments currently in effect in FY 2022, as shown in Addendum A of this rule (see *https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientPsychFacilPPS/tools.html*).

d. Proposed Variable Per Diem Adjustments

We explained in the November 2004 IPF PPS final rule (69 FR 66946) that the regression analysis indicated that per diem cost declines as the length of stay (LOS) increases. The variable per diem adjustments to the Federal per diem base rate account for ancillary and administrative costs that occur disproportionately in the first days after admission to an IPF. As discussed in the November 2004 IPF PPS final rule, we used a regression analysis to estimate the average differences in per diem cost among stays of different lengths (69 FR 66947 through 66950). As a result of this analysis, we established variable per diem adjustments that begin on day 1 and decline gradually until day 21 of a patient's stay. For day 22 and thereafter, the variable per diem adjustment remains the same each day for the remainder of the stay. However, the adjustment applied to day 1 depends upon whether the IPF has a qualifying ED. If an IPF has a qualifying ED, it receives a 1.31 adjustment factor for day 1 of each stay. If an IPF does not have a qualifying ED, it receives a 1.19 adjustment factor for day 1 of the stay. The ED adjustment is explained in more detail in section III.D.4 of this propose rule.

For FY 2023, we are proposing to continue to use the variable per diem adjustment factors currently in effect, as shown in Addendum A to this rule, which is available on the CMS website at *https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientPsychFacilPPS/tools.html.* A complete discussion of the variable per diem adjustments appears in the November 2004 IPF PPS final rule (69 FR 66946).

D. Proposed Updates to the IPF PPS Facility-Level Adjustments

The IPF PPS includes facility-level adjustments for the wage index, IPFs located in rural areas, teaching IPFs, cost of living adjustments for IPFs located in Alaska and Hawaii, and IPFs with a qualifying ED.

1. Wage Index Adjustment

a. Background

As discussed in the RY 2007 IPF PPS final rule (71 FR 27061), RY 2009 IPF PPS (73 FR 25719) and the RY 2010 IPF PPS notices (74 FR 20373), in order to provide an adjustment for geographic wage levels, the labor-related portion of an IPF's payment is adjusted using an appropriate wage index. Currently, an IPF's geographic wage index value is determined based on the actual location of the IPF in an urban or rural area, as defined in § 412.64(b)(1)(ii)(A) and (C).

Due to the variation in costs and because of the differences in geographic wage levels, in the November 2004 IPF PPS final rule, we required that payment rates under the IPF PPS be adjusted by a geographic wage index. We proposed and finalized a policy to use the unadjusted, pre-floor, pre-reclassified IPPS hospital wage index to account for geographic differences in IPF labor costs. We implemented use of the pre-floor, pre-reclassified IPPS hospital wage data to compute the IPF wage index since there was not an IPF-specific wage index available. We believe that IPFs generally compete in the same labor market as IPPS hospitals so the pre-floor, pre-reclassified IPPS hospital wage data should be reflective of labor costs of IPFs. We believe this pre-floor, pre-reclassified IPPS hospital wage index to be the best available data to use as proxy for an IPF specific wage index. As discussed in the RY 2007 IPF PPS final rule (71 FR 27061 through 27067), under the IPF PPS, the wage index is calculated using the IPPS wage index for the labor market area in which the IPF is located, without considering geographic reclassifications, floors, and other adjustments made to the wage index under the IPPS. For a complete description of these IPPS wage index adjustments, we refer readers to the FY 2019 IPPS/LTCH PPS final rule (83 FR 41362 through 41390). Our wage index policy at § 412.424(a)(2), requires us to use the best Medicare data available to estimate costs per day, including an appropriate wage index to adjust for wage differences.

When the IPF PPS was implemented in the November 2004 IPF PPS final rule, with an effective date of January 1, 2005, the pre-floor, pre-reclassified IPPS hospital wage index that was available at the time was the FY 2005 pre-floor, pre-reclassified IPPS hospital wage index. Historically, the IPF wage index for a given RY has used the pre-floor, pre-reclassified IPPS hospital wage index from the prior FY as its basis. This has been due in part to the pre-floor, pre-reclassified IPPS hospital wage index data that were available during the IPF rulemaking cycle, where an annual IPF notice or IPF final rule was usually published in early May. This publication timeframe was relatively early compared to other Medicare payment rules because the IPF PPS follows a RY, which was defined in the implementation of the IPF PPS as the 12-month period from July 1 to June 30 (69 FR 66927). Therefore, the best available data at the time the IPF PPS was implemented was the pre-floor, pre-reclassified IPPS hospital wage index from the prior FY (for example, the RY 2006 IPF wage index was based on the FY 2005 pre-floor, pre-reclassified IPPS hospital wage index).

In the RY 2012 IPF PPS final rule, we changed the reporting year timeframe for IPFs from a RY to the FY, which begins October 1 and ends September 30 (76 FR 26434 through 26435). In that FY 2012 IPF PPS final rule, we continued our established policy of using the pre-floor, pre-reclassified IPPS hospital wage index from the prior year (that is, from FY 2011) as the basis for the FY 2012 IPF wage index. This policy of basing a wage index on the prior year's pre-floor, pre-reclassified IPPS hospital wage index has been followed by other Medicare payment systems, such as hospice and inpatient rehabilitation facilities. By continuing with our established policy, we remained consistent with other Medicare payment systems.

In FY 2020, we finalized the IPF wage index methodology to align the IPF PPS wage index with the same wage data timeframe used by the IPPS for FY 2020 and subsequent years. Specifically, we finalized to use the pre-floor, pre-reclassified IPPS hospital wage index from the FY concurrent with the IPF FY as the basis for the IPF wage index. For example, the FY 2020 IPF wage index was based on the FY 2020 pre-floor, pre-reclassified IPPS hospital wage index rather than on the FY 2019 pre-floor, pre-reclassified IPPS hospital wage index.

We explained in the FY 2020 proposed rule (84 FR 16973), that using the concurrent pre-floor, pre-reclassified IPPS hospital wage index will result in the most up-to-date wage data being the basis for the IPF wage index. We noted that it would also result in more consistency and parity in the wage index methodology used by other Medicare payment systems. We indicated that the Medicare SNF PPS already used the concurrent IPPS hospital wage index data as the basis for the SNF PPS wage index. CMS proposed and finalized similar policies to use the concurrent pre-floor, pre-reclassified IPPS hospital wage index data in other Medicare payment systems, such as hospice and inpatient rehabilitation facilities. Thus, the wage adjusted Medicare payments of various provider types are based upon wage index data from the same timeframe. For FY 2023, we propose to continue to use the concurrent pre-floor, pre-reclassified IPPS hospital wage index as the basis for the IPF wage index.

b. Office of Management and Budget (OMB) Bulletins

1. Background

The wage index used for the IPF PPS is calculated using the unadjusted, pre-reclassified and pre-floor IPPS wage index data and is assigned to the IPF on the basis of the labor market area in which the IPF is geographically located. IPF labor market areas are delineated based on the Core-Based Statistical Area (CBSAs) established by the OMB.

Generally, OMB issues major revisions to statistical areas every 10 years, based on the results of the decennial census. However, OMB occasionally issues minor updates and revisions to statistical areas in the years between the decennial censuses through OMB Bulletins. These bulletins contain information regarding CBSA changes, including changes to CBSA numbers and titles. OMB bulletins may be accessed online at *https://www.whitehouse.gov/omb/information-for-agencies/bulletins/.* In accordance with our established methodology, the IPF PPS has historically adopted any CBSA changes that are published in the OMB bulletin that corresponds with the IPPS hospital wage index used to determine the IPF wage index and, when necessary and appropriate, has proposed and finalized transition policies for these changes.

In the RY 2007 IPF PPS final rule (71 FR 27061 through 27067), we adopted the changes discussed in the OMB Bulletin No. 03–04 (June 6, 2003), which announced revised definitions for MSAs, and the creation of Micropolitan Statistical Areas and Combined Statistical Areas. In adopting the OMB CBSA geographic designations in RY 2007, we did not provide a separate transition for the CBSA-based wage index since the IPF PPS was already in a transition period from TEFRA payments to PPS payments.

In the RY 2009 IPF PPS notice, we incorporated the CBSA nomenclature changes published in the most recent OMB bulletin that applied to the IPPS hospital wage index used to determine the current IPF wage index and stated that we expected to continue to do the same for all the OMB CBSA nomenclature changes in future IPF PPS rules and notices, as necessary (73 FR 25721).

Subsequently, CMS adopted the changes that were published in past OMB bulletins in the FY 2016 IPF PPS final rule (80 FR 46682 through 46689), the FY 2018 IPF PPS rate update (82 FR 36778 through 36779), the FY 2020 IPF PPS final rule (84 FR 38453 through 38454), and the FY 2021 IPF PPS final rule (85 FR 47051 through 47059). We direct readers to each of these rules for more information about the changes that were adopted and any associated transition policies.

In part due to the scope of changes involved in adopting the CBSA delineations for FY 2021, we finalized a 2-year transition policy in the FY 2021 IPF PPS final rule consistent with our past practice of using transition policies to help mitigate negative impacts on hospitals of certain wage index policy changes. We applied a 5-percent cap on wage index decreases to all IPF providers that had any decrease in their wage indexes, regardless of the circumstance causing the decline, so that an IPF's final wage index for FY 2021 would not be less than 95 percent of its final wage index for FY 2020, regardless of whether the IPF was part of an updated CBSA. We refer readers to the FY 2021 IPF PPS final rule (85 FR 47058 through 47059) for a more detailed discussion about the wage index transition policy for FY 2021.

On March 6, 2020, OMB issued OMB Bulletin 20–01 (available on the web at *https://www.whitehouse.gov/wp-content/uploads/2020/03/Bulletin-20-01.pdf*). In considering whether to adopt this bulletin, we analyzed whether the changes in this bulletin would have a material impact on the IPF PPS wage index. This bulletin creates only one Micropolitan statistical area. As discussed in further detail in section III.D.1.b.ii of this proposed rule since Micropolitan areas are considered rural for the IPF PPS wage index, this bulletin has no material impact on the IPF PPS wage index. That is, the constituent county of the new Micropolitan area was considered rural effective as of FY 2021 and would continue to be considered rural if we adopted OMB Bulletin 20–01. Therefore, we did not propose to adopt OMB Bulletin 20–01 in the FY 2022 IPF PPS proposed rule.

2. Micropolitan Statistical Areas

OMB defines a ''Micropolitan Statistical Area'' as a CBSA associated with at least one urban cluster that has a population of at least 10,000, but less than 50,000 (75 FR 37252). We refer to these as Micropolitan Areas. After extensive impact analysis, consistent with the treatment of these areas under the IPPS as discussed in the FY 2005 IPPS final rule (69 FR 49029 through 49032), we determined the best course of action would be to treat Micropolitan Areas as ''rural'' and include them in the calculation of each state's IPF PPS rural wage index. We refer readers to the FY 2007 IPF PPS final rule (71 FR 27064 through 27065) for a complete discussion regarding treating Micropolitan Areas as rural.

c. Proposed Permanent Cap on Wage Index Decreases

As discussed in section III.D.1.b.(1) of this proposed rule, we have proposed and finalized temporary transition policies in the past to mitigate significant changes to payments due to changes to the IPF PPS wage index. Specifically, for FY 2016 (80 FR 46652), we implemented a 50/50 blend for all geographic areas consisting of the wage index values computed using the then-current OMB area delineations and the wage index values computed using new area delineations based on OMB Bulletin No. 13–01. In FY 2021 (85 FR 47059), we implemented a 2-year transition to mitigate any negative effects of wage index changes by applying a 5-percent cap on any decrease in an IPF's wage index from the IPF's final wage index from FY 2020. We explained that we believed the 5-percent cap would provide greater transparency and would be administratively less complex than the prior methodology of applying a 50/50 blended wage index. We indicated that no cap would be applied to the reduction in the wage index for the second year, that is, FY 2022, and that this transition approach struck an appropriate balance by providing a transition period to mitigate the resulting short-term instability and negative impacts on providers and time for them to adjust to their new labor

market area delineations and wage index values.

In FY 2022 (86 FR 42616 through 42617), a couple of commenters recommended CMS extend the transition period adopted in the FY 2021 IPF PPS final rule. Because we did not propose to modify the transition policy that was finalized in the FY 2021 IPF PPS final rule, we did not extend the transition period for FY 2022. In the FY 2022 IPF PPS final rule, we stated that we continued to believe that applying the 5-percent cap transition policy in year one provided an adequate safeguard against any significant payment reductions associated with the adoption of the revised CBSA delineations in FY 2021, allowed for sufficient time to make operational changes for future FYs, and provided a reasonable balance between mitigating some short-term instability in IPF payments and improving the accuracy of the payment adjustment for differences in area wage levels. However, we acknowledged that certain changes to wage index policy may significantly affect Medicare payments. In addition, we reiterated that our policy principles with regard to the wage index include generally using the most current data and information available and providing that data and information, as well as any approaches to addressing any significant effects on Medicare payments resulting from these potential scenarios, in notice and comment rulemaking. With these policy principles in mind, we considered for this FY 2023 proposed rule how best to address the potential scenarios about which commenters raised concerns; that is, scenarios in which changes to wage index policy may significantly affect Medicare payments.

In the past, we have established transition policies of limited duration to phase in significant changes to labor market areas. In taking this approach in the past, we sought to mitigate short-term instability and fluctuations that can negatively impact providers due to wage index changes. In accordance with the requirements of the IPF PPS wage index regulations at § 412.424(a)(2), we use an appropriate wage index based on the best available data, including the best available labor market area delineations, to adjust IPF PPS payments for wage differences. We have previously stated that, because the wage index is a relative measure of the value of labor in prescribed labor market areas, we believe it is important to implement new labor market area delineations with as minimal a transition as is reasonably possible. However, we recognize that changes to the wage index have the potential to create instability and significant negative impacts on certain providers even when labor market areas do not change. In addition, year-to-year fluctuations in an area's wage index can occur due to external factors beyond a provider's control, such as the COVID–19 PHE, and for an individual provider, these fluctuations can be difficult to predict. We also recognize that predictability in Medicare payments is important to enable providers to budget and plan their operations.

In light of these considerations, we are proposing a permanent approach to smooth year-to-year changes in providers' wage indexes. We are proposing a policy that we believe increases the predictability of IPF PPS payments for providers and mitigates instability and significant negative impacts to providers resulting from changes to the wage index.

As previously discussed, we believed applying a 5-percent cap on wage index decreases for FY 2021 provided greater transparency and was administratively less complex than prior transition methodologies. In addition, we believed this methodology mitigated short-term instability and fluctuations that can negatively impact providers due to wage index changes. Lastly, we believed the 5-percent cap applied to all wage index decreases for FY 2021 provided an adequate safeguard against significant payment reductions related to the adoption of the revised CBSAs. However, as discussed earlier in this section of the proposed rule, we recognize there are circumstances that a 1-year mitigation policy, like the one adopted for FY 2021, would not effectively address future years in which providers continue to be negatively affected by significant wage index decreases.

Typical year-to-year variation in the IPF PPS wage index has historically been within 5 percent, and we expect this will continue to be the case in future years. Because providers are usually experienced with this level of wage index fluctuation, we believe applying a 5-percent cap on all wage index decreases each year, regardless of the reason for the decrease, would effectively mitigate instability in IPF PPS payments due to any significant wage index decreases that may affect providers in a year. Therefore, we believe this approach would address concerns about instability that commenters raised in the FY 2022 IPF PPS rule. In addition, we believe that applying a 5-percent cap on all wage index decreases would support increased predictability about IPF PPS payments for providers, enabling them to more effectively budget and plan their operations. Lastly, because applying a 5-percent cap on all wage index decreases would represent a small overall impact on the labor market area wage index system, we believe it would ensure the wage index is a relative measure of the value of labor in prescribed labor market areas. As discussed in further detail in section III.D.1.e of this proposed rule, we estimate that applying a 5-percent cap on all wage index decreases will have a very small effect on the wage index budget neutrality factor for FY 2023. Because the wage index is a measure of the value of labor (wage and wage-related costs) in a prescribed labor market area relative to the national average, we anticipate that in the absence of proposed policy changes most providers will not experience year-to-year wage index declines greater than 5 percent in any given year. Therefore, we anticipate that the impact to the wage index budget neutrality factor in future years would continue to be minimal. We also believe that when the 5-percent cap would be applied under this proposal, it is likely that it would be applied similarly to all IPFs in the same labor market area, as the hospital average hourly wage data in the CBSA (and any relative decreases compared to the national average hourly wage) would be similar. While this policy may result in IPFs in a CBSA receiving a higher wage index than others in the same area (such as situations when delineations change), we believe the impact would be temporary.

The Secretary has broad authority to establish appropriate payment adjustments under the IPF PPS, including the wage index adjustment. As discussed earlier in this section, the IPF PPS regulations require us to use an appropriate wage index based on the best available data. For the reasons discussed in this section, we believe a 5-percent cap on wage index decreases would be appropriate for the IPF PPS. Therefore, for FY 2023 and subsequent years, we are proposing to apply a 5-percent cap on any decrease to a provider's wage index from its wage index in the prior year, regardless of the circumstances causing the decline. That is, we are proposing that an IPF's wage index for FY 2023 would not be less than 95 percent of its final wage index for FY 2022, regardless of whether the IPF is part of an updated CBSA, and that for subsequent years, a provider's wage index would not be less than 95 percent of its wage index calculated in the prior FY. This also means that if an IPF's

prior FY wage index is calculated with the application of the 5-percent cap, the following year's wage index would not be less than 95 percent of the IPF's capped wage index in the prior FY. For example, if an IPF's wage index for FY 2023 is calculated with the application of the 5-percent cap, then its wage index for FY 2024 would not be less than 95 percent of its capped wage index in FY 2023. Lastly, we propose that a new IPF would be paid the wage index for the area in which it is geographically located for its first full or partial FY with no cap applied, because a new IPF would not have a wage index in the prior FY. We would reflect the proposed permanent cap on wage index decreases at § 412.424(d)(1)(i).

As previously discussed, we believe this proposed methodology would maintain the IPF PPS wage index as a relative measure of the value of labor in prescribed labor market areas, increase predictability of IPF PPS payments for providers, and mitigate instability and significant negative impacts to providers resulting from significant changes to the wage index. In section VIII.C.2 of this proposed rule, we estimate the impact to payments for providers in FY 2023 based on this proposed policy. We also note that we would examine the effects of this policy on an ongoing basis in the future in order to assess its appropriateness.

d. Proposed Adjustment for Rural Location

In the November 2004 IPF PPS final rule, (69 FR 66954) we provided a 17 percent payment adjustment for IPFs located in a rural area. This adjustment was based on the regression analysis, which indicated that the per diem cost of rural facilities was 17 percent higher than that of urban facilities after accounting for the influence of the other variables included in the regression. This 17 percent adjustment has been part of the IPF PPS each year since the inception of the IPF PPS. For FY 2023, we propose to continue to apply a 17 percent payment adjustment for IPFs located in a rural area as defined at § 412.64(b)(1)(ii)(C) (see 69 FR 66954 for a complete discussion of the adjustment for rural locations).

e. Proposed Budget Neutrality Adjustment

Changes to the wage index are made in a budget-neutral manner so that updates do not increase expenditures. Therefore, for FY 2023, we are proposing to continue to apply a budget-neutrality adjustment in accordance with our existing budget-neutrality policy. This policy requires us to update the wage index in such a way that total estimated payments to IPFs for FY 2023 are the same with or without the changes (that is, in a budget-neutral manner) by applying a budget neutrality factor to the IPF PPS rates. We use the following steps to ensure that the rates reflect the FY 2023 update to the wage indexes (based on the FY 2019 hospital cost report data) and the labor-related share in a budget-neutral manner:

Step 1: Simulate estimated IPF PPS payments, using the FY 2022 IPF wage index values (available on the CMS website) and labor-related share (as published in the FY 2022 IPF PPS final rule (86 FR 42608).

Step 2: Simulate estimated IPF PPS payments using the proposed FY 2023 IPF wage index values (available on the CMS website), the proposed 5-percent cap on any decrease to a provider's wage index from its wage index in the prior year, and the proposed FY 2023 labor-related share (based on the latest available data as discussed previously).

Step 3: Divide the amount calculated in step 1 by the amount calculated in step 2. The resulting quotient is the proposed FY 2023 budget-neutral wage adjustment factor of 1.0016.

Step 4: Apply the FY 2023 budget-neutral wage adjustment factor from step 3 to the FY 2022 IPF PPS Federal per diem base rate after the application of the market basket update described in section III.A of this proposed rule, to determine the FY 2023 IPF PPS Federal per diem base rate.

For this proposed rule, we also followed these steps to separately calculate the budget neutrality factor associated with the proposed 5-percent cap on any decrease to a provider's wage index from its wage index in the prior year. First, we calculated the budget neutrality factor associated with the proposed FY 2023 IPF wage index and proposed FY 2023 labor-related share. We divided the amount of simulated payments using the FY 2022 IPF wage index and labor-related share by the amount of simulated payments using the proposed FY 2023 wage index and proposed FY 2023 labor-related share. The resulting quotient is 1.0017.

Next, we calculated the budget neutrality factor associated with the proposed 5-percent cap on any decrease to a provider's wage index from its wage index in the prior year. We divided the amount of simulated payments using the proposed FY 2023 wage index and proposed FY 2023 labor-related share by the amount of simulated payments using the proposed FY 2023 wage index, the proposed 5-percent cap on any decrease to a provider's wage index from its wage index in the prior year, and the proposed FY 2023 labor-related share. The resulting quotient is 0.9999. The combined budget neutrality factor, which is the proposed FY 2023 budget-neutral wage adjustment factor as discussed earlier in this section, is 1.0016.

2. Proposed Teaching Adjustment

In the November 2004 IPF PPS final rule, we implemented regulations at § 412.424(d)(1)(iii) to establish a facility-level adjustment for IPFs that are, or are part of, teaching hospitals. The teaching adjustment accounts for the higher indirect operating costs experienced by hospitals that participate in graduate medical education (GME) programs. The payment adjustments are made based on the ratio of the number of full-time equivalent (FTE) interns and residents training in the IPF and the IPF's average daily census (ADC).

Under the Inpatient Prospective Payment System (IPPS), Medicare makes direct GME payments (for direct costs such as resident and teaching physician salaries, and other direct teaching costs) to all teaching hospitals including those paid under a PPS, and those paid under the TEFRA rate-of-increase limits. These direct GME payments are made separately from payments for hospital operating costs and are not part of the IPF PPS. In addition, direct GME payments do not address the estimated higher indirect operating costs teaching hospitals may face.

The results of the regression analysis of FY 2002 IPF data established the basis for the payment adjustments included in the November 2004 IPF PPS final rule. The results showed that the indirect teaching cost variable is significant in explaining the higher costs of IPFs that have teaching programs. We calculated the teaching adjustment based on the IPF's ''teaching variable,'' which is (1 + (the number of FTE residents training in the IPF/the IPF's ADC)). The teaching variable is then raised to the 0.5150 power to result in the teaching adjustment. This formula is subject to the limitations on the number of FTE residents, which are described in this section of the proposed rule.

We established the teaching adjustment in a manner that limited the incentives for IPFs to add FTE residents for the purpose of increasing their teaching adjustment. We imposed a cap on the number of FTE residents that may be counted for purposes of calculating the teaching adjustment. The cap limits the number of FTE residents that teaching IPFs may count for the purpose of calculating the IPF PPS

teaching adjustment, not the number of residents teaching institutions can hire or train. We calculated the number of FTE residents that trained in the IPF during a ''base year'' and used that FTE resident number as the cap. An IPF's FTE resident cap is ultimately determined based on the final settlement of the IPF's most recent cost report filed before November 15, 2004 (publication date of the IPF PPS final rule). A complete discussion of the temporary adjustment to the FTE cap to reflect residents due to hospital closure or residency program closure appears in the RY 2012 IPF PPS proposed rule (76 FR 5018 through 5020) and the RY 2012 IPF PPS final rule (76 FR 26453 through 26456).

In the regression analysis, the logarithm of the teaching variable had a coefficient value of 0.5150. We converted this cost effect to a teaching payment adjustment by treating the regression coefficient as an exponent and raising the teaching variable to a power equal to the coefficient value. We note that the coefficient value of 0.5150 was based on the regression analysis holding all other components of the payment system constant. A complete discussion of how the teaching adjustment was calculated appears in the November 2004 IPF PPS final rule (69 FR 66954 through 66957) and the RY 2009 IPF PPS notice (73 FR 25721). As with other adjustment factors derived through the regression analysis, we do not plan to rerun the teaching adjustment factors in the regression analysis until we more fully analyze IPF PPS data. Therefore, in this FY 2023 proposed rule, we are proposing to continue to retain the coefficient value of 0.5150 for the teaching adjustment to the Federal per diem base rate.

3. Proposed Cost of Living Adjustment for IPFs Located in Alaska and Hawaii

The IPF PPS includes a payment adjustment for IPFs located in Alaska and Hawaii based upon the area in which the IPF is located. As we explained in the November 2004 IPF PPS final rule, the FY 2002 data demonstrated that IPFs in Alaska and Hawaii had per diem costs that were disproportionately higher than other IPFs. Other Medicare prospective payment systems (for example, the IPPS and LTCH PPS) adopted a COLA to account for the cost differential of care furnished in Alaska and Hawaii.

We analyzed the effect of applying a COLA to payments for IPFs located in Alaska and Hawaii. The results of our analysis demonstrated that a COLA for IPFs located in Alaska and Hawaii will improve payment equity for these facilities. As a result of this analysis, we provided a COLA in the November 2004 IPF PPS final rule.

A COLA for IPFs located in Alaska and Hawaii is made by multiplying the non-labor-related portion of the Federal per diem base rate by the applicable COLA factor based on the COLA area in which the IPF is located.

The COLA factors through 2009 were published by the Office of Personnel Management (OPM), and the OPM memo showing the 2009 COLA factors is available at *https://www.chcoc.gov/content/nonforeign-area-retirement-equity-assurance-act.*

We note that the COLA areas for Alaska are not defined by county as are the COLA areas for Hawaii. In 5 CFR 591.207, the OPM established the following COLA areas:

- City of Anchorage, and 80-kilometer (50-mile) radius by road, as measured from the Federal courthouse.
- City of Fairbanks, and 80-kilometer (50-mile) radius by road, as measured from the Federal courthouse.
- City of Juneau, and 80-kilometer (50-mile) radius by road, as measured from the Federal courthouse.
- Rest of the state of Alaska.

As stated in the November 2004 IPF PPS final rule, we update the COLA factors according to updates established by the OPM. However, sections 1911 through 1919 of the Non-foreign Area Retirement Equity Assurance Act, as contained in subtitle B of title XIX of the National Defense Authorization Act (NDAA) for FY 2010 (Pub. L. 111–84, October 28, 2009), transitions the Alaska and Hawaii COLAs to locality pay. Under section 1914 of NDAA, locality pay was phased in over a 3-year period beginning in January 2010, with COLA rates frozen as of the date of enactment, October 28, 2009, and then proportionately reduced to reflect the phase-in of locality pay.

When we published the proposed COLA factors in the RY 2012 IPF PPS proposed rule (76 FR 4998), we inadvertently selected the FY 2010 COLA rates, which had been reduced to account for the phase-in of locality pay. We did not intend to propose the reduced COLA rates because that would have understated the adjustment. Since the 2009 COLA rates did not reflect the phase-in of locality pay, we finalized the FY 2009 COLA rates for RY 2010 through RY 2014.

In the FY 2013 IPPS/LTCH final rule (77 FR 53700 through 53701), we established a new methodology to update the COLA factors for Alaska and Hawaii, and adopted this methodology for the IPF PPS in the FY 2015 IPF final rule (79 FR 45958 through 45960). We adopted this new COLA methodology for the IPF PPS because IPFs are hospitals with a similar mix of commodities and services. We believe it is appropriate to have a consistent policy approach with that of other hospitals in Alaska and Hawaii. Therefore, the IPF COLAs for FY 2015 through FY 2017 were the same as those applied under the IPPS in those years. As finalized in the FY 2013 IPPS/LTCH PPS final rule (77 FR 53700 and 53701), the COLA updates are determined every 4 years, when the IPPS market basket labor-related share is updated. Because the labor-related share of the IPPS market basket was most recently updated for FY 2022, the COLA factors were updated in FY 2022 IPPS/LTCH rulemaking (86 FR 45547). As such, we also updated the IPF PPS COLA factors for FY 2022 (86 FR 42621 through 42622) to reflect the updated COLA factors finalized in the FY 2022 IPPS/LTCH rulemaking. Table 2 shows the proposed IPF PPS COLA factors effective for FY 2022 through FY 2025.

TABLE 2—IPF PPS COST-OF-LIVING ADJUSTMENT FACTORS: IPFS LOCATED IN ALASKA AND HAWAII

Area	FY 2022 through FY 2025
Alaska:	
City of Anchorage and 80-kilometer (50-mile) radius by road	1.22
City of Fairbanks and 80-kilometer (50-mile) radius by road	1.22
City of Juneau and 80-kilometer (50-mile) radius by road	1.22
Rest of Alaska	1.24
Hawaii:	
City and County of Honolulu	1.25

TABLE 2—IPF PPS COST-OF-LIVING ADJUSTMENT FACTORS: IPFS LOCATED IN ALASKA AND HAWAII—Continued

Area	FY 2022 through FY 2025
County of Hawaii	1.22
County of Kauai	1.25
County of Maui and County of Kalawao	1.25

The proposed IPF PPS COLA factors for FY 2023 are also shown in Addendum A to this proposed rule, and is available on the CMS website at *https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/InpatientPsychFacilPPS/tools.html*.

4. Proposed Adjustment for IPFs With a Qualifying Emergency Department (ED)

The IPF PPS includes a facility-level adjustment for IPFs with qualifying EDs. We provide an adjustment to the Federal per diem base rate to account for the costs associated with maintaining a full-service ED. The adjustment is intended to account for ED costs incurred by a psychiatric hospital with a qualifying ED or an excluded psychiatric unit of an IPPS hospital or a CAH, for preadmission services otherwise payable under the Medicare Hospital Outpatient Prospective Payment System (OPPS), furnished to a beneficiary on the date of the beneficiary's admission to the hospital and during the day immediately preceding the date of admission to the IPF (see § 413.40(c)(2)), and the overhead cost of maintaining the ED. This payment is a facility-level adjustment that applies to all IPF admissions (with one exception which we described), regardless of whether a particular patient receives preadmission services in the hospital's ED.

The ED adjustment is incorporated into the variable per diem adjustment for the first day of each stay for IPFs with a qualifying ED. Those IPFs with a qualifying ED receive an adjustment factor of 1.31 as the variable per diem adjustment for day 1 of each patient stay. If an IPF does not have a qualifying ED, it receives an adjustment factor of 1.19 as the variable per diem adjustment for day 1 of each patient stay.

The ED adjustment is made on every qualifying claim except as described in this section of the proposed rule. As specified in § 412.424(d)(1)(v)(B), the ED adjustment is not made when a patient is discharged from an IPPS hospital or CAH and admitted to the same IPPS hospital's or CAH's excluded psychiatric unit. We clarified in the November 2004 IPF PPS final rule (69 FR 66960) that an ED adjustment is not made in this case because the costs associated with ED services are reflected in the DRG payment to the IPPS hospital or through the reasonable cost payment made to the CAH.

Therefore, when patients are discharged from an IPPS hospital or CAH and admitted to the same hospital's or CAH's excluded psychiatric unit, the IPF receives the 1.19 adjustment factor as the variable per diem adjustment for the first day of the patient's stay in the IPF. For FY 2023, we are proposing to continue to retain the 1.31 adjustment factor for IPFs with qualifying EDs. A complete discussion of the steps involved in the calculation of the ED adjustment factors are in the November 2004 IPF PPS final rule (69 FR 66959 through 66960) and the RY 2007 IPF PPS final rule (71 FR 27070 through 27072).

E. Other Final Payment Adjustments and Policies

1. Outlier Payment Overview

The IPF PPS includes an outlier adjustment to promote access to IPF care for those patients who require expensive care and to limit the financial risk of IPFs treating unusually costly patients. In the November 2004 IPF PPS final rule, we implemented regulations at § 412.424(d)(3)(i) to provide a per-case payment for IPF stays that are extraordinarily costly. Providing additional payments to IPFs for extremely costly cases strongly improves the accuracy of the IPF PPS in determining resource costs at the patient and facility level. These additional payments reduce the financial losses that would otherwise be incurred in treating patients who require costlier care, and therefore, reduce the incentives for IPFs to under-serve these patients. We make outlier payments for discharges in which an IPF's estimated total cost for a case exceeds a fixed dollar loss threshold amount (multiplied by the IPF's facility-level adjustments) plus the Federal per diem payment amount for the case.

In instances when the case qualifies for an outlier payment, we pay 80 percent of the difference between the estimated cost for the case and the adjusted threshold amount for days 1 through 9 of the stay (consistent with the median LOS for IPFs in FY 2002), and 60 percent of the difference for day 10 and thereafter. The adjusted threshold amount is equal to the outlier threshold amount adjusted for wage area, teaching status, rural area, and the COLA adjustment (if applicable), plus the amount of the Medicare IPF payment for the case. We established the 80 percent and 60 percent loss sharing ratios because we were concerned that a single ratio established at 80 percent (like other Medicare PPSs) might provide an incentive under the IPF per diem payment system to increase LOS in order to receive additional payments.

After establishing the loss sharing ratios, we determined the current fixed dollar loss threshold amount through payment simulations designed to compute a dollar loss beyond which payments are estimated to meet the 2 percent outlier spending target. Each year when we update the IPF PPS, we simulate payments using the latest available data to compute the fixed dollar loss threshold so that outlier payments represent 2 percent of total estimated IPF PPS payments.

2. Proposed Update to the Outlier Fixed Dollar Loss Threshold Amount

In accordance with the update methodology described in § 412.428(d), we are proposing to update the fixed dollar loss threshold amount used under the IPF PPS outlier policy. Based on the regression analysis and payment simulations used to develop the IPF PPS, we established a 2 percent outlier policy, which strikes an appropriate balance between protecting IPFs from extraordinarily costly cases while ensuring the adequacy of the Federal per diem base rate for all other cases that are not outlier cases.

Our longstanding methodology for updating the outlier fixed dollar loss threshold involves using the best available data, which is typically the most recent available data. Last year for the FY 2022 IPF PPS final rule, we finalized the use of FY 2019 claims rather than the more recent FY 2020 claims for updating the outlier fixed dollar loss threshold (86 FR 42623). We

noted that our use of the FY 2019 claims to set the final outlier fixed dollar loss threshold for FY 2022 deviated from our longstanding practice of using the most recent available year of claims, but remained otherwise consistent with the established outlier update methodology. We explained that we finalized our proposal to deviate from our longstanding practice of using the most recent available year of claims only because, and to the extent that, the ''coronavirus disease 2019'' (abbreviated ''COVID–19'') Public Health Emergency (PHE) appeared to have significantly impacted the FY 2020 IPF claims. We further stated that we intended to continue to analyze further data in order to better understand both the short-term and long-term effects of the COVID–19 PHE on IPFs (86 FR 42624).

For this FY 2023 IPF PPS proposed rulemaking, consistent with our longstanding practice, we analyzed the most recent available data for simulating IPF PPS payments in FY 2023. We observed a continuation of two main trends that we noted in our analysis of FY 2020 claims for FY 2022—that is, an overall increase in average cost per day and an overall decrease in the number of covered days. However, we also identified that some providers had significant increases in their charges, resulting in higher than normal estimated cost per day that would skew our estimate of outlier payments for FY 2022 and FY 2023.

Historically, we have applied statistical trims under the IPF PPS in order to improve the statistical validity of the data used for ratesetting. In the November 2004 final rule, we explained that we applied a 3 standard deviation trim on cost per day prior to calculating the average per diem cost used to calculate the IPF PPS Federal per diem base rate (69 FR 66927). Furthermore, as discussed in section III.E.3 of this proposed rule, our longstanding policy applies a ceiling on a provider's cost-to-charge ratio when it exceeds 3 standard deviations from the mean cost-to-charge ratio for urban or rural providers. We are proposing a similar approach in order to address the skew in estimated cost per day that we observed in the FY 2021 claims. Specifically, we are proposing for FY 2023 to exclude providers from our simulation of IPF PPS payments for FY 2022 and FY 2023 if their change in estimated average cost per day is outside 3 standard deviations from the mean.

Based on an analysis of the December 2021 update of FY 2021 IPF claims and the FY 2022 rate increases, we believe it is necessary to update the fixed dollar loss threshold amount to maintain an outlier percentage that equals 2 percent of total estimated IPF PPS payments. We are proposing to update the IPF outlier threshold amount for FY 2023 using FY 2021 claims data and the same methodology that we used to set the initial outlier threshold amount in the RY 2007 IPF PPS final rule (71 FR 27072 and 27073), which is also the same methodology that we used to update the outlier threshold amounts for years 2008 through 2022. However, as discussed earlier in this section, we also propose for FY 2023 to exclude providers from our impact simulations whose change in simulated cost per day is outside 3 standard deviations from the mean. Based on an analysis of these updated data, we estimate that IPF outlier payments as a percentage of total estimated payments are approximately 3.2 percent in FY 2022. Therefore, we are proposing to update the outlier threshold amount to $24,270 to maintain estimated outlier payments at 2 percent of total estimated aggregate IPF payments for FY 2023. This proposed update is an increase from the FY 2022 threshold of $16,040.

3. Proposed Update to IPF Cost-to-Charge Ratio Ceilings

Under the IPF PPS, an outlier payment is made if an IPF's cost for a stay exceeds a fixed dollar loss threshold amount plus the IPF PPS amount. In order to establish an IPF's cost for a particular case, we multiply the IPF's reported charges on the discharge bill by its overall cost-to-charge ratio (CCR). This approach to determining an IPF's cost is consistent with the approach used under the IPPS and other PPSs. In the FY 2004 IPPS final rule (68 FR 34494), we implemented changes to the IPPS policy used to determine CCRs for IPPS hospitals, because we became aware that payment vulnerabilities resulted in inappropriate outlier payments. Under the IPPS, we established a statistical measure of accuracy for CCRs to ensure that aberrant CCR data did not result in inappropriate outlier payments.

As we indicated in the November 2004 IPF PPS final rule (69 FR 66961), we believe that the IPF outlier policy is susceptible to the same payment vulnerabilities as the IPPS; therefore, we adopted a method to ensure the statistical accuracy of CCRs under the IPF PPS. Specifically, we adopted the following procedure in the November 2004 IPF PPS final rule:

- Calculated two national ceilings, one for IPFs located in rural areas and one for IPFs located in urban areas.
- Computed the ceilings by first calculating the national average and the standard deviation of the CCR for both urban and rural IPFs using the most recent CCRs entered in the most recent Provider Specific File (PSF) available.

For FY 2023, we propose to continue to follow this methodology.

To determine the rural and urban ceilings, we multiplied each of the standard deviations by 3 and added the result to the appropriate national CCR average (either rural or urban). The upper threshold CCR for IPFs in FY 2023 is 2.0472 for rural IPFs, and 1.7279 for urban IPFs, based on CBSA-based geographic designations. If an IPF's CCR is above the applicable ceiling, the ratio is considered statistically inaccurate, and we assign the appropriate national (either rural or urban) median CCR to the IPF.

We apply the national median CCRs to the following situations:

- New IPFs that have not yet submitted their first Medicare cost report. We continue to use these national median CCRs until the facility's actual CCR can be computed using the first tentatively or final settled cost report.
- IPFs whose overall CCR is in excess of three standard deviations above the corresponding national geometric mean (that is, above the ceiling).
- Other IPFs for which the MAC obtains inaccurate or incomplete data with which to calculate a CCR.

We are proposing to continue to update the FY 2023 national median and ceiling CCRs for urban and rural IPFs based on the CCRs entered in the latest available IPF PPS PSF. Specifically, for FY 2023, to be used in each of the three situations listed previously, using the most recent CCRs entered in the CY 2022 PSF, we provide an estimated national median CCR of 0.5720 for rural IPFs and a national median CCR of 0.4200 for urban IPFs. These calculations are based on the IPF's location (either urban or rural) using the CBSA-based geographic designations. A complete discussion regarding the national median CCRs appears in the November 2004 IPF PPS final rule (69 FR 66961 through 66964).

IV. Comment Solicitation on Analysis of IPF PPS Adjustments

A. Background

As discussed in section III.C.1 of this proposed rule, we are proposing to continue to use the existing regression-derived adjustment factors for FY 2023. In the November 15, 2004 final rule, we indicated that we did not intend to update the regression analysis and the patient-level and facility-level adjustments until we complete further

analysis of IPF costs using IPF PPS data that yields as much information as possible regarding the patient-level characteristics of the population that each IPF serves.

Since that time, we undertook analysis to better understand IPF industry practices so that we may refine the IPF PPS in the future, as appropriate. For RY 2012, we identified several areas of concern for future refinement, and we invited comments on these issues in the RY 2012 IPF PPS proposed and final rules. For further discussion of these issues and to review the public comments, we refer readers to the RY 2012 IPF PPS proposed rule (76 FR 4998) and final rule (76 FR 26432).

Our preliminary analysis, which we previously discussed in the FY 2016 IPF PPS final rule (80 FR 46693 through 46694), also revealed variation in cost and claim data, particularly related to labor costs, drugs costs, and laboratory services. We found that some providers have very low labor costs, or very low or missing drug or laboratory costs or charges, relative to other providers. As we noted in the FY 2016 IPF PPS final rule, our preliminary analysis of 2012 to 2013 IPF data found that over 20 percent of IPF stays reported no ancillary costs, such as laboratory and drug costs, in their cost reports, or laboratory or drug charges on their claims. In the past, we stated that we expect that most patients requiring hospitalization for active psychiatric treatment would need drugs and laboratory services, and we reminded providers that the IPF PPS Federal per diem base rate includes the cost of all ancillary services, including drugs and laboratory services.

On November 17, 2017, we issued Transmittal 12, which made changes to the hospital cost report form CMS–2552–10 (OMB No. 0938–0050), and included the requirement that cost reports from psychiatric hospitals include certain ancillary costs, or the cost report will be rejected. On January 30, 2018, we issued Transmittal 13, which changed the implementation date for Transmittal 12 to be for cost reporting periods ending on or after September 30, 2017. For details, we refer readers to see these Transmittals, which are available on the CMS website at *https://www.cms.gov/Regulationsand-Guidance/Guidance/Transmittals/index.html.* CMS suspended the requirement that cost reports from psychiatric hospitals include certain ancillary costs effective April 27, 2018, in order to consider excluding all-inclusive rate providers from this requirement. CMS issued Transmittal 15 on October 19, 2018, reinstating the requirement that cost reports from psychiatric hospitals, except all-inclusive rate providers, include certain ancillary costs.

B. Update and Comment Solicitation on Analysis of IPF PPS Adjustments

Working in collaboration with a contractor, we have undertaken further analysis of more recent IPF cost and claim information. We have posted a report on the CMS website, which summarizes the results of the latest analysis. For public awareness, this report is available online at *https://www.cms.gov/medicare/medicare-fee-for-service-payment/inpatientpsychfacilpps.* This updated analysis finds that the existing IPF PPS model continues to be generally appropriate in terms of effectively aligning IPF PPS payments with the cost of providing IPF services, but suggests that certain updates to the codes, categories, adjustment factors, and ECT payment amount per treatment could improve payment accuracy. We are requesting comments on the results of our latest analysis as summarized in the report. In particular, we are interested in comments about the following topics, which are discussed in detail in the report:

- The report summarizes results of the analysis regarding patient-level characteristics, about which we are requesting comments:

++ The updated regression analysis suggests that certain technical changes to the DRG and comorbidity adjustment factors, consolidation of the age categories for the patient age adjustment, and changes to the adjustment factors for age and length of stay could be appropriate.

++ The analysis of ancillary costs for IPF stays with ECT suggests that a higher ECT payment amount per treatment could better align IPF PPS payments with the costs of furnishing ECT.

++ The analysis of the outlier percentage suggests that fewer IPF cases qualify for outliers under the current 2 percent outlier target than were estimated when the IPF PPS was established. We estimate that increasing the outlier percentage would increase the number of IPF cases that qualify for outliers, but would have distributional effects due to budget neutrality.

- The report summarizes the results of analysis regarding facility-level characteristics, about which we are requesting comments:

++ The updated regression analysis suggests that updating the adjustment factors for teaching facilities, rural facilities, and facilities with an ED could improve payment accuracy; however, we estimate such changes could have positive and negative effects on payments for different types of IPFs.

++ The analysis of occupancy-related control variables included in the regression model indicates that these control variables are correlated with the rural adjustment factor, and that removal of these control variables from the model could result in an increase to the rural adjustment factor in the regression model.

- The report summarizes certain areas where we believe additional research is needed. We are requesting comments about the results summarized in the report. We are also requesting comments about additional analyses that we should undertake to better understand how these issues affect the cost of providing IPF services, and how the IPF PPS could better account for these costs:

++ We analyzed the costs associated with social determinants of health, but found that our analysis was confounded by a low frequency of IPF claims reporting the applicable ICD–10 diagnosis codes. We are soliciting public comments about the results of this analysis, and whether there are additional patient characteristics that affect the cost of providing IPF services that may not be consistently reported on claims. Additionally, we are soliciting public comments about how we could better identify such patient characteristics and their effects on costs.

++ We analyzed the costs associated with the percentage of low-income patients that IPFs treat, based on a construction of the Disproportionate Share Hospitals (DSH) percentage that is used in other payment systems using the data currently available for IPFs. We are soliciting public comments about the results of this analysis, which suggest that the addition of an adjustment factor for disproportionate share intensity could improve the accuracy of IPF PPS payments.

V. Inpatient Psychiatric Facility Quality Reporting (IPFQR) Program

A. Overarching Principles for Measuring Equity and Healthcare Quality Disparities Across CMS Quality Programs—Request for Information

Significant and persistent disparities in healthcare outcomes exist in the United States. Belonging to an underserved community is often associated with worse health

outcomes.[1] [2] [3] [4] [5] [6] [7] [8] [9] With this in mind, CMS aims to advance health equity, by which we mean the attainment of the highest level of health for all people, where everyone has a fair and just opportunity to attain their optimal health regardless of race, ethnicity, disability, sexual orientation, gender identity, socioeconomic status, geography, preferred language, or other factors that affect access to care and health outcomes. CMS is working to advance health equity by designing, implementing, and operationalizing policies and programs that support health for all the people served by our programs, eliminating avoidable differences in health outcomes experienced by people who are disadvantaged or underserved, and providing the care and support that our beneficiaries need to thrive.[10]

[1] Joynt KE, Orav E, Jha AK. (2011). Thirty-day readmission rates for Medicare beneficiaries by race and site of care. JAMA, 305(7):675–681.

[2] Lindenauer PK, Lagu T, Rothberg MB, et al. (2013). Income inequality and 30-day outcomes after acute myocardial infarction, heart failure, and pneumonia: Retrospective cohort study. British Medical Journal, 346.

[3] Trivedi AN, Nsa W, Hausmann LRM, et al. (2014). Quality and equity of care in U.S. hospitals. New England Journal of Medicine, 371(24):2298–2308.

[4] Polyakova, M., et al. (2021). Racial disparities in excess all-cause mortality during the early COVID–19 pandemic varied substantially across states. Health Affairs, 40(2): 307–316.

[5] Rural Health Research Gateway. (2018). Rural communities: Age, Income, and Health status. Rural Health Research Recap. Available at *https://www.ruralhealthresearch.org/assets/2200-8536/rural-communities-age-income-health-status-recap.pdf.* Accessed February 3, 2022.

[6] U.S. Department of Health and Human Services. Office of the Secretary. Progress Report to Congress. HHS Office of Minority Health. 2020 Update on the Action Plan to Reduce Racial and Ethnic Health Disparities. FY 2020. Available at *https://www.minorityhealth.hhs.gov/assets/PDF/Update_HHS_Disparities_Dept-FY2020.pdf.* Accessed February 3, 2022.

[7] Centers for Disease Control and Prevention. Morbidity and Mortality Weekly Report (MMWR). Heslin, KC, Hall JE. Sexual Orientation Disparities in Risk Factors for Adverse COVID–19-Related Outcomes, by Race/Ethnicity—Behavioral Risk Factor Surveillance System, United States, 2017–2019. February 5, 2021/70(5); 149–154. Available at *https://www.cdc.gov/mmwr/volumes/70/wr/mm7005a1.htm?s_cid=mm7005a1_w.* Accessed February 3, 2022.

[8] Poteat TC, Reisner SL, Miller M, Wirtz AL. (2020). COVID–19 vulnerability of transgender women with and without HIV infection in the Eastern and Southern U.S. preprint. medRxiv. 2020;2020.07.21. 20159327. doi:10.1101/2020.07.21.20159327.

[9] Milkie Vu et al. Predictors of Delayed Healthcare Seeking Among American Muslim Women, Journal of Women's Health 26(6) (2016) at 58; S.B. Nadimpalli, et al., The Association between Discrimination and the Health of Sikh Asian Indians.

[10] Centers for Medicare and Medicaid Services. Available at *https://www.cms.gov/pillar/health-equity.* Accessed February 9, 2022.

We are committed to achieving equity in healthcare outcomes for our enrollees by supporting healthcare providers' quality improvement activities to reduce health disparities, enabling them to make more informed decisions, and promoting healthcare provider accountability for healthcare disparities.[11] Measuring healthcare disparities in quality measures is a cornerstone of our approach to advancing healthcare equity. Hospital performance results that illustrate differences in outcomes between patient populations have been reported to hospitals confidentially since 2018.

This RFI consists of three sections. The first section discusses a general framework that could be utilized across CMS quality programs to assess disparities in healthcare quality. The next section outlines approaches that could be used in the IPFQR Program to assess drivers of healthcare quality disparities in the IPFQR Program. Additionally, this section discusses measures of health equity that could be adapted for use in the IPFQR Program. Finally, the third section solicits public comment on the principles and approaches listed in the first two sections as well as seeking other thoughts about disparity measurement guidelines for the IPFQR Program.

1. Cross-Setting Framework To Assess Healthcare Quality Disparities

CMS has identified five key considerations that we could apply consistently across CMS programs when advancing the use of measurement and stratification as tools to address health care disparities and advance health equity. The remainder of this section describes each of these considerations.

a. Identification of Goals and Approaches for Measuring Healthcare Disparities and Using Measures Stratification Across CMS Quality Programs

By quantifying healthcare disparities through measure stratification (that is, measuring performance differences among subgroups of beneficiaries), we aim to provide useful tools for healthcare providers to drive improvement based on data. We hope that these results support healthcare providers efforts in examining the underlying drivers of disparities in their patients' care and to develop their own innovative and targeted quality improvement interventions.

[11] CMS Quality Strategy. 2016. Available at *https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Qualityinitiativesgeninfo/downloads/cms-quality-strategy.pdf.* Accessed February 3, 2022.

Quantification of health disparities can also support communities in prioritizing and engaging with healthcare providers to execute such interventions, as well as providing additional tools for accountability and decision-making.

There are several different conceptual approaches to reporting health disparities in the acute care setting, including two complementary approaches that are already used to confidentially provide disparity information to hospitals for a subset of existing measures. The first approach, referred to as the ''within-hospital disparity method,'' compares measure performance results for a single measure between subgroups of patients with and without a given factor. This type of comparison directly estimates disparities in outcomes between subgroups and can be helpful to identify potential disparities in care. This type of approach can be used with most measures that include patient-level data. The second approach, referred to as the ''between-hospital disparity methodology,'' provides performance on measures for only the subgroup of patients with a particular social risk factor. These approaches can be used by a healthcare provider to compare their own measure performance on a particular subgroup of patients against subgroup-specific state and national benchmarks. Alone, each approach may provide an incomplete picture of disparities in care for a particular measure, but when reported together with overall quality performance, these approaches may provide detailed information about where differences in care may exist or where additional scrutiny may be appropriate. For example, the between-provider disparity method may indicate that an IPF underperformed (when compared to other facilities on average) for patients with a given social risk factor, which would signal the need to improve care for this population. However, if the IPF also underperformed for patients without that social risk factor, the measured difference, or disparity in care, (the ''within-hospital'' disparity, as described above) could be negligible even though performance for the group that has been historically marginalized remains poor. We refer readers to the technical report describing the CMS Disparity Methods in detail as well as the FY 2018 IPPS/LTCH PPS final rule (82 FR 38405 through 38407) and the posted Disparity methods Updates and Specifications Report posted on the QualityNet website.[12]

[12] Centers for Medicare & Medicaid Services (CMS), HHS. Disparity Methods Confidential

CMS is interested in whether similar approaches to the two discussed in the previous paragraph could be used to produce confidential stratified measure results for selected IPF QRP measures, as appropriate and feasible. However, final decisions regarding disparity reporting will be made at the program-level, as CMS intends to tailor the approach used in each setting to achieve the greatest benefit and avoid unintentional consequences or biases in measurement that may exacerbate disparities in care.

b. Guiding Principles for Selecting and Prioritizing Measures for Disparity Reporting

We intend to expand our efforts to provide stratified reporting for additional clinical quality measures, provided they offer meaningful, actionable, and valid feedback to healthcare providers on their care for populations that may face social disadvantage or other forms of discrimination or bias. We are mindful, however, that it may not be possible to calculate stratified results for all quality measures, and that there may be situations where stratified reporting is not desired. To help inform prioritization of the next generation of candidate measures for stratified reporting, we aim to receive feedback on several systematic principles under consideration that we believe will help us prioritize measures for disparity reporting across programs:

(1) Programs may consider stratification among existing *clinical quality measures for further disparity reporting,* prioritizing recognized measures which have met industry standards for measure reliability and validity.

(2) Programs may consider measures for prioritization that show *evidence that a treatment or outcome being measured is affected by underlying healthcare disparities* for a specific social or demographic factor. Literature related to the measure or outcome should be reviewed to identify disparities related to the treatment or outcome, and should carefully consider both social risk factors and patient demographics. In addition, analysis of Medicare-specific data should be done in order to demonstrate evidence of disparity in care for some or most healthcare providers that treat Medicare patients.

(3) Programs may consider establishing *statistical reliability and representation standards* (for example, the percent of patients with a social risk factor included in reporting facilities) prior to reporting results. They may also consider prioritizing measures that reflect performance on greater numbers of patients to ensure that the reported results of the disparity calculation are reliable and representative.

(4) After completing stratification, programs may consider prioritizing the *reporting of measures that show differences in measure performance* between subgroups across healthcare providers.

c. Principles for Social Risk Factor and Demographic Data Selection and Use

Social risk factors are the wide array of non-clinical drivers of health known to negatively impact patient outcomes. These include factors such as socioeconomic status, housing availability, and nutrition (among others), often inequitably affecting historically marginalized communities on the basis of race and ethnicity, rurality, sexual orientation and gender identity, religion, and disability.[13] [14] [15] [16] [17] [18] [19] [20]

Identifying and prioritizing social risk or demographic variables to consider for disparity reporting can be challenging. This is due to the high number of variables that have been identified in the literature as risk factors for poorer health outcomes and the limited availability of many self-reported social risk factors and demographic factors across the healthcare sector. Several proxy data sources, such as area-based indicators of social risk and imputation methods, may be used if individual patient-level data is not available. Each source of data has advantages and disadvantages for disparity reporting:

- *Patient-reported data* are considered to be the gold standard for evaluating quality of care for patients with social risk factors.[21] While data sources for many social risk factors and demographic variables are still developing among several CMS settings, the IPFQR Program will begin collecting mandatory patient-level data for certain chart-abstracted measures the FY 2024 payment determination and subsequent years (86 FR 42608).
- *CMS Administrative Claims data* have long been used for quality measurement due to their availability and will continue to be evaluated for usability in measure development and or stratification. Using these existing data allows for high impact analyses with negligible healthcare provider burden. For example, dual eligibility for Medicare and Medicaid has been found to be an effective indicator of social risk in beneficiary populations.[22] There are, however, limitations in these data's usability for stratification analysis.
- *Area-based indicators of social risk* create approximations of patient risk based on the neighborhood or context that a patient resides in. Several indexes, such as Agency for Healthcare Research and Quality (AHRQ) Socioeconomic Status (SES) Index,[23]

Reporting. Available at *https://qualitynet.cms.gov/inpatient/measures/disparity-methods.* Accessed February 3, 2022.

[13] Joynt KE, Orav E, Jha AK. (2011). Thirty-day readmission rates for Medicare beneficiaries by race and site of care. JAMA, 305(7):675–681.

[14] Lindenauer PK, Lagu T, Rothberg MB, et al. (2013). Income inequality and 30-day outcomes after acute myocardial infarction, heart failure, and pneumonia: Retrospective cohort study. British Medical Journal, 346.

[15] Trivedi AN, Nsa W, Hausmann LRM, et al. (2014). Quality and equity of care in U.S. hospitals. New England Journal of Medicine, 371(24):2298–2308.

[16] Polyakova, M., et al. (2021). Racial disparities in excess all-cause mortality during the early COVID–19 pandemic varied substantially across states. Health Affairs, 40(2): 307–316.

[17] Rural Health Research Gateway. (2018). Rural communities: Age, Income, and Health status. Rural Health Research Recap. Available at *https://www.ruralhealthresearch.org/assets/2200-8536/rural-communities-age-income-health-status-recap.pdf.* Accessed February 3, 2022.

[18] HHS Office of Minority Health (2020). 2020 Update on the Action Plan to Reduce Racial and Ethnic Health Disparities. Available at *https://www.minorityhealth.hhs.gov/assets/PDF/Update_HHS_Disparities_Dept-FY2020.pdf* Accessed February 3, 2022.

[19] Poteat TC, Reisner SL, Miller M, Wirtz AL. 2020. COVID–19 vulnerability of transgender women with and without HIV infection in the Eastern and Southern U.S. medRxiv [Preprint]. 2020.07.21.20159327. doi: 10.1101/2020.07.21.20159327. PMID: 32743608; PMCID: PMC7386532.

[20] Milkie Vu et al. Predictors of Delayed Healthcare Seeking Among American Muslim Women, Journal of Women's Health 26(6) (2016) at 58; S.B. Nadimpalli, et al., The Association between Discrimination and the Health of Sikh Asian Indians.

[21] Jarrín OF, Nyandege AN, Grafova IB, Dong X, Lin H. (2020). Validity of race and ethnicity codes in Medicare administrative data compared with gold-standard self-reported race collected during routine home health care visits. Med Care, 58(1):e1–e8. doi: 10.1097/MLR.0000000000001216. PMID: 31688554; PMCID: PMC6904433.

[22] Office of the Assistant Secretary for Planning and Evaluation. Report to Congress: Social Risk factors and Performance Under Medicare's Value-Based Purchasing Program. December 20, 2016. Available at *https://www.aspe.hhs.gov/reports/report-congress-social-risk-factors-performance-under-medicares-value-based-purchasing-programs.* Accessed February 3, 2022.

[23] Bonito A., Bann C., Eicheldinger C., Carpenter L. *Creation of New Race-Ethnicity Codes and Socioeconomic Status (SES) Indicators for Medicare Beneficiaries.* Final Report, Sub-Task 2. (Prepared by RTI International for the Centers for Medicare and Medicaid Services through an interagency agreement with the Agency for Healthcare Research and Policy, under Contract No. 500–00–0024, Task No. 21) AHRQ Publication No. 08–0029–EF. Rockville, MD, Agency for Healthcare Research and Quality. January 2008. Available at *https://archive.ahrq.gov/research/findings/final-reports/*

Continued

Centers for Disease Control and Prevention/Agency for Toxic Substances and Disease Registry (CDC/ATSDR) Social Vulnerability Index (SVI),[24] and Health Resources and Services Administration (HRSA) Area Deprivation Index (ADI),[25] provide multifaceted contextual information about an area and may be considered as an efficient way to stratify measures that include many social risk factors.

- *Imputed data sources* use statistical techniques to estimate patient-reported factors, including race and ethnicity. One such tool is the Medicare Bayesian Improved Surname Geocoding (MBISG) method (currently in version 2.1), which combines information from administrative data, surname, and residential location to estimate patient race and ethnicity.[26]

d. Identifying Meaningful Performance Differences

While we aim to use standardized approaches where possible, identifying differences in performance on stratified results will be made at the program level due to contextual variations across programs and settings. We look forward to feedback on the benefits and limitations of the possible reporting approaches described below:

- *Statistical approaches* could be used to reliably group results, such as using confidence intervals, creating cut points based on standard deviations, or using a clustering algorithm.
- Programs could use a *ranked ordering and percentile approach,* ordering healthcare providers in a ranked system based on their performance on disparity measures to quickly allow them to compare their performance to other similar healthcare providers.
- Healthcare providers could be categorized into groups based on their performance using *defined thresholds,* such as fixed intervals of results of disparity measures, indicating different levels of performance.
- *Benchmarking,* or comparing individual results to state or national average, is another potential reporting strategy.
- Finally, a ranking system may not be appropriate for all programs and care settings, and some programs may *only report disparity results.*

e. Guiding Principles for Reporting Disparity Measures

Reporting of the results discussed above can be employed in several ways to drive improvements in quality. Confidential reporting, or reporting results privately to healthcare providers, is generally used for new programs or new measures recently adopted for programs through notice and comment rulemaking to give healthcare providers an opportunity to become more familiar with calculation methods and to improve before other forms of reporting are used. In addition, many results are reported publicly, in accordance with the statute. This method provides all stakeholders with important information on healthcare provider quality, and in turn, relies on market forces to incentivize healthcare providers to improve and become more competitive in their markets without directly influencing payment from CMS. One important consideration is to assess differential impact on IPFs, such as those located in rural, or critical access areas, to ensure that reporting does not disadvantage already resource-limited settings. The type of reporting chosen by programs will depend on the program context.

Regardless of the methods used to report results, it is important to report stratified measure data alongside overall measure results. Review of both measures results along with stratified results can illuminate greater levels of detail about quality of care for subgroups of patients, providing important information to drive quality improvement. Unstratified quality measure results address general differences in quality of care between healthcare providers and promote improvement for all patients, but unless stratified results are available, it is unclear if there are subgroups of patients that benefit most from initiatives. Notably, even if overall quality measure scores improve, without identifying and measuring differences in outcomes between groups of patients, it is impossible to track progress in reducing disparity for patients with heightened risk of poor outcomes.

2. Approaches to Assessing Drivers of Healthcare Quality Disparities and Developing Measures of Healthcare Equity in the IPFQR Program

This section presents information on two approaches for the IPFQR Program. The first section presents information about a method that could be used to assist IPFs in identifying potential drivers of healthcare quality disparities. The second section describes measures of healthcare equity that might be appropriate for inclusion in the IPFQR Program.

a. Performance Disparity Decomposition

In response to the FY 2022 IPF PPS proposed rule's RFI (86 FR 19494 through 19500), ''Closing the Health Equity Gap in CMS Quality Programs'', some stakeholders noted that identifying which factors are contributing to the performance gaps may not always be straightforward, especially if the IPF has limited information or resources to determine the extent to which a patient's social determinants of health (SDOH) or other mediating factors (for example: Health histories) explain a given disparity. An additional complicating factor is the reality that there are likely multiple SDOH and other mediating factors responsible for a given disparity, and it may not be obvious to the IPF which of these factors are the primary drivers.

Consequently, CMS may consider methods to use the data already available in enrollment, claims, and assessment data to estimate the extent to which various SDOH (for example, transportation, health literacy) and other mediating factors drive disparities in an effort to provide more actionable information. Researchers have utilized decomposition techniques to examine inequality in health care and, specifically, as a way to understand and explain the underlying causes of inequality.[27] At a high level, regression decomposition is a method that allows one to estimate the extent to which disparities (that is, differences) in measure performance between subgroups of patient populations are due to specific factors. These factors can be either non-clinical (for example, SDOH) or clinical. Similarly, CMS may utilize regression decomposition to

medicareindicators/medicareindicators1.html. Accessed February 7, 2022.

[24] Flanagan, B.E., Gregory, E.W., Hallisey, E.J., Heitgerd, J.L., Lewis, B. (2011). A social vulnerability index for disaster management. *Journal of Homeland Security and Emergency Management, 8*(1). Available at *https://www.atsdr.cdc.gov/placeandhealth/svi/img/pdf/Flanagan_2011_SVIforDisasterManagement-508.pdf.* Accessed February 3, 2022.

[25] Center for Health Disparities Research. University of Wisconsin School of Medicine and Public health. Neighborhood Atlas. Available at *https://www.neighborhoodatlas.medicine.wisc.edu/* . Accessed February 3, 2022.

[26] Haas A., Elliott M.N., Dembosky J.W., Adams J.L., Wilson-Frederick S.M., Mallett J.S., Gaillot S, Haffer S.C., Haviland A.M. (2019). Imputation of race/ethnicity to enable measurement of HEDIS performance by race/ethnicity. *Health Serv Res,* 54(1):13–23. doi: 10.1111/1475–6773.13099. Epub 2018 Dec 3. PMID: 30506674; PMCID: PMC6338295. Imputation of race/ethnicity to enable measurement of HEDIS performance by race/ethnicity. Available at *https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6338295/pdf/HESR-54-13.pdf.* Accessed February 3, 2022.

[27] Rahimi E, Hashemi Nazari S. A detailed explanation and graphical representation of the Blinder-Oaxaca decomposition method with its application in health inequalities. *Emerg Themes Epidemiol.* (2021)18:12. *https://doi.org/10.1186/s12982-021-00100-9.* Retrieved 2/24/2022.

identify and calculate the specific contribution of SDOHs and other mediating factors to observed disparities. This approach may better inform our understanding of the extent to which providers and policy-makers may be able to narrow the gap in healthcare outcomes. Additionally, provider-specific decomposition results could be shared through confidential results so that IPFs can see the disparities within their facility with more granularity, allowing them to set priority targets in some performance areas while knowing which areas of their care are already relatively equitable. Importantly, these results could help IPFs identify reasons for disparities that might not be obvious without having access to additional data sources (for example: The ability to link data across providers).

To more explicitly demonstrate the types of information that could be provided through decomposition of a measure disparity, consider the following example for a given IPF. Figures 1 through 3 depict an example (using hypothetical data) of how a disparity in a measure of Medicare Spending Per Beneficiary (MSPB) between dual eligible beneficiaries (that is, those enrolled in Medicare and Medicaid) and non-dual eligible beneficiaries (that is, those with Medicare only) could be decomposed among two mediating factors, one SDOH and one clinical factor: (1) Low health literacy and (2) high volume of emergency department (ED) use. These examples were selected because they are factors the healthcare provider could mitigate the effects of, if they were shown to be drivers of disparity in their IPF. Additionally, high volume ED use is used as a potential mediating factor that could be difficult for IPFs to determine on their own, as it would require having longitudinal data for patients across multiple facilities.

In Figure 1, the overall Medicare spending disparity is $1,000: Spending, on average, is $5,000 per non-dual beneficiary and $6,000 per dual beneficiary. We can also see from Figure 2 that in this IPF, the dual population has twice the prevalence of beneficiaries with low health literacy and high ED use compared to the non-dual population. Using regression techniques, the difference in overall spending between non-dual and dual beneficiaries can be divided into three causes: (1) A difference in the prevalence of mediating factors (for example: Low health literacy and high ED use) between the two groups, (2) a difference in how much spending is observed for beneficiaries with these mediating factors between the two groups, and (3) differences in baseline spending that are not due to either (1) or (2). In Figure 3, the 'Non-Dual Beneficiaries' column breaks down the overall spending per non-dual beneficiary, $5,000, into a baseline spending of $4,600 plus the effects of the higher spending for the 10 percent of non-dual beneficiaries with low health literacy ($300) and the 5 percent with high ED use ($100). The 'Dual Beneficiaries' column similarly decomposes the overall spending per dual beneficiary ($6,000) into a baseline spending of $5,000, plus the amounts due to dual beneficiaries' 20 percent prevalence of low health literacy ($600, twice as large as the figure for non-dual beneficiaries because the prevalence is twice as high), and dual beneficiaries' 10 percent prevalence of high-volume ED use ($200, similarly twice as high as for non-duals beneficiaries due to higher prevalence). This column also includes an additional $100 per risk factor because dual beneficiaries experience a higher cost than non-dual beneficiaries within the low health literacy risk factor, and similarly within the high ED use risk factor. Based on this information, an IPF can determine that the overall $1,000 disparity can be divided into differences simply due to risk factor prevalence ($300 + $100 = $400 or 40 percent of the total disparity), disparities in costs for beneficiaries with risk factors ($100 + $100 = $200 or 20 percent) and disparities that remain unexplained (differences in baseline costs: $400 or 40 percent).

In particular, the IPF can see that simply having more patients with low health literacy and high ED use accounts for a disparity of $400. In addition, there is still a $200 disparity stemming from differences in costs between non-dual and dual patients for a given risk factor, and another $400 that is not explained by either low health literacy or high ED use. These differences may instead be explained by other SDOH that have not yet been included in this breakdown, or by the distinctive pattern of care decisions made by providers for dual and non-dual beneficiaries. These cost estimates would provide additional information that facilities could use when determining where to devote resources aimed at achieving equitable health outcomes (for example, facilities may choose to focus efforts on the largest drivers of a disparity).

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Figure 1

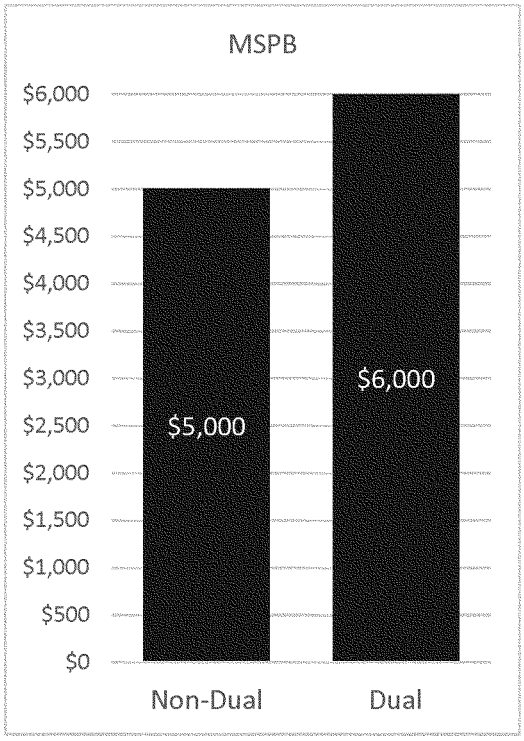
MSPB
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Figure 2

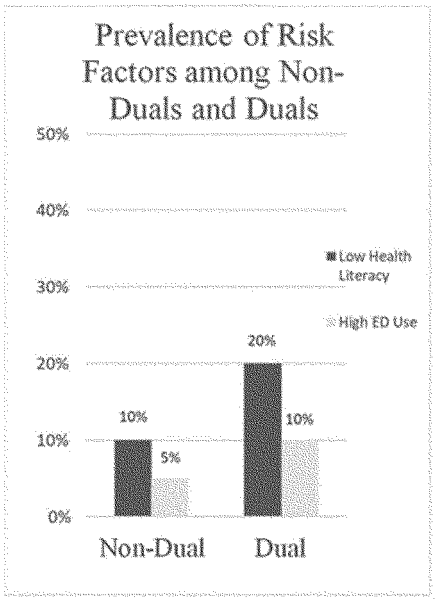
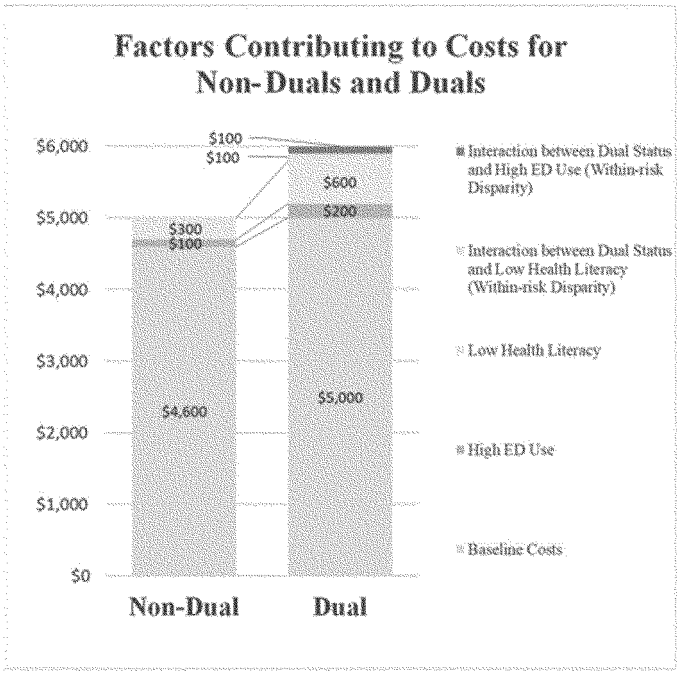


Figure 3



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b. Measures Related to Health Equity

Beyond identifying disparities in individual health outcomes and by individual risk factors, there is interest in developing more comprehensive measures of health equity that reflect organizational performance. When determining which equity measures could be prioritized for development for the IPFQRP Program, CMS may consider the following:

- Measures should be actionable in terms of quality improvement;
- Measures should help beneficiaries and their caregivers make informed healthcare decisions;
- Measures should not create incentives to lower the quality of care; and
- Measures should adhere to high scientific acceptability standards.

CMS has developed measures assessing health equity, or designed to promote health equity, in other settings outside of the IPF. As a result, there may be measures that could be adapted for use in the IPFQR Program. The remainder of this section discusses two such measures, beginning with the Health Equity Summary Score (HESS), and then a structural measure assessing the degree of hospital leadership engagement in health equity performance data.

(1) Health Equity Summary Score

The HESS measure was developed by the CMS OMH [28] [29] to identify and to reward healthcare providers (that is, Medicare Advantage [MA] plans) that perform relatively well on measures of care provided to beneficiaries with social risk factors (SRFs), as well as to discourage the non-treatment of patients who are potentially high-risk, in the context of value-based purchasing. Additionally, a version of the HESS is under consideration for the Hospital Inpatient Quality Reporting (HIQR) program.[30] The HESS composite measure provides a summary of equity of care delivery by combining performance and improvement across multiple measures and multiple at-risk groups. The HESS was developed with the following goals: Allow for ''multiple grouping variables, not all of which will be measurable for all plans,'' allow for ''disaggregation by grouping variable for nuanced insights,'' and allow for the future usage of additional and different SRFs for grouping.[31]

The HESS computes across-provider disparity in performance, as well as within-provider and across-provider disparity improvement in performance. Calculation starts with a cross-sectional score and an overall improvement score for each SRF of race/ethnicity and dual eligibility, for each plan. The overall improvement score is based on two separate improvement metrics: Within-plan improvement and nationally benchmarked improvement. Within-plan improvement is defined as how that plan improves the care of patients with SRFs relative to higher-performing patients between the baseline period and performance period, and is targeted at eliminating within-plan disparities. Nationally benchmarked improvement is improvement of care for beneficiaries with SRFs served by that MA plan, relative to the improvement of care for similar beneficiaries across all MA plans, and is targeted at improving the overall care of populations with SRFs. Within-plan improvement and nationally benchmarked improvement are then combined into an overall improvement score. Meanwhile, the cross-sectional score measures overall measure performance among beneficiaries with SRFs during the performance period, regardless of improvement.

To calculate a provider's overall score, the HESS uses a composite of five clinical quality measures based on HEDIS data and seven MA Consumer Assessment of Healthcare Providers and Systems (CAHPS) patient experience measures. A provider's overall HESS score is calculated once using only CAHPS-based measures and once using only HEDIS-based measures, due to incompatibility between the two data sources. The HESS uses a composite of these measures to form a cross-sectional score, a nationally benchmarked improvement score, and a within-plan improvement score, one for each SRF. These scores are combined to produce an SRF-specific blended score, which is then combined with the blended score for another SRF to produce the overall HESS.

(2) Degree of Hospital Leadership Engagement in Health Equity Performance Data

CMS has developed a structural measure for use in acute care hospitals assessing the degree to which hospital leadership is engaged in the collection of health equity performance data, with the motivation that that organizational leadership and culture can play an essential role in advancing equity goals. This structural measure, entitled the Hospital Commitment to Health Equity measure (MUC2021–106) was included on the 2021 CMS List of Measures Under Consideration (MUC List) [32] and assesses hospital commitment to health equity using a suite of equity-focused organizational competencies aimed at achieving health equity for racial and ethnic minorities, people with disabilities, sexual and gender minorities, individuals with limited English proficiency, rural populations, religious minorities, and people facing socioeconomic challenges. The measure will include five attestation-based questions, each representing a separate domain of commitment. A hospital will receive a point for each domain where they attest to the corresponding statement (for a total of 5 points). At a high level, the five domains cover the following areas: (1) Strategic plan to reduce health disparities; (2) approach to collecting valid and reliable demographic and SDOH data; (3) analyses performed to assess disparities; (4) engagement in quality improvement activities; [33] and (5) leadership involvement in activities designed to reduce disparities. The specific questions asked within each domain, as well as the detailed measure specification are found in the CMS List of MUC for December 2021 at *https://www.cms.gov/files/document/measures-under-consideration-list-2021-report.pdf.* An IPF could receive a point for each domain where data are submitted through a CMS portal to reflect actions taken by the IPF for each corresponding domain (for a point total).

CMS believes this type of organizational commitment structural measure may complement the health disparities approach described in previous sections, and support IPFs in quality improvement, efficient, effective use of resources, and leveraging available data. As defined by AHRQ, structural measures aim to ''give consumers a sense of a healthcare provider's capacity, systems, and processes to provide high-quality care.'' [34] We acknowledge that collection of this structural measure may impose administrative and/or reporting requirements for IPFs.

We are interested in obtaining feedback from stakeholders on conceptual and measurement priorities for the IPFQR Program to better illuminate organizational commitment to health equity.

[28] Agniel D., Martino S.C., Burkhart Q., Hambarsoomian K., Orr N., Beckett M.K., James C., Scholle S.H., WilsonFrederick S., Ng J., Elliott M.N. (2021). Incentivizing excellent care to at-risk groups with a health equity summary score. J Gen Intern Med, 36(7):1847–1857. doi: 10.1007/s11606–019–05473-x. Epub 2019 Nov 11. PMID: 31713030; PMCID: PMC8298664. Available at *https://link.springer.com/content/pdf/10.1007/s11606-019-05473-x.pdf.* Accessed February 3, 2022.

[29] 2021 Quality Conference. Health Equity as a ''New Normal'': CMS Efforts to Address the Causes of Health Disparities. Available at *https://s3.amazonaws.com/bizzabo.file.upload/83kO1DYXTs6mKHjVtuk8_1%20-%20Session%2023%20Health%20Equity%20New%20Normal%20FINAL_508.pdf.* Accessed March 2, 2022.

[30] Centers for Medicare & Medicaid Services, FY 2022 IPPS/LTCH PPS Proposed Rule. 88 FR 25560. May 10, 2021.

[31] Centers for Medicare & Medicaid Services Office of Minority Health (CMS OMH). 2021b. ''Health Equity as a 'New Normal': CMS Efforts to Address the Causes of Health Disparities.'' Presented at CMS Quality Conference, March 2–3, 2021.

[32] Centers for Medicare & Medicaid Services. List of Measures Under Consideration for December 1, 2021. Available at *https://www.cms.gov/files/document/measures-under-consideration-list-2021-report.pdf.* Accessed 3/1/2022.

[33] Quality is defined by the National Academy of Medicine as the degree to which health services for individuals and populations increase the likelihood of desired health outcomes and are consistent with current professional knowledge. Quality improvement is the framework used to systematically improve care. Quality improvement seeks to standardize processes and structure to reduce variation, achieve predictable results, and improve outcomes for patients, healthcare systems, and organizations. Structure includes things like technology, culture, leadership, and physical capital; process includes knowledge capital (*e.g.,* standard operating procedures) or human capital (*e.g.,* education and training). Available at *https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/MMS/Quality-Measure-and-Quality-Improvement-.* Accessed 3/1/2022.

[34] Agency for Healthcare Research and Quality. Types of Health Care Quality Measures. 2015. Available at *https://www.ahrq.gov/talkingquality/measures/types.html.* Accessed February 3, 2022.

3. Solicitation of Public Comment

The goal of this request for information is to describe key principles and approaches that we will consider when advancing the use of quality measure development and stratification to address healthcare disparities and advance health equity across our programs.

We invite general comments on the principles and approaches described previously in this section of the rule, as well as additional thoughts about disparity measurement or stratification guidelines suitable for overarching consideration across CMS' QRP programs. Specifically, we invite comment on:

• Identification of Goals and Approaches for Measuring Healthcare Disparities and Using Measure Stratification Across CMS Quality Reporting Programs

++ The use of the within- and between-provider disparity methods in IPFs to present stratified measure results

++ The use of decomposition approaches to explain possible causes of measure performance disparities

++ Alternative methods to identify disparities and the drivers of disparities

Guiding Principles for Selecting and Prioritizing Measures for Disparity Reporting

++ Principles to consider for prioritization of health equity measures and measures for disparity reporting, including prioritizing stratification for validated clinical quality measures, those measures with established disparities in care, measures that have adequate sample size and representation among healthcare providers and outcomes, and measures of appropriate access and care.

Principles for Social Risk Factor and Demographic Data Selection and Use

++ Principles to be considered for the selection of social risk factors and demographic data for use in collecting disparity data including the importance of expanding variables used in measure stratification to consider a wide range of social risk factors, demographic variables and other markers of historic disadvantage. In the absence of patient-reported data we will consider use of administrative data, area-based indicators and imputed variables as appropriate

Identification of Meaningful Performance Differences

++ Ways that meaningful difference in disparity results should be considered.

Guiding Principles for Reporting Disparity Measures

++ Guiding principles for the use and application of the results of disparity measurement.

Measures Related to Health Equity

++ The usefulness of a HESS score for IPFs, both in terms of provider actionability to improve health equity, and in terms of whether this information would support Care Compare website users in making informed healthcare decisions.

++ The potential for a structural measure assessing an IPF's commitment to health equity, the specific domains that should be captured, and options for reporting this data in a manner that would minimize burden.

++ Options to collect facility-level information that could be used to support the calculation of a structural measure of health equity.

++ Other options for measures that address health equity.

While we will not be responding to specific comments submitted in response to this RFI in the FY 2023 IPF PPS final rule, we will actively consider all input as we develop future regulatory proposals or future subregulatory policy guidance. Any updates to specific program requirements related to quality measurement and reporting provisions would be addressed through separate and future notice-and-comment rulemaking, as necessary.

VI. Collection of Information Requirements

This rule proposes updates to the prospective payment rates, outlier threshold, and wage index for Medicare inpatient hospital services provided by IPFs. It also proposes to establish a default mitigation policy for providers negatively affected by changes to the IPF PPS wage index. While discussed in section IV (Comment Solicitation on Analysis of IPF PPS Adjustments) of this preamble, the active requirements and burden associated with our hospital cost report form CMS–2552–10 (OMB control number 0938–0050) are unaffected by this rule.

Overall, this rule's proposed changes would not impose any new or revised ''collection of information'' requirements or burden as defined under 5 CFR 1320.3(c).). Consequently, this rule is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

VII. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

VIII. Regulatory Impact Analysis

A. Statement of Need

This rule proposes updates to the prospective payment rates for Medicare inpatient hospital services provided by IPFs for discharges occurring during FY 2023 (October 1, 2022 through September 30, 2023). We are proposing to apply the 2016-based IPF market basket increase of 3.1 percent, less the productivity adjustment of 0.4 percentage point as required by 1886(s)(2)(A)(i) of the Act for a proposed total FY 2023 payment rate update of 2.7 percent. In this proposed rule, we are proposing to update the outlier fixed dollar loss threshold amount, update the IPF labor-related share, and update the IPF wage index to reflect the FY 2023 hospital inpatient wage index. Lastly, for FY 2023 and subsequent years, we are proposing to apply a 5-percent cap on any decrease to a provider's wage index from its wage index in the prior year, regardless of the circumstances causing the decline.

B. Overall Impact

We have examined the impacts of this rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), and the Congressional Review Act (5 U.S.C. 804(2))

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). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to

result in a rule: (1) Having an annual effect on the economy of $100 million or more in any 1 year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities (also referred to as ''economically significant''); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

A regulatory impact analysis (RIA) must be prepared for major rules with significant regulatory action/s and/or with economically significant effects ($100 million or more in any 1 year). We estimate that the total impact of these changes for FY 2023 payments compared to FY 2022 payments will be a net increase of approximately $50 million. This reflects a $90 million increase from the update to the payment rates (+$105 million from the 4th quarter 2021 IGI forecast of the 2016-based IPF market basket of 3.1 percent, and -$15 million for the productivity adjustment of 0.4 percentage point), as well as a $40 million decrease as a result of the update to the outlier threshold amount. Outlier payments are estimated to change from 3.2 percent in FY 2022 to 2.0 percent of total estimated IPF payments in FY 2023.

Based on our estimates, OMB's Office of Information and Regulatory Affairs has determined this rulemaking is ''economically significant'' as measured by the $100 million threshold. Accordingly, we have prepared a Regulatory Impact Analysis that to the best of our ability presents the costs and benefits of the rulemaking. Based on our estimates, OMB's Office of Information and Regulatory Affairs has determined that this rulemaking is ''significant''. Therefore, OMB has reviewed these proposed regulations, and the Departments have provided the following assessment of their impact.

C. Detailed Economic Analysis

In this section, we discuss the historical background of the IPF PPS and the impact of this proposed rule on the Federal Medicare budget and on IPFs.

1. Budgetary Impact

As discussed in the November 2004 and RY 2007 IPF PPS final rules, we applied a budget neutrality factor to the Federal per diem base rate and ECT payment per treatment to ensure that total estimated payments under the IPF PPS in the implementation period would equal the amount that would have been paid if the IPF PPS had not been implemented. This Budget neutrality factor included the following components: Outlier adjustment, stop-loss adjustment, and the behavioral offset. As discussed in the RY 2009 IPF PPS notice (73 FR 25711), the stop-loss adjustment is no longer applicable under the IPF PPS.

As discussed in section III.D.1 of this proposed rule, we are proposing to update the wage index and labor-related share, as well as apply the proposed 5-percent cap on any decrease to a provider's wage index from its wage index in the prior year, in a budget neutral manner by applying a wage index budget neutrality factor to the Federal per diem base rate and ECT payment per treatment. Therefore, the budgetary impact to the Medicare program of this proposed rule will be due to the market basket update for FY 2023 of 3.1 percent (see section III.A.2 of this proposed rule) less the productivity adjustment of 0.4 percentage point required by section 1886(s)(2)(A)(i) of the Act and the update to the outlier fixed dollar loss threshold amount.

We estimate that the FY 2023 impact will be a net increase of $50 million in payments to IPF providers. This reflects an estimated $90 million increase from the update to the payment rates and a $40 million decrease due to the update to the outlier threshold amount to set total estimated outlier payments at 2.0 percent of total estimated payments in FY 2023. This estimate does not include the implementation of the required 2.0 percentage point reduction of the productivity-adjusted market basket update factor for any IPF that fails to meet the IPF quality reporting requirements (as discussed in section III.B.2. of this proposed rule).

2. Impact on Providers

To show the impact on providers of the changes to the IPF PPS discussed in this proposed rule, we compare estimated payments under the proposed IPF PPS rates and factors for FY 2023 versus those under FY 2022. We determined the percent change in the estimated FY 2023 IPF PPS payments compared to the estimated FY 2022 IPF PPS payments for each category of IPFs. In addition, for each category of IPFs, we have included the estimated percent change in payments resulting from the proposed update to the outlier fixed dollar loss threshold amount; the updated wage index data including the proposed labor-related share and the proposed 5-percent cap on any decrease to a provider's wage index from its wage index in the prior year; and the proposed market basket update for FY 2023, as reduced by the proposed productivity adjustment according to section 1886(s)(2)(A)(i) of the Act.

To illustrate the impacts of the proposed FY 2023 changes in this proposed rule, our analysis begins with FY 2021 IPF PPS claims (based on the 2021 MedPAR claims, December 2021 update). As discussed in section III.E.2 of this proposed rule, we also proposed to exclude providers from our impact simulations whose change in estimated cost per day is outside 3 standard deviations from the mean. We estimate FY 2022 IPF PPS payments using these 2021 claims, the finalized FY 2022 IPF PPS Federal per diem base rates, and the finalized FY 2022 IPF PPS patient and facility level adjustment factors (as published in the FY 2022 IPF PPS final rule (86 FR 42608)). We then estimate the FY 2022 outlier payments based on these simulated FY 2022 IPF PPS payments using the same methodology as finalized in the FY 2022 IPF PPS final rule (86 FR 42623 through 42624) where total outlier payments are maintained at 2 percent of total estimated FY 2022 IPF PPS payments.

Each of the following changes is added incrementally to this baseline model in order for us to isolate the effects of each change:

- The proposed update to the outlier fixed dollar loss threshold amount.
- The proposed FY 2023 IPF wage index, the proposed 5-percent cap on any decrease to a provider's wage index from its wage index in the prior year, and the proposed FY 2023 labor-related share.
- The proposed market basket update for FY 2023 of 3.1 percent less the proposed productivity adjustment of 0.4 percentage point in accordance with section 1886(s)(2)(A)(i) of the Act for a payment rate update of 2.7 percent.

Our proposed column comparison in Table 3 illustrates the percent change in payments from FY 2022 (that is, October 1, 2022, to September 30, 2022) to FY 2023 (that is, October 1, 2022, to September 30, 2023) including all the proposed payment policy changes.

TABLE 3—FY 2023 IPF PPS PROPOSED PAYMENT IMPACTS

Facility by type	Number of facilities	Outlier	FY 2023 wage index (with cap) and LRS	Total percent change [1]
(1)	(2)	(3)	(4)	(5)
All Facilities	1,418	−1.2	0.0	1.5
Total Urban	1,148	−1.3	0.0	1.4
Urban unit	677	−1.9	0.0	0.7
Urban hospital	471	−0.4	0.1	2.4
Total Rural	270	−0.8	−0.2	1.7
Rural unit	213	−0.9	−0.2	1.6
Rural hospital	57	−0.4	−0.3	2.0
By Type of Ownership:				
Freestanding IPFs:				
Urban Psychiatric Hospitals:				
Government	119	−1.8	0.1	0.9
Non-Profit	88	−0.7	0.3	2.3
For-Profit	264	−0.1	0.0	2.7
Rural Psychiatric Hospitals:				
Government	30	−0.7	−0.3	1.7
Non-Profit	12	−1.5	−0.1	1.1
For-Profit	15	−0.1	−0.3	2.3
IPF Units:				
Urban:				
Government	92	−2.4	0.0	0.3
Non-Profit	450	−2.2	−0.1	0.4
For-Profit	135	−1.0	0.1	1.8
Rural:				
Government	48	−0.8	0.0	1.9
Non-Profit	123	−0.9	−0.2	1.5
For-Profit	42	−1.0	−0.2	1.4
By Teaching Status:				
Non-teaching	1,234	−0.9	0.1	1.8
Less than 10% interns and residents to beds	99	−1.6	−0.2	0.8
10% to 30% interns and residents to beds	61	−2.9	−0.4	−0.7
More than 30% interns and residents to beds	24	−3.7	0.2	−0.9
By Region:				
New England	102	−1.8	−0.5	0.4
Mid-Atlantic	181	−1.6	−0.1	1.0
South Atlantic	219	−0.7	−0.1	1.9
East North Central	233	−1.0	−0.2	1.4
East South Central	143	−1.0	−0.3	1.4
West North Central	102	−1.7	−0.3	0.7
West South Central	211	−0.5	0.3	2.5
Mountain	99	−0.7	0.1	2.0
Pacific	128	−1.7	0.9	1.8
By Bed Size:				
Psychiatric Hospitals:				
Beds: 0–24	82	−0.5	0.2	2.4
Beds: 25–49	73	−0.1	0.1	2.7
Beds: 50–75	78	−0.1	−0.1	2.5
Beds: 76 +	295	−0.5	0.1	2.2
Psychiatric Units:				
Beds: 0–24	486	−1.5	0.0	1.2
Beds: 25–49	240	−1.7	−0.1	0.9
Beds: 50–75	100	−2.2	−0.1	0.3
Beds: 76 +	64	−2.1	−0.1	0.5

[1] This column includes the impact of the updates in columns (3) through (5) above, and of the proposed IPF market basket update factor for FY 2023 (3.1 percent), reduced by 0.4 percentage point for the proposed productivity adjustment as required by section 1886(s)(2)(A)(i) of the Act.

3. Impact Results

Table 3 displays the results of our analysis. The table groups IPFs into the categories listed here based on characteristics provided in the Provider of Services file, the IPF PSF, and cost report data from the Healthcare Cost Report Information System:

- Facility Type.
- Location.
- Teaching Status Adjustment.
- Census Region.
- Size.

The top row of the table shows the overall impact on the 1,418 IPFs included in the analysis. In column 2, we present the number of facilities of each type that had information available in the PSF, had claims in the MedPAR dataset for FY 2021, and were not excluded due to the proposed trim on providers whose change in estimated cost per day is outside 3 standard deviations from the mean.

In column 3, we present the effects of the update to the outlier fixed dollar loss threshold amount. We estimate that IPF outlier payments as a percentage of total IPF payments are 3.2 percent in FY 2022. Therefore, we propose to adjust the outlier threshold amount to set total estimated outlier payments equal to 2.0 percent of total payments in FY 2023. The estimated change in total IPF payments for FY 2023, therefore, includes an approximate 1.2 percent decrease in payments because we would expect the outlier portion of total payments to decrease from approximately 3.2 percent to 2.0 percent.

The overall impact of the estimated decrease to payments due to updating the outlier fixed dollar loss threshold (as shown in column 3 of Table 3), across all hospital groups, is a 1.2 percent decrease. The largest decrease in payments due to this change is estimated to be 3.7 percent for teaching IPFs with more than 30 percent interns and residents to beds.

In column 4, we present the effects of the proposed budget-neutral update to the IPF wage index, the proposed Labor-Related Share (LRS), and the 5-percent cap on any decrease to a provider's wage index from its wage index in the prior year discussed in section III.D.2 of this proposed rule. This represents the effect of using the concurrent hospital wage data as discussed in section III.D.1.a of this proposed rule. That is, the impact represented in this column reflects the proposed update from the FY 2022 IPF wage index to the proposed FY 2023 IPF wage index, which includes basing the FY 2023 IPF wage index on the FY 2023 pre-floor, pre-reclassified IPPS hospital wage index data, applying a 5-percent cap on any decrease to a provider's wage index from its wage index in the prior year, and updating the LRS from 77.2 percent in FY 2022 to 77.4 percent in FY 2023. We note that there is no projected change in aggregate payments to IPFs, as indicated in the first row of column 4; however, there would be distributional effects among different categories of IPFs. For example, we estimate the largest increase in payments to be 0.9 percent for Pacific IPFs, and the largest decrease in payments to be 0.5 percent for New England IPFs.

IPF payments are therefore estimated to increase by 1.4 percent in urban areas and 1.7 percent in rural areas. Overall, IPFs are estimated to experience a net increase in payments as a result of the updates in this proposed rule. The largest payment increases are estimated at 2.7 percent for freestanding urban for-profit IPFs and IPF hospitals with 25–49 beds.

4. Effect on Beneficiaries

Under the FY 2023 IPF PPS, IPFs will continue to receive payment based on the average resources consumed by patients for each day. Our longstanding payment methodology reflects the differences in patient resource use and costs among IPFs, as required under section 124 of the BBRA. We expect that updating IPF PPS rates in this proposed rule will improve or maintain beneficiary access to high quality care by ensuring that payment rates reflect the best available data on the resources involved in inpatient psychiatric care and the costs of these resources. We continue to expect that paying prospectively for IPF services under the FY 2023 IPF PPS will enhance the efficiency of the Medicare program.

5. Regulatory Review Costs

If regulations impose administrative costs on private entities, such as the time needed to read and interpret this proposed rule, we should estimate the cost associated with regulatory review. Due to the uncertainty involved with accurately quantifying the number of entities that will be directly impacted and will review this proposed rule, we assume that the total number of unique commenters on the most recent IPF proposed rule will be the number of reviewers of this proposed rule. For this FY 2023 IPF PPS proposed rule, the most recent IPF proposed rule was the FY 2022 IPF PPS proposed rule, and we received 898 unique comments on this proposed rule. We acknowledge that this assumption may understate or overstate the costs of reviewing this proposed rule. It is possible that not all commenters reviewed the FY 2022 IPF proposed rule in detail, and it is also possible that some reviewers chose not to comment on that proposed rule. For these reasons, we thought that the number of commenters would be a fair estimate of the number of reviewers who are directly impacted by this proposed rule. We are soliciting comments on this assumption.

We also recognize that different types of entities are in many cases affected by mutually exclusive sections of this proposed rule; therefore, for the purposes of our estimate, we assume that each reviewer reads approximately 50 percent of this proposed rule.

Using the May, 2020 mean (average) wage information from the BLS for medical and health service managers (Code 11–9111), we estimate that the cost of reviewing this proposed rule is $114.24 per hour, including overhead and fringe benefits *https://www.bls.gov/oes/current/oes119111.htm.* Assuming an average reading speed of 250 words per minute, we estimate that it would take approximately 50 minutes (0.833 hours) for the staff to review half of this proposed rule, which contains a total of approximately 25,000 words. For each IPF that reviews the proposed rule, the estimated cost is ($0.833 \times \$114.24$) or $95.16. Therefore, we estimate that the total cost of reviewing this proposed rule is $85,453.68 ($\$95.16 \times 898$ reviewers).

D. Alternatives Considered

The statute does not specify an update strategy for the IPF PPS and is broadly written to give the Secretary discretion in establishing an update methodology. We continue to believe it is appropriate to routinely update the IPF PPS so that it reflects the best available data about differences in patient resource use and costs among IPFs as required by the statute. Therefore, we are proposing to: Update the IPF PPS using the methodology published in the November 2004 IPF PPS final rule; apply the proposed 2016-based IPF PPS market basket update for FY 2023 of 3.1 percent, reduced by the statutorily required proposed productivity adjustment of 0.4 percentage point along with the proposed wage index budget neutrality adjustment to update the payment rates; and use a FY 2023 IPF wage index which uses the FY 2023 pre-floor, pre-reclassified IPPS hospital wage index as its basis. Additionally, we are proposing to apply a 5-percent cap on any decrease to a provider's wage index from its wage index in the prior year. Lastly, we are proposing for FY 2023 to exclude providers from our simulation of IPF PPS payments for FY 2022 and FY 2023 if their change in estimated cost per day is outside 3 standard deviations from the mean.

E. Accounting Statement

As required by OMB Circular A–4 (available at *www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A4/a-4.pdf*), in Table 4, we have prepared an accounting statement showing the classification of the expenditures associated with the updates to the IPF wage index and payment rates in this proposed rule. Table 4 provides our best estimate of the increase in Medicare payments under the IPF PPS as a result of the changes presented in this proposed rule and based on the data for 1,418 IPFs with data available in the PSF, with claims in our FY 2021 MedPAR claims dataset, and which were not excluded due to the proposed trim on providers whose change in

estimated cost per day is outside 3 standard deviations from the mean. Lastly, Table 4 also includes our best estimate of the costs of reviewing and understanding this proposed rule.

TABLE 4—ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED COSTS, SAVINGS, AND TRANSFERS

Category	Primary estimate ($million/year)	Low estimate	High estimate	Units		
				Year dollars	Discount rate	Period covered
Regulatory Review Costs	0.07			2020		FY 2023
Annualized Monetized Transfers from Federal Government to IPF Medicare Providers	50			FY 2023		FY 2023

F. Regulatory Flexibility Act

The RFA requires agencies to analyze options for regulatory relief of small entities if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most IPFs and most other providers and suppliers are small entities, either by nonprofit status or having revenues of $8 million to $41.5 million or less in any 1 year. Individuals and states are not included in the definition of a small entity.

Because we lack data on individual hospital receipts, we cannot determine the number of small proprietary IPFs or the proportion of IPFs' revenue derived from Medicare payments. Therefore, we assume that all IPFs are considered small entities.

The Department of Health and Human Services generally uses a revenue impact of 3 to 5 percent as a significance threshold under the RFA. As shown in Table 3, we estimate that the overall revenue impact of this proposed rule on all IPFs is to increase estimated Medicare payments by approximately 1.5 percent. As a result, since the estimated impact of this proposed rule is a net increase in revenue across almost all categories of IPFs, the Secretary has determined that this proposed rule will have a positive revenue impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a metropolitan statistical area and has fewer than 100 beds. As discussed in section VIII.C.2 of this proposed rule, the rates and policies set forth in this proposed rule will not have an adverse impact on the rural hospitals based on the data of the 213 rural excluded psychiatric units and 57 rural psychiatric hospitals in our database of 1,418 IPFs for which data were available. Therefore, the Secretary has determined that this proposed rule will not have a significant impact on the operations of a substantial number of small rural hospitals.

G. Unfunded Mandate Reform Act (UMRA)

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2022, that threshold is approximately $165 million. This proposed rule does not mandate any requirements for state, local, or tribal governments, or for the private sector. This proposed rule would not impose a mandate that will result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of more than $165 million in any 1 year.

H. Federalism

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule that imposes substantial direct requirement costs on state and local governments, preempts state law, or otherwise has Federalism implications. This proposed rule does not impose substantial direct costs on state or local governments or preempt state law.

Chiquita Brooks-LaSure, Administrator of the Centers for Medicare & Medicaid Services, approved this document on March 24, 2022.

List of Subjects in 42 CFR Part 412

Administrative practice and procedure, Health facilities, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services proposes to amend 42 CFR part 412 as set forth below:

PART 412—PROSPECTIVE PAYMENT SYSTEMS FOR INPATIENT HOSPITAL SERVICES

■ 1. The authority citation for part 412 continues to read as follows:

Authority: 42 U.S.C. 1302 and 1395hh.

■ 2. Section 412.424 is amended by revising paragraph (d)(1)(i) to read as follows:

§ 412.424 Methodology for calculating the Federal per diem payment amount.

* * * * *

(d) * * *

(1) * * *

(i) *Adjustment for wages.* CMS adjusts the labor portion of the Federal per diem base rate to account for geographic differences in the area wage levels using an appropriate wage index.

(A) The application of the wage index is made on the basis of the location of the inpatient psychiatric facility in an urban or rural area as defined in § 412.402.

(B) Beginning October 1, 2022, CMS applies a cap on decreases to the wage index, such that the wage index applied to an inpatient psychiatric facility is not less than 95 percent of the wage index applied to that inpatient psychiatric facility in the prior fiscal year.

* * * * *

Dated: March 29, 2022.

Xavier Becerra,

Secretary, Department of Health and Human Services.

[FR Doc. 2022–06906 Filed 3–31–22; 4:15 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 418

[CMS–1773–P]

RIN 0938–AU83

Medicare Program; FY 2023 Hospice Wage Index and Payment Rate Update and Hospice Quality Reporting Requirements

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule proposes to establish a permanent mitigation policy to smooth the impact of year-to-year changes in hospice payments related to changes in the hospice wage index. This rule also proposes updates to the hospice wage index, payment rates, and aggregate cap amount for Fiscal Year (FY) 2023. In addition, this rule proposes updates to the Hospice Quality Reporting Program (HQRP) including the Hospice Outcomes and Patient Evaluation tool; an update on Quality Measures (QMs) that will be in effect in FY 2023 for the HQRP and future QMs; updates on the Consumer Assessment of Healthcare Providers and Systems, Hospice Survey Mode Experiment, discusses a request for information (RFI) on health equity.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, by May 31, 2022.

ADDRESSES: In commenting, please refer to file code CMS–1773–P.

Comments, including mass comment submissions, must be submitted in one of the following three ways (choose *only one* of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1773–P, P.O. Box 8010, Baltimore, MD 21244–1850.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1773–P, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: For general questions about hospice payment policy, send your inquiry via email to: *hospicepolicy@cms.hhs.gov.*

For questions regarding the CAHPS® Hospice Survey, contact Lori Teichman at (410) 786–6684 and Lauren Fuentes at (410) 786–2290.

For questions regarding the hospice quality reporting program, contact Cindy Massuda at (410) 786–0652.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that website to view public comments. CMS will not post on *Regulations.gov* public comments that make threats to individuals or institutions or suggest that the individual will take actions to harm the individual. CMS continues to encourage individuals not to submit duplicative comments. We will post acceptable comments from multiple unique commenters even if the content is identical or nearly identical to other comments.

Wage index addenda will be available only through the internet on our website at: *https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/Hospice/Hospice-Wage-Index.html.*

I. Executive Summary

This proposed rule proposes to establish a permanent mitigation policy to smooth the impact of year-to-year changes in the hospice payments related to changes in the hospice wage index. This rule also proposes updates to the hospice wage index as well as updates to the hospice payment rates, and cap amount for FY 2023 as required under section 1814(i) of the Social Security Act (the Act). In addition, in this proposed rule CMS discusses updates to HQRP that include the Hospice Outcomes and Patient Evaluation (HOPE) tool with national beta testing; the Consumer Assessment of Healthcare Providers and Systems (CAHPS) Hospice Survey with Star Ratings; developing a web-based survey; Public Reporting; a request for information that builds from last year's discussion on health equity, and update on advancing a health information exchange.

Lastly, the overall economic impact of this proposed rule is estimated to be $580 million in increased payments to hospices for FY 2023.

II. Background

A. Hospice Care

Hospice care is a comprehensive, holistic approach to treatment that recognizes the impending death of a terminally ill individual and warrants a change in the focus from curative care to palliative care for relief of pain and for symptom management. Medicare regulations define ''palliative care'' as patient and family-centered care that optimizes quality of life by anticipating, preventing, and treating suffering. Palliative care throughout the continuum of illness involves addressing physical, intellectual, emotional, social, and spiritual needs and to facilitate patient autonomy, access to information, and choice (42 CFR 418.3). Palliative care is at the core of hospice philosophy and care practices, and is a critical component of the Medicare hospice benefit.

The goal of hospice care is to help terminally ill individuals continue life with minimal disruption to normal activities while remaining primarily in the home environment. A hospice uses an interdisciplinary approach to deliver medical, nursing, social, psychological, emotional, and spiritual services through a collaboration of professionals and other caregivers, with the goal of making the beneficiary as physically and emotionally comfortable as possible. Hospice provides compassionate beneficiary and family/caregiver-centered care for those who are terminally ill.

As referenced in our regulations at § 418.22(b)(1), to be eligible for Medicare hospice services, the patient's attending physician (if any) and the hospice medical director must certify that the individual is ''terminally ill,'' as defined in section 1861(dd)(3)(A) of the Act and our regulations at § 418.3; that is, the individual has a medical prognosis that his or her life expectancy is 6 months or less if the illness runs its normal course. The regulations at § 418.22(b)(2) require that clinical information and other documentation that support the medical prognosis accompany the certification and be filed in the medical record with it. Additionally, the regulations at § 418.22(b)(3) require that the

certification and recertification forms include a brief narrative explanation of the clinical findings that support a life expectancy of 6 months or less.

Under the Medicare hospice benefit, once a terminally ill patient elects to receive hospice care, a hospice interdisciplinary group (IDG) is essential in ensuring the provision of primarily home-based services, keeping the choices of the patient and family first and foremost. The hospice IDG works with the beneficiary, family, and caregiver(s) to develop a coordinated, comprehensive care plan; reduce unnecessary diagnostics or ineffective therapies; and maintain ongoing communication with individuals and their families about changes in their condition and care. The beneficiary's care plan will shift over time to meet the changing needs of the individual, family, and caregiver(s) as the individual approaches the end of life.

If, in the judgment of the hospice IDG, which includes the hospice physician, the patient's symptoms cannot be effectively managed at home, then the patient is eligible for general inpatient care (GIP), a more medically intense level of care. GIP must be provided in a Medicare-certified hospice freestanding facility, skilled nursing facility, or hospital. GIP is provided to ensure that any new or worsening symptoms are intensively addressed so that the beneficiary can return to their home and continue to receive routine home care (RHC). Limited, short-term, intermittent, inpatient respite care (IRC) is also available to provide relief for the family or other caregivers, or when the family or other caregivers are absent. Additionally, an individual can receive continuous home care (CHC) during a period of crisis, in which an individual requires continuous care to achieve palliation or management of acute medical symptoms so that the individual can remain at home. CHC may be covered for as much as 24 hours a day, and these periods must be predominantly nursing care, in accordance with the regulations at § 418.204. A minimum of 8 hours of nursing care, or nursing and aide care, must be furnished on a particular day to qualify for the CHC rate (§ 418.302(e)(4)).

Hospices must comply with applicable civil rights laws,[1] including section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, under which covered entities must take appropriate steps to ensure effective communication with patients and patient care representatives with disabilities, including the provisions of auxiliary aids and services. In addition, they must take reasonable steps to ensure meaningful access for individuals with limited English proficiency, consistent with Title VI of the Civil Rights Act of 1964. Further information about these requirements may be found at: *http://www.hhs.gov/ocr/civilrights.*

B. Services Covered by the Medicare Hospice Benefit

Coverage under the Medicare hospice benefit requires that hospice services must be reasonable and necessary for the palliation and management of the terminal illness and related conditions. Section 1861(dd)(1) of the Act establishes the services that are to be rendered by a Medicare-certified hospice program. These covered services include: Nursing care; physical therapy; occupational therapy; speech-language pathology therapy; medical social services; home health aide services (called hospice aide services); physician services; homemaker services; medical supplies (including drugs and biologicals); medical appliances; counseling services (including dietary counseling); short-term inpatient care in a hospital, nursing facility, or hospice inpatient facility (including both respite care and procedures necessary for pain control and acute or chronic symptom management); continuous home care during periods of crisis, and only as necessary to maintain the terminally ill individual at home; and any other item or service, which is specified in the plan of care and for which payment may otherwise be made under Medicare in accordance with Title XVIII of the Act.

Section 1814(a)(7)(B) of the Act requires that a written plan for providing hospice care to a beneficiary who is a hospice patient be established before care is provided by, or under arrangements made by, the hospice program; and that the written plan be periodically reviewed by the beneficiary's attending physician (if any), the hospice medical director, and an interdisciplinary group (section 1861(dd)(2)(B) of the Act). The services offered under the Medicare hospice benefit must be available to beneficiaries as needed, 24 hours a day, 7 days a week (section 1861(dd)(2)(A)(i) of the Act).

Upon the implementation of the hospice benefit, the Congress also expected hospices to continue to use volunteer services, though Medicare does not pay for these volunteer services (section 1861(dd)(2)(E) of the Act). As stated in the FY 1983 Hospice Wage Index and Rate Update proposed rule (48 FR 38149), the hospice must have an interdisciplinary group composed of paid hospice employees as well as hospice volunteers, and that ''the hospice benefit and the resulting Medicare reimbursement is not intended to diminish the voluntary spirit of hospices.'' This expectation supports the hospice philosophy of community based, holistic, comprehensive, and compassionate end of life care.

C. Medicare Payment and Quality for Hospice Care

Sections 1812(d), 1813(a)(4), 1814(a)(7), 1814(i), and 1861(dd) of the Act, and the regulations in 42 CFR part 418, establish eligibility requirements, payment standards and procedures; define covered services; and delineate the conditions a hospice must meet to be approved for participation in the Medicare program. Part 418, subpart G, provides for a per diem payment based on one of four prospectively-determined rate categories of hospice care (RHC, CHC, IRC, and GIP), based on each day a qualified Medicare beneficiary is under hospice care (once the individual has elected). This per diem payment is meant to cover all of the hospice services and items needed to manage the beneficiary's care, as required by section 1861(dd)(1) of the Act.

While recent news reports[2] have brought to light the potential role hospices could play in medical aid in dying (MAID) where such practices have been legalized in certain states, we wish to remind hospices that the Assisted Suicide Funding Restriction Act of 1997 (Pub. L. 105–12) prohibits the use of Federal funds to provide or pay for any health care item or service or health benefit coverage for the purpose of causing, or assisting to cause, the death of any individual including mercy killing, euthanasia, or assisted suicide. This means that while payments made to hospices are to cover all items, services, and drugs for the palliation and management of the terminal illness and related conditions, Federal funds cannot be used for the prohibited activities, even in the context of a per diem payment. However, the prohibition does not pertain to the provision of an item or service for the purpose of alleviating pain or discomfort, even if such use may

[1] Hospices are also subject to additional Federal civil rights laws, including the Age Discrimination Act, Section 1557 of the Affordable Care Act, and conscience and religious freedom laws.

[2] Nelson, R., Should Medical Aid in Dying Be Part of Hospice Care? Medscape Nurses. February 26, 2020. *https://www.medscape.com/viewarticle/925769#vp_1.*

increase the risk of death, so long as the item or service is not furnished for the specific purpose of causing or accelerating death.

1. Omnibus Budget Reconciliation Act of 1989

Section 6005(a) of the Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101–239) amended section 1814(i)(1)(C) of the Act and provided changes in the methodology concerning updating the daily payment rates based on the hospital market basket percentage increase applied to the payment rates in effect during the previous Federal fiscal year.

2. Balanced Budget Act of 1997

Section 4441(a) of the Balanced Budget Act of 1997 (BBA) (Pub. L. 105–33) established that updates to the hospice payment rates beginning FY 2002 and in subsequent FYs are to be the hospital market basket percentage increase for the current FY. Section 4442 of the BBA amended section 1814(i)(2) of the Act, effective for services furnished on or after October 1, 1997, to require that hospices submit claims for payment for hospice care furnished in an individual's home only on the basis of the geographic location at which the service is furnished. Previously, local wage index values were applied based on the geographic location of the hospice provider, regardless of where the hospice care was furnished. Section 4443 of the BBA amended sections 1812(a)(4) and 1812(d)(1) of the Act to provide for hospice benefit periods of two 90-day periods, followed by an unlimited number of 60-day periods.

3. FY 1998 Hospice Wage Index Final Rule

The FY 1998 Hospice Wage Index final rule (62 FR 42860) implemented a new methodology for calculating the hospice wage index and instituted an annual Budget Neutrality Adjustment Factor (BNAF) so aggregate Medicare payments to hospices would remain budget neutral to payments calculated using the 1983 wage index.

4. FY 2010 Hospice Wage Index Final Rule

The FY 2010 Hospice Wage Index and Rate Update final rule (74 FR 39384) instituted an incremental 7-year phase-out of the BNAF beginning in FY 2010 through FY 2016. The BNAF phase-out reduced the amount of the BNAF increase applied to the hospice wage index value, but was not a reduction in the hospice wage index value itself or in the hospice payment rates.

5. The Affordable Care Act

Starting with FY 2013 (and in subsequent FYs), the market basket percentage update under the hospice payment system referenced in sections 1814(i)(1)(C)(ii)(VII) and 1814(i)(1)(C)(iii) of the Act are subject to annual reductions related to changes in economy-wide productivity, as specified in section 1814(i)(1)(C)(iv) of the Act.

In addition, sections 1814(i)(5)(A) through (C) of the Act, as added by section 3132(a) of the Patient Protection and Affordable Care Act (PPACA) (Pub. L. 111–148), required hospices to begin submitting quality data, based on measures specified by the Secretary of the Department of Health and Human Services (the Secretary) for FY 2014 and subsequent FYs. Since FY 2014, hospices that fail to report quality data have their market basket percentage increase reduced by 2 percentage points. Note that with the passage of the Consolidated Appropriations Act, 2021 (hereafter referred to as CAA 2021) (Pub. L. 116–260), the reduction changes to 4 percentage points beginning in FY 2024.

Section 1814(a)(7)(D)(i) of the Act, as added by section 3132(b)(2) of the PPACA, required, effective January 1, 2011, that a hospice physician or nurse practitioner have a face-to-face encounter with the beneficiary to determine continued eligibility of the beneficiary's hospice care prior to the 180th day recertification and each subsequent recertification, and to attest that such visit took place. When implementing this provision, the Centers for Medicare & Medicaid Services (CMS) finalized in the FY 2011 Hospice Wage Index final rule (75 FR 70435) that the 180th day recertification and subsequent recertifications would correspond to the beneficiary's third or subsequent benefit periods. Further, section 1814(i)(6) of the Act, as added by section 3132(a)(1)(B) of the PPACA, authorized the Secretary to collect additional data and information determined appropriate to revise payments for hospice care and other purposes. The types of data and information suggested in the PPACA could capture accurate resource utilization, which could be collected on claims, cost reports, and possibly other mechanisms, as the Secretary determined to be appropriate. The data collected could be used to revise the methodology for determining the payment rates for RHC and other services included in hospice care, no earlier than October 1, 2013, as described in section 1814(i)(6)(D) of the Act. In addition, CMS was required to consult with hospice programs and the Medicare Payment Advisory Commission (MedPAC) regarding additional data collection and payment revision options.

6. FY 2012 Hospice Wage Index Final Rule

In the FY 2012 Hospice Wage Index final rule (76 FR 47308 through 47314) it was announced that beginning in 2012, the hospice aggregate cap would be calculated using the patient-by-patient proportional methodology, within certain limits. Existing hospices had the option of having their cap calculated through the original streamlined methodology, also within certain limits. As of FY 2012, new hospices have their cap determinations calculated using the patient-by-patient proportional methodology. If a hospice's total Medicare payments for the cap year exceed the hospice aggregate cap, then the hospice must repay the excess back to Medicare.

7. IMPACT Act of 2014

The Improving Medicare Post-Acute Care Transformation Act of 2014 (IMPACT Act) (Pub. L. 113–185) became law on October 6, 2014. Section 3(a) of the IMPACT Act mandated that all Medicare certified hospices be surveyed every 3 years beginning April 6, 2015 and ending September 30, 2025. In addition, section 3(c) of the IMPACT Act requires medical review of hospice cases involving beneficiaries receiving more than 180 days of care in select hospices that show a preponderance of such patients; section 3(d) of the IMPACT Act contains a new provision mandating that the cap amount for accounting years that end after September 30, 2016, and before October 1, 2025 be updated by the hospice payment percentage update rather than using the consumer price index for urban consumers (CPI–U) for medical care expenditures.

8. FY 2015 Hospice Wage Index and Payment Rate Update Final Rule

The FY 2015 Hospice Wage Index and Rate Update final rule (79 FR 50452) finalized a requirement that the Notice of Election (NOE) be filed within 5 calendar days after the effective date of hospice election. If the NOE is filed beyond this 5-day period, hospice providers are liable for the services furnished during the days from the effective date of hospice election to the date of NOE filing (79 FR 50474). As with the NOE, the claims processing system must be notified of a beneficiary's discharge from hospice or hospice benefit revocation within 5

calendar days after the effective date of the discharge/revocation (unless the hospice has already filed a final claim) through the submission of a final claim or a Notice of Termination or Revocation (NOTR).

The FY 2015 Hospice Wage Index and Rate Update final rule (79 FR 50479) also finalized a requirement that the election form include the beneficiary's choice of attending physician and that the beneficiary provide the hospice with a signed document when he or she chooses to change attending physicians.

In addition, the FY 2015 Hospice Wage Index and Rate Update final rule (79 FR 50496) provided background, described eligibility criteria, identified survey respondents, and otherwise implemented the Hospice Experience of Care Survey for informal caregivers. Hospice providers were required to begin using this survey for hospice patients as of 2015.

Finally, the FY 2015 Hospice Wage Index and Rate Update final rule required providers to complete their aggregate cap determination not sooner than 3 months after the end of the cap year, and not later than 5 months after, and remit any overpayments. Those hospices that fail to submit their aggregate cap determinations on a timely basis will have their payments suspended until the determination is completed and received by the Medicare contractor (79 FR 50503).

9. FY 2016 Hospice Wage Index and Payment Rate Update Final Rule

In the FY 2016 Hospice Wage Index and Rate Update final rule (80 FR 47142), CMS finalized two different payment rates for RHC: A higher per diem base payment rate for the first 60 days of hospice care and a reduced per diem base payment rate for subsequent days of hospice care. CMS also finalized a service intensity add-on (SIA) payment payable for certain services during the last 7 days of the beneficiary's life. A service intensity add-on payment will be made for the social worker (SW) visits and nursing visits provided by a registered nurse (RN), when provided during routine home care in the last 7 days of life. The SIA payment is in addition to the routine home care rate. The SIA payment is provided for visits of a minimum of 15 minutes and a maximum of 4 hours per day (80 FR 47172).

In addition to the hospice payment reform changes discussed, the FY 2016 Hospice Wage Index and Rate Update final rule implemented changes mandated by the IMPACT Act, in which the cap amount for accounting years that end after September 30, 2016 and before October 1, 2025 would be updated by the hospice payment update percentage rather than using the CPI–U (80 FR 47186). In addition, we finalized a provision to align the cap accounting year for both the inpatient cap and the hospice aggregate cap with the FY for FY 2017 and thereafter. Finally, the FY 2016 Hospice Wage Index and Rate Update final rule (80 FR 47144) clarified that hospices would have to report all diagnoses on the hospice claim as a part of the ongoing data collection efforts for possible future hospice payment refinements.

10. FY 2017 Hospice Wage Index and Payment Rate Update Final Rule

In the FY 2017 Hospice Wage Index and Rate Update final rule (81 FR 52160), CMS finalized several new policies and requirements related to the HQRP. First, CMS codified the policy that if the National Quality Forum (NQF) made non-substantive changes to specifications for HQRP measures as part of the NQF's re-endorsement process, CMS would continue to utilize the measure in its new endorsed status, without going through new notice-and-comment rulemaking. CMS would continue to use rulemaking to adopt substantive updates made by the NQF to the endorsed measures adopted for the HQRP; determinations about what constitutes a substantive versus non-substantive change would be made on a measure-by-measure basis. Second, we finalized two new quality measures for the HQRP for the FY 2019 payment determination and subsequent years: (1) Hospice Visits when Death is Imminent Measure Pair; and (2) Hospice and Palliative Care Composite Process Measure-Comprehensive Assessment at Admission (81 FR 52173). The data collection mechanism for both of these measures is the Hospice Item Set (HIS), and the measures were effective April 1, 2017. Regarding the CAHPS® Hospice Survey, CMS finalized a policy that hospices that receive their CMS Certification Number (CCN) after January 1, 2017 for the FY 2019 Annual Payment Update (APU) and January 1, 2018 for the FY 2020 APU will be exempted from the Hospice CAHPS® requirements due to newness (81 FR 52182). The exemption is determined by CMS and is only for 1 year.

11. FY 2020 Hospice Wage Index and Payment Rate Update Final Rule

In the FY 2020 Hospice Wage Index and Rate Update final rule (84 FR 38484), we finalized rebased payment rates for CHC and GIP and set those rates equal to their average estimated FY 2019 costs per day. We also rebased IRC per diem rates equal to the estimated FY 2019 average costs per day, with a reduction of 5 percent to the FY 2019 average cost per day to account for coinsurance. We finalized the FY 2020 proposal to reduce the RHC payment rates by 2.72 percent to offset the increases to CHC, IRC, and GIP payment rates to implement this policy in a budget-neutral manner in accordance with section 1814(i)(6) of the Act (84 FR 38496).

In addition, we finalized a policy to use the current year's pre-floor, pre-reclassified hospital inpatient wage index as the wage adjustment to the labor portion of the hospice rates. Finally, in the FY 2020 Hospice Wage Index and Rate Update final rule (84 FR 38505), we finalized modifications to the hospice election statement content requirements at § 418.24(b), and added a requirement for hospices, upon request, to furnish an election statement addendum effective beginning in FY 2021. The addendum must list items, services, and drugs the hospice has determined to be unrelated to the terminal illness and related conditions, to increase coverage transparency for beneficiaries under a hospice election.

12. Consolidated Appropriations Act, 2021

Division CC, section 404 of the CAA 2021 amended section 1814(i)(2)(B) of the Act and extended the provision that currently mandates the hospice cap be updated by the hospice payment update percentage (hospital market basket update reduced by the productivity adjustment) rather than the CPI–U for accounting years that end after September 30, 2016 and before October 1, 2030. Prior to enactment of this provision, the hospice cap update was set to revert to the original methodology of updating the annual cap amount by the CPI–U beginning on October 1, 2025. Division CC, section 407(b) of CAA 2021 revised section 1814(i)(5)(A)(i) to increase the payment reduction for hospices who fail to meet hospice quality measure reporting requirements from 2 percentage points to 4 percentage points beginning with FY 2024.

13. FY 2022 Hospice Wage Index and Payment Rate Update Final Rule

In the FY 2022 Hospice Wage Index and Rate Update final rule (86 FR 42532 through 42539), we finalized a policy to rebase and revise the labor shares for CHC, RHC, IRC and GIP using Medicare cost report (MCR) data for freestanding hospices (collected via CMS Form 1984–14, OMB NO. 0938–0758) for

2018. We established separate labor shares for CHC, RHC, IRC, and GIP based on the calculated compensation cost weights for each level of care from the 2018 MCR data. The revised labor shares were implemented in a budget neutral manner through the use of labor share standardization factors.

In the FY 2022 final rule, we removed the seven original Hospice Item Set (HIS) measures from the program because a more broadly applicable measure (across settings, populations, or conditions) for the particular topic is available and already publicly reported. The Hospice Comprehensive Assessment Measure, NQF #3235, is one measure that is calculated and rolled up by completion of the seven individual measures. This measure helps to ensure all hospice patients receive a holistic comprehensive assessment. Also, in or after May 2022, we will start publicly reporting the two new claims-based measures. Specifically, this includes the: (1) Hospice Visits in the Last Days of Life (HVLDL) (which replaces the HIS Hospice Visits when Death is Imminent measure pair); and (2) Hospice Care Index (HCI) that includes 10 indicators that collectively represent different aspects of hospice care and aim to convey a comprehensive characterization of the quality of care furnished by a hospice throughout the hospice stay. Related to these changes, we finalized reporting eight quarters of claims data in order to display small providers. We finalized the public reporting of Consumer Assessment of Healthcare Providers and Systems (CAHPS®) Hospice Survey Star ratings on Care Compare to begin no sooner than FY 2022.

III. Provisions of the Proposed Rule

A. Proposed FY 2023 Hospice Wage Index and Rate Update

1. Proposed FY 2023 Hospice Wage Index

The hospice wage index is used to adjust payment rates for hospices under the Medicare program to reflect local differences in area wage levels, based on the location where services are furnished. The hospice wage index utilizes the wage adjustment factors used by the Secretary for purposes of section 1886(d)(3)(E) of the Act for hospital wage adjustments. Our regulations at § 418.306(c) require each labor market to be established using the most current hospital wage data available, including any changes made by the Office of Management and Budget (OMB) to the Metropolitan Statistical Areas (MSAs) definitions.

In general, OMB issues major revisions to statistical areas every 10 years, based on the results of the decennial census. However, OMB occasionally issues minor updates and revisions to statistical areas in the years between the decennial censuses. On March 6, 2020, OMB issued Bulletin No. 20–01, which provided updates to and superseded OMB Bulletin No. 18–04 that was issued on September 14, 2018. The attachments to OMB Bulletin No. 20–01 provided detailed information on the update to statistical areas since September 14, 2018, and were based on the application of the 2010 Standards for Delineating Metropolitan and Micropolitan Statistical Areas to Census Bureau population estimates for July 1, 2017 and July 1, 2018. (For a copy of this bulletin, we refer readers to the following website: *https://www.whitehouse.gov/wp-content/uploads/2020/03/Bulletin-20-01.pdf*.) In OMB Bulletin No. 20–01, OMB announced one new Micropolitan Statistical Area, one new component of an existing Combined Statistical Area (CSA), and changes to New England City and Town Area (NECTA) delineations. In the FY 2021 Hospice Wage Index final rule (85 FR 47070) we stated that if appropriate, we would propose any updates from OMB Bulletin No. 20–01 in future rulemaking. After reviewing OMB Bulletin No. 20–01, we determined that the changes in Bulletin 20–01 encompassed delineation changes that would not affect the Medicare wage index for FY 2022. Specifically, the updates consisted of changes to NECTA delineations and the redesignation of a single rural county into a newly created Micropolitan Statistical Area. The Medicare wage index does not utilize NECTA definitions, and, as most recently discussed in the FY 2021 Hospice Wage Index final rule (85 FR 47070), we include hospitals located in Micropolitan Statistical areas in each state's rural wage index. Therefore, in the FY 2022 Hospice Wage Index final rule (86 FR 42528) we adopted the updates set forth in OMB Bulletin No. 20–01 consistent with our longstanding policy of adopting OMB delineation updates.

In the FY 2020 Hospice Wage Index final rule (84 FR 38484), we finalized the proposal to use the current FY's hospital wage index data to calculate the hospice wage index values. In the FY 2021 Hospice Wage Index final rule (85 FR 47070), we adopted the revised OMB delineations with a 5-percent cap on wage index decreases, where the estimated reduction in a geographic area's wage index would be capped at 5-percent in FY 2021 and no cap would be applied to wage index decreases for the second year (FY 2022). For FY 2023, the proposed hospice wage index would be based on the FY 2023 hospital pre-floor, pre-reclassified wage index for hospital cost reporting periods beginning on or after October 1, 2018 and before October 1, 2019 (FY 2019 cost report data). The proposed FY 2023 hospice wage index would not take into account any geographic reclassification of hospitals, including those in accordance with section 1886(d)(8)(B) or 1886(d)(10) of the Act. The proposed FY 2023 hospice wage index would include a 5-percent cap on wage index decreases as discussed later in this section. The appropriate wage index value would be applied to the labor portion of the hospice payment rate based on the geographic area in which the beneficiary resides when receiving RHC or CHC. The appropriate wage index value is applied to the labor portion of the payment rate based on the geographic location of the facility for beneficiaries receiving GIP or IRC.

In the FY 2006 Hospice Wage Index final rule (70 FR 45135), we adopted the policy that, for urban labor markets without a hospital from which hospital wage index data could be derived, all of the CBSAs within the state would be used to calculate a statewide urban average pre-floor, pre-reclassified hospital wage index value to use as a reasonable proxy for these areas. For FY 2023, the only CBSA without a hospital from which hospital wage data can be derived is 25980, Hinesville-Fort Stewart, Georgia. The FY 2023 wage index value for Hinesville-Fort Stewart, Georgia is 0.8620.

There exist some geographic areas where there were no hospitals, and thus, no hospital wage data on which to base the calculation of the hospice wage index. In the FY 2008 Hospice Wage Index final rule (72 FR 50217 through 50218), we implemented a methodology to update the hospice wage index for rural areas without hospital wage data. In cases where there was a rural area without rural hospital wage data, we use the average pre-floor, pre-reclassified hospital wage index data from all contiguous CBSAs, to represent a reasonable proxy for the rural area. The term ''contiguous'' means sharing a border (72 FR 50217). Currently, the only rural area without a hospital from which hospital wage data could be derived is Puerto Rico. However, for rural Puerto Rico, we would not apply this methodology due to the distinct economic circumstances that exist there (for example, due to the close proximity of almost all of Puerto Rico's various

urban areas to non-urban areas, this methodology would produce a wage index for rural Puerto Rico that is higher than that in half of its urban areas); instead, we would continue to use the most recent wage index previously available for that area. For FY 2023, we propose to continue using the most recent pre-floor, pre-reclassified hospital wage index value available for Puerto Rico, which is 0.4047, subsequently adjusted by the hospice floor.

As described in the August 8, 1997 Hospice Wage Index final rule (62 FR 42860), the pre-floor and pre-reclassified hospital wage index is used as the raw wage index for the hospice benefit. These raw wage index values are subject to application of the hospice floor to compute the hospice wage index used to determine payments to hospices. As previously discussed, the pre-floor, pre-reclassified hospital wage index values below 0.8 will be further adjusted by a 15 percent increase subject to a maximum wage index value of 0.8. For example, if County A has a pre-floor, pre-reclassified hospital wage index value of 0.3994, we would multiply 0.3994 by 1.15, which equals 0.4593. Since 0.4593 is not greater than 0.8, then County A's hospice wage index would be 0.4593. In another example, if County B has a pre-floor, pre-reclassified hospital wage index value of 0.7440, we would multiply 0.7440 by 1.15, which equals 0.8556. Because 0.8556 is greater than 0.8, County B's hospice wage index would be 0.8.

The proposed hospice wage index applicable for FY 2023 (October 1, 2022 through September 30, 2023) is available on the CMS website at: *https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/Hospice/Hospice-Wage-Index.html.*

2. Proposed Permanent Cap on Wage Index Decreases

As discussed in section III.A.1, we have proposed and finalized temporary transition policies in the past to mitigate significant changes to payments due to changes to the hospice wage index. Specifically, in the FY 2016 Hospice Wage Index and Payment Rate Update final rule (80 FR 47142) we implemented a 50/50 blend for all geographic areas consisting of the wage index values using the then-current OMB area delineations and the wage index values using OMB's new area delineations based on OMB Bulletin No. 13–01. In the FY 2021 Hospice Wage Index final rule (85 FR 47070), we adopted the revised OMB delineations with a 5-percent cap on wage index decreases, where the estimated reduction in a geographic area's wage index would be capped at 5-percent in FY 2021 and no cap would be applied to wage index decreases for the second year (FY 2022). As explained, we believed the 5-percent cap would provide greater transparency and be administratively less complex than the prior methodology of applying a 50/50 blended wage index. We noted that this transition approach struck an appropriate balance by providing a transition period to mitigate the resulting -short-term instability and negative impacts on providers and time for them to adjust to their new labor market area delineations and wage index values.

In the FY 2022 Hospice Wage Index and Payment Rate Update final rule (86 FR 42541), a few commenters stated that providers should be protected against substantial payment reductions due to dramatic reductions in wage index values from one year to the next. Because we did not propose to modify the transition policy that was finalized in the FY 2021 Hospice final rule, we did not extend the transition period for FY 2022. In the FY 2022 Hospice final rule, we stated that we continued to believe that applying the 5-percent cap transition policy in year one provided an adequate safeguard against any significant payment reductions associated with the adoption of the revised CBSA delineations in FY 2021, allowed for sufficient time to make operational changes for future FYs, and provided a reasonable balance between mitigating some short-term instability in hospice payments and improving the accuracy of the payment adjustment for differences in area wage levels. However, we acknowledged that certain changes to wage index policy may significantly affect Medicare payments. In addition, we reiterated that our policy principles with regard to the wage index include generally using the most current data and information available and providing that data and information, as well as any approaches to addressing any significant effects on Medicare payments resulting from these potential scenarios, in notice and comment rulemaking. With these policy principles in mind, we considered for this FY 2023 Hospice proposed rule how best to address the potential scenarios, which commenters raised concerns; that is, scenarios in which changes to wage index policy may significantly affect Medicare payments.

In the past, we have established transition policies of limited duration to phase in significant changes to labor market areas. In taking this approach in the past, we sought to mitigate short term instability and fluctuations that can negatively impact providers due to wage index changes. In accordance with the requirement of our regulations at § 418.306(c) each labor market is established using the most current hospital wage data available, including any changes made by the OMB to the Metropolitan Statistical Areas (MSAs) definitions. We have previously stated that, because the wage index is a relative measure of the value of labor in prescribed labor market areas, we believe it is important to implement new labor market area delineations with as minimal a transition as is reasonably possible. However, we recognize that changes to the wage index have the potential to create instability and significant negative impacts on certain providers even when labor market areas do not change. In addition, year-to-year fluctuations in an area's wage index can occur due to external factors beyond a provider's control, such as the COVID–19 PHE, and for an individual provider, these fluctuations can be difficult to predict. We also recognize that predictability in Medicare payments is important to enable providers to budget and plan their operations.

In light of these considerations, we are proposing a permanent approach to smooth year-to-year changes in providers' wage indexes. We are proposing a policy that increases the predictability of hospice payments for providers, and mitigates instability and significant negative impacts to providers resulting from changes to the wage index.

As previously discussed, we believed that applying a 5-percent cap on wage index decreases for FY 2021 provided greater transparency and was administratively less complex than prior transition methodologies. In addition, we believed this methodology mitigated short term instability and fluctuations that can negatively impact providers due to wage index changes. Lastly, we believed the 5-percent cap applied to all wage index decreases for FY 2021 provided an adequate safeguard against significant payment reductions related to the adoption of the revised CBSAs. However, as discussed earlier in this section of the proposed rule, we recognize there are circumstances that a one-year mitigation policy, like the one adopted for FY 2021, would not effectively address future years in which providers continue to be negatively affected by significant wage index decreases.

Typical year-to-year variation in the hospice wage index has historically been within 5-percent, and we expect

this will continue to be the case in future years. Therefore, we believe that applying a 5-percent cap on all wage index decreases in future years, regardless of the reason for the decrease, would effectively mitigate instability in hospice payments due to any significant wage index decreases that may affect providers in any year that commenters raised in the FY 2022 Hospice final rule. In addition, we believe that applying a 5-percent cap on all wage index decreases would increase the predictability of hospice payments for providers, enabling them to more effectively budget and plan their operations. Lastly, we believe that applying a 5-percent cap on all wage index decreases, from the prior year, would have a small overall impact on the labor market area wage index system. As discussed in further detail in section III.A.4. of this proposed rule, we estimate that applying a 5-percent cap on all wage index decreases, from the prior year, will have a very small effect on the wage index budget standardization factors for FY 2023. Because the wage index is a measure of the value of labor (wage and wage-related costs) in a prescribed labor market area relative to the national average, we anticipate that most providers will not experience year-to-year wage index declines greater than 5-percent in any given year. We believe that applying a 5-percent cap on all wage index decreases, from the prior year, would continue to maintain the accuracy of the overall labor market area wage index system.

Therefore, for FY 2023 and subsequent years, we are proposing to apply a permanent 5-percent cap on any decrease to a geographic area's wage index from its wage index in the prior year, regardless of the circumstances causing the decline. That is, we are proposing that a geographic area's wage index for FY 2023 would not be less than 95 percent of its final wage index for FY 2022, regardless of whether the geographic area is part of an updated CBSA, and that for subsequent years, a geographic area's wage index would not be less than 95 percent of its wage index calculated in the prior FY. We further propose that if a geographic area's prior FY wage index is calculated based on the 5-percent cap, then the following year's wage index would not be less than 95 percent of the geographic area's capped wage index in the prior FY. For example, if a geographic area's wage index for FY 2023 is calculated with the application of the 5-percent cap, then its wage index for FY 2024 would not be less than 95 percent of its capped wage index in FY 2023. Likewise, we are proposing to make the corresponding regulations text changes at § 418.306(c) as follows: Starting on October 1, 2022, CMS applies a cap on decreases to the hospice wage index such that the wage index applied to a geographic area is not less than 95 percent of the wage index applied to that geographic area in the prior FY. This 5-percent cap on negative wage index changes would be implemented in a budget neutral manner through the use of wage index standardization factors. Furthermore, the 5-percent cap would be applied after the application of the hospice wage index floor. Therefore, pre-floor, pre-reclassified hospital wage index values below 0.8 would be adjusted by the 15 percent increase, subject to a maximum wage index value of 0.8. If there is a 5 percent decrease from the previous FY's wage index value after the application of the hospice wage index floor, then the 5-percent cap on wage index decreases would also be applied.

In section III.A.4 of this proposed rule, we estimate the impact to payments for providers in FY 2023 based on this proposed policy. We also note that we would examine the effects of this policy on an ongoing basis in the future in order to assess its appropriateness.

3. Proposed FY 2023 Hospice Payment Update Percentage

Section 4441(a) of the BBA (Pub. L. 105–33) amended section 1814(i)(1)(C)(ii)(VI) of the Act to establish updates to hospice rates for FYs 1998 through 2002. Hospice rates were to be updated by a factor equal to the inpatient hospital market basket percentage increase set out under section 1886(b)(3)(B)(iii) of the Act, minus 1 percentage point. Payment rates for FYs since 2002 have been updated according to section 1814(i)(1)(C)(ii)(VII) of the Act, which states that the update to the payment rates for subsequent FYs must be the inpatient market basket percentage increase for that FY. In the FY 2022 IPPS final rule CMS finalized the proposal to rebase and revise the IPPS market baskets to reflect a 2018 base year. We refer readers to the FY 2022 IPPS final rule for further information (86 FR 45194 through 45208).

Section 3401(g) of the Affordable Care Act mandated that, starting with FY 2013 (and in subsequent FYs), the hospice payment update percentage would be annually reduced by changes in economy-wide productivity as specified in section 1886(b)(3)(B)(xi)(II) of the Act. The statute defines the productivity adjustment to be equal to the 10-year moving average of changes in annual economy-wide private nonfarm business multifactor productivity (MFP) as projected by the Secretary for the 10-year period ending with the applicable FY, year, cost reporting period, or other annual period) (the ''productivity adjustment''). The United States Department of Labor's Bureau of Labor Statistics (BLS) publishes the official measures of productivity for the United States economy. We note that previously the productivity measure referenced in section 1886(b)(3)(B)(xi)(II) was published by BLS as private nonfarm business multifactor productivity. Beginning with the November 18, 2021 release of productivity data, BLS replaced the term ''multifactor productivity'' with ''total factor productivity'' (TFP). BLS noted that this is a change in terminology only and will not affect the data or methodology. As a result of the BLS name change, the productivity measure referenced in section 1886(b)(3)(B)(xi)(II) of the Act is now published by BLS as ''private nonfarm business total factor productivity''. However, as mentioned, the data and methods are unchanged. We refer readers to *http://www.bls.gov* for the BLS historical published TFP data. A complete description of IGI's TFP projection methodology is available on the CMS website at *https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/MedicareProgramRatesStats/MarketBasketResearch.* In addition, in the FY 2022 IPPS final rule (86 FR 45214), we noted that beginning with FY 2022, CMS changed the name of this adjustment to refer to it as the ''productivity adjustment'' rather than the ''MFP adjustment''.

The proposed hospice payment update percentage for FY 2023 is based on the proposed inpatient hospital market basket update of 3.1 percent (based on IHS Global Inc.'s fourth quarter 2021 forecast with historical data through the third quarter 2021). Due to the requirements at sections 1886(b)(3)(B)(xi)(II) and 1814(i)(1)(C)(v) of the Act, the proposed inpatient hospital market basket update for FY 2023 of 3.1 percent must be reduced by a productivity adjustment as mandated by the Affordable Care Act (currently estimated to be 0.4 percentage point for FY 2023). In effect, the proposed hospice payment update percentage for FY 2023 would be 2.7 percent. We also propose that if more recent data become available after the publication of this proposed rule and before the publication of the final rule (for

example, more recent estimates of the inpatient hospital market basket update and productivity adjustment), we would use such data, if appropriate, to determine the hospice payment update percentage for FY 2023 in the final rule. We continue to believe it is appropriate to routinely update the hospice payment system so that it reflects the best available data about differences in patient resource use and costs among hospices as required by the statute. Therefore, we are proposing to: (1) Update hospice payments using the methodology outlined and apply the 2018-based IPPS market basket update for FY 2023 of 3.1 percent, reduced by the statutorily required productivity adjustment of 0.4 percentage point along with the wage index budget neutrality adjustment to update the payment rates; and (2) use the FY 2023 hospice wage index which uses the FY 2023 pre-floor, pre-reclassified IPPS hospital wage index as its basis.

In the FY 2022 Hospice Wage Index final rule (86 FR 42532 through 42539), we rebased and revised the labor shares for RHC, CHC, GIP and IRC using MCR data for freestanding hospices (CMS Form 1984–14, OMB Control Number 0938–0758) from 2018. The current labor portion of the payment rates are: For RHC, 66.0 percent; for CHC, 75.2 percent; for GIP, 63.5 percent; and for IRC, 61.0 percent. The non-labor portion is equal to 100 percent minus the labor portion for each level of care. The non-labor portion of the payment rates are as follows: For RHC, 34.0 percent; for CHC, 24.8 percent; for GIP, 36.5 percent; and for IRC, 39.0 percent.

4. Proposed FY 2023 Hospice Payment Rates

There are four payment categories that are distinguished by the location and intensity of the hospice services provided. The base payments are adjusted for geographic differences in wages by multiplying the labor share, which varies by category, of each base rate by the applicable hospice wage index. A hospice is paid the RHC rate for each day the beneficiary is enrolled in hospice, unless the hospice provides CHC, IRC, or GIP. CHC is provided during a period of patient crisis to maintain the patient at home; IRC is short-term care to allow the usual caregiver to rest and be relieved from caregiving; and GIP is to treat symptoms that cannot be managed in another setting.

As discussed in the FY 2016 Hospice Wage Index and Rate Update final rule (80 FR 47172), we implemented two different RHC payment rates, one RHC rate for the first 60 days and a second RHC rate for days 61 and beyond. In addition, in that final rule, we implemented an SIA payment for RHC when direct patient care is provided by an RN or social worker during the last 7 days of the beneficiary's life. The SIA payment is equal to the CHC hourly rate multiplied by the hours of nursing or social work provided (up to 4 hours total) that occurred on the day of service, if certain criteria are met. In order to maintain budget neutrality, as required under section 1814(i)(6)(D)(ii) of the Act, the new RHC rates were adjusted by a service intensity add-on budget neutrality factor (SBNF). The SBNF is used to reduce the overall RHC rate in order to ensure that SIA payments are budget-neutral. At the beginning of every FY, SIA utilization is compared to the prior year in order calculate a budget neutrality adjustment. In the FY 2017 Hospice Wage Index and Rate Update final rule (81 FR 52156), we initiated a policy of applying a wage index standardization factor to hospice payments in order to eliminate the aggregate effect of annual variations in hospital wage data. Typically, the wage index standardization factor is calculated using the most recent, complete hospice claims data available. However, due to the COVID–19 PHE, in the FY 2022 Hospice Wage Index and Payment Rate Update proposed rule we looked at using hospice claims data before the declaration of the COVID–19 PHE (FY 2019) to determine if there were significant differences between utilizing 2019 and 2020 claims data. The difference between using FY 2019 and FY 2020 hospice claims data was minimal. Therefore, in the FY 2022 Hospice Wage Index and Payment Rate Update final rule (86 FR 42543), we stated that we would continue our practice of using the most recent, complete hospice claims data available. For FY 2023 hospice rate setting, we saw minimal differences in using the updated data; therefore, we are continuing our longstanding policy of using the most recent data available. Specifically, we are using FY 2021 claims data with the FY 2023 payment rate updates. In order to calculate the wage index standardization factor, we simulate total payments using FY 2021 hospice utilization claims data with the FY 2022 wage index (pre-floor, pre-reclassified hospital wage index with the hospice floor, without the 5-percent cap on wage index decreases) and FY 2022 payment rates and compare it to our simulation of total payments using the FY 2023 hospice wage index (pre-floor, pre-reclassified hospital wage index with hospice floor, with the 5-percent cap on wage index decreases) and FY 2022 payment rates. By dividing payments for each level of care (RHC days 1 through 60, RHC days 61+, CHC, IRC, and GIP) using the FY 2022 wage index and payment rates for each level of care by the FY 2023 wage index and FY 2022 payment rates, we obtain a wage index standardization factor for each level of care. The wage index standardization factors for each level of care are shown in the Tables 1 and 2.

The proposed FY 2023 RHC rates are shown in Table 1. The proposed FY 2023 payment rates for CHC, IRC, and GIP are shown in Table 2.

TABLE 1—PROPOSED FY 2023 HOSPICE RHC PAYMENT RATES

Code	Description	FY 2022 payment rates	SIA budget neutrality factor	Wage index standardization factor	Proposed FY 2023 hospice payment update	Proposed FY 2023 payment rates
651	Routine Home Care (days 1–60)	$203.40	1.0004	1.0008	1.027	$209.14
651	Routine Home Care (days 61+)	160.74	1.0003	1.0007	1.027	165.25

TABLE 2—PROPOSED FY 2023 HOSPICE CHC, IRC, AND GIP PAYMENT RATES

Code	Description	FY 2022 payment rates	Wage index standardization factor	Proposed FY 2023 hospice payment update	Proposed FY 2023 payment rates
652	Continuous Home Care Full Rate = 24 hours of care.	$1,462.52 ($60.94 per hour)	1.0024	1.027	$1,505.61
655	Inpatient Respite Care	473.75	1.0007	1.027	486.88
656	General Inpatient Care	1,068.28	1.0016	1.027	1,098.88

Sections 1814(i)(5)(A) through (C) of the Act require that hospices submit quality data, based on measures to be specified by the Secretary. In the FY 2012 Hospice Wage Index and Rate Update final rule (76 FR 47320 through 47324), we implemented a HQRP as required by those sections. Hospices were required to begin collecting quality data in October 2012 and submit those quality data in 2013. Section 1814(i)(5)(A)(i) of the Act requires that beginning with FY 2014 and each subsequent FY, the Secretary shall reduce the market basket update by 2 percentage points for any hospice that does not comply with the quality data submission requirements with respect to that FY. The proposed FY 2023 rates for hospices that do not submit the required quality data would be updated by the proposed FY 2023 hospice payment update percentage of 2.7 percent minus 2 percentage points. These rates are shown in Tables 3 and 4.

TABLE 3—PROPOSED FY 2023 HOSPICE RHC PAYMENT RATES FOR HOSPICES THAT DO NOT SUBMIT THE REQUIRED QUALITY DATA

Code	Description	FY 2022 payment rates	SIA budget neutrality factor	Wage index standardization factor	Proposed FY 2023 hospice payment update of 2.7% minus 2 percentage points = +0.7%	Proposed FY 2023 payment rates
651	Routine Home Care (days 1–60)	$203.40	1.0004	1.0008	1.007	$205.07
651	Routine Home Care (days 61+)	160.74	1.0003	1.0007	1.007	162.03

TABLE 4—PROPOSED FY 2023 HOSPICE CHC, IRC, AND GIP PAYMENT RATES FOR HOSPICES THAT DO NOT SUBMIT THE REQUIRED QUALITY DATA

Code	Description	FY 2022 payment rates	Wage index standardization factor	Proposed FY 2023 hospice payment update of 2.7% minus 2 percentage points = +0.7%	Proposed FY 2023 payment rates
652	Continuous Home Care Full Rate= 24 hours of care	$1,462.52 ($60.94 per hour)	1.0024	1.007	$1,476.29
655	Inpatient Respite Care	$473.75	1.0007	1.007	$477.40
656	General Inpatient Care	1,068.28	1.0016	1.007	1,077.48

5. Proposed Hospice Cap Amount for FY 2023

As discussed in the FY 2016 Hospice Wage Index and Rate Update final rule (80 FR 47183), we implemented changes mandated by the IMPACT Act of 2014 (Pub. L. 113–185). Specifically, we stated that for accounting years that end after September 30, 2016 and before October 1, 2025, the hospice cap is updated by the hospice payment update percentage rather than using the CPI–U. Division CC, section 404 of the CAA 2021 extended the accounting years impacted by the adjustment made to the hospice cap calculation until 2030. In the FY 2022 Hospice Wage Index final rule (86 FR 42539), we finalized conforming regulations text changes at § 418.309 to reflect the provisions of the CAA 2021. Therefore, for accounting years that end after September 30, 2016 and before October 1, 2030, the hospice cap amount is updated by the hospice payment update percentage rather than using the CPI–U.

The proposed hospice cap amount for the FY 2023 cap year is $32,142.65, which is equal to the FY 2022 cap amount ($31,297.61) updated by the proposed FY 2023 hospice payment update percentage of 2.7 percent.

B. Proposed Updates to the Hospice Quality Reporting Program

1. Background and Statutory Authority

The Hospice Quality Reporting Program (HQRP) specifies reporting requirements for the Hospice Item Set (HIS), administrative data, and Consumer Assessment of Healthcare Providers and Systems (CAHPS®) Hospice Survey. Section 1814(i)(5) of the Act requires the Secretary to establish and maintain a quality

reporting program for hospices. Section 1814(i)(5)(A)(i) of the Act was amended by section 407(b) of Division CC, Title IV of the CAA 2021 (Pub. L. 116–260) to change the payment reduction for failing to meet hospice quality reporting requirements from 2 to 4 percentage points. This policy will apply beginning with FY 2024 annual payment update (APU) that is based on CY 2022 quality data. Specifically, the Act requires that, beginning with FY 2014 through FY 2023, the Secretary shall reduce the market basket update by 2 percentage points and beginning with the FY 2024 APU and for each subsequent year, the Secretary shall reduce the market basket update by 4 percentage points for any hospice that does not comply with the quality data submission requirements for that FY.

Depending on the amount of the annual update for a particular year, a reduction of 2 percentage points through FY 2023 or 4 percentage points beginning in FY 2024 could result in the annual market basket update being less than zero percent for a FY and may result in payment rates that are less than payment rates for the preceding FY. Any reduction based on failure to comply with the reporting requirements, as required by section 1814(i)(5)(B) of the Act, would apply only for the specified year.

In the FY 2022 Hospice Wage Index and Payment Rate Update final rule (86 FR 42552), we finalized two new measures using claims data: (1) Hospice Visits in the Last Days of Life (HVLDL); and (2) Hospice Care Index (HCI). We also finalized a policy that claims-based measures will use 8 quarters of data in order to report on more hospices. In addition, we removed the seven Hospice Item Set (HIS) Process Measures from the program as individual measures and public reporting because the HIS Comprehensive Assessment Measure (NQF#3235) is sufficient for measuring care at admission without the seven individual process measures. For a detailed discussion of the historical use for measure selection and removal for the HQRP quality measures, we refer readers to the FY 2016 Hospice Wage Index and Rate Update final rule (80 FR 47142) and the FY 2019 Hospice Wage Index and Rate Update final rule (83 FR 38622). In the FY 2022 Hospice Wage Index and Rate Update final rule (86 FR 42553), we finalized § 418.312(b)(2); this new provision requires hospices to provide administrative data, including claims-based measures, as part of the HQRP requirements for § 418.306(b). In that same final rule, we provided CAHPS Hospice Survey updates. We finalized temporary changes to our public reporting policies based on the March 27, 2020 memorandum [3] and provided another tip sheet, referred to as the Second Edition HRQP Public Reporting Tip Sheet (*https://www.cms.gov/files/document/second-edition-hqrp-public-reporting-tip-sheetpdf.pdf*) on the HQRP Requirements and Best Practices web page (*https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Hospice-Quality-Reporting/HQRP-Requirements-and-Best-Practices*).

As finalized in the FY 2022 Hospice Wage Index and Payment Rate Update final rule (86 FR 42552), CMS is targeting the May 2022 refresh of Care Compare/Provider Data Catalogue (PDC) for the inaugural display of the two new claims-based quality measures (QMs), the Hospice Visits in Last Days of Life (HVLDL) and the Hospice Care Index (HCI). This rule proposes no new quality measures but proposes updates on already-adopted measures. Table 5 shows all quality measures finalized in the FY 2022 Hospice Wage Index and Payment Rate Update final rule and in effect for the FY 2023 HQRP.

TABLE 5—QUALITY MEASURES FINALIZED IN THE FY 2022 HOSPICE WAGE INDEX FINAL RULE AND IN EFFECT FOR FY 2023 FOR THE HOSPICE QUALITY REPORTING PROGRAM

Hospice quality reporting program	
NQF#	Hospice item set
3235	Hospice and Palliative Care Composite Process Measure—HIS-Comprehensive Assessment Measure at Admission includes: 1. Patients Treated with an Opioid who are Given a Bowel Regimen (NQF #1617). 2. Pain Screening. 3. Pain Assessment. 4. Dyspnea Treatment. 5. Dyspnea Screening. 6. Treatment Preferences. 7. Beliefs/Values Addressed (if desired by the patient).
Administrative Data, including Claims-based Measures	
3645 Pending NQF endorsement	Hospice Visits in Last Days of Life (HVLDL). Hospice Care Index (HCI).

[3] Exceptions and Extensions for Quality Reporting Requirements for Acute Care Hospitals, PPS-Exempt Cancer Hospitals, Inpatient Psychiatric Facilities, Skilled Nursing Facilities, Home Health Agencies, Hospices, Inpatient Rehabilitation Facilities, Long-Term Care Hospitals, Ambulatory Surgical Centers, Renal Dialysis Facilities, and MIPS Eligible Clinicians Affected by COVID–19. Available at: *https://www.cms.gov/files/document/guidance-memo-exceptions-and-extensions-quality-reporting-and-value-based-purchasing-programs.pdf*

TABLE 5—QUALITY MEASURES FINALIZED IN THE FY 2022 HOSPICE WAGE INDEX FINAL RULE AND IN EFFECT FOR FY 2023 FOR THE HOSPICE QUALITY REPORTING PROGRAM—Continued

Hospice quality reporting program	
NQF#	Hospice item set
	1. Continuous Home Care (CHC) or General Inpatient (GIP) Provided. 2. Gaps in Skilled Nursing Visits. 3. Early Live Discharges. 4. Late Live Discharges. 5. Burdensome Transitions (Type 1)—Live Discharges from Hospice Followed by Hospitalization and Subsequent Hospice Readmission. 6. Burdensome Transitions (Type 2)—Live Discharges from Hospice Followed by Hospitalization with the Patient Dying in the Hospital. 7. Per-beneficiary Medicare Spending. 8. Skilled Nursing Care Minutes per Routine Home Care (RHC) Day. 9. Skilled Nursing Minutes on Weekends 10. Visits Near Death.
CAHPS Hospice Survey	
2651	CAHPS Hospice Survey. 1. Communication with Family. 2. Getting timely help. 3. Treating patient with respect. 4. Emotional and spiritual support. 5. Help for pain and symptoms. 6. Training family to care for the patient. 7. Rating of this hospice. 8. Willing to recommend this hospice.

2. Hospice Outcomes & Patient Evaluation (HOPE) Update

As finalized in the FY 2020 Hospice Wage Index and Payment Rate Update and Hospice Quality Reporting Requirements final rule (84 FR 38484), we are developing a hospice patient assessment instrument identified as HOPE. HOPE contributes to the patient's plan of care through on-going patient assessments throughout the hospice stay. HOPE is designed to support the hospice conditions of participation (CoPs), including hospices' quality assessment and performance improvement (QAPI) and provide quality data to calculate outcome and other types of quality measures. Our primary objectives for HOPE are to provide quality data for the HQRP requirements through standardized data collection; support survey and certification processes; and provide additional clinical data that could inform future payment refinements.

HOPE is an on-going patient assessment instrument designed to capture patient and family care needs throughout the hospice stay. HOPE supports care planning, quality improvement efforts, and health and safety of patients enrolled in Medicare-certified hospices. HOPE will include key items from the HIS and demographics like gender and race. Some HIS items will be modified for inclusion in HOPE to increase specificity. This approach to include key demographic information reflects stakeholder feedback discussed in the FYs 2017 and 2018 Hospice Wage Index and Payment Rate Update final rules (81 FR 52171 and 82 FR 36669, respectively).

HOPE is multidisciplinary, with the assessment instrument to be completed by nursing, social work, and spiritual care staff. We are undergoing testing with three distinct disciplinary assessments in beta field testing described in this section. We stated in the FY 2022 Hospice Wage Index and Payment Update final rule (86 FR 42528) that while the standardized patient assessment data elements for certain post-acute care providers required under the IMPACT Act of 2014 are not applicable to hospices, it is reasonable to include some of those standardized elements that appropriately and feasibly apply to hospice. Some patients may move through the healthcare system to hospice. Therefore, tracking key demographic and social risk factor items that apply to hospice support our goals for continuity of care, overall patient care and well-being, interoperability, and health equity that is also discussed in this rule.

The draft of HOPE has undergone cognitive, pilot, and alpha testing, and is undergoing national beta field testing to establish reliability, validity, and feasibility of the assessment instrument. The purpose of the alpha test was to establish preliminary reliability and validity of the draft assessment items, and feasibility of the HOPE assessment. Specifically, the objectives were to:

- Establish inter-rater reliability (IRR) of the assessment items.
- Demonstrate validity of the assessment items.
- Demonstrate feasibility of the assessment and time points for data collection.

HOPE alpha testing completed at the end of January 2021. Based on the quantitative data analyses and feedback from assessors in alpha testing, the items generally support the feasibility of collecting the data items. Alpha testing also showed that HOPE exhibited acceptable inter-rater reliability ranging from moderate to very good with few exceptions and demonstrated evidence of convergent validity. We used findings of the alpha test to inform decisions about the next draft of the HOPE assessment, which are being tested in the national beta test that began in late fall 2021 and continuing through 2022.

National beta testing allows us to obtain input from participating hospice teams about the assessment instrument and field testing to refine and support the final draft items and assessment time points for HOPE. It also allows us to estimate the time to complete the HOPE data items. We anticipate proposing HOPE in future rulemaking after testing and analyses are complete.

We continue HOPE development in accordance with the Blueprint for the CMS Measures Management System. HOPE development is grounded in information gathering activities to identify and refine hospice assessment domains and candidate assessment items. We appreciate the industry's and national associations' engagement in providing input through information sharing activities, including listening sessions, expert interviews, key stakeholder interviews, and focus groups to support HOPE development. As CMS proceeds with field testing HOPE, we will continue to engage with stakeholders through sub-regulatory channels. In particular, we will continue to host HQRP Forums to allow hospices and other interested parties to engage with us on the latest updates and ask questions on the development of HOPE and related quality measures. We also have a dedicated email account, *HospiceAssessment@cms.hhs.gov,* for comments about HOPE.

We will use field test results to create a final version of HOPE to propose in future rulemaking for national implementation. We will continue to engage all stakeholders throughout this process that includes a variety of sub-regulatory channels and regular HQRP communication strategies, such as Open Door Forums, Medicare Learning Network (MLN), CMS.gov website announcements, listserv messaging, and other ad hoc publicly announced opportunities. We appreciate the support for HOPE and reiterate our commitment to providing updates and engaging stakeholders through sub-regulatory means. HOPE updates can be found at: *https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Hospice-Quality-Reporting/HOPE* and engagement opportunities, including those regarding HOPE are at: *https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Hospice-Quality-Reporting/Hospice-QRP-Provider-Engagement-Opportunities.*

3. Update on Future Quality Measure (QM) Development

In the FY 2020 Hospice Wage Index and Payment Rate Update final rule (84 FR 38484), we provided updates related to CMS's process for identifying high priority areas of quality measurement and improvement and for developing quality measures that address those priorities. Information on the current HQRP quality measures can be found at: *https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Hospice-Quality-Reporting/Current-Measures.* In this proposed rule, we provide contemplated updates for hospice quality measure concepts based on future use of HOPE and administrative data. In section III.B.6 of this proposed rule, we are seeking public comment from hospices on their health equity initiatives and a structural composite measure concept to inform future measure development.

To support new measure development, our contractor convened two technical expert panel (TEP) meetings in 2021. The TEP considered HOPE-based process measures that may be proposed with HOPE in future rulemaking. The TEP meetings in 2021 included HOPE-based process measures intended to (1) evaluate the rate at which hospices' use specific processes of care; (2) assist in reducing variation in care delivery; and (3) determine hospices' compliance with practices that are expected to improve outcomes. The TEP also considered potential areas for future quality measure development. We refer the public to the ''2021 Technical Expert Panel Meetings: Hospice Quality Reporting Program Summary Report'' available at: *https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Hospice-Quality-Reporting/Hospice-QRP-Provider-Engagement-Opportunities.*

As stated in the FY 2022 Hospice Wage Index and Rate Update final rule (86 FR 42528), we continue to consider developing hybrid quality measures that could be calculated from multiple data sources: for example, claims, assessments (HOPE), or other data sources. Hybrid quality measures allow for a more comprehensive set of information about care processes and outcomes than can be calculated using claims data alone. As described in the ''2021 Technical Expert Panel Meetings: Hospice Quality Reporting Program Summary Report,'' the TEP discussed hybrid concepts such as hospitalizations during a hospice election and patterns of live discharge using claims data and HOPE data elements.

4. Updates to the CAHPS Hospice Survey Participation Requirements for the FY 2023 APU and Subsequent Years

a. Background and Description of the CAHPS Hospice Survey

The CAHPS Hospice Survey is a component of the CMS HQRP, which is used to collect data on the experiences of hospice patients and the primary caregivers listed in their hospice records. Readers who want more information about the development of the survey, originally called the Hospice Experience of Care Survey, may refer to 79 FR 50452 and 78 FR 48261.

b. Overview of the ''CAHPS Hospice Survey Measures''

The CAHPS Hospice Survey measures were re-endorsed by NQF on November 20, 2020. The re-endorsement can be found on the NQF website at: *https://www.qualityforum.org/Measures_Reports_Tools.aspx.* The survey received its initial NQF endorsement on October 26, 2016 (NQF #2651). We adopted 8 survey-based measures for the CY 2018 data collection period and for subsequent years. These eight measures are publicly reported on a designated CMS website, Care Compare, *https://www.medicare.gov/care-compare/.*

c. CAHPS Hospice Survey Mode Experiment

CMS recently conducted a mode experiment with the goal of testing the effects of adding a web-based mode to the CAHPS Hospice Survey. We are examining the impact of a web-based mode on survey response rates and scores. The survey currently has three approved modes without any web component (mail, telephone, and mail with telephone follow-up.). In addition, the test will allow for examination of the effects of a shortened survey (that is, removing existing survey items) on response rate and scores; assessment of the measure properties of a limited number of supplemental survey items suggested by stakeholders; and calculation of item-level mode adjustments for the shortened survey in the currently-approved modes of CAHPS Hospice Survey administration, as well as the proposed new web-based mode.

The mode experiment design applied all of the existing CAHPS Hospice Survey eligibility criteria, and sampled patients/caregivers across five arms. The first arm tested a new web-mail mode, in which invitations to the web survey were sent by email to those with email addresses. The email was personalized to the respondent and included a link to the web version of the survey, which can be completed on either a computer or a mobile device such as a smartphone or tablet. If the respondent did not complete the web survey after one week, or did not have a valid email address in which to send an email, up to two surveys were sent by mail. This arm used a shortened version of the CAHPS Hospice Survey.

In the next three arms, the shortened version of the CAHPS Hospice Survey instrument was administered in the three currently-approved modes: Mail only; telephone-only; and mixed mode

(mail with telephone follow up). The fifth arm, in which the current survey instrument was administered via mail only served as a comparison for all other arms. Across all arms, half of sampled caregivers received a pre-notification letter to examine the effects of such a letter on response rates.

Overall (across the five arms), CMS sampled 15,000 eligible caregivers from around 50 hospices over a six- to seven-month period. Caregivers were randomized within each hospice to one of the five arms.

We continue to analyze the results of the mode experiment and will keep stakeholders informed on any plans for changes to the survey content or administration options through our regular stakeholder communication channels. In this proposed rule, there are no changes to the administration procedures or content for the CAHPS Hospice Survey. Any changes to the CAHPS Hospice Survey will be proposed in future rulemaking.

d. Data Sources

In the FY 2020 Hospice Wage Index and Rate Update final rule (84 FR 38484), we finalized the participation requirements for the CAHPS Hospice Survey. To meet the CAHPS Hospice Survey requirements for the HQRP, hospice facilities must contract with a CMS-approved vendor to collect survey data for eligible patients on a monthly basis and report that data to CMS on the hospice's behalf by the quarterly deadlines established for each data collection period.

e. Public Reporting of CAHPS Hospice Survey Results

We began public reporting of the results of the CAHPS Hospice Survey on Hospice Compare as of February 2018. Before the COVID–19 PHE, we reported the most recent 8 quarters of data on the basis of a rolling average, with the most recent quarter of data being added and the oldest quarter of data removed from the averages for each data refresh. As finalized in the FY 2022 Hospice Wage Index and Payment Rule Update (86 FR 42528), we are not reporting Q1 2020 and Q2 2020 data due to the COVID–19 PHE. Therefore, we have publicly reported the most recently available 8 quarters of CAHPS data that excluded Q1 2020 and Q2 2020 data. These data were publicly reported starting with the February 2022 refresh and will continue through the May 2023 refresh on Care Compare. The Second Edition HQRP Public Reporting Tip Sheet dated Dec. 2021 on the HQRP Requirements and Best Practices web page (*https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Hospice-Quality-Reporting/HQRP-Requirements-and-Best-Practices*) summarizes CMS' approach to the HQRP as public reporting has resumed in February 2022. It also explains the HQRP public reporting changes associated with the FY 2022 Hospice Wage Index and Payment Rule Update final rule and provides a summary of the data refreshes.

f. Volume-Based Exemption for CAHPS Hospice Survey Data Collection and Reporting Requirements

In the FY 2020 Hospice Wage Index and Rate Update final rule (84 FR 38526), we finalized a policy making a volume-based exemption for CAHPS Hospice Survey Data Collection and Reporting requirements for FY 2021 and every year thereafter.

In this proposed rule, there would be no changes to this exemption. The exemption request form is available on the official CAHPS Hospice Survey website: *http://www.hospiceCAHPSsurvey.org.* Hospices that intend to claim the size exemption are required to submit to CMS their completed exemption request form by December 31, of the data collection year.

Hospices that served a total of fewer than 50 survey-eligible decedent/caregiver pairs in the year before the data collection year are eligible to apply for the size exemption. Hospices may apply for a size exemption by submitting the size exemption request form. The size exemption is only valid for the year on the size exemption request form. If the hospice remains eligible for the size exemption, the hospice must complete the size exemption request form for every applicable FY APU period, as shown in Table 6.

TABLE 6—SIZE EXEMPTION KEY DATES FY 2023 THROUGH FY 2026

Fiscal year	Data collection year	Reference year	Size exemption form submission deadline
FY 2023	CY 2021	CY 2020	December 31, 2021.
FY 2024	CY 2022	CY 2021	December 31, 2022.
FY 2025	CY 2023	CY 2022	December 31, 2023.
FY 2026	CY 2024	CY 2023	December 31, 2024.

g. Newness Exemption for CAHPS Hospice Survey Data Collection and Public Reporting Requirements

We previously finalized a one-time newness exemption for hospices that meet the criteria as stated in the FY 2017 Hospice Wage Index and Payment Rate Update final rule (81 FR 52181). In the FY 2019 Hospice Wage Index and Payment Rate Update final rule (83 FR 38642), we continued the newness exemption for FY 2023, and all subsequent years. We encourage hospices to keep the letter they receive providing them with their CMS Certification Number (CCN). The letter can be used to show when you received your number.

h. Survey Participation Requirements

We previously finalized survey participation requirements for FY 2022 through FY 2025 as stated in the FY 2018 and FY 2019 Hospice Wage Index and Payment Rate Update final rules (82 FR 36670 and 83 FR 38642 through 38643). We also continued those requirements in all subsequent years (84 FR 38526). Table 7 restates the data submission dates for FY 2023 through FY 2025.

TABLE 7—CAHPS HOSPICE SURVEY DATA SUBMISSION DATES FOR THE APU IN FY 2023, FY 2024, AND FY 2025

Sample months (month of death) *	CAHPS quarterly data submission deadlines **
FY 2023 APU	

TABLE 7—CAHPS HOSPICE SURVEY DATA SUBMISSION DATES FOR THE APU IN FY 2023, FY 2024, AND FY 2025—Continued

Sample months (month of death) *	CAHPS quarterly data submission deadlines **
CY January–March 2021 (Quarter 1)	August 11, 2021.
CY April–June 2021 (Quarter 2)	November 10, 2021.
CY July–September 2021 (Quarter 3)	February 9, 2022.
CY October–December 2021 (Quarter 4)	May 11, 2022.
FY 2024 APU	
CY January–March 2022 (Quarter 1)	August 10, 2022.
CY April–June 2022 (Quarter 2)	November 9, 2022.
CY July–September 2022 (Quarter 3)	February 8, 2023.
CY October–December 2022 (Quarter 4)	May 10, 2023.
FY 2025 APU	
CY January–March 2023 (Quarter 1)	August 9, 2023.
CY April–June 2023 (Quarter 2)	November 8, 2023.
CY July–September 2023 (Quarter 3)	February 14, 2024.
CY October–December 2023 (Quarter 4)	May 8, 2024.

* Data collection for each sample month initiates 2 months following the month of patient death (for example, in April for deaths occurring in January).

** Data submission deadlines are the second Wednesday of the submission months, which are the months August, November, February, and May.

For further information about the CAHPS Hospice Survey, we encourage hospices and other entities to visit: *https://www.hospiceCAHPSsurvey.org.* For direct questions, contact the CAHPS Hospice Survey Team at *hospiceCAHPSsurvey@HCQIS.org* or call 1–(844) 472–4621.

i. CAHPS Hospice Survey Star Ratings

We previously finalized a policy requiring us to display Hospice CAHPS Survey Star Ratings no sooner than FY 2022 as stated in the FY 2022 Hospice Wage Index and Payment Rule Update rule (86 FR 42528). Star Ratings will be publicly reported on Care Compare on Medicare.gov beginning with the August 2022 refresh. This start date allowed CMS to conduct a dry run of the Star Ratings with reporting to hospices via preview reports. Hospices first saw their Star Ratings in their preview reports during the November 2021 and March 2022 preview periods for the February 2022 and May 2022 updates of Care Compare on Medicare.gov. However, the CAHPS Hospice Survey Star Ratings will not be publicly reported in February or May 2022. The reporting period for the dry run covers data from Q4 2018 through Q4 2019 and Q3 2020 through Q1 2021. Detailed information about the calculation and display of Hospice CAHPS Survey Star Ratings can be found on the official CAHPS Hospice Survey website: *http://www.hospiceCAHPSsurvey.org.* There are no changes to the Hospice CAHPS Survey Star Ratings for FY 2023.

5. Form, Manner, and Timing of Quality Data Submission

a. Statutory Penalty for Failure To Report

Section 1814(i)(5)(C) of the Act requires that each hospice submit data to the Secretary on quality measures specified by the Secretary. Such data must be submitted in a form and manner, and at a time specified by the Secretary. Section 1814(i)(5)(A)(i) of the Act was amended by the CAA 2021 and the payment reduction for failing to meet hospice quality reporting requirements is increased from 2 percent to 4 percent beginning with FY 2024. The Act requires that, beginning with FY 2014 through FY 2023, the Secretary shall reduce the market basket update by 2 percentage points and then beginning in FY 2024 and for each subsequent year, the Secretary shall reduce the market basket update by 4 percentage points for any hospice that does not comply with the quality data submission requirements for that fiscal year. Last year, we revised our rule at § 418.306(b)(2) in accordance with this statutory change (86 FR 42605).

b. Compliance

HQRP Compliance requires understanding three timeframes for both HIS and CAHPS; (1) The relevant Reporting Year, payment FY and the Reference Year. The ''Reporting Year'' (HIS)/''Data Collection Year'' (CAHPS). This timeframe is based on the calendar year. It is the same calendar year for both HIS and CAHPS. If the CAHPS Data Collection year is CY 2023, then the HIS reporting year is also CY 2023. (2) The APU is subsequently applied to FY payments based on compliance in the corresponding Reporting Year/Data Collection Year; and (3) For the CAHPS Hospice Survey, the Reference Year is the CY prior to the Data Collection Year. The Reference Year applies to hospices submitting a size exemption from the CAHPS survey (there is no similar exemption for HIS). For example, for the CY 2023 data collection year, the Reference Year, is CY 2022. This means providers seeking a size exemption for CAHPS in CY 2023 would base it on their hospice size in CY 2022. Submission requirements are codified in § 418.312.

For every CY all Medicare-certified hospices are required to submit HIS and CAHPS data according to the requirements in § 418.312. Table 8 summarizes the three timeframes. It illustrates how the CY interacts with the FY payments, covering the CY 2021 through CY 2024 data collection periods and the corresponding APU application from FY 2023 through FY 2026.

TABLE 8—HQRP REPORTING REQUIREMENTS AND CORRESPONDING ANNUAL PAYMENT UPDATES

Reporting year for HIS and data collection year for CAHPS data (calendar year)	Annual payment update impacts payments for the FY	Reference year for CAHPS size exemption (CAHPS only)
CY 2021	FY 2023 APU.	CY 2020.
CY 2022	FY 2024 APU*.	CY 2021.
CY 2023	FY 2025 APU.	CY 2022.

TABLE 8—HQRP REPORTING REQUIREMENTS AND CORRESPONDING ANNUAL PAYMENT UPDATES—Continued

Reporting year for HIS and data collection year for CAHPS data (calendar year)	Annual payment update impacts payments for the FY	Reference year for CAHPS size exemption (CAHPS only)
CY 2024	FY 2026 APU.	CY 2023.

*Beginning in FY 2024 and all subsequent years, the payment penalty is 4 percent. Prior to FY 2024, the payment penalty is 2 percent.

As illustrated in Table 8, CY 2021 data submissions compliance impacts the FY 2023 APU. CY 2022 data submissions compliance impacts the FY 2024 APU. CY 2023 data submissions compliance impacts FY 2025 APU. This CY data submission impacting FY APU pattern follows for subsequent years.

c. Submission Data and Requirements

As finalized in the FY 2016 Hospice Wage Index and Payment Rate Update final rule (80 FR 47192), hospices' compliance with HIS requirements beginning with the FY 2020 APU determination (that is, based on HIS-Admission and Discharge records submitted in CY 2018) are based on a timeliness threshold of 90 percent. This means CMS requires that hospices submit 90 percent of all required HIS records within 30-days of the event (that is, patient's admission or discharge). The 90-percent threshold is hereafter referred to as the timeliness compliance threshold. Ninety percent of all required HIS records must be submitted and accepted within the 30-day submission deadline to avoid the statutorily-mandated payment penalty. Hospice compliance with claims data requirements is based on administrative data collection. Since Medicare claims data are already collected from claims, hospices are considered 100 percent compliant with the submission of these data for the HQRP. There is no additional submission requirement for administrative data.

To comply with CMS' quality reporting requirements for CAHPS, hospices are required to collect data monthly using the CAHPS Hospice Survey. Hospices comply by utilizing a CMS-approved third-party vendor. Approved Hospice CAHPS vendors must successfully submit data on the hospice's behalf to the CAHPS Hospice Survey Data Center. A list of the approved vendors can be found on the CAHPS Hospice Survey website: *www.hospicecahpssurvey.org.* Table 9. HQRP Compliance Checklist illustrates the APU and timeliness threshold requirements.

TABLE 9—HQRP COMPLIANCE CHECKLIST

Annual payment update	HIS	CAHPS
FY 2023	Submit at least 90 percent of all HIS records within 30 days of the event date (patient's admission or discharge) for patient admissions/discharges occurring 1/1/21–12/31/21.	Ongoing monthly participation in the Hospice CAHPS survey 1/1/2021–12/31/2021.
FY 2024	Submit at least 90 percent of all HIS records or its successor instrument within 30 days of the event date (patient's admission or discharge) for patient admissions/discharges occurring 1/1/22–12/31/22.	Ongoing monthly participation in the Hospice CAHPS survey 1/1/2022–12/31/2022.
FY 2025	Submit at least 90 percent of all HIS records or its successor instrument within 30 days of the event date (patient's admission or discharge) for patient admissions/discharges occurring 1/1/23–12/31/23.	Ongoing monthly participation in the Hospice CAHPS survey 1/1/2023–12/31/2023.

Note: The data source for the claims-based measures will be Medicare claims data that are already collected and submitted to CMS. There is no additional submission requirement for administrative data (Medicare claims), and hospices with claims data are 100-percent compliant with this requirement.

Most hospices that fail to meet HQRP requirements do so because they miss the 90 percent threshold. We offer many training and education opportunities through our website, which are available 24/7, 365 days per year, to enable hospice staff to learn at the pace and time of their choice. We want hospices to be successful with meeting the HQRP requirements. We encourage hospices to use this website at: *https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Hospice-Quality-Reporting/Hospice-Quality-Reporting-Training-Training-and-Education-Library.* For more information about HQRP Requirements, we refer readers to visit the frequently-updated HQRP website and especially the Best Practice, Education and Training Library, and Help Desk web pages at: *https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Hospice-Quality-Reporting.* We also encourage readers to visit the HQRP web page and sign-up for the Hospice Quality ListServ to stay informed about HQRP.

6. Request for Information Related to the HQRP Health Equity Initiative

CMS defines health equity as ''the attainment of the highest level of health for all people, where everyone has a fair and just opportunity to attain their optimal health regardless of race, ethnicity, disability, sexual orientation, gender identity, socioeconomic status, geography, preferred language, or other factors that affect access to care and health outcomes.'' CMS is working to advance health equity by designing, implementing, and operationalizing policies and programs that support health for all the people served by our programs, eliminating avoidable differences in health outcomes experienced by people who are disadvantaged or underserved, and providing the care and support that our enrollees need to thrive. CMS' goals are in line with Executive Order 13985, on the Advancement of Racial Equity and Support for the Underserved Communities, which can be found at: *https://www.whitehouse.gov/briefing-room/presidential-actions/2021/06/25/executive-order-on-diversity-equity-inclusion-and-accessibility-in-the-federal-workforce/.*

Belonging to an underserved community is often associated with worse health outcomes.[4] [5] [6] [7] [8] [9] [10] [11] Such

[4] Joynt KE, Orav E, Jha AK. Thirty-Day Readmission Rates for Medicare Beneficiaries by Race and Site of Care. JAMA. 2011; 305(7):675–681.

[5] Lindenauer PK, Lagu T, Rothberg MB, et al. Income Inequality and 30 Day Outcomes After

disparities in health outcomes are the result of multiple factors. Although not the sole determinants, poor access to care and provision of lower quality health care are important contributors to health disparities notable for CMS programs. Health inequities persist in hospice and palliative care, where Black and Hispanic populations are less likely to utilize care and over 80 percent of patients are White.[12] [13] [14] [15] After hospice admission, racial and ethnic disparities appear to impact quality of care and health outcomes.[16] Black patients may receive fewer supportive care medications despite higher symptom burdens, experience care less consistent with their expressed preferences, and encounter worse end-of-life communication.[17] [18] [19] [20] [21] In response to these disparities, 70 percent of home health organizations, including 22 percent that are hospices, indicated they would increase the resources dedicated to diversity, equity, and inclusion in 2021.[22] One important strategy for addressing these disparities is improving data collection to allow for better measurement and reporting on equity across our programs and policies.[23] [24]

We are committed to achieving equity in health care outcomes for our beneficiaries by supporting providers in quality improvement activities to reduce health inequities, enabling beneficiaries to make more informed decisions, and promoting provider accountability for health care disparities.[25] [26] CMS is committed to closing the equity gap in CMS quality programs. For more information on the portfolio of programs aimed at making information on the quality of health care providers and services, including disparities, more transparent, we refer readers to the FY 2022 Hospice Wage Index and Rate Update proposed rule (86 FR 19700).

In the FY 2022 Hospice Wage Index and Rate Update final rule, we received comments supportive of gathering standardized patient assessment data elements and additional SDOH data to improve health equity. In parallel, commenters advocated for education efforts for beneficiaries, providers, and stakeholders on the benefits of collecting and reporting demographic and social risk factor data. We received many comments about the use of standardized patient assessment data elements in the hospice setting to assess health equity and SDOH, some of which raised concerns there may be unintended consequences. Many commenters noted that hospice patients have different goals of care than non-hospice patients, which does not align with standardized data elements for patient assessment. Commenters encouraged CMS to only utilize certain aspects of standardized data elements for patient assessment (specifically, Z-codes 55–65) in collecting health equity data. We refer the readers to review the summary of public comments received in the FY 2022 Hospice Wage Index and Rate Update final rule (86 FR 42528).

We will continue to take all comments and suggestions into account as we work to develop policies on this important topic. We appreciate hospices and national organizations sharing their support and commitment to addressing health disparities and offering meaningful comments for consideration in the FY 2022 Hospice Wage Index and Rate Update final rule (86 FR 42528). Given the value of the comments thus far and the ongoing development of activities to improve health equity, we solicit public comment on the following questions:

- What efforts does your hospice employ to recruit staff, volunteers, and board members from diverse populations to represent and serve underserved populations? How does your hospice attempt to bridge any cultural gaps between your personnel and beneficiaries/clients? How does your hospice measure whether this has an impact on health equity?
- How does your hospice currently identify barriers to access in your community or service area? What are barriers to collecting data related to disparities, social determinants of health, and equity? What steps does your hospice take to address these barriers?
- How does your hospice collect self-reported data such as race/ethnicity, veteran status, socioeconomic status, housing, food security, access to interpreter services, caregiving status, and marital status used to inform its health equity initiatives?
- How is your hospice using qualitative data collection and analysis methods to measure the impact of its health equity initiatives?

In addition, we are considering a structural composite measure based on information already collected by hospices. Specifically, the structural composite measure could include organizational activities to address access to and quality of hospice care for underserved populations. The composite structural measure concept could include hospice reported data on hospice activities to address

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Acute Myocardial Infarction, Heart Failure, and Pneumonia: Retrospective Cohort Study. British Medical Journal. 2013; 346.

[6] Trivedi AN, Nsa W, Hausmann LRM, et al. Quality and Equity of Care in U.S. Hospitals. New England Journal of Medicine. 2014; 371(24):2298–2308.

[7] Polyakova, M., et al. Racial Disparities In Excess All-Cause Mortality During The Early COVID–19 Pandemic Varied Substantially Across States. Health Affairs. 2021; 40(2): 307–316.

[8] Rural Health Research Gateway. Rural Communities: Age, Income, and Health Status. Rural Health Research Recap. November 2018.

[9] *https://www.minorityhealth.hhs.gov/assets/PDF/Update_HHS_Disparities_Dept-FY2020.pdf.*

[10] *www.cdc.gov/mmwr/volumes/70/wr/mm7005a1.htm.*

[11] Poteat TC, Reisner SL, Miller M, Wirtz AL. COVID–19 Vulnerability of Transgender Women With and Without HIV Infection in the Eastern and Southern U.S. Preprint. medRxiv. 2020;2020.07.21.20159327. Published 2020 Jul 24. doi:10.1101/2020.07.21.20159327.

[12] Addressing Disparities in Hospice & Palliative Care. Nalley, Catlin. Oncology Times: March 20, 2021–Volume 43–Issue 6–p 1,10doi: 10.1097/01.COT.0000741732.73529.bb.

[13] *https://journalofethics.ama-assn.org/article/racial-disparities-hospice-moving-analysis-intervention/2006-09.*

[14] Capital Caring, Seasons Execs: Improving Hospice Diversity Starts from the Inside Out. 11/17/21. Holly Vossel. Capital Caring, Seasons Execs: Improving Hospice Diversity Starts from the Inside Out—Hospice & Palliative Care Network of Maryland *https://hospicenews.com/2021/11/17/capital-caring-seasons-execs-improving-hospice-diversity-starts-from-the-inside-out/.*

[15] Disparities in Palliative and Hospice Care and Completion of Advance Care Planning and Directives Among Non-Hispanic Blacks: A Scoping Review of Recent Literature (*nih.gov*).

[16] *https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3822363/.*

[17] Naming the Problem: A Structural Racism Framework to Examine Disparities in Palliative Care—ScienceDirect.

[18] Johnson KS. Racial and ethnic disparities in palliative care. J Palliat Med 2013;16:1329–1334.

[19] Elk R, Felder TM, Cayir E, Samuel CA. Social inequalities in palliative care for cancer patients in the United States: astructured review. Semin Oncol Nurs 2018;34:303–315.

[20] Elliott AM, Alexander SC, Mescher CA, Mohan D, Bar-nato AE. Differences in physicians' verbal and nonverbal communication with black and white patients at the end of life. J Pain Symptom Manage 2016;51:1–8.

[21] Johnson RL, Roter D, Powe NR, Cooper LA. Patient race/ethnicity and quality of patient-physician communication during medical visits. Am J Public Health 2004;94:2084–2090.

[22] Capital Caring, Seasons Execs: Improving Hospice Diversity Starts from the Inside Out. 11/17/21. Holly Vossel. Capital Caring, Seasons Execs: Improving Hospice Diversity Starts from the Inside Out—Hospice & Palliative Care Network of Maryland *https://hospicenews.com/2021/11/17/capital-caring-seasons-execs-improving-hospice-diversity-starts-from-the-inside-out/.*

[23] *https://hospicenews.com/2021/05/27/hospice-providers-leverage-data-to-reach-the-underserved/.*

[24] *https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3822363/.*

[25] *https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/QualityInitiativesGenInfo/Downloads/CMS-Quality-Strategy.pdf.*

[26] Report to Congress: Improving Medicare PostAcute Care Transformation (IMPACT) Act of 2014 Strategic Plan for Accessing Race and Ethnicity Data. January 5, 2017. Available at *https://www.cms.gov/About-CMS/Agency-Information/OMH/Downloads/Research-Reports-2017-Report-to-Congress-IMPACT-ACT-of-2014.pdf.*

underserved populations' access to hospice care. For example, a hospice could receive a point for each domain where data are submitted to a CMS portal, regardless of the hospice's action in that domain (such as, reporting whether or not the hospice provided training for board members, leaders, staff and volunteers in culturally and linguistically appropriate services (CLAS), health equity, and implicit bias). The data could reflect the hospice's completed actions for each corresponding domain (for a total of three points) in a reporting year. A hospice could submit information such as documentation, examples, or narratives to qualify for the measure numerator. We are also seeking comment on how to score a domain for a hospice that submitted data reflecting no actions or partial actions in the given domain.

Examples of the domains we are considering are described in the following outline. We seek comment on each of these domains, including specific suggestions on items that should be added, removed, or revised.

Domain 1: Hospice commitment to reducing disparities is strengthened when equity is a key organizational priority. Candidate domain 1 could be satisfied when a hospice submits data on their actions regarding the role of health equity and community engagement in their strategic plan. Hospices could self-report data in the reporting year about their actions in each of the following areas, and submission of data for all elements could be required to qualify for the measure numerator.

- Hospice attests whether its strategic plan includes approaches to address health equity in the reporting year.
- Hospice reports community engagement and key stakeholder activities in the reporting year.
- Hospice reports on any attempts to measure input from patients and caregivers about care disparities they may experience and recommendations or suggestions.

Domain 2: Training board members, leaders, staff and volunteers in culturally and linguistically appropriate services (CLAS),[27] health equity, and implicit bias is an important step hospices take to provide quality care to diverse populations. Candidate domain 2 could focus on hospices' diversity, equity, inclusion and CLAS training for board members, employed staff, and volunteers by capturing the following self-reported actions in the reporting year. Submission of relevant data for all elements could be required to qualify for the measure numerator.

- Hospice attests whether employed staff were trained in CLAS and culturally sensitive care mindful of social determinants of health (SDOH) in the reporting year. Example data include specific training programs or training requirements for staff.
- Hospice attests whether it provided resources to staff and volunteers about health equity, SDOH, and equity initiatives in the reporting year. Examples include the materials provided, webinars, or learning opportunities.

Domain 3: Leaders and staff could improve their capacity to address disparities by demonstrating routine and thorough attention to equity and setting an organizational culture of equity. This candidate domain could capture activities related to organizational inclusion initiatives and capacity to promote health equity. Examples of equity-focused factors include proficiency in languages other than English, experience working with populations in the service area, experience working on health equity issues, and experience working with individuals with disabilities.

Submission of relevant data for all elements could be required to qualify for the measure numerator.

- Hospice attests whether equity-focused factors were included in the hiring of hospice senior leadership, including chief executives and board of trustees, in the previous reporting year.
- Hospice attests whether equity-focused factors were included in the hiring of hospice senior leadership, including chief executives and board of trustees, is more reflective of the services area patient than in the previous reporting year.
- Hospice attests whether equity-focused factors were included in the hiring of direct patient care staff (for example, RNs, medical social workers, aides, volunteers, chaplains, or therapists) in the previous reporting year.
- Hospice attests whether equity focused factors were included in the hiring of indirect care or support staff (for example. administrative, clerical, or human resources) in the previous reporting year.

We are interested in developing health equity measures based on information collected by hospices not currently available on claims, assessments, or other publicly available data sources to support development of future quality measures. We are soliciting public comment on the conceptual domains and quality measures described in this section. Furthermore, we are soliciting public comments on publicly reporting a composite structural health equity quality measure; displaying descriptive information on Care Compare from the data hospices provide to support health equity measures; and the impact of the domains and quality measure concepts on organizational culture change.

7. Advancing Health Information Exchange Update

The Department of Health and Human Services (HHS) has a number of initiatives designed to encourage and support the adoption of interoperable health information technology and to promote nationwide health information exchange to improve health care and patient access to their digital health information.

To further interoperability in post-acute care settings, CMS and the Office of the National Coordinator for Health Information Technology (ONC) participate in the Post-Acute Care Interoperability Workgroup (PACIO) to facilitate collaboration with industry stakeholders to develop Health Level Seven International® (HL7) Fast Healthcare Interoperability Resources® (FHIR) standards.[28] These standards could support the exchange and reuse of patient assessment data derived from the Minimum Data Set (MDS), Inpatient Rehabilitation Facility-Patient Assessment Instrument (IRF–PAI), LTCH Continuity Assessment Record and Evaluation (CARE) Data Set (LCDS), Outcome and Assessment Information Set (OASIS), and other sources. The PACIO Project has focused on HL7 FHIR implementation guides for functional status, cognitive status and new use cases on advance directives, re-assessment timepoints, and Speech Language, Swallowing, Cognitive communication and Hearing (SPLASCH) pathology. We encourage PAC provider and health (IT) vendor participation as the efforts advance.

The CMS Data Element Library (DEL) continues to be updated and serves as a resource for PAC assessment data elements and their associated mappings to health IT standards, such as Logical Observation Identifiers Names and Codes (LOINC) and Systematized Nomenclature of Medicine Clinical Terms (SNOMED). The DEL furthers CMS' goal of data standardization and interoperability. Standards in the DEL (*https://del.cms.gov/DELWeb/pubHome*) can be referenced on the CMS website

[27] *https://www.cms.gov/About-CMS/Agency-Information/OMH/Downloads/CLAS-Toolkit-12-7-16.pdf.*

[28] *http://pacioproject.org/.*

and in the ONC Interoperability Standards Advisory (ISA). The 2022 ISA is available at *https://www.healthit.gov/isa.*

The 21st Century Cures Act (Cures Act) (Pub. L. 114–255, enacted December 13, 2016) required HHS and ONC to take steps to further interoperability for providers and settings across the care continuum. Section 4003(b) of the Cures Act required ONC to take steps to advance interoperability through the development of a trusted exchange framework and common agreement aimed at establishing a universal floor of interoperability across the country. On January 18, 2022, ONC announced a significant milestone by releasing the Trusted Exchange Framework [29] and Common Agreement Version 1 [30]. The Trusted Exchange Framework is a set of non-binding principles for health information exchange, and the Common Agreement is a contract that advances those principles. The Common Agreement and the incorporated by reference Qualified Health Information Network Technical Framework Version 1 [31] establish the technical infrastructure model and governing approach for different health information networks and their users to securely share clinical information with each other—all under commonly agreed to terms. The technical and policy architecture of how exchange occurs under the Trusted Exchange Framework and the Common Agreement follows a network-of-networks structure, which allows for connections at different levels and is inclusive of many different types of entities at those different levels, such as health information networks, healthcare practices, hospitals, public health agencies, and Individual Access Services (IAS) For more information, we refer readers to *https://www.healthit.gov/topic/interoperability/trusted-exchange-framework-and-common-agreement.*

We invite readers to learn more about these important developments and how they are likely to affect hospices.

[29] The Trusted Exchange Framework (TEF): Principles for Trusted Exchange (Jan. 2022), *https://www.healthit.gov/sites/default/files/page/2022-01/Trusted_Exchange_Framework_0122.pdf.*

[30] Common Agreement for Nationwide Health Information Interoperability Version 1 (Jan. 2022), *https://www.healthit.gov/sites/default/files/page/2022-01/Common_Agreement_for_Nationwide_Health_Information_Interoperability_Version_1.pdf.*

[31] Qualified Health Information Network (QHIN) Technical Framework (QTF) Version 1.0 (Jan. 2022), *https://rce.sequoiaproject.org/wp-content/uploads/2022/01/QTF_0122.pdf.*

C. CAA 2021, Section 407. Establishing Hospice Program Survey and Enforcement Procedures Under the Medicare Program; Provisions Update

Division CC, section 407 of the CAA 2021, amended Part A of Title XVIII of the Act to add a new section 1822, and amended sections 1864(a) and 1865(b) of the Act, establishing new hospice program survey and enforcement requirements, required public reporting of survey information, and a new hospice hotline.

The law requires public reporting of hospice program surveys conducted by both State Agencies (SAs) and Accrediting Organizations (AOs), as well as enforcement actions taken as a result of these surveys, on the CMS website in a manner that is prominent, easily accessible, searchable, and presented in a readily understandable format. It removes the prohibition at section 1865(b) of the Act of public disclosure of hospice surveys performed by AOs, and requires that AOs use the same survey deficiency reports as SAs (Form CMS–2567, ''Statement of Deficiencies'' or a successor form) to report survey findings.

The law also requires hospice programs to measure and reduce inconsistency in the application of survey results among all surveyors, and requires the Secretary to provide comprehensive training and testing of SA and AO hospice program surveyors, including training with respect to review of written plans of care. The statute prohibits SA surveyors from surveying hospice programs for which they have worked in the last 2 years or in which they have a financial interest, requires hospice program SAs and AOs to use a multidisciplinary team of individuals for surveys conducted with more than one surveyor to include at least one registered nurse, and provides that each SA must establish a dedicated toll-free hotline to collect, maintain, and update information on hospice programs and to receive complaints.

The provisions in the CAA 2021 also direct the Secretary to create a Special Focus Program (SFP) for poor-performing hospice programs, sets out authority for imposing enforcement remedies for noncompliant hospice programs, and requires the development and implementation of a range of remedies as well as procedures for appealing determinations regarding these remedies. These remedies can be imposed instead of, or in addition to, termination of the hospice programs' participation in the Medicare program. The remedies include civil money penalties (CMPs), suspension of all or part of payments, and appointment of temporary management to oversee operations.

In the CY 2022 Home Health Prospective Payment System (HH PPS) final rule (86 FR 62240), we addressed provisions related to the hospice survey enforcement and other activities described in this section. A summary of the finalized CAA provisions can be found in the CY 2022 HH PPS final rule: *https://www.govinfo.gov/content/pkg/FR-2021-11-09/pdf/2021-23993.pdf.* We finalized all the CAA provisions in CY 2022 rulemaking except for the special focus program (SFP). As outlined in the CY 2022 HH PPS final rule, we stated that we would take into account comments that we received and work on a revised proposal, seeking additional collaboration with stakeholders to further develop the methodology for the SFP Since the publication of the CY 2022 HH PPS final rule, we have decided to initiate a hospice Technical Expert Panel (TEP) in CY 2022. Accordingly, CMS plans to use the TEP findings to further develop a proposal on the methodology for establishing the hospice SFP, and we plan to include a proposal implementing a SFP in the FY 2024 Hospice rulemaking proposed rule.

IV. Response to Comments

Because of the large number of public comments, we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

V. Collection of Information

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

VI. Regulatory Impact Analysis

A. Statement of Need

This proposed rule meets the requirements of our regulations at § 418.306(c) and (d), which require annual issuance, in the **Federal Register**, of the hospice wage index based on the most current available CMS hospital wage data, including any changes to the definitions of CBSAs or previously used MSAs, as well as any

changes to the methodology for determining the per diem payment rates. This proposed rule would also update payment rates for each of the categories of hospice care, described in § 418.302(b), for FY 2023 as required under section 1814(i)(1)(C)(ii)(VII) of the Act. The payment rate updates are subject to changes in economy-wide productivity as specified in section 1886(b)(3)(B)(xi)(II) of the Act. Lastly, section 3004 of the Affordable Care Act amended the Act to authorize a quality reporting program for hospices, and this rule does not change the requirements for the HQRP in accordance with section 1814(i)(5) of the Act.

B. Overall Impacts

We estimate that the aggregate impact of the payment provisions in this proposed rule would result in an estimated increase of $580 million in payments to hospices, resulting from the hospice payment update percentage of 2.7 percent for FY 2023. The impact analysis of this proposed rule represents the projected effects of the changes in hospice payments from FY 2022 to FY 2023. Using the most recent complete data available at the time of rulemaking, in this case FY 2021 hospice claims data as of January 21, 2022, we apply the current FY 2022 wage index with the current labor shares. Using the same FY 2021 data, we apply the FY 2023 wage index and the current labor share values to simulate FY 2022 payments. We then apply a budget neutrality adjustment so that the aggregate simulated payments do not increase or decrease due to changes in the wage index.

Certain events may limit the scope or accuracy of our impact analysis, because such an analysis is susceptible to forecasting errors due to other changes in the forecasted impact time period. The nature of the Medicare program is such that the changes may interact, and the complexity of the interaction of these changes could make it difficult to predict accurately the full scope of the impact upon hospices.

We have examined the impacts of this rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), and the Congressional Review Act (5 U.S.C. 804(2)).

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). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule: (1) (Having an annual effect on the economy of $100 million or more in any 1 year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities (also referred to as ''economically significant''); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). We estimate that this rulemaking is ''economically significant'' as measured by the $100 million threshold, and hence also a major rule under the Congressional Review Act. Accordingly, we have prepared a RIA that, to the best of our ability presents the costs and benefits of the rulemaking.

C. Detailed Economic Analysis

1. Proposed Hospice Payment Update for FY 2023

The FY 2023 hospice payment impacts appear in Table 10. We tabulate the resulting payments according to the classifications (for example, provider type, geographic region, facility size), and compare the difference between current and future payments to determine the overall impact. The first column shows the breakdown of all hospices by provider type and control (non-profit, for-profit, government, other), facility location, facility size. The second column shows the number of hospices in each of the categories in the first column. The third column shows the effect of using the FY 2023 updated wage index data with a 5-percent cap on wage index decreases. This represents the effect of moving from the FY 2022 hospice wage index to the FY 2023 hospice wage index with a 5-percent cap on wage index decreases. The aggregate impact of the changes in column three is zero percent, due to the hospice wage index standardization factor. However, there are distributional effects of the FY 2023 hospice wage index. The fourth column shows the effect of the hospice payment update percentage as mandated by section 1814(i)(1)(C) of the Act, and is consistent for all providers. The proposed hospice payment update percentage of 2.7 percent is based on the proposed 3.1 percent inpatient hospital market basket update, reduced by a proposed 0.4 percentage point productivity adjustment. The fifth column shows the effect of all the proposed changes on FY 2023 hospice payments. It is projected aggregate payments would increase by 2.7 percent; assuming hospices do not change their billing practices. As illustrated in Table 10, the combined effects of all the proposals vary by specific types of providers and by location. We note that simulated payments are based on utilization in FY 2021 as seen on Medicare hospice claims (accessed from the CCW in January 21, 2022) and only include payments related to the level of care and do not include payments related to the service intensity add-on.

As illustrated in Table 10, the combined effects of all the proposals vary by specific types of providers and by location.

TABLE 10—PROJECTED IMPACT TO HOSPICES FOR FY 2023

Hospice subgroup	Hospices	FY 2023 updated wage data ≤with cap	FY 2023 proposed hospice payment update (%)	Overall total impact for FY 2023
All Hospices	5,186	0.0%	2.7%	2.7%
Hospice Type and Control:				
Freestanding/Non-Profit	581	−0.1	2.7	2.6
Freestanding/For-Profit	3,508	0.1	2.7	2.8
Freestanding/Government	42	0.1	2.7	2.8
Freestanding/Other	352	−0.1	2.7	2.6
Facility/HHA Based/Non-Profit	347	−0.2	2.7	2.5
Facility/HHA Based/For-Profit	200	−0.1	2.7	2.6
Facility/HHA Based/Government	79	−0.1	2.7	2.6
Facility/HHA Based/Other	77	−0.3	2.7	2.4
Subtotal: Freestanding Facility Type	4,483	0.0	2.7	2.7
Subtotal: Facility/HHA Based Facility Type	703	−0.2	2.7	2.5
Subtotal: Non-Profit	928	−0.1	2.7	2.6
Subtotal: For Profit	3,708	0.1	2.7	2.8
Subtotal: Government	121	0.0	2.7	2.7
Subtotal: Other	429	−0.1	2.7	2.6
Hospice Type and Control: Rural:				
Freestanding/Non-Profit	132	−0.1	2.7	2.6
Freestanding/For-Profit	351	0.0	2.7	2.7
Freestanding/Government	24	−0.6	2.7	2.1
Freestanding/Other	49	0.0	2.7	2.7
Facility/HHA Based/Non-Profit	135	−0.2	2.7	2.5
Facility/HHA Based/For-Profit	47	−0.7	2.7	2.0
Facility/HHA Based/Government	62	−0.2	2.7	2.5
Facility/HHA Based/Other	46	−0.1	2.7	2.6
Facility Type and Control: Urban:				
Freestanding/Non-Profit	449	−0.1	2.7	2.6
Freestanding/For-Profit	3,157	0.1	2.7	2.8
Freestanding/Government	18	0.3	2.7	3.0
Freestanding/Other	303	-0.1	2.7	2.6
Facility/HHA Based/Non-Profit	212	−0.2	2.7	2.5
Facility/HHA Based/For-Profit	153	-0.1	2.7	2.6
Facility/HHA Based/Government	17	−0.1	2.7	2.6
Facility/HHA Based/Other	31	−0.3	2.7	2.4
Hospice Location: Urban or Rural:				
Rural	846	−0.1	2.7	2.6
Urban	4,340	0.0	2.7	2.7
Hospice Location: Region of the Country (Census Division):				
New England	149	−0.5	2.7	2.2
Middle Atlantic	282	0.0	2.7	2.7
South Atlantic	588	−0.2	2.7	2.5
East North Central	559	−0.4	2.7	2.3
East South Central	256	−0.1	2.7	2.6
West North Central	410	−0.5	2.7	2.2
West South Central	1,015	0.3	2.7	3.0
Mountain	538	−0.2	2.7	2.5
Pacific	1,340	0.7	2.7	3.4
Outlying	49	−0.3	2.7	2.4
Hospice Size:				
0–3,499 RHC Days (Small)	1,076	0.3	2.7	3.0
3,500–19,999 RHC Days (Medium)	2,457	0.2	2.7	2.9
20,000+ RHC Days (Large)	1,653	0.0	2.7	2.7

Source: FY 2021 hospice claims data from CCW accessed on January 21, 2022.

Note: The overall total impact reflects the addition of the individual impacts, which includes the overall wage index impact of updating the wage data with a 5-percent cap on wage index decreases, as well as the proposed 2.7 percent hospice payment update percentage.

Region Key:
New England=Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.
Middle Atlantic Pennsylvania, New Jersey, New York;
South Atlantic Delaware, District of Columbia, Florida, Georgia, Maryland, North Carolina, South Carolina, Virginia, West Virginia.
East North Central Illinois, Indiana, Michigan, Ohio, Wisconsin.
East South Central Alabama, Kentucky, Mississippi, Tennessee.
West North Central Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota.
West South Central Arkansas, Louisiana, Oklahoma, Texas.
Mountain=Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, Wyoming Pacific= Alaska, California, Hawaii, Oregon, Washington.
Outlying=Guam, Puerto Rico, Virgin Islands.

2. Regulatory Review Cost Estimation

If regulations impose administrative costs on private entities, such as the time needed to read and interpret this proposed rule, we should estimate the cost associated with regulatory review. Due to the uncertainty involved with accurately quantifying the number of entities that will review the rule, we assume that the total number of unique commenters on last year's proposed rule will be the number of reviewers of this proposed rule. We acknowledge that this assumption may understate or overstate the costs of reviewing this proposed rule. It is possible that not all commenters reviewed last year's rule in detail, and it is also possible that some reviewers chose not to comment on the proposed rule. For these reasons we thought that the number of past commenters would be a fair estimate of the number of reviewers of this proposed rule. We welcome any comments on the approach in estimating the number of entities which will review this proposed rule. We also recognize that different types of entities are in many cases affected by mutually exclusive sections of this proposed rule, and therefore for the purposes of our estimate we assume that each reviewer reads approximately 50 percent of the rule. We are soliciting public comments on this assumption.

Using the occupational wage information from the BLS for medical and health service managers (Code 11–9111) from May 2020; we estimate that the cost of reviewing this rule is $114.24 per hour, including overhead and fringe benefits (*https://www.bls.gov/oes/current/oes_nat.htm*). This proposed rule consists of approximately 20,000 words. Assuming an average reading speed of 250 words per minute, it would take approximately 0.67 hours for the staff to review half of it. For each hospice that reviews the rule, the estimated cost is $76.16 (0.67 hours × $114.24). Therefore, we estimate that the total cost of reviewing this regulation is $4,036.48 ($76.16 × 53 reviewers).

D. Alternatives Considered

Since the hospice payment update percentage is determined based on statutory requirements, we only considered not updating hospice payment rates by the payment update percentage. Payment rates since FY 2002 have been updated according to section 1814(i)(1)(C)(ii)(VII) of the Act, which states that the update to the payment rates for subsequent years must be the market basket percentage for that FY. Section 3401(g) of the Affordable Care Act also mandates that, starting with FY 2013 (and in subsequent years), the hospice payment update percentage will be annually reduced by changes in economy-wide productivity as specified in section 1886(b)(3)(B)(xi)(II) of the Act. For FY 2023, since the hospice payment update percentage is determined based on statutory requirements at section 1814(i)(1)(C) of the Act, we cannot consider not updating the hospice payment rates by the hospice payment update percentage, nor can we consider updating the hospice payment rates by the hospice payment update percentage.

E. Accounting Statement

As required by OMB Circular A–4 (available at *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A4/a-4.pdf*), in Table 11, we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of this proposed rule. Table 11 provides our best estimate of the possible changes in Medicare payments under the hospice benefit as a result of the policies in this proposed rule. This estimate is based on the data for 4,957 hospices in our impact analysis file, which was constructed using FY 2021 claims available in January 2022. All expenditures are classified as transfers to hospices.

TABLE 11—ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED TRANSFERS AND COSTS, FROM FY 2022 TO FY 2023

Category	Transfers
Annualized Monetized Transfers.	$ 580 million*.
From Whom to Whom?.	Federal Government to Medicare Hospices.

*The increase of $580 million in transfer payments is a result of the 2.7 percent hospice payment update compared to payments in FY 2022.

F. Regulatory Flexibility Act (RFA)

The RFA requires agencies to analyze options for regulatory relief of small businesses if a rule has a significant impact on a substantial number of small entities. The great majority of hospitals and most other health care providers and suppliers are small entities by meeting the Small Business Administration (SBA) definition of a small business (in the service sector, having revenues of less than $8.0 million to $41.5 million in any 1 year), or being nonprofit organizations.

For purposes of the RFA, we consider all hospices as small entities as that term is used in the RFA. The Department of Health and Human Services practice in interpreting the RFA is to consider effects economically ''significant'' only if greater than 5 percent of providers reach a threshold of 3 to 5 percent or more of total revenue or total costs. The effect of the FY 2023 hospice payment update percentage results in an overall increase in estimated hospice payments of 2.7 percent, or $580 million. The distributional effects of the proposed FY 2023 hospice wage index do not result in a greater than 5 percent of hospices experiencing decreases in payments of 3 percent or more of total revenue. Therefore, the Secretary has determined that this rule will not create a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a MSA and has fewer than 100 beds. This rule will only affect hospices. Therefore, the Secretary has determined that this rule will not have a significant impact on the operations of a substantial number of small rural hospitals (see Table 10).

G. Unfunded Mandates Reform Act (UMRA)

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2022, that threshold is approximately $165 million. This rule is not anticipated to have an effect on state, local, or tribal governments, in the aggregate, or on the private sector of $165 million or more in any 1 year.

H. Federalism

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a

proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on state and local governments, preempts state law, or otherwise has Federalism implications. We have reviewed this rule under these criteria of Executive Order 13132, and have determined that it will not impose substantial direct costs on state or local governments.

I. Conclusion

We estimate that aggregate payments to hospices in FY 2023 will increase by $580 million as a result of the market basket update, compared to payments in FY 2022. We estimate that in FY 2023, hospices in urban areas will experience, on average, a 2.7 percent increase in estimated payments compared to FY 2022; while hospices in rural areas will experience, on average, a 2.6 percent increase in estimated payments compared to FY 2022. Hospices providing services in the Pacific and West South Central regions would experience the largest estimated increases in payments of 3.4 percent and 3.0 percent, respectively. Hospices serving patients in areas in the New England and West North Central regions would experience, on average, the lowest estimated increase of 2.2 percent in FY 2023 payments.

Chiquita Brooks-LaSure, Administrator of the Centers for Medicare & Medicaid Services, approved this document on March 29, 2022.

List of Subjects in 42 CFR Part 418

Health facilities, Hospice care, Medicare, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services proposes to amend 42 CFR part 418 as set forth below.

PART 418—HOSPICE CARE

■ 1. The authority citation for part 418 continues to read as follows:

Authority: 42 U.S.C. 1302 and 1395hh.

■ 2. Section § 418.306 is amended by revising paragraph (c) to read as follows:

§ 418.306 Annual update of the payment rates and adjustment for area wage differences.

* * * * *

(c) *Adjustment for wage differences.* (1) Each hospice's labor market is determined based on definitions of Metropolitan Statistical Areas (MSAs) issued by OMB. CMS will issue annually, in the **Federal Register**, a hospice wage index based on the most current available CMS hospital wage data, including changes to the definition of MSAs. The urban and rural area geographic classifications are defined in § 412.64(b)(1)(ii)(A) through (C) of this chapter. The payment rates established by CMS are adjusted by the Medicare contractor to reflect local differences in wages according to the revised wage data.

(2) Beginning on October 1, 2022, CMS applies a cap on decreases to the hospice wage index such that the wage index applied to a geographic area is not less than 95 percent of the wage index applied to that geographic area in the prior fiscal year.

* * * * *

Dated: March 29, 2022.

Xavier Becerra,

Secretary, Department of Health and Human Services.

[FR Doc. 2022–07030 Filed 3–30–22; 4:15 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–HQ–ES–2020–0100; FF09E21000 FXES1111090FEDR 223]

RIN 1018–BE92

Endangered and Threatened Wildlife and Plants; Endangered Species Status for Amur Sturgeon

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of public comment period and announcement of public hearing.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are reopening the public comment period on our August 25, 2021, proposed rule to list the Amur sturgeon (*Acipenser schrenckii*), a fish species from the Amur River basin in Russia and China, as an endangered species under the Endangered Species Act of 1973, as amended (Act). We are taking this action to conduct a public hearing on the petition to list the Amur sturgeon. Comments previously submitted need not be resubmitted and will be fully considered in preparation of the final rule.

DATES:

Comment submission: The public comment period on the proposed rule that published on August 25, 2021, at 86 FR 47457 is reopened. We will accept comments received or postmarked on or before May 4, 2022. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date, and comments submitted by U.S. mail must be postmarked by that date to ensure consideration.

Public hearing: On April 19, 2022, we will hold a public hearing on the proposed rule to list the Amur sturgeon under the Act from 6:00 to 7:30 p.m. Eastern Time, using the Zoom platform (for more information, see Public Hearing, below).

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

(1) *Electronically:* Go to the Federal eRulemaking Portal: *https://www.regulations.gov.* In the Search box, enter FWS–HQ–ES–2020–0100, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the Search panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this document. You may submit a comment by clicking on ''Comment.''

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS–HQ–ES–2020–0100, U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments only by the methods described above. We will post all comments on *https://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Public Comments, below, for more information).

Document availability: The proposed rule and supporting documents, including the species status assessment report, are available at *https://www.regulations.gov* under Docket No. FWS–HQ–ES–2020–0100.

Public hearing: Interested parties may present verbal testimony (formal, oral comments) at a public hearing, which will be held virtually using the Zoom platform. See Public Hearing, below, for more information.

FOR FURTHER INFORMATION CONTACT: Elizabeth Maclin, Chief, Branch of Delisting and Foreign Species, Ecological Services, U.S. Fish and Wildlife Service, MS: ES, 5275 Leesburg Pike, Falls Church, VA 22041–3803; telephone, 703–358–2171. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States

should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Background

On August 25, 2021, we published a proposed rule (86 FR 47457) to list Amur sturgeon as an endangered species under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). The proposed rule opened a 60-day public comment period, ending October 25, 2021. During the open comment period, we received a request for a public hearing on the proposed rule. Therefore, we are announcing a public hearing and a reopening of the comment period (see **DATES**, above) to allow the public an additional opportunity to provide comments on the proposed rule to list the Amur sturgeon.

For a description of previous Federal actions concerning the Amur sturgeon and information on the types of comments that would be helpful to us in promulgating this rulemaking action, please refer to the August 25, 2021, proposed rule (86 FR 47457).

Public Hearing

We are holding a public hearing to accept comments on the proposed rule to list the Amur sturgeon on the date and at the time listed in **DATES**. We are holding the public hearing via the Zoom online video platform and via teleconference so that participants can attend remotely. For security purposes, registration is required. All participants must register in order to listen and view the hearing via Zoom, listen to the hearing by telephone, or provide oral public comments at the hearing by Zoom or telephone. For information on how to register, or if technical problems occur joining Zoom on the day of the hearing, visit *https://www.fws.gov/event/public-hearing-proposed-listing-amur-sturgeon.*

Registrants will receive the Zoom link and the telephone number for the public hearing. If applicable, interested members of the public not familiar with the Zoom platform should view the Zoom video tutorials (*https://support.zoom.us/hc/en-us/articles/206618765-Zoom-video-tutorials*) prior to the public hearing.

The public hearing will provide interested parties an opportunity to present verbal testimony (formal, oral comments) regarding the August 25, 2021, proposed rule to list the Amur sturgeon as an endangered species (86 FR 47457). The public hearing will not be an opportunity for dialogue with the Service, but rather a forum for accepting formal verbal testimony. In the event there is a large attendance, the time allotted for oral statements may be limited. Therefore, anyone wishing to make an oral statement at the public hearing for the record is encouraged to provide a prepared written copy of their statement to us through the Federal eRulemaking Portal or U.S. mail (see **ADDRESSES**, above). There are no limits on the length of written comments submitted to us. Anyone wishing to make an oral statement at the public hearing must register before the hearing (*https://www.fws.gov/event/public-hearing-proposed-listing-amur-sturgeon*). The use of a virtual public hearing is consistent with our regulations at 50 CFR 424.16(c)(3).

Reasonable Accommodation

The Service is committed to providing access to the public hearing for all participants. Closed captioning will be available during the public hearing. Further, a full audio and video recording and transcript of the public hearing will be posted online at *https://www.fws.gov/event/public-hearing-proposed-listing-amur-sturgeon* after the hearing. Participants will also have access to live audio during the public hearing via their telephone or computer speakers. Persons with disabilities requiring reasonable accommodations to participate in the meeting and/or hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** at least 5 business days prior to the date of the meeting and hearing to help ensure availability. An accessible version of the Service's public informational meeting presentation will also be posted online at *https://www.fws.gov/event/public-hearing-proposed-listing-amur-sturgeon* prior to the meeting and hearing (see **DATES**, above). See *https://www.fws.gov/event/public-hearing-proposed-listing-amur-sturgeon* for more information about reasonable accommodation.

Public Comments

If you submit information via *https://www.regulations.gov,* your entire submission—including your personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *https://www.regulations.gov.*

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rule, will be available for public inspection on *https://www.regulations.gov.*

Authors

The primary authors of this document are the staff members of the Branch of Delisting and Foreign Species, Ecological Services Program.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Martha Williams,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2022–07064 Filed 4–1–22; 8:45 am]

BILLING CODE 4333–15–P

Notices

Federal Register
Vol. 87, No. 64
Monday, April 4, 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

Submission for OMB Review; Notice of Request for Emergency Approval

In compliance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the Department of Agriculture (USDA) has submitted a request to the Office of Management and Budget (OMB) for a six-month emergency approval of the following information collection: ICR 0578–NEW, Urban Agriculture and Innovative Production (UAIP). The requested approval would enable the implementation for NRCS to collect the necessary information to accept and review proposals and manage agreements for the FY22 Urban Agriculture and Innovative Production (UAIP) Grant Program.

Natural Resources Conservation Service (NRCS)

Title: Urban Agriculture and Innovative Production (UAIP) Grant Program.

OMB Control Number: 0578–NEW.

Summary of Collection: The Natural Resources Conservation Service (NRCS) is requesting emergency clearance and review through 5 CFR 1320.13 for a new information collection for the Urban Agriculture and Innovative Production (UAIP) Grant Program. The NRCS is using funds provided by the American Rescue Plan of 2021 (Pub. L. 117–2) to assist local units of government in implementing projects that improve access to local foods in areas where access to fresh, healthy food is limited or unavailable.

Dated: March 29, 2022.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2022–06947 Filed 4–1–22; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Notice of Request for Emergency Approval

In compliance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the Department of Agriculture (USDA) has submitted a request to the Office of Management and Budget (OMB) for a six-month emergency approval of the following information collection: ICR 0578–NEW, Composting and Food Waste Reduction (CFWR) Cooperative Agreement Program. The requested approval would enable NRCS to carry out pilot projects under which local units of government, schools, and tribal communities enter into cooperative agreements to develop and test strategies for planning and implementing municipal composting plans and food waste reduction plans.

Natural Resources Conservation Service (NRCS)

Title: Composting and Food Waste Reduction (CFWR) Cooperative Agreements.

OMB Control Number: 0578–NEW.

Summary of Collection: The Natural Resources Conservation Service (NRCS) is requesting emergency clearance and review through 5 CFR 1320.13 for a new information collection for the NRCS is using CFWR funds provided by the American Rescue Plan of 2021 (Pub. L. 117–2) to assist local units of government, schools, and tribal communities in implementing projects that help their communities generate compost, improve soil quality, and reduce food waste.

Dated: March 29, 2022.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2022–06952 Filed 4–1–22; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

[Docket ID FSA–2022–0004]

Notice of Funds Availability; Emergency Livestock Relief Program (ELRP)

AGENCY: Farm Service Agency, USDA.

ACTION: Notification of funding availability.

SUMMARY: The Farm Service Agency (FSA) is issuing this notice announcing the new Emergency Livestock Relief Program (ELRP). This document provides the eligibility requirements and payment calculation for the first phase of ELRP assistance, which will provide payments to producers who faced increased supplemental feed costs as a result of forage losses due to a qualifying drought or wildfire in calendar year 2021 using data already submitted to FSA through the Livestock Forage Disaster Program (LFP).

DATES: *Funding availability:* Implementation will begin April 4, 2022.

FOR FURTHER INFORMATION CONTACT: Kimberly Graham; telephone: (202) 720–6825; email: *Kimberly.Graham@usda.gov.* Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice) or (844) 433–2774 (toll-free nationwide).

SUPPLEMENTARY INFORMATION:

Background

The Extending Government Funding and Delivering Emergency Assistance Act, (Division B, Title I, Pub. L. 117–43) provides $10 billion for necessary expenses related to losses of crops (including milk, on-farm stored commodities, crops prevented from planting in 2020 and 2021, and harvested adulterated wine grapes), trees, bushes, and vines, as a consequence of droughts, wildfires, hurricanes, floods, derechos, excessive heat, winter storms, freeze, including a polar vortex, smoke exposure, quality losses of crops, and excessive moisture occurring in calendar years 2020 and 2021. From the $10 billion, the Secretary of Agriculture is to use $750 million to assist producers of livestock for losses incurred during calendar year 2021 due to qualifying droughts or wildfires. The livestock producers who suffered losses due to drought are eligible for assistance if any area within the county in which the loss occurred was rated by the U.S. Drought Monitor as having a D2 (severe drought) for eight consecutive weeks or a D3 (extreme drought) or higher level of drought intensity during the applicable year.

FSA will assist livestock producers through ELRP. This document provides the eligibility requirements and payment calculation for Phase 1 of ELRP, which will assist eligible livestock producers who faced increased supplemental feed costs as a result of forage losses due to a qualifying drought or wildfire in calendar year 2021. For eligible producers, ELRP Phase 1 will pay for a portion of the increased feed costs in 2021 based on the number of animal units (AU), limited by available grazing acreage, in eligible drought counties. Although payments made under the Livestock Forage Disaster Program (LFP) do not have a direct correlation to the increased feed costs incurred, in order to deliver this assistance quickly, for Phase 1, FSA is using certain LFP data and a percentage of the payment made through LFP applications will be used as a proxy for these increased supplemental feed costs to eliminate the requirement for producers to resubmit information for ELRP Phase 1.

According to the US Drought Monitor, more than one-third of the country was categorically in a ''D–2 Severe'' to ''D–3 Exceptional'' drought throughout the entire calendar year 2021. Extreme drought predominately affected areas highly concentrated with rangeland needed for livestock production, therefore drought and wildfire caused economic hardship on producers that were reliant on rangeland, requiring them to purchase supplemental feed at elevated prices to sustain production throughout 2021 and not just during the normal grazing periods. Due to the excessive and expansive drought and wildfires in 2021, livestock participants:

- Suffered extreme grazing losses;
- Incurred related costs to purchase feed in the grazing period, which is limited to a 5-month maximum period under LFP;
- Purchased feed, beyond normal for a drought year, to supplement grazing and to support livestock outside of the grazing period because forage was not available for harvest and storage; and
- Were faced with higher feed costs during 2021 due to less availability of feed resulting from drought severity and feed cost inflation.

LFP provided payments to eligible owners and contract growers of covered livestock who suffered livestock grazing losses due to qualifying drought or fire [1] not to exceed five months during the grazing period based on the documented livestock inventory eligible for LFP. The gross LFP calculated payment represented a 60 percent reimbursement of monthly feed costs for a maximum of 5 months, based on a feed grain equivalent that is calculated according to 7 CFR 1416.207 as specified in 7 U.S.C. 9081(c), which uses the higher of the national average corn price per bushel for the 12- or 24-month period immediately preceding March 1 of the calendar year. Because LFP requires the use of this period, it does not take into account any increases in price paid for supplemental feed during 2021. For LFP, the 2021 monthly value of forage, resulted in an LFP payment rate of $18.71 per month per eligible animal unit for drought and the rate for fire is based on the number of fire-restricted days and was not a single rate.

LFP does not compensate for the increased costs of supplemental feed during 2021 due to drought and wildfires in 2021.

The actual cost of supplemental feed prices, based on corn, alfalfa, and soybean meal, increased substantially in 2021, compared to previous years. Using the Dairy Margin Coverage (DMC) program model for an adequate supplemental feed ratio, the 5-year average (2016 through 2020) cost to maintain 1 AU for one month was $61.28, compared to the actual average cost from January through October, 2021 of $85.68 per month, an increase of 39.82 percent.

The cost of feeding one AU per month increased in 2021 compared to the 5-year average by $24.40 ($85.68 minus $61.28) for livestock producers affected by drought and wildfires, which was not covered by LFP. See Table 1.

TABLE 1—2021 CALCULATED COSTS (DMC MODEL) TO MAINTAIN 1 AU/MONTH

5 Year avg (corn, alfalfa, soybean meal)	2021 cost (corn, alfalfa, soybean meal)	Increase in cost 2021	2021 LFP Payment rate *	ELRP payment percentage	ELRP calculated benefit/month/ eligible AU	% of increased supplemental feed costs in 2021 compensated by ELRP phase 1
$61.28	$85.68	$24.40	$18.71	75	$14.03	57.5
				90	16.84	69.0

* The 2021 LFP payment rate may be adjusted according to LFP provisions in 7 CFR 1416.207 for mitigated livestock and restricted grazed animal units due to a qualifying fire.

The ELRP Phase 1 calculated benefit is based on using the LFP payment rate of $18.71 per animal unit per month; calculated as follows:

75% × $18.71 = $14.03 (equivalent to 57.5 percent of increased supplemental feed costs in 2021) and

90% × $18.71 = $16.84 (equivalent to 69 percent of increased supplemental feed costs in 2021).

To stay within the available funding, ELRP Phase 1 payments for increased supplemental feed costs in 2021 are 90 percent of the gross LFP calculated payment for historically underserved farmers and ranchers and 75 percent of the gross LFP calculated payment for all other producers, which equates to 57.5 percent and 69 percent, respectively, of the estimated increases in supplemental feed costs in 2021 for eligible producers.

Because FSA is using LFP information to generate a reasonable approximation for the costs covered by ELRP Phase 1, no action is required for eligible

[1] A grazing loss due to drought qualifies for LFP only if the grazing loss occurs on land that is native or improved pastureland with permanent vegetative cover or is planted to a crop planted specifically for the purpose of providing grazing for covered livestock, and the land is physically located in a county rated by the U.S. Drought Monitor as having a D2 (severe drought) intensity for at least 8 consecutive weeks or D3 (extreme drought) or D4 (exceptional drought) intensity at any time during the normal grazing period for the specific type of grazing land or pastureland.

A grazing loss due to fire qualifies for LFP only if the grazing loss occurs on rangeland that is managed by a Federal agency and the eligible livestock producer is prohibited by the Federal agency from grazing the normal permitted livestock on the managed rangeland due to a fire.

See 7 CFR 1416.205 for further information on eligible grazing losses under LFP.

producers to receive these payments. FSA is continuing to evaluate the impacts of drought and wildfire in calendar year 2021, and if additional ELRP assistance for livestock producers is necessary, it will be announced as Phase 2 in a subsequent document to be published in the **Federal Register**.

Definitions

The definitions in 7 CFR parts 718, 1400, and 1416 apply to ELRP, except as otherwise provided in this document. The following definitions also apply.

Beginning farmer or rancher means a farmer or rancher who has not operated a farm or ranch for more than 10 years and who materially and substantially participates in the operation. For a legal entity to be considered a beginning farmer or rancher, at least 50 percent of the interest must be beginning farmers or ranchers.

Historically underserved farmer or rancher means a beginning farmer or rancher, limited resource farmer or rancher, socially disadvantaged farmer or rancher, or veteran farmer or rancher.

Income derived from farming, ranching, and forestry operations means income of an individual or entity derived from:

(1) Production of crops, specialty crops, and unfinished raw forestry products;

(2) Production of livestock, aquaculture products used for food, honeybees, and products derived from livestock;

(3) Production of farm-based renewable energy;

(4) Selling (including the sale of easements and development rights) of farm, ranch, and forestry land, water or hunting rights, or environmental benefits;

(5) Rental or lease of land or equipment used for farming, ranching, or forestry operations, including water or hunting rights;

(6) Processing, packing, storing, and transportation of farm, ranch, forestry commodities including renewable energy;

(7) Feeding, rearing, or finishing of livestock;

(8) Payments of benefits, including benefits from risk management practices, crop insurance indemnities, and catastrophic risk protection plans;

(9) Sale of land that has been used for agricultural purposes;

(10) Payments and benefits authorized under any program made available and applicable to payment eligibility and payment limitation rules;

(11) Income reported on Internal Revenue Service (IRS) Schedule F or other schedule used by the person or legal entity to report income from such operations to the IRS;

(12) Wages or dividends received from a closely held corporation, and IC–DISC or legal entity comprised entirely of family members when more than 50 percent of the legal entity's gross receipts for each tax year are derived from farming, ranching, or forestry activities as defined in this part; and

(13) Any other activity related to farming, ranching, and forestry, as determined by the Deputy Administrator for Farm Programs (Deputy Administrator).

LFP means the Livestock Forage Disaster Program under section 1501 of the Agricultural Act of 2014 (7 U.S.C. 9081) and 7 CFR part 1416, subpart C.

Limited resource farmer or rancher means a farmer or rancher who is both of the following:

(1) A person whose direct or indirect gross farm sales did not exceed $179,000 (the amount applicable to the 2021 program year) in each of the 2018 and 2019 calendar years; and

(2) A person whose total household income was at or below the national poverty level for a family of four in each of the same two previous years referenced in paragraph (1) of this definition. Limited resource farmer or rancher status can be determined using a website available through the Limited Resource Farmer and Rancher Online Self Determination Tool through National Resources and Conservation Service at *https://lrftool.sc.egov.usda.gov.*

For an entity to be considered a limited resource farmer or rancher, all members who hold an ownership interest in the entity must meet the criteria in paragraphs (1) and (2) of this definition.

Ownership interest means to have either a legal ownership interest or a beneficial ownership interest in a legal entity. For the purposes of administering ELRP, a person or legal entity that owns a share or stock in a legal entity that is a corporation, limited liability company, limited partnership, or similar type entity where members hold a legal ownership interest and shares in the profits or losses of such entity is considered to have an ownership interest in such legal entity. A person or legal entity that is a beneficiary of a trust or heir of an estate who benefits from the profits or losses of such entity is considered to have a beneficial ownership interest in such legal entity.

Socially disadvantaged farmer or rancher means a farmer or rancher who is a member of a group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities. For entities, at least 50 percent of the ownership interest must be held by individuals who are members of such a group. Socially disadvantaged groups include the following and no others unless approved in writing by the Deputy Administrator:

(1) American Indians or Alaskan Natives;

(2) Asians or Asian-Americans;

(3) Blacks or African Americans;

(4) Hispanics or Hispanic Americans;

(5) Native Hawaiians or other Pacific Islanders; and

(6) Women.

U.S. Drought Monitor is a system for classifying drought severity according to a range of abnormally dry to exceptional drought. It is a collaborative effort between Federal and academic partners, produced on a weekly basis, to synthesize multiple indices, outlooks, and drought impacts on a map and in narrative form. This synthesis of indices is reported by the National Drought Mitigation Center at *http://drought monitor.unl.edu.*

Veteran farmer or rancher means a farmer or rancher who has served in the Armed Forces (as defined in 38 U.S.C. 101(10)[2]) and:

(1) Has not operated a farm or ranch for more than 10 years; or

(2) Has obtained status as a veteran (as defined in 38 U.S.C. 101(2)[3]) during the most recent 10-year period.

For an entity to be considered a veteran farmer or rancher, at least 50 percent of the ownership interest must be held by members who have served in the Armed Forces and meet the criteria in paragraph (1) or (2) of this definition.

Wildfire for ELRP Phase 1 means fire as used in 7 CFR part 1416, subpart C.

Eligible Livestock Producers

Eligible livestock producers for ELRP Phase 1 are producers with an approved 2021 LFP application. For ELRP Phase 1, the eligibility criteria applicable to LFP (7 CFR part 1416, subparts A and C) also applies to ELRP Phase 1, excluding the LFP average adjusted gross income (AGI) limitation. FSA will use livestock inventories, forage acreage, restricted animal units and grazing days due to fire, and drought intensity levels already reported to FSA for the 2021 Livestock Forage Disaster Program Application[4] (on form number CCC–853), to determine eligibility and calculate a ELRP Phase 1 payment, if applicable. Eligible livestock producers are not required to submit an application for ELRP Phase 1; however, they must have the following additional forms on file with FSA within 60-days of ELRP deadline announced by the

[2] The term ''Armed Forces'' means the United States Army, Navy, Marine Corps, Air Force, Space Force, and Coast Guard, including the reserve components.

[3] The term ''veteran'' means a person who served in the active military, naval, air, or space service, and who was discharged or released under conditions other than dishonorable.

[4] As provided in 7 CFR 1416.206 and publicized by FSA, the LFP application deadline for the 2021 program year was January 31, 2022.

Deputy Administrator to be eligible to receive a payment:

- Form AD–2047, Customer Data Worksheet;
- Form CCC–902, Farm Operating Plan for an individual or legal entity as provided in 7 CFR part 1400;
- Form CCC–901, Member Information for Legal Entities (if applicable); and
- A highly erodible land conservation (sometimes referred to as HELC) and wetland conservation certification as provided in 7 CFR part 12 (form AD–1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification) for the ELRP producer and applicable affiliates.

For a producer to be eligible for a payment based on the higher payment rate for eligible historically underserved farmers or ranchers or increased payment limitation as described below, the following must be submitted within 60-days of the ELRP deadline announced by the Deputy Administrator:

- Form CCC–860, Socially Disadvantaged, Limited Resource, Beginning and Veteran Farmer or Rancher Certification, applicable for the 2021 program year [5]; or
- FSA–510, Request for an Exception to the $125,000 Payment Limitation for Certain Programs, accompanied by a certification from a certified public accountant or attorney as to that person or legal entity's certification, for a legal entity and all members of that entity.

Payment Calculation

The ELRP Phase 1 payment will be equal to the eligible livestock producer's gross 2021 LFP calculated payment [6] multiplied by the applicable ELRP payment percentage. The ELRP Phase 1 payment percentage will be 90 percent for historically underserved farmers and ranchers, and 75 percent for all other producers.

For example, a historically underserved eligible livestock producer's gross 2021 LFP calculation payment is $10,000 multiplied by the 90 percent ELRP payment percentage results in an ELRP Phase 1 payment of $9,000. This ELRP payment is intended to represent a reasonable approximation of 69 percent of the increased supplemental feed costs for that producer in 2021.

Form CCC–860, Socially Disadvantaged, Limited Resource, Beginning and Veteran Farmer or Rancher Certification, must be on file with FSA with a certification applicable for the 2021 program year to receive the higher ELRP payment rate of 90 percent.

FSA will issue ELRP Phase 1 payments as 2021 LFP applications are processed and approved. If a producer files the CCC–860 or FSA–510 form and the accompanying certification by the deadline announced by the Deputy Administrator but after their ELRP Phase 1 payment is issued, FSA will recalculate the ELRP Phase 1 payment and issue the additional calculated amount as applicable.

Payment Limitation

The payment limitation for ELRP is determined by the person's or legal entity's average adjusted gross farm income (income derived from farming, ranching, and forestry operations). Specifically, a person or legal entity, other than a joint venture or general partnership, cannot receive, directly or indirectly, more than $125,000 in payments under ELRP if their average adjusted gross farm income is less than 75 percent of their average AGI for tax years 2017, 2018, and 2019. If at least 75 percent of the person or legal entity's average AGI is derived from farming, ranching, or forestry related activities and the participant provides the required certification and documentation, as discussed below, the person or legal entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, up to $250,000 in ELRP payments. The relevant tax years for establishing a producer's AGI and percentage derived from farming, ranching, or forestry related activities for ELRP are 2017, 2018, and 2019. To receive more than $125,000 in ELRP payments, producers must submit form FSA–510, accompanied by a certification from a certified public accountant or attorney as to that person or legal entity's certification. If a producer requesting the $250,000 payment limitation is a legal entity, all members of that entity must also complete FSA–510 and provide the required certification according to the direct attribution provisions in 7 CFR 1400.105, ''Attribution of Payments.'' If a legal entity would be eligible for the $250,000 payment limitation based on the legal entity's average AGI from farming, ranching, or forestry related activities but a member of that legal entity either does not complete an FSA–510 and provide the required certification or is not eligible for the $250,000 payment limitation, the payment to the legal entity will be reduced for the limitation applicable to the share of the ELRP payment attributed to that member.

A payment made to a legal entity will be attributed to those members who have a direct or indirect ownership interest in the legal entity unless the payment of the legal entity has been reduced by the proportionate ownership interest of the member due to that member's ineligibility.

Attribution of payments made to legal entities will be tracked through four levels of ownership in legal entities as follows:

- First level of ownership: Any payment made to a legal entity that is owned in whole or in part by a person will be attributed to the person in an amount that represents the direct ownership interest in the first-level or payment legal entity;
- Second level of ownership: Any payment made to a first-level legal entity that is owned in whole or in part by another legal entity (referred to as a second-level legal entity) will be attributed to the second-level legal entity in proportion to the ownership of the second-level legal entity in the first-level legal entity; if the second-level legal entity is owned in whole or in part by a person, the amount of the payment made to the first-level legal entity will be attributed to the person in the amount that represents the indirect ownership in the first-level legal entity by the person;
- Third and fourth levels of ownership: Except as provided in the second-level of ownership bullet above and in the fourth-level of ownership bullet below, any payments made to a legal entity at the third and fourth levels of ownership will be attributed in the same manner as specified in the second level of ownership bullet above; and
- Fourth level of ownership: If the fourth level of ownership is that of a legal entity and not that of a person, a reduction in payment will be applied to the first-level or payment legal entity in the amount that represents the indirect ownership in the first-level or payment legal entity by the fourth-level legal entity.

[5] A producer who has filed CCC–860 certifying their status as a socially disadvantaged, beginning, or veteran farmer or rancher for a prior program year is not required to submit a subsequent certification of their status for the 2021 program year because a producer's status as socially disadvantaged would not change in different years, and their certification as a beginning or veteran farmer or rancher includes the relevant date needed to determine for what programs years the status would apply. Because a producer's status as a limited resource farmer or rancher may change annually depending on the producer's direct and indirect gross farm sales, those producers must submit CCC–860 for each applicable program year.

[6] The gross LFP calculated payment is the amount calculated according to 7 CFR 1416.207, prior to any payment reductions for reasons including, but not limited to, sequestration, payment limitation, and the applicant or member of an applicant that is an entity exceeding the average AGI limitation.

Payments made directly or indirectly to a person who is a minor child will not be combined with the earnings of the minor's parent or legal guardian.

A producer that is a legal entity must provide the names, addresses, ownership share, and valid taxpayer identification numbers of the members holding an ownership interest in the legal entity. Payments to a legal entity will be reduced in proportion to a member's ownership share when a valid taxpayer identification number for a person or legal entity that holds a direct or indirect ownership interest, at the first through fourth levels of ownership in the business structure, is not provided to FSA.

If an individual or legal entity is not eligible to receive ELRP payments due to the individual or legal entity failing to satisfy payment eligibility provisions, the payment made either directly or indirectly to the individual or legal entity will be reduced to zero. The amount of the reduction for the direct payment to the producer will be commensurate with the direct or indirect ownership interest of the ineligible individual or ineligible legal entity. Like other programs administered by FSA, payments made to an Indian Tribe or Tribal organization, as defined in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304), will not be subject to payment limitation.

Provisions Requiring Refund to FSA

In the event that any ELRP Phase 1 payment resulted from erroneous information reported by the producer or if the producer's 2021 LFP payment is recalculated after the ELRP Phase 1 payment is issued, the ELRP Phase 1 payment will be recalculated, and the producer must refund any excess payment to FSA, including interest to be calculated from the date of the disbursement to the producer. If FSA determines that the producer intentionally misrepresented information used to determine the producer's ELRP Phase 1 payment amount, the application will be disapproved and the producer must refund the full payment to FSA with interest from the date of disbursement. Any required refunds must be resolved in accordance with debt settlement regulations in 7 CFR part 3.

General Provisions

General requirements that apply to other FSA-administered commodity programs also apply to ELRP, including compliance with the provisions of 7 CFR part 12, ''Highly Erodible Land and Wetland Conservation,'' and the provisions of 7 CFR 718.6, which address ineligibility for benefits for offenses involving controlled substances. Appeal regulations in 7 CFR parts 11 and 780 and equitable relief and finality provisions in 7 CFR part 718, subpart D, apply to determinations under ELRP. The determination of matters of general applicability that are not in response to, or result from, an individual set of facts are not matters that can be appealed. Such matters of general applicability include, but are not limited to, the ELRP Phase 1 eligibility criteria and payment calculation.

Participants are required to retain documentation in support of their application for 3 years after the date of approval. Participants receiving ELRP payments or any other person who furnishes such information to USDA must permit authorized representatives of USDA or the Government Accountability Office, during regular business hours, to enter the agricultural operation and to inspect, examine, and to allow representatives to make copies of books, records, or other items for the purpose of confirming the accuracy of the information provided by the participant.

The Deputy Administrator has the discretion and authority to waive or modify filing deadlines and other requirements or program provisions not specified in law, in cases where the Deputy Administrator determines it is equitable to do so and where the Deputy Administrator finds that the lateness or failure to meet such other requirements or program provisions do not adversely affect the operation of ELRP. Although producers have a right to a decision on whether they filed applications by the deadline or not, producers have no right to a decision in response to a request to waive or modify deadlines or program provisions. The Deputy Administrator's refusal to exercise discretion to consider the request will not be considered an adverse decision and is, by itself, not appealable.

Any payment under ELRP will be made without regard to questions of title under State law and without regard to any claim or lien. The regulations governing offsets in 7 CFR part 3 apply to ELRP payments.

In either applying for or participating in ELRP, or both, the producer is subject to laws against perjury and any penalties and prosecution resulting therefrom, with such laws including but not limited to 18 U.S.C. 1621. If the producer willfully makes and represents as true any verbal or written declaration, certification, statement, or verification that the producer knows or believes not to be true, in the course of either applying for or participating in ELRP, or both, then the producer is guilty of perjury and, except as otherwise provided by law, may be fined, imprisoned for not more than 5 years, or both, regardless of whether the producer makes such verbal or written declaration, certification, statement, or verification within or outside the United States.

For the purposes of the effect of a lien on eligibility for Federal programs (28 U.S.C. 3201(e)), USDA waives the restriction on receipt of funds under ELRP but only as to beneficiaries who, as a condition of the waiver, agree to apply the ELRP payments to reduce the amount of the judgment lien.

In addition to any other Federal laws that apply to ELRP, the following laws apply: 15 U.S.C. 714; and 18 U.S.C. 286, 287, 371, and 1001.

Paperwork Reduction Act Requirements

In accordance with the Paperwork Reduction Act, the information collection request that supports Emergency Livestock Relief Program (ELRP) was submitted to OMB for emergency approval. OMB approved the 6-month emergency information collection. This new ELRP will be available to the producers up to 6 months only.

Environmental Review

The environmental impacts have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulation for compliance with NEPA (7 CFR part 799).

As previously stated, ELRP Phase 1 is providing payments to eligible livestock producers who faced increased supplemental feed costs as a result of forage losses due to a qualifying drought or wildfire in calendar year 2021. The limited discretionary aspects of ELRP do not have the potential to impact the human environment as they are administrative. Accordingly, these discretionary aspects are covered by the FSA Categorical Exclusions specified in § 799.31(b)(6)(iv) that applies to individual farm participation in FSA programs where no ground disturbance or change in land use occurs as a result of the proposed action or participation; and § 799.31(b)(6)(vi) that applies to safety net programs.

No Extraordinary Circumstances (§ 799.33) exist. As such, the implementation of ELRP and the

participation in ELRP do not constitute major Federal actions that would significantly affect the quality of the human environment, individually or cumulatively. Therefore, FSA will not prepare an environmental assessment or environmental impact statement for this action and this document serves as documentation of the programmatic environmental compliance decision for this federal action.

Federal Assistance Programs

The title and number of the Federal assistance programs, as found in the Assistance Listing [7] (formerly referred to as the Catalog of Federal Domestic Assistance), to which this document applies is 10.148—Emergency Livestock Relief Program.

USDA Non-Discrimination Policy

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family or parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (for example, braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA TARGET Center at (202) 720–2600 or 844–433–2774 (toll-free nationwide). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint* and at any USDA office or write a letter addressed to USDA and provide in the letter all the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by mail to: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410 or email: *OAC@usda.gov.*

USDA is an equal opportunity provider, employer, and lender.

Zach Ducheneaux,

Administrator, Farm Service Agency.

[FR Doc. 2022–06950 Filed 4–1–22; 8:45 am]

BILLING CODE 3410–05–P

[7] See *https://sam.gov/content/assistance-listings.*

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Reasons for Underredemption of the WIC Cash-Value Benefit

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This collection is a NEW information collection. This study informs the U.S. Department of Agriculture's Food and Nutrition Service (FNS) about the reasons behind underredemption of the cash-value benefit (CVB) issued to participants in the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). In particular, the American Rescue Plan Act of 2021 (ARPA), which was signed into law in March 2021, included provisions allowing the USDA to temporarily increase the CVV/B for certain food packages through September 30, 2021. This increased CVB amount may reduce barriers to full utilization of the benefit. FNS is particularly interested in how State agency policies and practices as well as the temporary benefit increase affects CVB redemption rates.

DATES: Written comments must be received on or before June 3, 2022.

ADDRESSES: Comments may be sent to Ruth Morgan, Food and Nutrition Service, U.S. Department of Agriculture, 1320 Braddock Place, Alexandria, VA 22314. Comments may also be submitted via fax to the attention of Ruth Morgan at 703–305–2576 or via email at *ruth.morgan@usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Ruth Morgan at 703–457–7759.

SUPPLEMENTARY INFORMATION: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: Reasons for Underredemption of the WIC Cash-Value Benefit.

Form Number: N/A.

OMB Number: Not Yet Assigned.

Expiration Date: Not Yet Determined.

Type of Request: New Collection.

Abstract: The Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) provides nutritious supplemental foods, healthcare referrals, breastfeeding support, and nutrition education to low-income pregnant, breastfeeding, and postpartum women, infants and children up to age 5 who are at nutritional risk. A Final Rule, Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Revisions in the WIC Food Packages, was published in the **Federal Register** on March 4, 2014 (79 FR 12274) that revised the WIC food packages to add a monthly cash-value benefit (CVB) for the purchase of fruits and vegetables. This rule also detailed specific provisions for the value of the CVB, the types of fruits and vegetables authorized, and other State options for providing this benefit. Recent studies have estimated that redemption rates for CVBs range from 73 percent to 77 percent; [1] [2] however, the reasons for

[1] Phillips, D., Bell, L., Morgan, R., & Pooler, J. (2014). *Transition to EBT in WIC: Review of impact and examination of participant redemption patterns: Final report.* Retrieved from *https://altarum.org/sites/default/files/uploaded-publication-files/Altarum_Transition%20to%20WIC%20EBT_Final%20Report_071614.pdf.*

[2] National Academies of Sciences, Engineering, and Medicine. (2017). *Review of WIC food*

underredemption of this benefit have not been fully explored. FNS has funded this study to determine the barriers to CVB redemption and the effects of State agency policies, practices, and other factors on CVB redemption rates.

There are a variety of WIC State agency policies and practices that may contribute to CVB underredemption, including but not limited to: Vendor authorization and selection policies, the forms of fruits and vegetables allowed, vendor minimum stocking requirements, and participant tools and training available. Other State and household factors may also affect redemption rates, such as geographic access to WIC vendors or household preferences for certain types of fruits and vegetables. In addition, the American Rescue Plan Act of 2021 (ARPA), which was signed into law on March 11, 2021 (Pub. L. 117–2), included provisions allowing the USDA to temporarily increase the CVV/B for certain food packages through September 30, 2021. This provision increased the current monthly amounts from $9 for children and $11 for women to up to $35 monthly.[3] On September 30, 2021, Congress passed Public Law 117–43 (Extending Government Funding and Delivering Emergency Assistance Act) to extend the CVB increase until December 31, 2021. This extension aligned WIC benefit levels with the National Academies of Sciences, Engineering, and Medicine (NASEM) recommendations of $24/month for children, $43/month for pregnant and postpartum participants, and $47/month for breastfeeding participants. On December 2, 2021, Congress passed Public Law 117–70 (Further Extending Government Funding Act) which further extended the CVB benefit at the NASEM-recommended amounts through March 31, 2022.[4] These increased CVB amounts may reduce barriers to full utilization of the benefit. The temporary CVB increase offers a unique opportunity to test whether CVB redemption rates changed after implementation and whether certain State policy and participant-level factors impacted these rate changes.

In order to identify the factors associated with CVB redemption and examine the effects of State agency policies and practices on CVB redemption rates, FNS is conducting a study in 12 States, with more in-depth data collection occurring in 8 of these States. The study will gather data from WIC State agency staff, administrative records, and WIC participants. Administrative record collection will include electronic benefit transfer (EBT) data previously collected from 12 State agencies for the WIC Food Cost Containment Practices study (OMB Number 0584–0627 WIC Food Package Costs and Cost Containment Study, Discontinued 09/30/2020) as well as EBT and certification data from 8 States for a 11-month period during which States implemented the CVB increase in 2021–2022. EBT data will be used to calculate rates in each of the 12 study State agencies and, in conjunction with the policy data, will be used to assess the ways in which redemption rates vary with differences in policies and practices. Participant and State agency staff interviews in 8 of the 12 States will be used to understand the factors that are most salient to participants in making decisions about purchasing fruits and vegetables with their CVB and barriers to redemption.

Affected Public: (1) State, local, and tribal governments; (2) nonprofits; and (3) individuals/households. Identified respondent groups include the following:

1. *State, local, and tribal governments:* State agency staff and database administrators in eight States, local agency staff at twelve local agencies, and clinic staff at twelve clinics.

2. *Nonprofits:* Staff at four local agencies and four WIC clinics.[5]

3. *Individuals:* WIC participants in eight study States.

Estimated Number of Respondents: The total estimated number of respondents is 625 (40 State and local government staff, 8 nonprofit staff, and 577 individuals). Of the 625 respondents to be contacted, 505 are expected to be responsive, and 120 are expected to be nonresponsive. The breakout follows:

1. *40 State and local government staff:* Of 16 State agency staff to be contacted across 8 States, 16 are expected to be responsive; of 12 local agency staff contacted across 12 local agencies, 12 are expected to be responsive; of 12 clinic staff contacted across 12 clinics, 12 are expected to be responsive.

2. *8 nonprofit staff:* Of 4 local agency staff contacted across 4 local agencies, 4 are expected to be responsive; of 4 clinic staff to be contacted across 4 clinics, 4 are expected to be responsive.

3. *577 individuals:* 9 individuals are expected to participate in a pretest. Of 577 individuals to be contacted for the main study, 457 are expected to be responsive, with 120 non-responsive.

Estimated Number of Responses per Respondent: 4.01across the entire collection. This is based on the estimated 2,505 total annual responses (2,225 responsive and 280 nonresponsive) to be made by the 625 respondents. See table 1 for the estimated number of responses per respondent for each type of respondent. The breakout follows:

1. *WIC State agency staff:* Eight WIC State agency staff will be asked to complete one semi-structured telephone interview each. Prior to interviews, State agency staff will receive advance communications about the study (a letter and FAQ sheet); the same State agency staff will receive a recruitment email and take part in a recruitment call.

2. *Database administrator:* Database administrators from each of the eight State agencies will be asked to respond to the EBT and certification data requests.

3. *WIC local agency staff (including state, local, and tribal governments and non-profits):* 16 WIC local agency staff (12 from State, local, or tribal government and 4 from non-profits) will be asked to assist with coordination of WIC participant recruitment for the study. These 16 WIC local agency staff will receive advance communications about the study (a letter and FAQ sheet); the same WIC local agency staff will receive a recruitment email and take part in a recruitment call.

4. *WIC clinic staff (including state, local, and tribal governments and non-profits):* 16 WIC clinic staff (12 from State, local, or tribal government and 4 from non-profits) will be asked to assist with coordination of WIC participant recruitment for the study. These 16 WIC clinic staff will receive advance communications about the study (a letter and FAQ sheet); the same WIC clinic staff will receive a recruitment email and take part in a recruitment call.

5. *Individuals (WIC participants):* The estimated total number of responses per all of the individuals (WIC participants) in the study is 4.0. In total, nine

packages: Improving balance and choice: Final report. Washington, DC: The National Academies Press. DOI: *https://doi.org/10.17226/23655.*

[3] USDA FNS (2021). WIC Policy Memorandum #2021–3: State Agency Option to Temporarily Increase the Cash-Value Voucher/Benefit for Fruit and Vegetable Purchases. Retrieved from: *https://www.fns.usda.gov/wic/policy-memorandum-2021-3.*

[4] USDA FNS (2021). WIC Policy Memorandum #2022–2: Extending the Temporary Increase in the Cash-Value Voucher/Benefit. Retrieved from: *https://www.fns.usda.gov/wic/policy-memo-2022-2-extending-temporary-increase-cash-value-voucher-benefit.*

[5] Local agencies and clinics may be either government or nonprofit organizations. It is assumed that no contacted local agencies or clinics will refuse to participate.

individuals will participate in a pretest. 568 individuals will receive a study brochure; of these, 448 are expected to participate in an eligibility screener for a telephone interview. Of the 328 who are eligible to participate, 288 are expected to participate in a telephone interview and complete the consent form. Forty individuals are expected to decline participation and not complete the consent form. All 288 individuals who complete consent forms are expected to participate in the interviews and the demographic survey. A total of 104 individuals are expected to receive reminder calls about participating in a telephone interview. FNS estimates that 120 of the WIC participants will be non-responsive.

Estimated Total Annual Responses: 2,505 (2,225 annual responses for responsive participants and 280 annual responses for nonresponsive participants).

Estimated Time per Response: The estimated average response time is 0.13 hours for all respondents (0.14 hours for responsive participants and 0.05 hours for nonresponsive participants). The estimated time of response varies from 30 seconds (0.0083 hours) to 2.5 hours depending on respondent group and activity, as shown in table 1.

Estimated Total Annual Burden on Respondents: 327.83 hours (313.80 hours for responsive participants, and 14.03 hours for nonresponsive participants). See table 1 for estimated total annual burden for each type of respondent.

TABLE 1—TOTAL PUBLIC BURDEN HOURS AND RESPONDENT COSTS

Respondent category	Type of respondent	Instruments and activities	Sample size	Responsive					Nonresponsive					Grand total annual burden estimate (hours)
				Number of respondents	Frequency of response	Total annual responses	Hours per response	Annual burden (hours)	Number of non-respondents	Frequency of response	Total annual responses	Hours per response	Annual burden (hours)	
State, Local, and Tribal Government														
State, Local, and Tribal Government.	WIC State agency staff.	Advance communications (letter).	8	8	1	8	0.10	0.80	0	0	0	0.00	0.00	0.80
	WIC State agency staff.	Advance communications (FAQ sheet).	8	8	1	8	0.10	0.80	0	0	0	0.00	0.00	0.80
	WIC State agency staff.	Recruitment call.	8	8	1	8	0.75	6.00	0	0	0	0.00	0.00	6.00
	WIC State agency staff.	Reminder email.	8	8	1	8	0.05	0.40	0	0	0	0.00	0.00	0.40
	WIC State agency staff.	Telephone interviews with up to two staff per State.	8	8	1	8	1.00	8.00	0	0	0	0.00	0.00	8.00
	Database administrator.	EBT data ...	8	8	1	8	1.50	12.00	0	0	0	0.00	0.00	12.00
	Database administrator.	Certification data.	8	8	1	8	2.50	20.00	0	0	0	0.00	0.00	20.00
	WIC State agency staff subtotal		16	16	4	56	0.86	48.00	0	0	0	0.00	0.00	48.00
	WIC local agency staff.	Advance communications (letter).	12	12	1	12	0.10	1.20	0	0	0	0.00	0.00	1.20
	WIC local agency staff.	Advance communications (FAQ sheet).	12	12	1	12	0.10	1.20	0	0	0	0.00	0.00	1.20
	WIC local agency staff.	Recruitment call.	12	12	1	12	0.75	9.00	0	0	0	0.00	0.00	9.00
	WIC local agency staff.	Reminder email.	12	12	1	12	0.05	0.60	0	0	0	0.00	0.00	0.60
	WIC local agency staff subtotal		12	12	4	48	0.25	12.01	0	0	0	0.00	0.00	12.01
	Clinic staff	Advance communications (letter).	12	12	1	12	0.10	1.20	0	0	0	0.00	0.00	1.20
	Clinic staff	Advance communications (FAQ sheet).	12	12	1	12	0.10	1.20	0	0	0	0.00	0.00	1.20
	Clinic staff	Recruitment call.	12	12	1	12	0.75	9.00	0	0	0	0.00	0.00	9.00
	Clinic staff	Reminder email.	12	12	1	12	0.05	0.60	0	0	0	0.00	0.00	0.60
	Clinic staff subtotal		12	12	4	48	0.25	12.01	0	0	0	0.00	0.00	12

TABLE 1—TOTAL PUBLIC BURDEN HOURS AND RESPONDENT COSTS—Continued

Respondent category	Type of respondent	Instruments and activities	Sample size	Responsive					Nonresponsive					Grand total annual burden estimate (hours)
				Number of respondents	Frequency of response	Total annual responses	Hours per response	Annual burden (hours)	Number of non-respondents	Frequency of response	Total annual responses	Hours per response	Annual burden (hours)	
State and local government subtotal			40	40	4	152	0.47	72.02	0	0	0	0.00	0.00	72
Nonprofit														
Nonprofit	WIC local agency staff.	Advance communications (letter).	4	4	1	4	0.10	0.40	0	0	0	0.00	0.00	0.40
	WIC local agency staff.	Advance communications (FAQ sheet).	4	4	1	4	0.10	0.40	0	0	0	0.00	0.00	0.40
	WIC local agency staff.	Recruitment call.	4	4	1	4	0.75	3.00	0	0	0	0.00	0.00	3.00
	WIC local agency staff.	Reminder email.	4	4	1	4	0.05	0.20	0	0	0	0.00	0.00	0.20
	WIC local agency staff subtotal		4	4	4	16	0.25	4.00	0	0	0	0.00	0.00	4.00
	Clinic staff	Advance communications (letter).	4	4	1	4	0.10	0.40	0	0	0	0.00	0.00	0.40
	Clinic staff	Advance communications (FAQ sheet).	4	4	1	4	0.10	0.40	0	0	0	0.00	0.00	0.40
	Clinic staff	Recruitment call.	4	4	1	4	0.75	3.00	0	0	0	0.00	0.00	3.00
	Clinic staff	Reminder email.	4	4	1	4	0.05	0.20	0	0	0	0.00	0.00	0.20
	Clinic staff subtotal		4	4	4	16	0.25	4.00	0	0	0	0.00	0.00	4.00
Nonprofit subtotal			8	8	4	32	0.25	8.00	0	0	0	0.00	0.00	8.00
Individuals														
Individuals	WIC participants.	Pretest	9	9	1	9	0.75	6.75	0	0	0	0.00	0.00	6.75
	WIC participants.	Study brochure.	568	448	1	448	0.05	22.44	120	1	120	0.05	6.01	28.46
	WIC participants.	Eligibility screener form.	448	328	1	328	0.05	16.43	120	1	120	0.05	6.01	22.44
	WIC participants.	Reminder call.	104	104	1	104	0.0083	0.86	0	0	0	0.00	0.00	0.86
	WIC participants.	Consent form.	328	288	1	288	0.03	9.62	40	1	40	0.05	2.00	11.62
	WIC participants.	Interview protocol.	288	288	1	288	0.50	144.00	0	0	0	0.00	0.00	144.00
	WIC participants.	Demographic survey.	288	288	1	288	0.07	19.24	0	0	0	0.00	0.00	19.24
	WIC participants.	Thank-you note.	288	288	1	288	0.05	14.43	0	0	0	0.00	0.00	14.43
Individual subtotal			577	457	4.47	2,041	0.11	233.78	120	2.33	280	0.05	14.03	247.81
Total			625	505	4.41	2,225	0.14	313.80	120	2.33	280	0.05	14.03	327.83

Cynthia Long,

Administrator, Food and Nutrition Service.

[FR Doc. 2022–07020 Filed 4–1–22; 8:45 am]

BILLING CODE 3410–30–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Indiana Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Indiana Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a meeting via WebEx on Thursday, April 7, 2022, at 2:00 p.m. Eastern time for the purpose of discussing the concept stage in the planning process and exploring civil right topics for the Committee's project.

DATES: The meeting will take place on Thursday, April 7, 2022, from 2:00 p.m.–3:00 p.m. Eastern time.

Meeting Link (Audio/Visual): https://bit.ly/35aQ6aE.

Telephone (Audio Only): Dial 800–360–9505 USA Toll Free; Access code: 2762 940 4465.

FOR FURTHER INFORMATION CONTACT: Ivy Davis, DFO, at *idavis@usccr.gov* or (202) 376–7533.

SUPPLEMENTARY INFORMATION: Members of the public can listen to these discussions. Committee meetings are available to the public through the above call-in number. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Individuals who are deaf, deafblind and hard of hearing may follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Sarah Villanueva at *svillanueva@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Indiana Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

I. Welcome and Roll Call
II. Introduction
III. Overview of Concept Stage
IV. Discussion: Civil Rights Topics
V. Next Steps
VI. Public Comment
VII. Adjournment

Dated: March 30, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–07042 Filed 4–1–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and opportunity for public comment.

SUMMARY: The Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of the firms contributed importantly to the total or partial separation of the firms' workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[3/14/2022 through 3/23/2022]

Firm name	Firm address	Date accepted for investigation	Product(s)
Caron Engineering, Inc	116 Willie Hill Road, Wells, ME 04090	3/15/2022	The firm manufactures lasers and sensors.
Matthew D. Lawrie (F/V Born Again)	505 Hirst Street, Sitka, AK 99835	3/23/2022	The sole proprietor engages in fishing for shrimp and salmon.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice. These petitions are received pursuant to section 251 of the Trade Act of 1974, as amended.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.8 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Bryan Borlik,

Director.

[FR Doc. 2022–06977 Filed 4–1–22; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–42–2022]

Foreign-Trade Zone 24—Pittston, Pennsylvania Application for Subzone Sandvik Mining and Construction Logistics Limited, Clarks Summit, Pennsylvania

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Eastern Distribution Center, Inc., grantee of FTZ 24, requesting subzone status for the facility of Sandvik Mining and Construction Logistics Limited, located in Clarks Summit, Pennsylvania. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on March 28, 2022.

The proposed subzone (4.5 acres) is located at 1200 Griffin Pond Road, Clarks Summit. No authorization for production activity has been requested at this time. The proposed subzone would be subject to the existing activation limit of FTZ 24.

In accordance with the FTZ Board's regulations, Elizabeth Whiteman of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive

Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is May 16, 2022. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to May 31, 2022.

A copy of the application will be available for public inspection in the ''Online FTZ Information Section'' section of the FTZ Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov.*

Dated: March 29, 2022.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2022–07005 Filed 4–1–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–10–2022]

Foreign-Trade Zone 221—Mesa, Arizona; Application for Reorganization Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the City of Mesa, grantee of FTZ 221, requesting authority to reorganize the zone under the alternative site framework (ASF) adopted by the FTZ Board (15 CFR 400.2(c)). The ASF is an option for grantees for the establishment or reorganization of zones and can permit significantly greater flexibility in the designation of new subzones or ''usage-driven'' FTZ sites for operators/users located within a grantee's ''service area'' in the context of the FTZ Board's standard 2,000-acre activation limit for a zone. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on March 28, 2022.

FTZ 221 was approved by the FTZ Board on April 25, 1997 (Board Order 883, 89 FR 25164, May 8, 1997) and expanded on January 7, 2008 (Board Order 1538, 73 FR 2442, January 15, 2008).

The current zone includes the following site: *Site 1* (2,018 acres)—Phoenix Mesa Gateway Airport, east of Power Road, between Ray and Pecos Roads, Mesa.

The grantee's proposed service area under the ASF would be the City of Mesa, Arizona, as described in the application. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The application indicates that the proposed service area is adjacent to the Phoenix Customs and Border Protection port of entry.

The applicant is requesting authority to reorganize its existing zone to include its existing site as a ''magnet'' site. The ASF allows for the possible exemption of one magnet site from the ''sunset'' time limits that generally apply to sites under the ASF, and the applicant proposes that Site 1 be so exempted. No subzones/usage-driven sites are being requested at this time. The application would have no impact on FTZ 221's previously authorized subzones.

In accordance with the FTZ Board's regulations, Qahira El-Amin of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is June 3, 2022. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to June 21, 2022.

A copy of the application will be available for public inspection in the ''Online FTZ Information Section'' section of the FTZ Board's website, which is accessible via *www.trade.gov/ftz.* For further information, contact Qahira El-Amin at *Qahira.El-Amin@trade.gov.*

Dated: March 29, 2022.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2022–07004 Filed 4–1–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Andrew Estrada, 1402 W Jeff Drive, Pharr, TX 78577–9659; Order Denying Export Privileges

On March 10, 2020, in the U.S. District Court for the Southern District of Texas, Andrew Estrada (''Estrada'') was convicted of violating 18 U.S.C. 554(a). Specifically, Estrada was convicted of fraudulently and knowingly exporting and sending or attempting to export or send from the United States to Mexico, approximately 500 rounds of .38 Super caliber ammunition and two 7.62 x 39 mm drum magazines, in violation of 18 U.S.C. 554. As a result of his conviction, on March 10, 2020, the Court sentenced Estrada to 30 months in prison, three years of supervised release, and a $100 court assessment.

Pursuant to Section 1760(e) of the Export Control Reform Act (''ECRA''),[1] the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 554, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e). In addition, any Bureau of Industry and Security (''BIS'') licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Estrada's conviction for violating 18 U.S.C. 554. As provided in Section 766.25 of the Export Administration Regulations (''EAR'' or the ''Regulations''), BIS provided notice and opportunity for Estrada to make a written submission to BIS. 15 CFR 766.25.[2] BIS has not received a written submission from Estrada.

Based upon my review of the record and consultations with BIS's Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Estrada's export privileges under the Regulations for a period of seven years from the date of Estrada's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Estrada had an interest at the time of his conviction.[3]

Accordingly, it is hereby *ordered*:

First, from the date of this Order until March 10, 2027, Andrew Estrada, with a last known address of 1402 W Jeff Drive, Pharr, TX 78577–9659, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the

[1] ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801–4852.

[2] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2021).

[3] The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders pursuant to recent amendments to the Regulations (85 FR 73411, November 18, 2020).

United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to section 1760(e) of ECRA and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Estrada by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the regulations, Estrada may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the regulations.

Fifth, a copy of this Order shall be delivered to Estrada and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until March 10, 2027.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2022–07045 Filed 4–1–22; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Sergio Eduardo Perez-Barragan, Altamira 411 Poniente, Tampico, Tamaulipas, 89137, Mexico; Order Denying Export Privileges

On May 23, 2019, in the U.S. District Court for the Southern District of Texas, Sergio Eduardo Perez-Barragan (''Perez-Barragan'') was convicted of violating 18 U.S.C. 554(a). Specifically, Perez-Barragan was convicted of fraudulently and knowingly exporting and sending from the United States or attempting to export and sending from the United States, one thousand (1,000) rounds of 9mm ammunition, three hundred and fifty (350) rounds of .380 caliber ammunition, two hundred (200) rounds of .243 caliber ammunition, and twenty (20) rounds of .270 caliber ammunition, in violation of 18 U.S.C. 554. Perez-Barragan was sentenced to 10 months in prison and a $100 assessment.

Pursuant to Section 1760(e) of the Export Control Reform Act (''ECRA''),[1] the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 554, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e) (Prior Convictions). In addition, any Bureau of Industry and Security (BIS) licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Perez-Barragan's conviction for violating 18 U.S.C. 554, and has provided notice and opportunity for Perez-Barragan to make a written submission to BIS, as provided in Section 766.25 of the Export Administration Regulations (''EAR'' or the ''Regulations''). 15 CFR 766.25.[2] BIS has not received a written submission from Perez-Barragan.

Based upon my review of the record and consultations with BIS's Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Perez-Barragan's export privileges under the Regulations for a period of seven (7) years from the date of Perez-Barragan's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Perez-Barragan had an interest at the time of his conviction.[3]

Accordingly, it is hereby *ordered*:

First, from the date of this Order until May 23, 2026, Sergio Eduardo Perez-Barragan, with a last known address of Altamira 411 Poniente, Tampico, Tamaulipas, 89137, Mexico, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or

[1] ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801–4852.

[2] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2021).

[3] The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders pursuant to recent amendments to the Regulations (85 FR 73411, November 18, 2020).

from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to Section 1760(e) of the Export Control Reform Act (50 U.S.C. 4819(e)) and Sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Perez-Barragan by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Perez-Barragan may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Perez-Barragan and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until May 23, 2026.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2022–07044 Filed 4–1–22; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Guadalupe Horacio Garza-Cavazos, Inmate Number: 87312–479, FCI Butner Low, Federal Correctional Institution, P.O. Box 999, Butner, NC 27509; Order Denying Export Privileges

On October 3, 2019, in the U.S. District Court for the Southern District of Texas, Guadalupe Horacio Garza-Cavazos (''Garza-Cavazos'') was convicted of violating 18 U.S.C. 554(a). Specifically, Garza-Cavazos was convicted of fraudulently and knowingly exporting and sending or attempting to export and send from the United States to Mexico, (1) SIG Sauer .380 Auto, (1) Beretta .22 LR, (1) Glock 17 9mm, (1) Glock 19 9mm, (1) Smith and Wesson 9mm, (1) SIG Sauer 9mm, (2) 20 round boxes of .308 caliber ammunition, (1) 20 round box of .30–30 caliber ammunition, and 12 pistol magazines, in violation of 18 U.S.C. 554. As a result of his conviction, the Court sentenced Garza-Cavazos to 46 months in prison and a $100 assessment.

Pursuant to section 1760(e) of the Export Control Reform Act (''ECRA''),[1] the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 554, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e). In addition, any Bureau of Industry and Security (''BIS'') licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Garza-Cavazos's conviction for violating 18 U.S.C. 554. As provided in Section 766.25 of the Export Administration Regulations (''EAR'' or the ''Regulations''), BIS provided notice and an opportunity for Garza-Cavazos to make a written submission to BIS. 15 CFR 766.25.[2] BIS has not received a written submission from Garza-Cavazos.

Based upon my review of the record and consultations with BIS's Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Garza-Cavazos's export privileges under the regulations for a period of 10 years from the date of Garza-Cavazos's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Garza-Cavazos had an interest at the time of his conviction.[3]

Accordingly, it is hereby *ordered*:

First, from the date of this Order until October 3, 2029, Guadalupe Horacio Garza-Cavazos, with a last known address of Inmate Number: 87312–479, FCI Butner Low Federal Correctional Institution, P.O. Box 999, Butner, NC 27509, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership,

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[2] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2021).

[3] The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders pursuant to recent amendments to the Regulations (85 FR 73411, November 18, 2020).

possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to section 1760(e) of ECRA and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Garza-Cavazos by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the regulations, Garza-Cavazos may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the regulations.

Fifth, a copy of this Order shall be delivered to Garza-Cavazos and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until October 3, 2029.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2022–07046 Filed 4–1–22; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Hicham Diab, Mar Maroun Street, Tedros Building, 6th Floor, Tripoli, Lebanon; Order Denying Export Privileges

On June 11, 2019, in the U.S. District Court for the Western District of Washington, Hicham Diab (''Diab'') was convicted of violating 18 U.S.C. 371. Specifically, Diab was convicted of knowingly and intentionally conspiring to willfully export firearms, defense articles designated on the United States Munitions List, from the United States to Lebanon, without having obtained from the United States Department of State a license or written approval for the export of these defense articles, in violation of 18 U.S.C. 371. As a result of his conviction, the Court sentenced Diab to 18 months imprisonment and a $200 assessment.

Pursuant to Section 1760(e) of the Export Control Reform Act (''ECRA''),[1] the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 371, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e) (Prior Convictions). In addition, any Bureau of Industry and Security (BIS) licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Diab's conviction for violating 18 U.S.C. 371 and has provided notice and opportunity for Diab to make a written submission to BIS, as provided in Section 766.25 of the Export Administration Regulations (''EAR'' or the ''Regulations''). 15 CFR 766.25.[2] BIS has not received a written submission from Diab.

Based upon my review of the record and consultations with BIS's Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Diab's export privileges under the Regulations for a period of 10 years from the date of Diab's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Diab had an interest at the time of his conviction.[3]

Accordingly, it is hereby *ordered*:

First, from the date of this Order until June 11, 2029, Hicham Diab, with a last known address of Mar Maroun Street, Tedros Building, 6th Floor, Tripoli, Lebanon, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the

[1] ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801–4852.

[2] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2021).

[3] The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders, pursuant to recent amendments to the Regulations (85 FR 73411, November 18, 2020).

Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to Section 1760(e) of the Export Control Reform Act (50 U.S.C. 4819(e)) and Sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Diab by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Diab may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Diab and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until June 11, 2029.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2022–07047 Filed 4–1–22; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; National Security and Critical Technology Assessments of the U.S. Industrial Base

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before June 3, 2022.

ADDRESSES: Interested persons are invited to submit comments by email to Mark Crace, IC Liaison, Bureau of Industry and Security, at *mark.crace@bis.doc.gov* or to *PRAcomments@doc.gov*). Please reference OMB Control Number 0694–0119 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Mark Crace, IC Liaison, Bureau of Industry and Security, phone 202–482–8093 or by email at *mark.crace@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Bureau of Industry and Security (BIS) conducts surveys and assessments of critical U.S. industrial sectors and technologies. Undertaken at the request of various policy, research and development (R&D), and program and planning organizations within the Department of Defense and the Armed Services, Department of Homeland Security (DHS), NASA and other agencies, BIS research, data collection and analysis provide needed information to benchmark industry performance and raise awareness of diminishing manufacturing capabilities.

II. Method of Collection

Electronic.

III. Data

OMB Control Number: 0694–0119.

Form Number(s): None.

Type of Review: Regular submission, extension of a current information collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 28,000.

Estimated Time per Response: 8 to 14 hours.

Estimated Total Annual Burden Hours: 308,000.

Estimated Total Annual Cost to Public: 0.

Respondent's Obligation: Mandatory.

Legal Authority: Section 705 of the Defense Production Act of 1950, as amended, Executive Orders 12656 and 13603.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2022–07062 Filed 4–1–22; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Nafez El Mir, 10630 Place De L'Acadie, Apartment 12, Montreal, Quebec, Canada H4N1A2; Order Denying Export Privileges

On June 11, 2019, in the U.S. District Court for the Western District of Washington, Nafez El Mir (''El Mir'') was convicted of violating 18 U.S.C. 371. Specifically, El Mir was convicted of knowingly and intentionally

conspiring to willfully export firearms, defense articles designated on the United States Munitions List, from the United States to Lebanon, without having obtained from the United States Department of State a license or written approval for the export of these defense articles, in violation of 18 U.S.C. 371. As a result of his conviction, the Court sentenced El Mir to 18 months imprisonment and a $200 assessment.

Pursuant to Section 1760(e) of the Export Control Reform Act (''ECRA''),[1] the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 371, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e) (Prior Convictions). In addition, any Bureau of Industry and Security (BIS) licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of El Mir's conviction for violating 18 U.S.C. 371 and has provided notice and opportunity for El Mir to make a written submission to BIS, as provided in Section 766.25 of the Export Administration Regulations (''EAR'' or the ''Regulations''). 15 CFR 766.25.[2] BIS has not received a written submission from El Mir.

Based upon my review of the record and consultations with BIS's Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny El Mir's export privileges under the Regulations for a period of 10 years from the date of El Mir's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which El Mir had an interest at the time of his conviction.[3]

Accordingly, it is hereby *ordered*:

First, from the date of this Order until June 11, 2029, Nafez El Mir, with a last known address of 10630 Place De L'Acadie, Apartment 12, Montreal, Quebec, Canada H4N1A2, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to Section 1760(e) of the Export Control Reform Act (50 U.S.C. 4819(e)) and Sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to El Mir by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, El Mir may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to El Mir and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until June 11, 2029.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2022–07048 Filed 4–1–22; 8:45 am]

BILLING CODE 3510–DT–P

[1] ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801–4852.

[2] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2021).

[3] The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders, pursuant to recent amendments to the Regulations (85 FR 73411, November 18, 2020).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–471–807]

Certain Uncoated Paper From Portugal: Preliminary Results of the Administrative Review of the Antidumping Duty Order; 2020–2021

AGENCY: Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily finds that sales of certain uncoated paper (uncoated paper) from Portugal were made at less than normal value during the period of review (POR) March 1, 2020, through February 28, 2021. We invite interested parties to comment on these preliminary results.

DATES: Applicable April 4, 2022.

FOR FURTHER INFORMATION CONTACT: Robert Scully, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0572.

SUPPLEMENTARY INFORMATION:

Background

On May 5, 2021, Commerce initiated an administrative review of the

antidumping duty order on uncoated paper from Portugal,[1] in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).[2] This review covers one producer/exporter of subject merchandise, The Navigator Company, S.A. (Navigator). For details regarding the events that occurred subsequent to the initiation of the review, *see* the Preliminary Decision Memorandum.[3]

Pursuant to section 751(a)(3)(A) of the Act, Commerce determined that it was not practicable to complete the preliminary results of this review within the 245 days and extended these preliminary results by 120 days, until March 31, 2022.[4]

Scope of the Order

The products covered by the *Order* are certain uncoated paper products from Portugal. For a full description of the scope, *see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751(a) of the Act. We calculated constructed export price in accordance with section 772 of the Act. We calculated normal value in accordance with section 773 of the Act. For a full description of the methodology underlying these preliminary results, *see* the Preliminary Decision Memorandum. A list of topics included in the Preliminary Decision Memorandum is included as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum is available at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Preliminary Results of the Review

We preliminarily determine that the following weighted-average dumping margin exists for the period March 1, 2020, through February 28, 2021:

Exporter/producer	Weighted-average dumping margin (percent)
The Navigator Company, S.A	5.81

Assessment Rates

Upon completion of the final results of this administrative review, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. If Navigator's weighted-average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.5 percent) in the final results of this review, we will calculate importer-specific *ad valorem* antidumping duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1). We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate calculated in the final results of this review is not zero or *de minimis.* If Navigator's weighted-average dumping margin is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[5]

In accordance with Commerce's ''automatic assessment'' practice, for entries of subject merchandise during the POR produced by Navigator for which it did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate those entries at the all-others rate established in the original less-than-fair value (LTFV) investigation (*i.e.,* 7.80 percent) [6] if there is no rate for the intermediate company(ies) involved in the transaction.[7]

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the finals results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Navigator in the final results of review will be equal to the weighted-average dumping margin established in the final results of this administrative review except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment of this proceeding in which they were reviewed; (3) if the exporter is not a firm covered in this review or the original LTFV investigation but the producer is, then the cash deposit rate will be the rate established for the most recently-completed segment of this proceeding for the producer of the merchandise; (4) the cash deposit rate for all other producers or exporters will continue to be 7.80 percent,[8] the all-others rate established in the LTFV investigation. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

We intend to disclose the calculations performed to parties within five days after public announcement of the preliminary results.[9] Interested parties will be notified of the deadline for the submission of case briefs at a later date. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than seven days after the date for filing case briefs.[10] Parties who submit case

[1] *See Certain Uncoated Paper from Australia, Brazil, Indonesia, the People's Republic of China, and Portugal: Amended Final Affirmative Antidumping Determinations for Brazil and Indonesia and Antidumping Duty Orders,* 81 FR 11174 (March 3, 2016) (*Order*).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 86 FR 23925 (May 5, 2021).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Certain Uncoated Paper from Portugal, 2020–2021,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See* Memorandum, ''Certain Uncoated Paper from Portugal: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,'' dated October 18, 2021.

[5] *See* section 751(a)(2)(C) of the Act.

[6] *See Order.*

[7] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[8] *See Order.*

[9] *See* 19 CFR 351.224(b).

[10] *See* 19 CFR 351.309(c)(1)(ii) and 351.309(d)(1); *see also Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension*

Continued

briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[11] Case and rebuttal briefs should be filed using ACCESS[12] and must be served on interested parties.[13] Executive summaries should be limited to five pages total, including footnotes. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[14]

Interested parties who wish to request a hearing must do so within 30 days of publication of these preliminary results by submitting a written request to the Assistant Secretary for Enforcement and Compliance using Enforcement and Compliance's ACCESS system.[15] Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs.[16] If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm the date and time of the hearing two days before the scheduled date. Parties are reminded that all briefs and hearing requests must be filed electronically using ACCESS and received successfully in their entirety by 5:00 p.m. Eastern Time on the due date.

Verification

As provided in section 782(i)(3) of the Act, Commerce intends to verify the information relied upon in the final results.[17] Normally, Commerce verifies information using standard procedures, including an on-site examination of original accounting, financial, and sales documentation. However, due to current travel restrictions in response to the global COVID–19 pandemic, Commerce is unable to conduct on-site verification in this administrative review. Accordingly, we intend to verify the information relied upon for the final results through alternative means in lieu of an on-site verification.

Final Results of Review

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification to Interested Parties

This administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213 and 351.221(b)(4).

Dated: March 28, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2022–07000 Filed 4–1–22; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–433–813]

Strontium Chromate From Austria: Final Results of Antidumping Duty Administrative Review; 2019–2020

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that Habich GmbH (Habich) did not make sales of subject merchandise in the United States at prices below normal value during the period of review (POR) June 18, 2019, through October 31, 2020.

DATES: Applicable April 4, 2022.

FOR FURTHER INFORMATION CONTACT: Jaron Moore or Brian Smith, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3640 or (202) 482–1766, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 26, 2021, Commerce published the *Preliminary Results* of the 2019–2020 administrative review of the antidumping duty order on strontium chromate from Austria.[1] The administrative review covers Habich, the only company for which a review was requested. For the events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[2] Commerce conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order[3]

The merchandise covered by this *Order* is strontium chromate from Austria. A full description of the scope of the *Order* is contained in the Issues and Decision Memorandum.

Analysis of Comments Received

We addressed all issues raised in the case and rebuttal briefs filed in this administrative review in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is in the appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete

of Effective Period, 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

[11] *See* 19 CFR 351.309(c)(2) and (d)(2).

[12] *See generally* 19 CFR 351.303.

[13] *See* 19 CFR 351.303(f).

[14] *See Temporary Rule.*

[15] *See* 19 CFR 351.310(c).

[16] *See* 19 CFR 351.310.

[17] Commerce received a timely request to verify from Domtar Corporation, North Pacific Paper Company, and Finch Paper LLC (collectively, the petitioners). *See* Petitioners' Letter, ''Uncoated Paper from Portugal: Petitioners' Request for Verification,'' dated August 12, 2021.

[1] *See Strontium Chromate from Austria: Preliminary Results of Antidumping Duty Administrative Review, 2019–2020,* 86 FR 67435 (November 26, 2021) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the 2019–2020 Antidumping Duty Administrative Review: Strontium Chromate from Austria,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See Strontium Chromate from Austria and France: Antidumping Duty Orders,* 84 FR 65349 (November 27, 2019) (*Order*).

version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Changes Since the Preliminary Results

We made no changes to the *Preliminary Results.*

Final Results of the Administrative Review

We determine that the following weighted-average dumping margin for Habich exists for the period June 18, 2019, through October 31, 2020:

Exporter/producer	Weighted-average dumping margin (percent)
Habich GmbH	0.00

Disclosure

Normally, Commerce will disclose to the parties in a proceeding the calculations performed in connection with the final results of review in accordance with 19 CFR 351.224(b). However, because Commerce made no adjustments to the margin calculation methodology used in the *Preliminary Results,* there are no additional calculations to disclose for the final results of this review.

Assessment Rates

Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries in accordance with section 751(a)(2)(C) of the Act and 19 CFR 351.212(b).[4] Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Pursuant to 19 CFR 351.212(b)(1), where the respondent reported the entered value of its U.S. sales, we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to the total entered value of the sales for which entered value was reported. Where the respondent did not report entered value, we calculated importer-specific per-unit duty assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total quantity of those sales. Where either the respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), or an importer-specific assessment rate is *de minimis* (*i.e.,* less than 0.5 percent), we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. To determine whether an importer-specific per-unit duty assessment rate is *de minimis,* we calculated an estimated entered value.

The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[5]

Consistent with Commerce's clarification of its assessment practice, for entries of subject merchandise during the POR produced by Habich for which it did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate those entries at the all-others rate in the original less-than-fair-value (LTFV) investigation [6] if there is no rate for the intermediate company(ies) involved in the transaction.[7]

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of strontium chromate from Austria entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for Habich will be equal to the weighted-average dumping margin established in the final results of this review; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior completed segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published in the completed segment for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the producer is, then the cash deposit rate will be the rate established in the completed segment for the most recent period for the producer of the merchandise; (4) the cash deposit rate for all other producers or exporters will continue to be 25.90 percent, the all-others rate established in the LTFV investigation in this proceeding.[8] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

Notification to Interested Parties

We are issuing and publishing these final results of administrative review in accordance with sections 751(a) and 777(i) of the Act, and 19 CFR 351.221(b)(5).

Dated: March 25, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Issues and Decision Memorandum

[4] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

[5] *See* section 751(a)(2)(C) of the Act.

[6] *See Order.*

[7] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[8] *See Order.*

V. Recommendation

[FR Doc. 2022–07003 Filed 4–1–22; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–351–504]

Heavy Iron Construction Castings From Brazil: Final Results of the Expedited Fifth Sunset Review of the Countervailing Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of this expedited sunset review, the Department of Commerce (Commerce) finds that revocation of the countervailing duty order (CVD) on heavy iron construction castings (iron castings) from Brazil would be likely to lead to continuation or recurrence of countervailable subsidies at the levels as indicated in the ''Final Results of Sunset Review'' section of this notice.

DATES: Applicable April 4, 2022.

FOR FURTHER INFORMATION CONTACT: Jolanta Lawska, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–8362.

SUPPLEMENTARY INFORMATION:

Background

On May 15, 1986, Commerce published in **Federal Register** the CVD order on iron castings from Brazil.[1] On December 1, 2021, Commerce published the notice of initiation of the expedited fifth sunset review of the *Order,* pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2] On December 16, 2021, Commerce received a notice of intent to participate from D&L Foundry, Inc., EJ USA, Inc., Neenah Foundry Company, and U.S. Foundry & Manufacturing Corporation (collectively, ''domestic interested parties''), within the deadline specified in 19 CFR 351.218(d)(1)(i).[3] Each of these companies claimed interested party status under section 771(9)(C) of the Act, as a domestic producer of the domestic like product.[4] On December 30, 2021, Commerce received a substantive response and notice of intent to participate from the Government of Brazil (GBR) within the deadline specified in 19 CFR 351.218(d)(3)(i).[5]

On December 31, 2021, Commerce also received a substantive response to the *Notice of Initiation* from the domestic interested parties within the deadline specified in 19 CFR 351.218(d)(3)(i).[6] Commerce did not receive any substantive response from a producer or exporter of subject merchandise in Brazil. On January 10, 2022, the domestic interested parties filed rebuttal comments in response to the GBR's substantive response.[7] On January 20, 2022, Commerce notified the U.S. International Trade Commission that it did not receive a substantive response from respondent interested parties.[8] As a result, Commerce has conducted an expedited (120-day) sunset review of the *Order,* pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2).

Scope of the Order[9]

The products covered by the *Order* are certain heavy iron construction castings from Brazil, limited to manhole covers, rings, and frames, catch basin grates and frames, cleanout covers and frames used for drainage or access purposes for public utility, water and sanitary systems, classifiable as heavy castings under Harmonized Tariff Schedule (HTS) item numbers 7325.10.0010, 7325.10.0020, and 7325.10.0025. Subject merchandise may also enter under 7325.99.1000. The HTS item numbers are provided for convenience and Customs purposes only. The written description remains dispositive.

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review, including the likelihood of continuation or recurrence of subsidization in the event of revocation of the *Order* and the countervailable subsidy rates likely to prevail if the *Order* were to be revoked, is provided in the Issues and Decision Memorandum.[10] A list of the topics discussed in the Issues and Decision Memorandum is attached as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Final Results of Review

Pursuant to sections 751(c)(1) and 752(b) of the Act, we determine that revocation of the *Order* would be likely to lead to continuation or recurrence of a countervailable subsidy at the rate listed below:

Exporter/producer	Subsidy rate (percent)
Country-Wide Rate ...	1.06 *Ad Valorem.*

Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

Commerce is issuing and publishing these final results and this notice in

[1] *See Countervailing Duty Order; Certain Heavy Iron Construction Casting from Brazil,* 51 FR 17786 (May 15, 1986) (*Order*).

[2] *See Initiation of Five-Year (Sunset) Reviews,* 86 FR 68220 (December 1, 2021) (*Initiation Notice*).

[3] *See* Petitioners' Letter, ''Five Year (''Sunset'') Review of the Countervailing Duty Order on Heavy Iron Construction Castings from Brazil—Domestic Interested Parties' Notice of Intent to Participate,'' dated December 16, 2021.

[4] *Id.* at 3.

[5] *See* GBR's Letter, ''Iron Construction Castings. Sunset Review. Initial Comments,'' dated December 30, 2021.

[6] *See* Petitioners' Letter, ''Five Year ('Sunset') Review of the Countervailing Duty Order on Heavy Iron Construction Castings from Brazil—Domestic Interested Parties' Substantive Response,'' dated December 31, 2021.

[7] *See* Petitioners' Letter, ''Five Year ('Sunset') Review of the Countervailing Duty Order on Heavy Iron Construction Castings from Brazil—Domestic Interested Parties' Comments in Rebuttal to the Government of Brazil's Substantive Response,'' dated January 10, 2022.

[8] *See* Commerce's Letter, ''Sunset Reviews Initiated on December 1, 2021,'' dated January 20, 2022.

[9] The scope language contained in prior sunset proceedings for the *Order* has varied. For clarity, Commerce intends to use the scope listed above in all future proceedings involving the *Order.*

[10] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Expedited Fifth Sunset Review of the Countervailing Duty Order on Heavy Iron Construction Castings from Brazil,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

accordance with sections 751(c), 752(b), and 777(i)(1) of the Act and 19 CFR 351.218.

Dated: March 28, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2022–07002 Filed 4–1–22; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–423–808, A–791–805, A–583–830]

Stainless Steel Plate in Coils From Belgium, South Africa, and Taiwan: Final Results of the Expedited Fourth Sunset Reviews of the Antidumping Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of these expedited sunset reviews, the Department of Commerce (Commerce) finds that revocation of the antidumping duty orders on stainless steel plate in coils (SSPC) from Belgium, South Africa, and Taiwan would be likely to lead to continuation or recurrence of dumping as indicated in the ''Final Results of Sunset Reviews'' section of this notice.

DATES: Applicable April 4, 2022.

FOR FURTHER INFORMATION CONTACT: George McMahon or Carolyn Adie, 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) 482–1167 or (202) 482–6250, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 1, 2021, Commerce published the notice of initiation of the fourth sunset reviews of the AD orders on SSPC from Belgium, South Africa, and Taiwan [1] pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2] In accordance with 19 CFR 351.218(d)(1)(i) and (ii), ATI Flat Rolled Products Holdings, LLC (ATI); North American Stainless (NAS); and Outokumpu Stainless USA, LLC (Outokumpu) (collectively, domestic interested parties) submitted notices of intent to participate in the sunset reviews of SSPC from Belgium and Taiwan, and ATI and Outokumpu submitted notices of intent to participate in the sunset review of SSPC from South Africa, within 15 days after the date of publication of the *Initiation Notice.*[3] The domestic interested parties claimed interested party status under section 771(9)(C) of the Act, as domestic producers of SSPC in the United States.

Commerce received adequate substantive responses [4] to the *Initiation Notice* from the domestic interested parties within the 30-day period specified in 19 CFR 351.218(d)(3)(i).[5] Commerce received no substantive responses from any respondent interested parties. On January 20, 2022, Commerce notified the U.S. International Trade Commission that it did not receive adequate substantive responses from the respondent interested parties.[6] As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted expedited (120-day) sunset reviews of the *Orders.*

Scope of the Orders

The merchandise subject to the *Orders* is stainless steel plate in coils. A full description of the scope of the *Orders* is contained in the Issues and Decision Memorandum.[7]

Analysis of Comments Received

All issues raised in these reviews are addressed in the Issues and Decision Memorandum, including the likelihood of continuation or recurrence of dumping in the event of revocation of the *Orders* and the magnitude of the dumping margins likely to prevail if the *Orders* were revoked. A list of topics discussed in the Issues and Decision Memorandum is included as an appendix to this notice. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in the Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Final Results of Sunset Reviews

Pursuant to sections 751(c) and 752(c) of the Act, Commerce determines that revocation of the *Orders* would be likely to lead to continuation or recurrence of

[1] *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils from Belgium,* 64 FR 15476 (March 31, 1999); *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils from South Africa,* 64 FR 15459 (March 31, 1999); and *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Plate in Coils from Taiwan,* 64 FR 15493 (March 31, 1999) (collectively, *Orders*).

[2] *See Initiation of Five-Year (Sunset) Reviews,* 86 FR 68220 (December 1, 2021) (*Initiation Notice*).

[3] *See* ATI and NAS's Letter, ''Five-Year (''Sunset'') Review of the Antidumping Duty Order on Stainless Steel Plate in Coils from Belgium—Domestic Interested Parties' Notice of Intent to Participate,'' dated December 15, 2021; *see also* Outokumpu's Letter, ''Five-Year (''Sunset'') Review of the Antidumping Order on Stainless Steel Plate in Coils from Belgium—Outokumpu's Notice of Intent to Participate,'' dated December 15, 2021; ATI's Letter, ''Five-Year (''Sunset'') Review of the Antidumping Duty Order on Stainless Steel Plate in Coils from South Africa—Domestic Interested Party's Notice of Intent to Participate,'' dated December 15, 2021; Outokumpu's Letter, ''Five-Year (''Sunset'') Review of the Antidumping Order on Stainless Steel Plate in Coils from South Africa—Outokumpu's Notice of Intent to Participate,'' dated December 15, 2021; ATI and NAS's Letter, ''Five-Year (''Sunset'') Review of the Antidumping Duty Order on Stainless Steel Plate in Coils from Taiwan—Domestic Interested Parties' Notice of Intent to Participate,'' dated December 15, 2021; Outokumpu's Letter, ''Five-Year (''Sunset'') Review of the Antidumping Order on Stainless Steel Plate in Coils from Taiwan—Outokumpu's Notice of Intent to Participate,'' dated December 15, 2021.

[4] *See* Domestic Interested Parties' Letters, ''Five-Year (''Sunset'') Review of the Antidumping Duty Order on Stainless Steel Plate in Coils from Belgium—Domestic Interested Parties' Substantive Response to Notice of Initiation,'' dated January 3, 2022; ''Five-Year (''Sunset'') Review of the Antidumping Duty Order on Stainless Steel Plate in Coils from South Africa—Domestic Interested Parties' Substantive Response to Notice of Initiation,'' dated January 3, 2022; ''Five-Year (''Sunset'') Review of the Antidumping Duty Order on Stainless Steel Plate in Coils from Taiwan—Domestic Interested Parties' Substantive Response to Notice of Initiation,'' dated January 3, 2022.

[5] Pursuant to 19 CFR 351.303(b)(1), ''if the applicable due date falls on a non-business day, the Secretary will accept documents that are filed on the next business day.'' As the deadline for the filing of substantive responses fell on Friday, December 31, 2021, a federal holiday, the deadline for filing substantive responses was January 3, 2022.

[6] *See* Commerce's Letter, ''Sunset Reviews Initiated on December 1, 2021,'' dated January 20, 2022.

[7] *See* Memorandum, ''Issues and Decision Memorandum for the Expedited Sunset Reviews of the Antidumping Duty Orders on Stainless Steel Plate in Coils from Belgium, South Africa, and Taiwan,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

dumping, and the magnitude of the margins of dumping likely to prevail would be weighted-average margins up to the following percentages:

Country	Weighted-average margin (percent)
Belgium	8.54
South Africa	41.63
Taiwan	10.20

Notification Regarding Administrative Protective Orders

This notice serves as the only reminder to parties subject to the administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a). Timely written notification of the destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

Commerce is issuing and publishing these final results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act and 19 CFR 351.221(c)(5)(ii).

Dated: March 25, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2022–06999 Filed 4–1–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO–P–2022–0010]

Termination of Global Patent Prosecution Highway With Rospatent

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

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO or Office) will no longer grant requests to participate in the Global Patent Prosecution Highway (GPPH) at the USPTO when such requests are based on work performed by Rospatent as an Office of Earlier Examination under the GPPH. In addition, in pending cases in which, prior to March 11, 2022, the USPTO granted special status under the GPPH to applications based on work performed by Rospatent, the USPTO will remove that status and return those applications to the regular processing and examination queue.

DATES: *Termination date:* March 11, 2022.

FOR FURTHER INFORMATION CONTACT: Office of Petitions, at 571–272–3282 or *PPHfeedback@uspto.gov*.

SUPPLEMENTARY INFORMATION: The USPTO has terminated engagement with officials from Russia's agency in charge of intellectual property, the Federal Service for Intellectual Property (commonly known as Rospatent), and with the Eurasian Patent Organization. The USPTO has also terminated engagement with officials from the national intellectual property office of Belarus.

Effective March 11, 2022, the USPTO will no longer grant requests to participate in the GPPH at the USPTO when such requests are based on work performed by Rospatent as an Office of Earlier Examination under the GPPH. In addition, in pending cases in which, prior to March 11, 2022, the USPTO granted special status under the GPPH to applications based on work performed by Rospatent, the USPTO will remove that status and return those applications to the regular processing and examination queue.

The USPTO has advised the Japan Patent Office, which serves as the Secretariat for the GPPH, of this decision.

Andrew Hirshfeld,

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

[FR Doc. 2022–06885 Filed 4–1–22; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0044]

Agency Information Collection Activities; Comment Request; Third Party Servicer Data Collection

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before June 3, 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–0044. 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: Third Party Servicer Data Collection.

OMB Control Number: 1845–0130.

Type of Review: A revision of a currently approved collection.

Respondents/Affected Public: Private Sector; Individuals and Households; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 277.

Total Estimated Number of Annual Burden Hours: 191.

Abstract: The Department of Education (the Department) is seeking an revision of the OMB approval of a Third Party Servicer Data Form. This form collects information from third party servicers. This form is used to validate the information reported to the Department by higher education institutions about the third party servicers that administer one or more aspects of the administration of the Title IV, HEA programs on an institution's behalf. This form also collects additional information required for effective oversight of these entities. This is a request for the revision of information collection 1845–0130. The Department is transitioning the current Third-Party Servicer Data Inquiry form to an electronic webform that will be housed within the FSA Partner Connect system. While some existing questions have been revised and additional questions have been added to the webform, there has been no change to the supporting regulatory language.

Dated: March 29, 2022.

Kun 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. 2022–06969 Filed 4–1–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Supporting Effective Educator Development Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for fiscal year (FY) 2022 for the Supporting Effective Educator Development (SEED) program, Assistance Listing Number 84.423A. This notice relates to the approved information collection under OMB control number 1894–0006.

DATES:

Applications Available: April 4, 2022.

Deadline for Notice of Intent to Apply: Applicants are strongly encouraged, but not required, to submit a notice of intent to apply by May 4, 2022.

Deadline for Transmittal of Applications: June 3, 2022.

Deadline for Intergovernmental Review: August 2, 2022.

Pre-Application Webinars: The Office of Elementary and Secondary Education intends to post pre-recorded informational webinars designed to provide technical assistance to interested applicants for grants under the SEED program. These informational webinars will be available on the SEED web page shortly after this notice is published in the **Federal Register** at *oese.ed.gov/offices/office-of-discretionary-grants-support-services/effective-educator-development-programs/supporting-effective-educator-development-grant-program/applicant-info/.*

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 27, 2021 (86 FR 73264) and available at *www.federalregister.gov/d/2021-27979.* Please note that these Common Instructions supersede the version published on February 13, 2019, and, in part, describe the transition from the requirement to register in *SAM.gov* a Data Universal Numbering System (DUNS) number to the implementation of the Unique Entity Identifier (UEI). More information on the phaseout of DUNS numbers is available at *https://www2.ed.gov/about/offices/list/ofo/docs/unique-entity-identifier-transition-fact-sheet.pdf.*

FOR FURTHER INFORMATION CONTACT: Christine Miller, U.S. Department of Education, 400 Maryland Avenue SW, Room 3C152, Washington, DC 20222–5960. Telephone: (202)260–7350. Email: *Christine.Miller@ed.gov* or *SEED@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The SEED program, authorized under section 2242 of the Elementary and Secondary Education Act of 1965, as amended (ESEA) (20 U.S.C. 6672), provides funding to increase the number of highly effective educators by supporting the implementation of Evidence-Based [1] practices that prepare, develop, or enhance the skills of educators. These grants will allow eligible entities to develop, expand, and evaluate practices that can serve as models to be sustained and disseminated.

Background: The SEED program is designed to foster the use of rigorous Evidence-Based practices in selecting and implementing strategies and interventions that support educators' development across the continuum of their careers (*e.g.,* in preparation, recruitment, professional learning, and leadership development). The Biden-Harris Administration has made a commitment to supporting targeted efforts that will provide comprehensive, high-quality pathways, such as residency and Grow Your Own programs, for educator preparation and development programs focused on building a more diverse educator pipeline. The Administration is also committed to increasing the retention of a diverse educator workforce. Research shows that teachers who have access to these kinds of comprehensive pathways into the profession have higher rates of retention and increased effectiveness compared to teachers who received less comprehensive preparation.[2]

This competition includes two absolute priorities. Absolute Priority 1, Supporting Effective Teachers, which requires Moderate Evidence, and

[1] Throughout this notice, all defined terms are denoted with capitals.

[2] Silva, T., McKie, A., and Gleason, P. (2015). New Findings on the Retention of Novice Teachers from Teaching Residency Programs. Washington, DC: National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences. *https://ies.ed.gov/ncee/pubs/20154015/pdf/20154015.pdf.*

Absolute Priority 2, Supporting Effective Principals or Other School Leaders, which requires Promising Evidence, are from section 2242 of the ESEA (20 U.S.C. 6672) and 34 CFR 75.226. This competition also includes three areas of particular interest to the Administration. Competitive Preference Priority 1 focuses on promoting educator diversity in classrooms across the Nation. While teachers of color benefit all students, they can have a particularly strong positive impact on students of color.[3] Yet only around one in five teachers [4] are people of color, compared to more than half of K–12 public school students.[5] The Department recognizes that a diverse educator workforce plays a critical role in ensuring equity in our schools, while also supporting intercultural experiences and competencies in our education system that will benefit and improve the opportunities for all students.

Competitive Preference Priority 2 focuses on the importance of preparing teachers to create inclusive, supportive, equitable, unbiased, and identity-safe learning environments for their students. Research has demonstrated that, in elementary and secondary schools, children and youth learn, grow, and achieve at higher levels in safe and supportive environments, and in the care of responsive adults they can trust.[6] This priority will allow applicants to propose a project designed to promote educational equity and adequacy in resources and opportunity for underserved students.

Competitive Preference Priority 3 provides explicit support for developing students' social and emotional skills, such as their ability to collaborate with peers and persist through challenging tasks. The priority directs applicants to incorporate pathways into teaching that provide a strong foundation in child and adolescent development and learning, including skills for implementing social and emotional learning strategies in the classroom.

Finally, this notice incorporates a newly established definition for National Nonprofit. The definition incorporates the definition of ''nonprofit'' under 34 CFR 77.1(c) but also clarifies how an entity demonstrates that its work is ''national'' in scope. The definition specifies that the nonprofit organization must provide services in three or more States.

Priorities: This notice contains two absolute priorities and three competitive preference priorities. In accordance with 34 CFR 75.105(b)(2)(iv), Absolute Priority 1, which requires Moderate Evidence, and Absolute Priority 2, which requires Promising Evidence, are from section 2242 of the ESEA (20 U.S.C. 6672) and 34 CFR 75.226. Competitive Preference Priority 1 is from the Effective Educator Development (EED) notice of final priorities published in the **Federal Register** on July 9, 2021 (86 FR 36217) (EED NFP). Competitive Preference Priorities 2 and 3 are from the Secretary's notice of final supplemental priorities and definitions published in the **Federal Register** on December 10, 2021 (86 FR 70612) (Supplemental Priorities).

Under the SEED grant competition, each of the two absolute priorities constitutes its own funding category. The Secretary intends to award grants under each absolute priority for which applications of sufficient quality are submitted.

Absolute Priorities: For FY 2022 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3), we consider only applications that meet one of these absolute priorities. Applicants may address only one absolute priority and must clearly indicate the specific absolute priority their project addresses.

These priorities are:

Absolute Priority 1—Supporting Effective Teachers.

This priority is for projects that will implement activities that are supported by Moderate Evidence. Applicants under this priority may propose one or more of the following activities:

(1) Providing teachers from nontraditional preparation and certification routes or pathways to serve in traditionally underserved Local Educational Agencies (LEAs); or

(2) Providing teachers with Evidence-Based professional enhancement activities, which may include activities that lead to an advanced credential.

Absolute Priority 2—Supporting Effective Principals or Other School Leaders.

This priority is for projects that will implement activities that are supported by Promising Evidence. Applicants under this priority may propose one or more of the following activities:

(1) Providing principals or other School Leaders from nontraditional preparation and certification routes or pathways to serve in traditionally underserved LEAs;

(2) Providing principals or other School Leaders with Evidence-Based Professional Development activities that address literacy, numeracy, remedial, or other needs of LEAs and the students the agencies serve; or

(3) Providing principals or other School Leaders with Evidence-Based professional enhancement activities, which may include activities that lead to an advanced credential.

Note on Meeting Evidence Requirements: An applicant must identify at least one, but no more than two, citations for the purposes of meeting the evidence requirements under either Absolute Priority 1 or Absolute Priority 2. An applicant should clearly identify these citations in the Evidence form. The Department will not review a citation that an applicant fails to clearly identify for review. Studies included for review may have been conducted by the applicant or by a third party.

In addition to including up to two citations, an applicant must provide a description of (1) the positive outcome(s) and practice(s) the applicant intends to replicate under its SEED grant and (2) the relevance of the outcome(s) and practice(s) to the SEED program. For those applicants seeking to address Absolute Priority 1, to meet the definition of Moderate Evidence the applicant must describe how the population it proposes to serve overlaps with the population or settings in the citations.

An applicant must ensure that all evidence is available to the Department from publicly available sources and provide links or other guidance indicating where it is available. If the Department determines that an applicant has provided insufficient information, the applicant will not have an opportunity to provide additional information at a later time. However, if the What Works Clearinghouse (WWC) [7] determines that a study does not provide enough information on key aspects of the study design, such as sample attrition or equivalence of intervention and comparison groups, the WWC will submit a query to the study author(s) to gather information for use in determining a study rating. Authors are asked to respond to queries within 10 business days. Should the author query remain incomplete within 14 days of the initial contact to the study author(s), the study will be deemed ineligible under the grant

[3] *https://learningpolicyinstitute.org/product/diversifying-teaching-profession-report.*

[4] *www.bls.gov/cps/cpsaat11.htm.*

[5] *nces.ed.gov/programs/coe/indicator_cge.asp.*

[6] Reyes, M.R., Brackett, M.A., Rivers, SE, White, M., & Salovey, P. (2012). Classroom Emotional Climate, Student Engagement, and Academic Achievement. Journal of Educational Psychology, 104 (3), 700.

[7] *ies.ed.gov/ncee/wwc/.*

competition. After the grant competition closes, the WWC will continue to include responses to author queries and will make updates to study reviews as necessary, but no additional information will be taken into account after the competition closes and the initial timeline established for response to an author query passes.

Competitive Preference Priorities: For FY 2022 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award up to an additional 10 points to an application, depending on how well the application addresses the competitive preference priorities.

If an applicant chooses to address one or more competitive preference priorities, the project narrative section of its application must identify its response to the competitive preference priorities it chooses to address.

These priorities are:

Competitive Preference Priority 1—Increasing Educator Diversity (up to 5 points).

Under this priority, applicants must develop projects that are designed to improve the recruitment, outreach, preparation, support, development, and retention of a diverse educator workforce through adopting, implementing, or expanding high-quality, comprehensive teacher preparation programs that have a track record of attracting, supporting, graduating, and placing underrepresented teacher candidates, and that include one year of high-quality clinical experiences (prior to becoming the teacher of record) in high-need schools.

Competitive Preference Priority 2—Promoting Equity in Student Access to Educational Resources and Opportunities (up to 3 points).

Under this priority, an applicant must demonstrate that the applicant proposes a project designed to promote educational equity and adequacy in resources and opportunity for Underserved Students—

(1) In one or more of the following educational settings:

(i) Early learning programs.

(ii) Elementary school.

(iii) Middle school.

(iv) High school.

(v) Career and technical education programs.

(vi) Out-of-school-time settings.

(vii) Alternative schools and programs.

(viii) Juvenile justice system or correctional facilities;

(2) That examines the sources of inequity and inadequacy and implements responses that include pedagogical practices in Educator preparation programs and professional development programs that are inclusive with regard to race, ethnicity, culture, language, and disability status so that educators are better prepared to create inclusive, supportive, equitable, unbiased, and identity-safe learning environments for their students.

Competitive Priority 3—Meeting Student Social, Emotional, and Academic Needs (up to 2 points).

Projects that are designed to improve students' social, emotional, academic, and career development, with a focus on Underserved Students, through developing and supporting Educator and school capacity to support social and emotional learning and development that—

(1) Fosters skills and behaviors that enable academic progress;

(2) Identifies and addresses conditions in the learning environment, that may negatively impact social and emotional well-being for Underserved Students, including conditions that affect physical safety; and

(3) Is trauma-informed, such as addressing exposure to community-based violence and trauma specific to Military- or Veteran-Connected Students.

Definitions: The definition of ''Evidence-Based'' is from section 2242 of the ESEA (20 U.S.C. 6672) and section 8101 of the ESEA (20 U.S.C. 7801). The definitions of ''English Learner,'' ''Institution of Higher Education,'' which incorporates by reference section 101(a) of the Higher Education Opportunity Act (20 U.S.C. 7801(a)), ''Local Educational Agency,'' ''Professional Development,'' ''School Leader,'' and ''State Educational Agency'' are from section 8101 of the ESEA (20 U.S.C. 7801). The definitions of ''Experimental Study,'' ''Moderate Evidence,'' ''Project Component,'' ''Promising Evidence,'' ''Quasi-Experimental Design Study,'' ''Relevant Outcome,'' and ''What Works Clearinghouse Handbook'' are from 34 CFR 77.1. The definitions of ''Children or Students With Disabilities,'' ''Disconnected Youth,'' ''Early Learning,'' ''Educator,'' ''Military- or Veteran-Connect Student,'' and ''Underserved Student'' are from the Supplemental Priorities. The definition of ''National Nonprofit'' is from the notice of final definition published elsewhere in this edition of the **Federal Register**.

Children or Students with Disabilities means children with disabilities as defined in section 602(3) of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1401(3)) and 34 CFR 300.8, or students with disabilities, as defined in the Rehabilitation Act of 1973 (29 U.S.C. 705(37), 705(202)(B)).

Disconnected Youth means an individual, between the ages 14 and 24, who may be from a low-income background, experiences homelessness, is in foster care, is involved in the justice system, or is not working or not enrolled in (or at risk of dropping out of) an educational institution.

Early Learning means any—

(1) State-licensed or State-regulated program or provider, regardless of setting or funding source, that provides early care and education for children from birth to kindergarten entry, including, but not limited to, any program operated by a child care center or in a family child care home;

(2) program funded by the Federal Government or State or local educational agencies (including any IDEA-funded program);

(3) Early Head Start and Head Start program;

(4) non-relative child care provider who is not otherwise regulated by the State and who regularly cares for two or more unrelated children for a fee in a provider setting; and

(5) other program that may deliver early learning and development services in a child's home, such as the Maternal, Infant, and Early Childhood Home Visiting Program; Early Head Start; and Part C of IDEA.

Educator means, for purposes of Competitive Preferences 2 and 3, an individual who is an Early Learning Educator, teacher, principal or other school leader, specialized instructional support personnel (*e.g.,* school psychologist, counselor, school social worker, early intervention service personnel), paraprofessional, or faculty.

English Learner means, when used with respect to an individual, an individual—

(1) Who is aged 3 through 21;

(2) Who is enrolled or preparing to enroll in an elementary school or secondary school;

(3)(i) Who was not born in the United States or whose native language is a language other than English;

(ii)(A) Who is a Native American or Alaska Native, or a native resident of the outlying areas; and

(B) Who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or

(iii) Who is migratory, whose native language is a language other than

English, and who comes from an environment where a language other than English is dominant; and

(4) Whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual—

(i) The ability to meet the challenging State academic standards;

(ii) The ability to successfully achieve in classrooms where the language of instruction is English; or

(iii) The opportunity to participate fully in society.

Evidence-Based, when used with respect to a State, LEA, or school activity, means an activity, strategy, or intervention that demonstrates a statistically significant effect on improving student outcomes or other Relevant Outcomes based on—

(1) Strong evidence from at least one well-designed and well-implemented Experimental Study;

(2) Moderate Evidence from at least one well designed and well-implemented Quasi-Experimental Study; or

(3) Promising Evidence from at least one well-designed and well-implemented correlational study with statistical controls for selection bias.

Experimental Study means a study that is designed to compare outcomes between two groups of individuals (such as students) that are otherwise equivalent except for their assignment to either a treatment group receiving a Project Component or a control group that does not. Randomized controlled trials, regression discontinuity design studies, and single-case design studies are the specific types of Experimental Studies that, depending on their design and implementation (*e.g.,* sample attrition in randomized controlled trials and regression discontinuity design studies), can meet What Works Clearinghouse (WWC) standards without reservations as described in the WWC Handbooks:

(1) A randomized controlled trial employs random assignment of, for example, students, teachers, classrooms, or schools to receive the Project Component being evaluated (the treatment group) or not to receive the Project Component (the control group).

(2) A regression discontinuity design study assigns the Project Component being evaluated using a measured variable (*e.g.,* assigning students reading below a cutoff score to tutoring or developmental education classes) and controls for that variable in the analysis of outcomes.

(3) A single-case design study uses observations of a single case (*e.g.,* a student eligible for a behavioral intervention) over time in the absence and presence of a controlled treatment manipulation to determine whether the outcome is systematically related to the treatment.

Institution of Higher Education (IHE) means an educational institution in any State that—

(1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, or persons who meet the requirements of section 484(d) of the Higher Education Act of 1965, as amended (HEA);

(2) Is legally authorized within such State to provide a program of education beyond secondary education;

(3) Provides an educational program for which the institution awards a bachelor's degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree, or awards a degree that is acceptable for admission to a graduate or professional degree program, subject to review and approval by the Secretary;

(4) Is a public or other nonprofit institution; and

(5) Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted pre-accreditation status by such an agency or association that has been recognized by the Secretary for the granting of pre-accreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

Local Educational Agency (LEA) means:

(1) In General. A public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or of or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary schools or secondary schools.

(2) Administrative Control and Direction. The term includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

(3) Bureau of Indian Education Schools. The term includes an elementary school or secondary school funded by the Bureau of Indian Education but only to the extent that including the school makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the LEA receiving assistance under the ESEA with the smallest student population, except that the school shall not be subject to the jurisdiction of any SEA other than the Bureau of Indian Education.

(4) Educational Service Agencies. The term includes educational service agencies and consortia of those agencies.

(5) State Educational Agency. The term includes the SEA in a State in which the SEA is the sole educational agency for all public schools.

Military- or Veteran-Connected Student means one or more of the following:

(a) A child participating in an Early Learning program, a student enrolled in preschool through grade 12, or a student enrolled in career and technical education or postsecondary education who has a parent or guardian who is a member of the uniformed services (as defined by 37 U.S.C. 101), in the Army, Navy, Air Force, Marine Corps, Coast Guard, Space Force, National Guard, Reserves, National Oceanic and Atmospheric Administration, or Public Health Service or is a veteran of the uniformed services with an honorable discharge (as defined by 38 U.S.C. 3311).

(b) A student who is a member of the uniformed services, a veteran of the uniformed services, or the spouse of a service member or veteran.

(c) A child participating in an Early Learning program, a student enrolled in preschool through grade 12, or a student enrolled in career and technical education or postsecondary education who has a parent or guardian who is a veteran of the uniformed services (as defined by 37 U.S.C. 101).

Moderate Evidence means that there is evidence of effectiveness of a key Project Component in improving a Relevant Outcome for a sample that overlaps with the populations or settings proposed to receive that component, based on a relevant finding from one of the following:

(1) A practice guide prepared by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks reporting a ''strong evidence base'' or ''moderate evidence base'' for the corresponding practice guide recommendation;

(2) An intervention report prepared by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks reporting a

''positive effect'' or ''potentially positive effect'' on a Relevant Outcome based on a ''medium to large'' extent of evidence, with no reporting of a ''negative effect'' or ''potentially negative effect'' on a Relevant Outcome; or

(3) A single Experimental Study or Quasi-Experimental Design Study reviewed and reported by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks, or otherwise assessed by the Department using version 4.1 of the WWC Handbooks, as appropriate, and that—

(i) Meets WWC standards with or without reservations;

(ii) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a Relevant Outcome;

(iii) Includes no overriding statistically significant and negative effects on Relevant Outcomes reported in the study or in a corresponding WWC intervention report prepared under version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks; and

(iv) Is based on a sample from more than one site (*e.g.,* State, county, city, school district, or postsecondary campus) and includes at least 350 students or other individuals across sites. Multiple studies of the same Project Component that each meet requirements in paragraphs (3)(i), (ii), and (iii) of this definition may together satisfy this requirement.

National Nonprofit means an entity that—

(1) Meets the definition of ''nonprofit'' under 34 CFR 77.1(c); and

(2) Is of national scope, which requires that the entity—

(i) Provides services in three or more States; and

(ii) Demonstrates a proven record of serving or benefitting teachers, principals, or other School Leaders across these States.

Professional Development means activities that—

(1) Are an integral part of school and LEA strategies for providing educators (including teachers, principals, other School Leaders, specialized instructional support personnel, paraprofessionals, and, as applicable, early childhood educators) with the knowledge and skills necessary to enable students to succeed in a well-rounded education and to meet the challenging State academic standards; and

(2) Are sustained (not stand-alone, 1-day, or short term workshops), intensive, collaborative, job-embedded, data-driven, and classroom-focused, and may include activities that—

(i) Improve and increase teachers'—

(A) Knowledge of the academic subjects the teachers teach;

(B) Understanding of how students learn; and

(C) Ability to analyze student work and achievement from multiple sources, including how to adjust instructional strategies, assessments, and materials based on such analysis;

(ii) Are an integral part of broad schoolwide and districtwide educational improvement plans;

(iii) Allow personalized plans for each educator to address the educator's specific needs identified in observation or other feedback;

(iv) Improve classroom management skills;

(v) Support the recruitment, hiring, and training of effective teachers, including teachers who became certified through State and local alternative routes to certification;

(vi) Advance teacher understanding of—

(A) Effective instructional strategies that are Evidence-Based; and

(B) Strategies for improving student academic achievement or substantially increasing the knowledge and teaching skills of teachers;

(vii) Are aligned with, and directly related to, academic goals of the school or LEA;

(viii) Are developed with extensive participation of teachers, principals, other School Leaders, parents, representatives of Indian Tribes (as applicable), and administrators of schools to be served under the ESEA;

(ix) Are designed to give teachers of English Learners, and other teachers and instructional staff, the knowledge and skills to provide instruction and appropriate language and academic support services to those children, including the appropriate use of curricula and assessments;

(x) To the extent appropriate, provide training for teachers, principals, and other School Leaders in the use of technology (including education about the harms of copyright piracy), so that technology and technology applications are effectively used in the classroom to improve teaching and learning in the curricula and academic subjects in which the teachers teach;

(xi) As a whole, are regularly evaluated for their impact on increased teacher effectiveness and improved student academic achievement, with the findings of the evaluations used to improve the quality of Professional Development;

(xii) Are designed to give teachers of children with disabilities or children with developmental delays, and other teachers and instructional staff, the knowledge and skills to provide instruction and academic support services, to those children, including positive behavioral interventions and supports, multi-tier system of supports, and use of accommodations;

(xiii) Include instruction in the use of data and assessments to inform and instruct classroom practice;

(xiv) Include instruction in ways that teachers, principals, other School Leaders, specialized instructional support personnel, and school administrators may work more effectively with parents and families;

(xv) Involve the forming of partnerships with IHEs, including, as applicable, Tribal Colleges and Universities as defined in section 316(b) of the HEA (20 U.S.C. 1059c(b)), to establish school-based teacher, principal, and other School Leader training programs that provide prospective teachers, novice teachers, principals, and other School Leaders with an opportunity to work under the guidance of experienced teachers, principals, other School Leaders, and faculty of such institutions;

(xvi) Create programs to enable paraprofessionals (assisting teachers employed by an LEA receiving assistance under part A of title I of the ESEA) to obtain the education necessary for those paraprofessionals to become certified and licensed teachers;

(xvii) Provide follow-up training to teachers who have participated in activities described in paragraph (2) of this definition that are designed to ensure that the knowledge and skills learned by the teachers are implemented in the classroom; and

(xviii) Where practicable, provide jointly for school staff and other early childhood education program providers, to address the transition to elementary school, including issues related to school readiness.

Project Component means an activity, strategy, intervention, process, product, practice, or policy included in a project. Evidence may pertain to an individual project component or to a combination of project components (*e.g.,* training teachers on instructional practices for English learners and follow-on coaching for these teachers).

Promising Evidence means that there is evidence of the effectiveness of a key Project Component in improving a Relevant Outcome, based on a relevant finding from one of the following:

(1) A practice guide prepared by WWC reporting a ''strong evidence base'' or ''moderate evidence base'' for the corresponding practice guide recommendation;

(2) An intervention report prepared by the WWC reporting a ''positive effect'' or ''potentially positive effect'' on a Relevant Outcome with no reporting of a ''negative effect'' or ''potentially negative effect'' on a Relevant Outcome; or

(3) A single study assessed by the Department, as appropriate, that—

(i) Is an Experimental Study, a Quasi-Experimental Design Study, or a well-designed and well-implemented correlational study with statistical controls for selection bias (*e.g.,* a study using regression methods to account for differences between a treatment group and a comparison group); and

(ii) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a Relevant Outcome.

Quasi-Experimental Design Study means a study using a design that attempts to approximate an Experimental Study by identifying a comparison group that is similar to the treatment group in important respects. This type of study, depending on design and implementation (*e.g.,* establishment of baseline equivalence of the groups being compared), can meet WWC standards with reservations, but cannot meet WWC standards without reservations, as described in the WWC Handbook.

Relevant Outcome means the student outcome(s) or other outcome(s) the key Project Component is designed to improve, consistent with the specific goals of the program.

School Leader means a principal, assistant principal, or other individual who is—

(1) An employee or officer of an elementary school or secondary school, LEA, or other entity operating an elementary school or secondary school; and

(2) Responsible for the daily instructional leadership and managerial operations in the elementary school or secondary school building.

State Educational Agency (SEA) means the agency primarily responsible for the State supervision of public elementary schools and secondary schools.

Underserved Student means a student (which may include children in Early Learning environments, students in K–12 programs, students in postsecondary education or career and technical education, and adult learners, as appropriate) in one or more of the following subgroups:

(a) A student who is living in poverty or is served by schools with high concentrations of students living in poverty.

(b) A student of color.

(c) A student who is a member of a federally recognized Indian Tribe.

(d) An English learner.

(e) A Child or Student with a Disability.

(f) A Disconnected Youth.

(g) A technologically unconnected youth.

(h) A migrant student.

(i) A student experiencing homelessness or housing insecurity.

(j) A lesbian, gay, bisexual, transgender, queer or questioning, or intersex (LGBTQI+) student.

(k) A student who is in foster care.

(l) A student without documentation of immigration status.

(m) A pregnant, parenting, or caregiving student.

(n) A student impacted by the justice system, including a formerly incarcerated student.

(o) A student who is the first in their family to attend postsecondary education.

(p) A student enrolling in or seeking to enroll in postsecondary education for the first time at the age of 20 or older.

(q) A student who is working full-time while enrolled in postsecondary education.

(r) A student who is enrolled in or is seeking to enroll in postsecondary education who is eligible for a Pell Grant.

(s) An adult student in need of improving their basic skills or an adult student with limited English proficiency.

(t) A student performing significantly below grade level.

(u) A Military- or Veteran-Connected Student.

For the purposes of this definition only ''English learner'' means an individual who is an English learner as defined in section 8101(20) of the ESEA, or an individual who is an English language learner as defined in section 203(7) of the Workforce Innovation and Opportunity Act.

What Works Clearinghouse (WWC) Handbooks (WWC Handbooks) means the standards and procedures set forth in the WWC Standards Handbook, Versions 4.0 or 4.1, and WWC Procedures Handbook, Versions 4.0 or 4.1, or in the WWC Procedures and Standards Handbook, Version 3.0 or Version 2.1 (all incorporated by reference, see § 77.2). Study findings eligible for review under WWC standards can meet WWC standards without reservations, meet WWC standards with reservations, or not meet WWC standards. WWC practice guides and intervention reports include findings from systematic reviews of evidence as described in the WWC Handbooks documentation.

Note: The WWC Handbooks are available at *ies.ed.gov/ncee/wwc/Handbooks.*

Program Authority: Section 2242 of the ESEA (20 U.S.C. 6672).

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) EED NFP. (e) The Supplemental Priorities. (f) The notice of final definition published elsewhere in this edition of the **Federal Register**.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $65,000,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applications from this competition.

Estimated Range of Awards: $1,000,000–$6,000,000 per project year.

Estimated Average Size of Awards: $3,500,000 per project year.

Estimated Number of Awards: 16–20.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

III. Eligibility Information

1. *Eligible Applicants:*

(a) An IHE that provides course materials or resources that are Evidence-Based in increasing academic achievement, graduation rates, or rates of postsecondary education matriculation;

(b) A National Nonprofit organization with a demonstrated record of raising student academic achievement, graduation rates, and rates of higher education attendance, matriculation, or completion, or of effectiveness in providing preparation and Professional Development activities and programs for teachers, principals, or other School Leaders;

(c) The Bureau of Indian Education; or

(d) A partnership consisting of—

(i) One or more entities described in paragraph (a) or (b); and

(ii) A for-profit entity.

If you are a nonprofit organization, under 34 CFR 75.51, you may demonstrate your nonprofit status by providing: (1) Proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code; (2) a statement from a State taxing body or the State attorney general certifying that the organization is a nonprofit organization operating within the State and that no part of its net earnings may lawfully benefit any private shareholder or individual; (3) a certified copy of the applicant's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the applicant; or (4) any item described above if that item applies to a State or national parent organization, together with a statement by the State or parent organization that the applicant is a local nonprofit affiliate.

2. a. *Cost Sharing or Matching:* Under section 2242 of the ESEA, each grant recipient must provide, from non-Federal sources, at least 25 percent of the total cost for each year of the project activities. These funds may be provided in cash or through in-kind contributions. Grantees must include a budget showing their matching contributions on an annual basis relative to the annual budget amount of SEED grant funds and must provide evidence of their matching contributions for the first year of the grant in their grant applications.

Note: The combination of Federal and non-Federal funds should equal the total cost of the project. Therefore, grantees are generally required to support no less than 25 percent of the total cost of the project with non-Federal funds. Grantees are strongly encouraged to take this requirement into account when requesting Federal funds and limit their request appropriately and should verify that their budgets reflect the costs allocations appropriately. (Cost share formula: Total program cost (the amount of the Federal grant + the amount of the non-Federal match) × .75 = Federal award amount).

b. *Supplement-Not-Supplant:* This program involves supplement-not-supplant funding requirements. Under section 2301 of the ESEA (20 U.S.C. 6691), funds made available under title II of the ESEA must be used to supplement, and not supplant, non-Federal funds that would otherwise be used for activities authorized under this title. Further, the prohibition against supplanting funds also means that grantees seeking to charge indirect costs to SEED funds will need to use a restricted indirect cost rates. See 34 CFR 75.563.

c. *Indirect Cost Rate Information:* This program uses a restricted indirect cost rate. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see *www2.ed.gov/about/offices/list/ocfo/intro.html.*

d. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

3. *Subgrantees:* (a) Under 34 CFR 75.708(b) and (c) a grantee under this competition may award subgrants—to directly carry out project activities described in its application—to the following types of entities: LEAs, IHEs, State and local governments, and other public or private entities suitable to carry out the activities proposed in the application.

(b) The grantee may award subgrants to entities it has identified in an approved application or under procedures established by the grantee.

4. *Certification:* Pursuant to section 2242 of the ESEA (20 U.S.C. 6672), applicants must include a certification that the services provided by an eligible entity under the grant to an LEA or to a school served by the LEA will not result in direct fees for participating students or parents.

5. *Renewal:* Under section 2242(b)(2) of the ESEA (20 U.S.C. 6672), the Secretary may renew a grant awarded under this section for one additional two-year period.

Note: During the course of the third year of the project period for grants awarded under this competition, we will provide details on the potential renewal process. In making decisions on whether to award a two-year renewal award, we will review performance data submitted in regularly required reporting, as well as potentially request narrative information to be assessed using selection criteria from 34 CFR 75.210.

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 27, 2021 (86 FR 73264) and available at *www.federalregister.gov/d/2021-27979,* which contain requirements and information on how to submit an application. Please note that these Common Instructions supersede the version published on February 13, 2019, and, in part, describe the transition from the requirement to register in SAM.gov a DUNS number to the implementation of the UEI. More information on the phase-out of DUNS numbers is available at *https://www2.ed.gov/about/offices/list/ofo/docs/unique-entity-identifier-transition-fact-sheet.pdf.*

2. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for the SEED program, your application may include business information that you consider proprietary. In 34 CFR 5.11 we define ''business information'' and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended).

Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under ''Other Attachments Form,'' please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

4. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

5. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to 40 pages and (2) use the following standards:

• A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.

• Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.

• Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

• Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the recommended page limit does apply to all of the application narrative.

6. *Notice of Intent to Apply:* The Department will be able to develop a more efficient process for reviewing grant applications if it has a better understanding of the number of entities that intend to apply for funding under this competition. Therefore, we strongly encourage each potential applicant to notify us of their intent to submit an application for funding by sending an email to *SEED@ed.gov* with FY 2022 SEED Intent to Apply in the subject line, by May 4, 2022. Applicants that do not send a notice of intent to apply may still apply for funding.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210. An applicant may earn up to a total of 100 points based on the selection criteria. The maximum score for each criterion is indicated in parentheses. Each criterion also includes the factors that the reviewers will consider in determining how well an application meets the criterion. The criteria are as follows:

(a) *Quality of the Project Design (35 points).* The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(1) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.

(2) The extent to which the proposed project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance.

(3) The extent to which there is a conceptual framework underlying the proposed research or demonstration activities and the quality of that framework.

(4) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services.

(5) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(b) *Significance (25 points).*

The Secretary considers the significance of the proposed project. In determining the significance of the proposed project, the Secretary considers the following factors:

(1) The importance or magnitude of the results or outcomes likely to be attained by the proposed project, especially improvements in teaching and student achievement.

(2) The extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits.

(3) The potential for the incorporation of project purposes, activities, or benefits into the ongoing program of the agency or organization at the end of Federal funding.

(4) The extent to which the results of the proposed project are to be disseminated in ways that will enable others to use the information or strategies.

(c) *Quality of the Management Plan (20 points).* The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(1) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(2) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(d) *Quality of the Project Evaluation (20 points).* The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors:

(1) The extent to which the methods of evaluation will, if well implemented, produce evidence about the project's effectiveness that would meet the WWC standards with or without reservations as described in the WWC Handbook.

(2) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

(3) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(4) The extent to which the methods of evaluation will provide valid and reliable performance data on Relevant Outcomes.

(5) The extent to which the design for implementing and evaluating the proposed project will result in information to guide possible replication of project activities or strategies, including information about the effectiveness of the approach or strategies employed by the project.

Note: Applicants may wish to review technical assistance resources on evaluation relevant to the SEED program available at *https://oese.ed.gov/offices/office-of-discretionary-grants-support-services/effective-educator-development-programs/supporting-effective-educator-development-grant-program/.*

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

Additional factors we consider in selecting an application for an award are as follows:

(a) As required under section 2242 of the ESEA, the Secretary must ensure that, to the extent practicable, grants are distributed among eligible entities that will serve geographically diverse areas,

including urban, suburban, and rural areas.

(b) As required under section 2242 of the ESEA, the Department must not award more than one grant under this program to an eligible entity during a grant competition. If an entity submits multiple applications for this competition, only the highest rated application will be considered for an award.

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions and, under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

5. *In General:* In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with—

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115–232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

5. *Performance Measures:* For the purpose of Department reporting under 34 CFR 75.110, we have established the following performance measures for the SEED program: (a) The percentage of teacher, principal, or other School Leader participants who serve concentrations of high-need students; (b) the percentage of teacher and principal participants who serve concentrations of high-need students and are highly effective; (c) the percentage of teacher and principal participants who serve concentrations of high-need students, are highly effective, and serve for at least two years; (d) the cost per such participant; and (e) the number of grantees with evaluations that meet the WWC standards with reservations. Grantees will report annually on each measure.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established

performance measurement requirements, whether the grantee has made substantial progress in achieving the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

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

Ruth E. Ryder,

Deputy Assistant Secretary for Policy and Programs Office of Elementary and Secondary Education.

[FR Doc. 2022–06963 Filed 4–1–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2022–SCC–0007]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Streamlined Clearance Process for Discretionary Grants

AGENCY: Office of the Secretary (OS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of a currently approved information collection.

DATES: Interested persons are invited to submit comments on or before May 4, 2022.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox. Comments may also be sent to *ICDocketmgr@ed.gov.*

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Alfreida Pettiford, 202–453–7718.

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: Streamlined Clearance Process for Discretionary Grants.

OMB Control Number: 1894–0001.

Type of Review: An extension of a currently approved information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 1.

Total Estimated Number of Annual Burden Hours: 3.

Abstract: Section 3505(a)(2) of the PRA of 1995 provides the OMB Director authority to approve the streamlined clearance process proposed in this information collection request. This information collection request was originally approved by OMB in January of 1997. This information collection streamlines the clearance process for all discretionary grant information collections which do not fit the generic application process. The streamlined clearance process continues to reduce the clearance time for the U.S. Department of Education's (ED's) discretionary grant information collections by two months or 60 days. This is desirable for two major reasons: It would allow ED to provide better customer service to grant applicants and help meet ED's goal for timely awards of discretionary grants. § 3474.20(d) adds the requirement for grantees to develop a dissemination plan for copyrighted work under open licensing. Information contained in the narrative of an application will be captured in the Evidence of Effectiveness Form.

Dated: March 29, 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. 2022–06955 Filed 4–1–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Automatic Extension of Performance Period for All Open Grants Issued Under the Higher Education Emergency Relief Fund (HEERF)

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The U.S. Department of Education (Department) is issuing this notice regarding the automatic extension of HEERF grantees' performance period. The performance period for all open HEERF grants with a balance greater than $1,000 is extended through June 30, 2023.

FOR FURTHER INFORMATION CONTACT: Karen Epps, U.S. Department of Education, 400 Maryland Avenue SW, Room 250–64, Washington, DC 20202. Telephone: (202) 377–3711. Email: *HEERF@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service, toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On March 11, 2021, President Biden signed the American Rescue Plan Act of 2021 (ARP) (Pub. L. 117–2). The ARP appropriated approximately $39.6 billion for HEERF, which represents the third stream of funding appropriated for HEERF to support institutions of higher education (IHEs) for the purpose of preventing, preparing for, and responding to the coronavirus. The ARP is one of the largest single investments ever made in our Nation's most historically under-resourced institutions. It has supported American recovery from the economic and health crises created by the 2019 novel coronavirus (COVID–19) pandemic. Prior funding streams include the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. 116–136) and Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSAA) (Pub. L. 116–260). The CARES Act, enacted on March 27, 2020, provided the Department with a $14.0 billion HEERF appropriation. CRRSAA, signed into law on December 27, 2020, made available an additional $22.7 billion for IHEs under the HEERF program.

In enacting CARES, CRRSAA, and ARP, Congress did not specify a performance period for HEERF grantees. In its initial determination regarding the performance period for grants made under CARES, CRRSAA, and ARP, the Department made the decision that institutions must expend their HEERF grant funds within one year from the date when the Department processed the most recent obligation of funds for each specific grant. For example, when distributing ARP HEERF grant funds, the Department stated that IHEs that received a supplemental award under ARP had one year to spend remaining CARES, CRRSAA, and new ARP grant funds for each specific grant supplement received, which began on the date their ARP supplemental award was made. An institution's performance period for each of its HEERF grants is currently indicated in Box 6 of the institution's most recent Grant Award Notification (GAN) under ''federal funding period.''

Under the Department's grantmaking procedures in 2 CFR 200.308(e)(2) and 34 CFR 75.261, grantees may also request one-time extensions of the budget period for up to 12 months to continue the work of their HEERF grant. Given that HEERF grantees have been awarded multiple supplemental grants obligated on a rolling basis, and some grants are on a no-cost extension, the performance period varies among HEERF grantees and their individual HEERF grants.

The Department is committed to providing consistency, where possible, and extending all available flexibilities that may be authorized by law to grantees under the HEERF programs as institutions continue to grapple with the financial consequences of COVID–19. The COVID–19 pandemic continues to challenge the public health and safety of the Nation, and it is essential to continue to combat and respond to COVID–19 with the full capacity and capability of the Federal Government.

Under 34 CFR 75.250(a), the Secretary may approve a project period of up to 60 months to perform the substantive work of a grant. While grantees have diligently spent most of their HEERF grant funds, the Department recognizes the need to use remaining funds to meet the needs of students. Accordingly, the Department is extending the performance period on all HEERF grants through June 30, 2023. This extension does not apply to grants that are closed or in the closeout process, nor does it apply to grants that have an award balance of $1,000 or less. The Department believes that extending the performance period on all HEERF grants through June 30, 2023, is consistent with the intent of Congress and authorized by the law. This extension, with a consistent performance period across grants, will also allow IHEs to manage grant spending more efficiently and spend remaining funds to meet institutional needs during the ongoing pandemic.

This blanket extension is not considered a no-cost extension under 2 CFR 200.308(e)(2) and 34 CFR 75.261.

While institutions will not receive a new GAN updating the performance periods of their HEERF grants, this notice supersedes, in part, all previous guidance, agreements, and grant award documents to provide IHEs with an extended performance period through June 30, 2023. Grantees are not required to take any action to take advantage of this automatic extension but are encouraged to maintain a copy of this notice within their HEERF grant files as required documentation for auditing purposes.

Institutions may always spend HEERF funds prior to the conclusion of the performance period. For those institutions that do not need additional time to spend their HEERF award, the Department encourages spending funds as soon as possible.

For more information on HEERF, please visit the Department's Higher Education Emergency Relief Fund page at: *www2.ed.gov/programs/heerf/index.html.*

Program Authority: Section 18004 of CARES, Section 314 of CRRSAA, and Section 2003 of ARP.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register,** in text or Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

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

your search to documents published by the Department.

Michelle Asha Cooper,

Deputy Assistant Secretary for Higher Education Programs, Delegated the Authority to Perform the Functions and Duties of the Assistant Secretary for the Office of Postsecondary Education.

[FR Doc. 2022–07053 Filed 4–1–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0045]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Application for Grants Under the Historically Black Colleges and Universities (HBCU) and Fostering Undergraduate Talent by Unlocking Resources for Education (FUTURE) Act 2019 Programs (1894–0001)

AGENCY: Office of Postsecondary Education (OPE), 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 May 4, 2022.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox. Comments may also be sent to *ICDocketmgr@ed.gov.*

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Wendy Lawrence, (202) 453–7821.

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: Application for Grants under the Historically Black Colleges and Universities (HBCU) and Fostering Undergraduate Talent by Unlocking Resources for Education (FUTURE) Act 2019 Programs (1894–0001).

OMB Control Number: 1840–0113.

Type of Review: Extension without change of a currently approved collection.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector.

Total Estimated Number of Annual Responses: 131.

Total Estimated Number of Annual Burden Hours: 3,668.

Abstract: The Historically Black Colleges and Universities (HBCU) Program and Fostering Undergraduate Talent by Unlocking Resources for Education (FUTURE) Act 2019 are authorized by Title III, Part B and Part F. The purpose of these programs is to provide historically Black institutions with resources to establish or strengthen their physical plants, financial management, academic resources, and endowments.

This collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1894–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

Dated: March 29, 2022.

Kun Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Office, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–06966 Filed 4–1–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER22–1482–000]

Blythe Mesa Solar II, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Blythe Mesa Solar II, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is April 18, 2022.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the

last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: March 29, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–07031 Filed 4–1–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF22–1–000]

Western Area Power Administration; Notice of Filing

Take notice that on November 2, 2021, Western Area Power Administration submitted tariff filing: Colorado River Storage Project Management—Salt Lake City Area Integrated Projects—WAPA199–20211101 to be effective 12/1/2021.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on April 28, 2022.

Dated: March 29, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–07033 Filed 4–1–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14867–003]

Scott's Mill Hydro, LLC; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original Major License.

b. *Project No.:* 14867–003.

c. *Date filed:* March 21, 2022.

d. *Applicant:* Scott's Mill Hydro, LLC.

e. *Name of Project:* Scott's Mill Hydroelectric Project.

f. *Location:* On the James River, near the City of Lynchburg, in Bedford and Amherst Counties, Virginia. No federal or tribal land would be occupied by project works or located within the project boundary.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Mark Fendig, P.O. Box 13, Coleman Falls, VA 24536; phone: (540) 320–6762.

i. *FERC Contact:* Jody Callihan, phone: (202) 502–8278 or email at *jody.callihan@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application and serve a copy of the request on the applicant.

l. Deadline for filing additional study requests and requests for cooperating agency status: May 20, 2022.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. All filings must clearly identify the project name and docket number on the first page: Scott's Mill Project (P–14867–003).

m. The application is not ready for environmental analysis at this time.

n. The Scott's Mill Hydroelectric Project would consist of: (1) An existing masonry dam containing two spillways separated by a 25-foot-wide stone pier, with one 735-foot-long, 15-foot-high overflow spillway and the other a 140-foot-long, 16-foot-high arch-section spillway; (2) an impoundment with a surface area of 305 acres at the normal

pool elevation of 516.4 feet North American Vertical Datum of 1988 (NAVD 88); (3) a new modular powerhouse containing nine generating units with a total installed capacity of 4.5 megawatts that would be installed immediately downstream of the existing arch-section spillway of the dam; (4) a new 1,200-foot-long overhead transmission line; and (5) appurtenant facilities.

To increase flow through the modular powerhouse, Scott's Mill proposes to remove the top 6.8 feet of the existing arch-section spillway of the dam and add a 2-foot-high concrete cap to the existing overflow spillway. Scott's Mill proposes to operate the project in a run-of-river mode, except on the 10 days of peak annual electrical demand in the Pennsylvania-New Jersey-Maryland (PJM) regional transmission organization, during which time the project may operate in a peaking mode for up to two hours per day. The estimated annual energy production of the project is 20,700 megawatt-hours.

o. Copies of the application may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document (P–14867). For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or (202) 502–8659 (TTY).

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. Procedural schedule: The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Issue Deficiency Letter (if necessary)—May 2022

Request Additional Information (if necessary)—May 2022

Issue Acceptance Letter—July 2022

Issue Scoping Document 1 for comments—August 2022

Issue Scoping Document 2 (if necessary)—September 2022

Issue Notice of Ready for Environmental Analysis—September 2022

Dated: March 29, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–07036 Filed 4–1–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL22–35–000]

Indeck Niles, LLC; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On March 28, 2022, the Commission issued an order in Docket No. EL22–35–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, instituting an investigation into whether Indeck Niles, LLC's proposed Rate Schedule [1] is unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. *Indeck Niles, LLC,* 178 FERC ¶ 61,227 (2022).

The refund effective date in Docket No. EL22–35–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL22–35–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2021), within 21 days of the date of issuance of the order.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFile'' link at *http://www.ferc.gov.* In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Dated: March 29, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–07032 Filed 4–1–22; 8:45 am]

BILLING CODE 6717–01–P

[1] Indeck Niles, LLC, Tariffs, Rates Schedules, and Agreements, Reactive Rate Schedule, Rate Schedule FERC No. 1 (0.0.0).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP22–715–000.

Applicants: Dauphin Island Gathering Partners.

Description: § 4(d) Rate Filing: Negotiated Rate Filing 3–24–2022 to be effective 3/24/2022.

Filed Date: 3/24/22.

Accession Number: 20220324–5103.

Comment Date: 5 p.m. ET 4/5/22.

Docket Numbers: RP22–724–000.

Applicants: Maritimes & Northeast Pipeline, L.L.C.

Description: § 4(d) Rate Filing: Negotiated Rates—Tenaska Release eff 3–26–22 to be effective 3/26/2022.

Filed Date: 3/29/22.

Accession Number: 20220329–5028.

Comment Date: 5 p.m. ET 4/11/22.

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: March 29, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–07034 Filed 4–1–22; 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 exempt wholesale generator filings:

Docket Numbers: EG22–73–000.
Applicants: Graphite Solar 1, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Graphite Solar 1, LLC.
Filed Date: 3/28/22.
Accession Number: 20220328–5261.
Comment Date: 5 p.m. ET 4/18/22.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER22–1484–000.
Applicants: Arizona Public Service Company.
Description: § 205(d) Rate Filing: Service Agreement No. 324, Amendment No. 2 to be effective 5/28/2022.
Filed Date: 3/28/22.
Accession Number: 20220328–5212.
Comment Date: 5 p.m. ET 4/18/22.
Docket Numbers: ER22–1485–000.
Applicants: Arizona Public Service Company.
Description: Tariff Amendment: Service Agreement No. 391—Notice of Cancellation to be effective 5/28/2022.
Filed Date: 3/28/22.
Accession Number: 20220328–5214.
Comment Date: 5 p.m. ET 4/18/22.
Docket Numbers: ER22–1487–000.
Applicants: Traverse Wind Energy Holdings LLC.
Description: Tariff Amendment: Notice of Cancellation of Market-Based Rate Tariff to be effective 5/29/2022.
Filed Date: 3/29/22.
Accession Number: 20220329–5006.
Comment Date: 5 p.m. ET 4/19/22.
Docket Numbers: ER22–1488–000.
Applicants: Wisconsin Public Service Corporation.
Description: § 205(d) Rate Filing: Filing of Annual Formula Rate of PEB and PBOP Changes to be effective 4/1/2022.
Filed Date: 3/29/22.
Accession Number: 20220329–5011.
Comment Date: 5 p.m. ET 4/19/22.
Docket Numbers: ER22–1489–000.
Applicants: New York Independent System Operator, Inc., Niagara Mohawk Power Corporation.
Description: § 205(d) Rate Filing: New York Independent System Operator, Inc. submits tariff filing per 35.13(a)(2) (iii: 205 SGIA between NYISO and NMPC for ELP Ticonderoga Solar SA No. 2666 to be effective 3/15/2022.
Filed Date: 3/29/22.
Accession Number: 20220329–5039.
Comment Date: 5 p.m. ET 4/19/22.
Docket Numbers: ER22–1490–000.
Applicants: Northern States Power Company, a Wisconsin corporation.
Description: § 205(d) Rate Filing: 2022–03–29 NSPW–CWDR–SISA–166–0.0.0 to be effective 3/30/2022.
Filed Date: 3/29/22.
Accession Number: 20220329–5062.
Comment Date: 5 p.m. ET 4/19/22.
Docket Numbers: ER22–1491–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Corn Belt Power Cooperative, Inc.'s Revisions to Formula Rate to be effective 6/1/2022.
Filed Date: 3/29/22.
Accession Number: 20220329–5072.
Comment Date: 5 p.m. ET 4/19/22.
Docket Numbers: ER22–1492–000.
Applicants: PacifiCorp.
Description: § 205(d) Rate Filing: Deseret TSOA Rev 8 to be effective 5/28/2022.
Filed Date: 3/29/22.
Accession Number: 20220329–5090.
Comment Date: 5 p.m. ET 4/19/22.
Docket Numbers: ER22–1493–000.
Applicants: Midcontinent Independent System Operator, Inc., Entergy Services, LLC.
Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2) (iii: 2022–03–29_Entergy (ELL & ENOL) revisions RE to Hurricane Ida and 2020 Storms to be effective 6/1/2022.
Filed Date: 3/29/22.
Accession Number: 20220329–5101.
Comment Date: 5 p.m. ET 4/19/22.
Docket Numbers: ER22–1494–000.
Applicants: Duke Energy Florida, LLC.
Description: Tariff Amendment: DEF—Cancellations of Service Agreement Nos. 171, 177 to be effective 5/29/2022.
Filed Date: 3/29/22.
Accession Number: 20220329–5133.
Comment Date: 5 p.m. ET 4/19/22.

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: March 29, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–07035 Filed 4–1–22; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9670–01–OA]

Notification of Public Meetings of the Clean Air Scientific Advisory Committee Ozone Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces two public meetings of the Clean Air Scientific Advisory Committee (CASAC) Ozone Panel. A public meeting will be held for the CASAC Ozone Panel to receive a briefing from EPA on the draft policy assessment that will support the agency's reconsideration of the 2020 Ozone National Ambient Air Quality Standards (NAAQS). A second public meeting will be held for the panel to peer review the agency's draft policy assessment for the reconsideration.

DATES: The public meeting for the panel to receive the briefing from EPA will be held on April 29, 2022, from 11:00 a.m. to 3:00 p.m. The public meeting for the panel to peer review the draft policy assessment document will be held on Wednesday, June 8, 2022, from 11:00 a.m. to 3:00 p.m.; Friday, June 10, 2022, from 11:00 a.m. to 3:00 p.m.; Monday, June 13, 2022, from 11:00 a.m. to 3:00 p.m.; and Friday, June 17, 2022, from 11:00 a.m. to 3:00 p.m. All times listed are in Eastern Time.

ADDRESSES: The meetings will be conducted virtually. Please refer to the CASAC website at *https://casac.epa.gov* for details on how to access the meeting.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding this notice may contact Mr. Aaron Yeow, Designated Federal Officer (DFO), SAB Staff Office,

by telephone at (202) 564–2050 or via email at *yeow.aaron@epa.gov.* General information concerning the CASAC, as well as any updates concerning the meetings announced in this notice can be found on the CASAC website: *https://casac.epa.gov.*

SUPPLEMENTARY INFORMATION:

Background: The CASAC was established pursuant to the Clean Air Act (CAA) Amendments of 1977, codified at 42 U.S.C. 7409(d)(2), to review air quality criteria and NAAQS and recommend to the EPA Administrator any new NAAQS and revisions of existing criteria and NAAQS as may be appropriate. The CASAC shall also: Advise the EPA Administrator of areas in which additional knowledge is required to appraise the adequacy and basis of existing, new, or revised NAAQS; describe the research efforts necessary to provide the required information; advise the EPA Administrator on the relative contribution to air pollution concentrations of natural as well as anthropogenic activity; and advise the EPA Administrator of any adverse public health, welfare, social, economic, or energy effects which may result from various strategies for attainment and maintenance of such NAAQS. As amended, 5 U.S.C., app. Section 109(d)(1) of the Clean Air Act (CAA) requires that EPA carry out a periodic review and revision, as appropriate, of the air quality criteria and the NAAQS for the six ''criteria'' air pollutants, including ozone and related photochemical oxidants.

The CASAC is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., app. 2, and conducts business in accordance with FACA and related regulations. The CASAC and the CASAC Ozone Panel will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies. Pursuant to FACA and EPA policy, notice is hereby given that the CASAC Ozone Panel will hold a public meeting to receive a briefing from EPA on updates to the policy assessment that will support the agency's reconsideration of the 2020 Ozone NAAQS and a public meeting for the panel to peer review the agency's policy assessment.

Technical Contacts: Any technical questions concerning EPA's updates to the ozone policy assessment should be directed to Ms. Leigh Meyer (*meyer.leigh@epa.gov*).

Availability of Meeting Materials: Prior to the meeting, the review documents, agenda and other materials will be accessible on the CASAC website: *https://casac.epa.gov.*

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels 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 and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit relevant comments on the topic of this advisory activity, including the charge to the CASAC and the EPA review documents, and/or the group conducting the activity, for the CASAC to consider as it develops advice for EPA. Input from the public to the CASAC will have the most impact if it provides specific scientific or technical information or analysis for CASAC to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment should follow the instructions below to submit comments.

Oral Statements: Individuals or groups requesting an oral presentation during the public meeting will be limited to three minutes. Each person making an oral statement should consider providing written comments as well as their oral statement so that the points presented orally can be expanded upon in writing. The public comment period will be on June 8, 2022. Interested parties should contact Mr. Aaron Yeow, DFO, in writing (preferably via email) at the contact information noted above by June 1, 2022, to be placed on the list of public speakers.

Written Statements: Written statements will be accepted throughout the advisory process; however, for timely consideration by CASAC members, statements should be supplied to the DFO (preferably via email) at the contact information noted above by June 1, 2022. It is the SAB Staff Office general policy to post written comments on the web page for the advisory meeting or teleconference. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its websites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the CASAC 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, please contact Mr. Aaron Yeow at (202) 564–2050 or *yeow.aaron@epa.gov.* To request accommodation of a disability, please contact the DFO, at the contact information noted above, preferably at least ten days prior to each meeting, to give EPA as much time as possible to process your request.

Thomas H. Brennan,

Director, Science Advisory Board Staff Office.

[FR Doc. 2022–07014 Filed 4–1–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Request for Comment on an Exposure Draft Technical Release, Omnibus Technical Release Amendments 2022: Conforming Amendments

AGENCY: Federal Accounting Standards Advisory Board.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Federal Accounting Standards Advisory Board (FASAB) has issued an exposure draft of a proposed Technical Release titled *Omnibus Technical Release Amendments 2022: Conforming Amendments.* Respondents are encouraged to comment on any part of the exposure draft. Written comments are requested by May 31, 2022, and should be sent to *fasab@fasab.gov* or Monica R. Valentine, Executive Director, Federal Accounting Standards Advisory Board, 441 G Street NW, Suite 1155, Washington, DC 20548.

ADDRESSES: The exposure draft is available on the FASAB website at *https://www.fasab.gov/documents-for-comment/.* Copies can be obtained by contacting FASAB at (202) 512–7350.

FOR FURTHER INFORMATION CONTACT: Ms. Monica R. Valentine, Executive Director, 441 G Street NW, Suite 1155, Washington, DC 20548, or call (202) 512–7350.

Authority: 31 U.S.C. 3511(d), Federal Advisory Committee Act, as amended (5 U.S.C. app.).

Dated: March 30, 2022.

Monica R. Valentine,

Executive Director.

[FR Doc. 2022–07015 Filed 4–1–22; 8:45 am]

BILLING CODE P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1096; FR ID 79271]

Information Collection Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.'' The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before May 4, 2022.

ADDRESSES: Comments should be sent 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. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Nicole Ongele, FCC, via email to *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control Number: 3060–1096.

Title: Prepaid Calling Card Service Provider Certification, WC Docket No. 05–68.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 121 respondents; 1,452 responses.

Estimated Time per Response: 2.5 hours–20 hours.

Frequency of Response: Quarterly reporting requirement, third party disclosure requirement and recordkeeping requirement.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. 151, 152, 154(i), 201, 202 and 254 of the Communications Act of 1934, as amended.

Total Annual Burden: 12,100 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission does not anticipate providing confidentiality of the information submitted by prepaid calling card providers. Particularly, the prepaid calling card providers must send reports to their transport providers. Additionally, the quarterly certifications sent to the Commission will be made public through the Commission's Electronic Comment Filing System (ECFS) process. These certifications will be filed in the Commission's docket associated with this proceeding. If the respondents submit information they believe to be confidential, they may request confidential treatment of such information under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: Prepaid calling card service providers must report quarterly the percentage of interstate, intrastate and international access charges to carriers from which they purchase transport services. Prepaid calling card providers must also file certifications with the Commission quarterly that include the above information and a statement that they are contributing to the federal Universal Service Fund based on all interstate and international revenue, except for revenue from the sale of prepaid calling cards by, to, or pursuant to contract with the Department of Defense (DoD) or a DoD entity.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–06995 Filed 4–1–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1155; FR ID 80209]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general

public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before June 3, 2022. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1155.

Title: Sections 15.709, 15.713, 15.714, 15.715 15.717, 27.1320, TV White Space Broadcast Bands.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 1,510 respondents; 3,500 responses.

Estimated Time per Response: 2 hours.

Frequency of Response: On occasion reporting requirement, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 4(i), 201, 302, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 201, 302a, 303.

Total Annual Burden: 7,000 hours.

Total Annual Cost: $151,000.

Privacy Act Impact Assessment: No Impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential information to the Commission. Respondents may request confidential treatment of such information under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission is submitting this information collection as a revision to the Office of Management and Budget (OMB) after this 60 day comment period in order to obtain the full three year clearance.

On January 25, 2022, the Commission adopted a Second Order on Reconsideration, Further Notice of Proposed Rulemaking, and Order in ET Docket Nos. 14–165, 20–36, 04–186 and GN Docket No. 12–268, FCC 22–6, that made changes to the requirements for how white space devices must interact with the white space database. The white space database determines which frequencies are available for unlicensed devices and is the primary means to prevent white space devices from causing harmful interference to TV reception and other protected services. The Commission eliminated the requirement for white space database administrators to ''push'' changes in channel availability information to white space devices. It instead requires fixed and Mode II personal/portable white space devices, other than narrowband devices, to re-check the white space database once per hour rather than once per day. The Commission retained a daily re-check requirement for mobile and narrowband devices but sought comment on whether to apply an hourly re-check requirement to these types of devices. The Commission also retained the requirement for white space database administrators to share licensed wireless microphone registration information with other database administrators within ten minutes after it is received, but moved this requirement to a different rule section.

The modified database administrator requirements, Section 15.715(l) are as follows:

§ 15.715 White space database administrator.

(l) If more than one database is developed, the database administrators shall cooperate to develop a standardized process for providing on a daily basis or more often, as appropriate, the data collected for the facilities listed in § 15.713(b)(2) to all other white space databases to ensure consistency in the records of protected facilities. In response to a request for immediate access to a channel by a licensed wireless microphone user, white space database administrators are required to share the licensed microphone channel registration information to all other white space database administrators within 10 minutes of receiving each wireless microphone registration.

On October 27, 2020, the Commission adopted a Report and Order and Notice of Proposed Rulemaking in ET Docket No. 20–36, FCC 20–156, that made targeted changes to the Part 15 rules for unlicensed white space devices in the TV bands to provide improved broadband coverage that will benefit American consumers in rural and underserved areas as well as to provide improved access to narrowband IoT applications while still protecting broadcast television stations from harmful interference. Specifically, the Commission permits higher EIRP and higher antenna HAAT for fixed white space devices in ''less congested'' geographic areas. In addition, the Commission permits higher power mobile operation within ''geo-fenced'' areas in ''less congested'' areas. The Order revised Section 15.709(g)(1)(ii) to increase the maximum permissible antenna height above average terrain for fixed white space devices on TV channels 2–35 in ''less congested'' areas from 250 meters to 500 meters.

The white space rules as amended by the 2020 White Spaces R&O require that fixed white space devices and installing parties comply with the following requirements with respect to the antenna height above average terrain:

15.709 General technical requirements.

(g) Antenna requirements—

(1) Fixed white space devices—

(ii) *Height above average terrain (HAAT).* For devices operating in the TV bands below 602 MHz, the transmit antenna shall not be located where its height above average terrain exceeds 250 meters generally, or 500 meters in less congested areas. For devices operating in all other bands the transmit antenna shall not be located where its height above average terrain exceeds 250 meters. The HAAT is to be calculated by the white space database using the methodology in § 73.684(d) of this chapter. For HAAT greater than 250 meters the following procedures are required:

(A) The installing party must contact a white space database and identify all TV broadcast station contours that would be potentially affected by operation at the planned HAAT and EIRP. A potentially affected TV station is one where the protected service contour is within the applicable separation distance for the white space device operating at an assumed HAAT of 50 meters above the planned height at the proposed power level.

(B) The installing party must notify each of these licensees and provide the geographic coordinates of the white space device, relevant technical parameters of the proposed deployment, and contact information.

(C) No earlier than four calendar days after this notification, the installing party may commence operations.

(D) Upon request, the installing party must provide each potentially affected licensee with information on the time periods of operations.

(E) If the installing party seeks to modify its operations by increasing its power level, by moving more than 100 meters horizontally from its location, or by making an increase in the HAAT or EIRP of the white space device that results in an increase in the minimum required separation distances from co-channel or adjacent channel TV station contours, it must conduct a new notification.

(F) All notifications required by this section must be in written form (including email). In all cases, the names of persons contacted, and dates of contact should be kept by the white space device operator for its records and supplied to the Commission upon request.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–07006 Filed 4–1–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0895; FR ID 78449]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before June 3, 2022. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0895.

Title: Numbering Resource Optimization.

Form Number: FCC Form 502.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities and State, Local, or Tribal Government.

Number of Respondents and Responses: 8,415 respondents; 74,172 responses.

Estimated Time per Response: 1 hour–44.4 hours.

Frequency of Response: On occasion and semi-annual reporting requirements and recordkeeping requirement.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. 151, 153, 154, 201–205 and Section 251 of the Communications Act of 1934.

Total Annual Burden: 290,637 hours.

Total Annual Cost: $4,747,499.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: Disaggregated, carrier-specific forecast and utilization data will be treated as confidential and will be exempt from public disclosure under 5 U.S.C. 552(b)(4).

Needs and Uses: The data collected on FCC Form 502 helps the Commission manage the ten-digit North American Numbering Plan (NANP), which is currently being used by the United States and 19 other countries. Under the Communications Act of 1934, as amended, the Commission was given ''exclusive jurisdiction over those portions of the North American Numbering Plan that pertains to the United States.'' Pursuant to that authority, the Commission conducted a rulemaking in March 2000 that the Commission found that mandatory data collection is necessary to efficiently monitor and manage numbering use. The Commission received OMB approval for this requirement and the following:

(1) Utilization/Forecast Report;
(2) Application for initial numbering resource;
(3) Application for growth numbering resources;
(4) Recordkeeping requirement;
(5) Notifications by state commissions;
(6) Demonstration to state commission; and
(7) Petitions for additional delegation of numbering authority.

The data from this information collection is used by the FCC, state regulatory commissions, and the NANPA to monitor numbering resource utilization by all carriers using the resource and to project the dates of area code and NANP exhaust.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–06994 Filed 4–1–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0221; FR ID 80300]

Information Collection Requirement Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The Commission may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before June 3, 2022.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the Title as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0221.

Title: Section 90.155, Time in Which Station Must Be Placed in Operation.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, and State, Local or Tribal Government.

Number of Respondents and Responses: 45 respondents; 397 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 154(i), 161, 303(r), 303(g), 332(c)(7), unless otherwise noted.

Total Annual Burden: 397 hours.

Annual Cost Burden: No cost.

Needs and Uses: The information collection requirements contained in Section 90.155 provide that a period longer than 12 months may be granted to local government entities to place their stations in operation on a case-by-case basis upon a showing of need. This rule provides flexibility to state and local governments. An application for extension of time to commence service may be made on FCC Form 601. *27114 Extensions of time must be filed prior to the expiration of the construction period. Extensions will be granted only if the licensee shows that the failure to commence service is due to causes beyond its control.

In 1995, via a Report and Order in PR Docket No. 93–61; FCC 95–41, published at 60 FR 15248, the Commission established construction deadlines for Location and Monitoring Service (LMS) licensees in the market-licensed multilateration LMS services. On July 8, 2004, the Commission adopted a Report and Order under WT Docket Nos. 02–381, 01–14, and 03–202; FCC 04–166, published at 69 FR 75144, that amended § 90.155 to provide holders of multilateration location service authorizations with five- and ten-year benchmarks to place in operation their base stations that utilize multilateration technology to provide multilateration location service to one-third of the Economic Area's (EA's) population within five years of initial license grant, and two-thirds of the population within ten years. At the five- and ten-year benchmarks, licensees are required to file a map and FCC Form 601 showing compliance with the coverage requirements pursuant to § 1.946 of the Commission's rules.

On January 31, 2007, via an Order on Reconsideration, and Memorandum Opinion and Order, under DA 07–479, the FCC granted two to three additional years to meet the five-year construction requirement for certain multilateration Location and Monitoring Service Economic Area licenses, and extended the 10-year requirement for such licenses two years.

These requirements will be used by Commission personnel to evaluate whether or not certain licensees are providing substantial service as a means of complying with their construction requirements, or have demonstrated that an extended period of time for construction is warranted.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–06996 Filed 4–1–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0466; FR ID 80189]

Information Collection Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it can further reduce the information collection burden for small business concerns with fewer than 25 employees.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before May 4, 2022.

ADDRESSES: Comments should be sent 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. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the

''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control Number: 3060–0466.

Title: Sections 74.783, 73.1201 and 74.1283, Station Identification.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not for-profit institutions; State, Local or Tribal Government.

Number of Respondents and Responses: 28,323 respondents; 28,323 responses.

Estimated Time per Response: 0.166–1 hour.

Frequency of Response: On occasion reporting requirement; Recordkeeping requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or maintain benefits. The statutory authority for this collection of information is contained in 47 U.S.C. 151, 152, 154(i), 303, 307 and 308.

Total Annual Burden: 26,715 hours.

Total Annual Costs: No cost.

Needs and Uses: The information collection requirements for this collection are as following: 47 CFR 73.1201(a) requires television broadcast licensees to make broadcast station identification announcements at the beginning and ending of each time of operation, and hourly, as close to the hour as feasible, at a natural break in program offerings. Television and Class A television broadcast stations may make these announcements visually or aurally.

47 CFR 74.783(b) requires licensees of television translators whose station identification is made by the television station whose signals are being rebroadcast by the translator, must secure agreement with this television station licensee to keep in its file, and available to FCC personnel, the translator's call letters and location, giving the name, address and telephone number of the licensee or his service representative to be contacted in the event of malfunction of the translator. It shall be the responsibility of the translator licensee to furnish current information to the television station licensee for this purpose.

47 CFR 73.1201(b)(1) requires that the official station identification consist of the station's call letters immediately followed by the community or communities specified in its license as the station's location. The name of the licensee, the station's frequency, the station's channel number, as stated on the station's license, and/or the station's network affiliation may be inserted between the call letters and station location. Digital Television (DTV) stations, or DAB Stations, choosing to include the station's channel number in the station identification must use the station's major channel number and may distinguish multicast program streams. For example, a DTV station with major channel number 26 may use 26.1 to identify a High Definition Television (HDTV) program service and 26.2 to identify a Standard Definition Television (SDTV) program service. A radio station operating in DAB hybrid mode or extended hybrid mode shall identify its digital signal, including any free multicast audio programming streams, in a manner that appropriately alerts its audience to the fact that it is listening to a digital audio broadcast. No other insertion between the station's call letters and the community or communities specified in its license is permissible. A station may include in its official station identification the name of any additional community or communities, but the community to which the station is licensed must be named first.

47 CFR 74.783(e) permits low power TV permittees or licensees to request to be assigned four-letter call signs in lieu of the five-character alpha-numeric call signs.

47 CFR 74.1283(c)(1) requires a FM translator station licensee whose identification is made by the primary station must arrange for the primary station licensee to furnish the translator's call letters and location (name, address, and telephone number of the licensee or service representative) to the FCC. The licensee must keep this information in the primary station's files.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–07008 Filed 4–1–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

RIN 3064–ZA32

Statement of Principles for Climate-Related Financial Risk Management for Large Financial Institutions

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed policy statement; request for comment.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is requesting comment on draft principles that would provide a high-level framework for the safe and sound management of exposures to climate-related financial risks. Although all financial institutions, regardless of size, may have material exposures to climate-related financial risks, these draft principles are targeted at the largest financial institutions, those with over $100 billion in total consolidated assets. The draft principles are intended to support efforts by large financial institutions to focus on key aspects of climate-related financial risk management.

DATES: Comments must be received no later than June 3, 2022.

ADDRESSES: Commenters are encouraged to use the title ''Principles for Climate-

Related Financial Risk Management for Large Financial Institutions'' (RIN 3064–ZA32) and to identify the number of the specific question(s) for comment to which they are responding. Please send comments by one method only directed to:

- *Agency Website: https://www.fdic.gov/resources/regulations/federal-register-publications/index.html.* Follow the instructions for submitting comments on the agency's website.
- *Email: comments@fdic.gov.* Include RIN 3064–ZA32 in the subject line of the message.
- *Mail:* James P. Sheesley, Assistant Executive Secretary, Attention: Comments—RIN 3064–ZA32, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery/Courier:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street NW building (located on F Street NW) on business days between 7:00 a.m. and 5:00 p.m.
- *Public Inspection:* All comments received will be posted without change to *https://www.fdic.gov/resources/regulations/federal-register-publications/index.html*—including any personal information provided—for public inspection. Paper copies of public comments may be ordered from the FDIC Public Information Center, 3501 North Fairfax Drive, Room E–1002, Arlington, VA 22226 or by telephone at 877–275–3342 or 703–562–2200.

FOR FURTHER INFORMATION CONTACT: Andrew D. Carayiannis, Senior Policy Analyst, Capital Markets Strategies Section, *acarayiannis@fdic.gov;* Lauren K. Brown, Senior Policy Analyst, Exam Support Section, *laubrown@fdic.gov; regulatorycapital@fdic.gov;* Capital Markets and Accounting Policy, Division of Risk Management Supervision, 202–898–6888; Jennifer M. Jones, Counsel, *jennjones@fdic.gov;* Karlyn Hunter, Counsel, *kahunter@fdic.gov;* Amanda Ledig, Senior Attorney, *aledig@fdic.gov;* Supervision and Legislation, and Enforcement Branch, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), 800–925–4618.

SUPPLEMENTARY INFORMATION:

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I. Introduction

The effects of climate change and the transition to a low carbon economy present emerging economic and financial risks that threaten the safety and soundness of financial institutions and the stability of the financial system.[1] [2] Financial institutions are likely to be affected by both the physical risks and transition risks associated with climate change (referred to in these draft principles as climate-related financial risks). Physical risks generally refer to the harm to people and property arising from acute, climate-related events, such as hurricanes, wildfires, floods, and heatwaves, and chronic shifts in climate, including higher average temperatures, changes in precipitation patterns, sea level rise, and ocean acidification. Transition risks generally refer to stresses to certain financial institutions or sectors arising from the shifts in policy, consumer and business sentiment, or technologies associated with the changes necessary to limit climate change.

The economic and financial risks associated with physical risks reflect damages to property, infrastructure, and business disruptions, all of which have real effects to the value of property securing financial institutions' exposures and borrowers' ability to perform on their obligations.[3] Regarding transition risks, certain companies or sectors may become less competitive over time as policies implemented to reduce carbon emissions or carbon-equivalents to mitigate the risks of climate change (*e.g.,* carbon pricing), technological advances, and changes in investor and public preferences may all contribute to and accelerate a transition to a low-carbon economy, in each case potentially resulting in reduced profitably and ability to repay obligations for financial institutions' counterparties, as well as reductions in the value for certain assets that are less productive in a low-carbon environment.[4] [5] Transition risks may also increase litigation, liability, legal and regulatory compliance risks associated with climate-sensitive investments and businesses, or pose other risks to institutions based on shifts in market or consumer preferences. Additionally, the value of financial assets may be adversely affected as market participants reflect the future impacts of both physical and transition risks on financial performance.

From a financial stability perspective, climate-related financial risks have the potential to impact financial institutions and the economy through both macroeconomic and microeconomic factors, such as reductions in economic growth and labor productivity, increased borrowing costs, as well as directly to financial institutions themselves or through their counterparties.[6] These

[1] In this issuance, the term ''financial institution'' or ''institution'' means insured state nonmember banks, state-licensed insured branches of foreign banks that are subject to the provisions of section 39 of the Federal Deposit Insurance Act, and state savings associations.

[2] For additional background, *see* generally Financial Stability Oversight Council, *Report on Climate-Related Financial Risk* (2021). Further, *see* Financial Stability Board, *The Implications of Climate Change for Financial Stability* (2020).

[3] For example, acute physical risks, such as flooding, hurricanes, wildfires, and droughts, may result in sudden, significant, and recurring damage to residential and commercial real estate properties securing exposures held by financial institutions or may otherwise disrupt the operations of their business clients. Further, longer-term gradual physical risks, such as rising average temperatures and sea levels may increase the risk to property values and drive migration patterns as individuals and businesses prioritize geographic areas less exposed to physical risks, which may produce detrimental impacts to household wealth, corporate profitably, local economies and municipalities in certain geographies. *See www.whitehouse.gov, Report on the impact of climate change on migration* (2021) *https://www.whitehouse.gov/wp-content/uploads/2021/10/Report-on-the-Impact-of-Climate-Change-on-Migration.pdf.*

[4] Reductions in carbon emissions are often considered through a ''carbon equivalent amount'', which measures the emissions of various greenhouse gases in terms of their equivalent amount of carbon dioxide with the same global warming potential. For example, *see* Equation A–1 in 40 CFR part 98.

[5] For example, it may become more costly or difficult for certain climate-sensitive investments and businesses to comply with climate policies. Further, delayed implementation of climate policies may result in a more abrupt transition for such climate-sensitive investments and businesses, increasing the risks and ultimate costs of transitioning to a more sustainable economy. Advancements in technology may also accelerate the development of low-carbon energy sources, while investor and public preferences and behavior may result in a shift towards more energy efficient assets and companies earlier than otherwise expected. *See* Network of Central Banks and Supervisors for Greening the Financial System, *NGFS Climate Scenarios for Central Banks and Supervisors* (2020); IEA and IRENA, *Perspectives for the energy transition—Investment needs for a low-carbon energy system* (2017).

[6] For example, physical and transition risks also have the potential to produce ''feedback loops'' across the financial system and economy, which can amplify and reinforce the impacts of climate change through procyclical behavior, such as widespread reduction in bank lending and lead to declines in asset valuations and economic growth.

factors contribute to the way in which climate-related financial risks can transmit to a significant number of financial institutions and raise financial stability concerns.

Climate-related financial risks pose a clear and significant risk to the U.S. financial system and, if unmitigated, may pose a near-term threat to safe and sound banking and financial stability. Weaknesses in how institutions identify, measure, monitor, and control the physical and transition risks associated with a changing climate could adversely affect a financial institution's safety and soundness, as well as the overall financial system. Adverse effects could include potentially disproportionate impact on the financially vulnerable, including low- to moderate-income (LMI) and other disadvantaged households and communities.[7] With this, the manner in which financial institutions manage climate-related financial risks to address safety and soundness concerns should also seek to reduce or mitigate the impact that management of these risks may have on broader aspects of the economy, including the disproportionate impact of risk on LMI and other disadvantaged communities.

The FDIC recognizes the need for comprehensive risk management guidelines that can be implemented consistently. These draft principles provide a high-level framework for the safe and sound management of exposures to climate-related financial risks, consistent with the risk management framework described in existing FDIC rules and guidance, and are intended to support efforts by financial institutions to focus on the key aspects of climate risk management.[8] The draft principles will help financial institution management make progress toward answering key questions on climate exposures and incorporating climate-related financial risks into financial institutions' risk management frameworks. Additionally, the draft principles are intended to support the use of scenario analysis as an emerging and important approach for identifying, measuring, and managing climate-related risks, as well as risk assessment processes related to credit, liquidity, operational, legal and compliance, and other financial and nonfinancial risks. Some financial institutions, including many large financial institutions, are considering climate-related risks and would benefit from additional guidance as they develop capabilities, deploy resources, and make necessary investments to address climate-related financial risks.

Although all financial institutions, regardless of size, may have material exposures to climate-related financial risks, these draft principles are targeted at the largest financial institutions, those with over $100 billion in total consolidated assets.[9] The draft principles are an initial step to promote a consistent understanding of the effective management of climate-related financial risks. The FDIC plans to elaborate on these draft principles in subsequent guidance that would distinguish roles and responsibilities of boards of directors (boards) and management, incorporate the feedback received on the draft principles, and consider lessons learned and best practices from the industry and other jurisdictions. In keeping with the FDIC's risk-based approach to supervision, the FDIC intends to appropriately tailor any resulting supervisory expectations to reflect differences in institutions' circumstances such as complexity of operations and business models. Through this and any subsequent climate-related financial risk guidance, the FDIC will continue to encourage institutions to prudently meet the financial services needs of their communities.

II. General Principles

A. Goverance

An effective risk governance framework is essential to a financial institution's safe and sound operation. A financial institution's board and management should demonstrate an appropriate understanding of climate-related financial risk exposures and their impact on risk appetite to facilitate oversight. Sound governance includes reviewing information necessary to oversee the financial institution, allocating appropriate resources, assigning climate-related financial risk responsibilities throughout the organization (*i.e.,* committees, reporting lines, and roles), and clearly communicating to staff regarding climate-related impacts to the institution's risk profile. Responsibility and accountability may be integrated within existing organizational structures or by establishing new structures for climate-related financial risks. Where dedicated units are established, the board and management should clearly define these units' responsibilities and interaction with existing governance structures.

The board should have adequate understanding and knowledge to assess the potential impact of climate-related risks on the financial institution and to address and oversee these risks within the institution's strategy and risk appetite, including an understanding of the potential ways in which these risks could evolve over various time horizons and scenarios. Relevant time horizons may include those that extend beyond the institution's typical strategic planning horizon. The board should actively oversee the financial institution's risk-taking activities and hold management accountable for adhering to the risk governance framework. Management is responsible for executing the financial institution's overall strategic plan. This responsibility includes effectively managing all risks, including climate-related financial risks, and their effects on the institution's financial condition. Management should also hold staff accountable for controlling risks within established lines of authority and responsibility. Additionally, management is responsible for regularly reporting to the board on the level and nature of risks to the institution, including climate-related financial risks.

B. Policies, Procedures, and Limits

Management should incorporate climate-related risks into policies, procedures, and limits to provide detailed guidance on the institution's approach to these risks in line with the strategy and risk appetite set by the board. Policies, procedures, and limits should be modified when necessary to reflect the distinctive characteristics of climate-related risks and changes to the institution's activities.

C. Strategic Planning

The board and management should consider material climate-related financial risk exposures when setting the institution's overall business

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Further, interconnections within the financial system can accelerate the spread of a climate-related financial shocks, leading to potential contagion effects if institutions experience shocks as a result of physical or transition risks. *See,* for example, Financial Stability Board, *The Implications of Climate Change for Financial Stability* (2020); Basel Committee on Banking Supervision, *Climate-related risk drivers and their transmission channels* (2021).

[7] For further information, *see* Staff Reports, Federal Reserve Bank of New York, *Understanding the Linkages between Climate Change and Inequality in the United States,* No. 991 (November 2021).

[8] The FDIC has established standards for safety and soundness, as required by section 39 of the Federal Deposit Insurance Act, in part 364 of FDIC Rules and Regulations.

[9] Generally, effective risk management practices should be appropriate to the size of the institution and the nature, scope, and risk of its activities. *See, e.g.,* Appendix A to part 364. For purposes of these draft principles, the FDIC generally believes that these standards are particularly salient for the largest financial institutions, those with over $100 billion in total consolidated assets.

strategy, risk appetite, and financial, capital, and operational plans. As part of forward-looking strategic planning, the board and management should address the potential impact of climate-related financial risk exposures on the institution's financial condition, operations (including geographic locations), and business objectives over various time horizons. The board and management should also consider climate-related financial risk impacts on stakeholders' expectations, the institution's reputation, and LMI and other disadvantaged households and communities, including physical harm or access to bank products and services. The FDIC recognizes that the incorporation of material climate-related financial risks into various planning processes is iterative as measurement methodologies, models, and data for analyzing these risks continue to evolve and mature over time.

Any climate related strategies, including any relevant corporate social responsibility objectives, should align with and support the institution's broader strategy, risk appetite and risk management framework. In addition, where institutions engage in public communication of their climate-related strategies, boards and management should ensure that any public statements about an institution's climate related strategies and commitments are consistent with their internal strategies and risk appetite statements.

D. Risk Management

Climate-related financial risks typically impact financial institutions through a range of traditional risk types. Management should oversee the development and implementation of processes to identify, measure, monitor, and control climate-related financial risk exposures within the institution's existing risk management framework. A financial institution should employ a comprehensive process to identify emerging and material risks stemming from the institution's business activities and associated exposures. The risk identification process should include input from stakeholders across the organization with relevant expertise (*e.g.,* business units, independent risk management, and legal). Risk identification includes assessment of climate-related financial risks across a range of plausible scenarios and under various time horizons.

As part of sound risk management, institutions should develop processes to measure and monitor material climate-related financial risks and to inform management about the materiality of those risks. Material climate-related financial risk exposures should be clearly defined, aligned with the institution's risk appetite, and supported by appropriate metrics (*e.g.,* risk limits and key risk indicators) and escalation processes. Boards and management should also incorporate climate-related risks into their internal control frameworks, including internal audit.

Tools and approaches for measuring and monitoring exposure to climate-related risks include, among others, exposure analysis, heat maps, climate risk dashboards and scenario analysis. These tools can be leveraged to assess an institution's exposure to both physical and transition risks in both the shorter and longer term. Outputs should inform the risk identification process and the short- and long-term financial risks to an institution's business model from climate change.

E. Data, Risk Measurement, and Reporting

Sound climate risk management depends on the availability of relevant, accurate, and timely data. Management should incorporate climate-related financial risk information into the institution's internal reporting, monitoring, and escalation processes to facilitate timely and sound decision-making across the institution. Effective risk data aggregation and reporting capabilities allow management to capture and report material and emerging climate-related financial risk exposures, segmented or stratified by physical and transition risks, based upon the complexity and types of exposures. Data, risk measurement, modeling methodologies, and reporting continue to evolve at a rapid pace; management should monitor these developments and incorporate them into their climate risk management as warranted.

F. Scenario Analysis

Climate-related scenario analysis is emerging as an important approach for identifying, measuring, and managing climate-related risks. For the purposes of this guidance, climate-related scenario analysis refers to exercises used to conduct a forward-looking assessment of the potential impact on an institution of changes in the economy, financial system, or the distribution of physical hazards resulting from climate-related risks. These exercises differ from traditional stress testing exercises that typically assess the potential impacts of transitory shocks to near-term economic and financial conditions. An effective climate-related scenario analysis framework provides a comprehensive and forward-looking perspective that institutions can apply alongside existing risk management practices to evaluate the resiliency of an institution's strategy and risk management to the structural changes arising from climate-related risks.

Management should develop and implement climate-related scenario analysis frameworks in a manner commensurate to the institution's size, complexity, business activity, and risk profile. These frameworks should include clearly defined objectives that reflect the institution's overall climate risk management strategies. These objectives could include, for example, exploring the impacts of climate-related risks on the institution's strategy and business model, identifying and measuring vulnerability to relevant climate-related risk factors including physical and transition risks, and estimating climate-related exposures and potential losses across a range of plausible scenarios. In the near term, a climate-related scenario analysis framework can also assist the institution in identifying data and methodological limitations and uncertainty in climate risk management and informing the adequacy of its climate risk management framework.

Climate-related scenario analyses should be subject to oversight, validation, and quality control standards that would be commensurate to their risk. Climate-related scenario analysis results should be clearly and regularly communicated to all relevant individuals within the institution, including an appropriate level of information necessary to effectively convey the assumptions, limitations, and uncertainty of results.

III. Management of Risk Areas

A risk assessment process is part of a sound risk governance framework, and it allows boards and management to identify emerging risks and to develop and implement appropriate strategies to mitigate those risks. Boards and management should consider and incorporate climate-related financial risks when identifying and mitigating all types of risk. These risk assessment principles describe how climate-related financial risks can be addressed in various risk categories. The FDIC will elaborate on these risk assessment principles in subsequent guidance.

A. Credit Risk

The board and management should consider climate-related financial risks as part of the underwriting and ongoing monitoring of portfolios. Effective credit risk management practices could

include monitoring climate-related credit risks through sectoral, geographic, and single-name concentration analyses, including credit risk concentrations stemming from physical and transition risks. As part of concentration risk analysis, management should assess potential changes in correlations across exposures or asset classes. The board and management should determine credit risk appetite and lending limits related to these risks.

B. Liquidity Risk

The board and management should assess whether climate-related financial risks could affect liquidity and, if so, incorporate those risks into their liquidity risk management practices and liquidity buffers.

C. Other Financial Risk

Management should monitor interest rate risk and other model inputs for greater volatility or less predictability due to climate-related financial risks. Where appropriate, management should include corresponding measures of conservatism in their risk measurements and controls. The board and management should monitor how climate-related financial risks affect their institution's exposure to risk related to changing prices. While market participants are still researching how to measure climate price risk, the board and management should use the best measurement methodologies reasonably available to them and refine them over time.

D. Operational Risk

The board and management should consider how climate-related financial risk exposures may adversely impact an institution's operations, control environment, and operational resilience. Sound operational risk management includes incorporating an assessment across all business lines and operations, including third-party operations, and considering climate-related impacts on business continuity and the evolving legal and regulatory landscape.

E. Legal/Compliance Risk

The board and management should consider how climate-related financial risks and risk mitigation measures affect the legal and regulatory landscape in which the institution operates. This consideration includes possible changes to legal requirements for, or underwriting considerations related to, flood or disaster related insurance. It also includes possible fair lending concerns if the financial institution's risk mitigation measures disproportionately affect communities or households on a prohibited basis such as race or ethnicity.

F. Other Nonfinancial Risk

Consistent with sound oversight, the board and management should monitor how the execution of strategic decisions and the operating environment affect the financial institution's financial condition and operational resilience as discussed in the strategic planning section. The board and management should also consider the extent to which the financial institution's activities may increase the risk of negative financial impact from reputational damage, liability, or litigation, and implement adequate measures to account for these risks where material.

IV. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) (PRA) states that no agency may conduct or sponsor, nor is the respondent required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

These draft principles do not revise any existing, or create any new, information collections pursuant to the PRA. Therefore, the FDIC is not making a submission to OMB.

V. Request for Comment

The FDIC welcomes feedback on all aspects of these draft principles, including on the following questions. Among other uses, the FDIC would consider responses in connection with developing any future guidance on climate-related financial risks.

A. Applicability

Question 1: What additional factors, for example asset size, location, and business model, should inform financial institutions' adoption of these principles?

B. Tailoring

Question 2: How could future guidance assist a financial institution in developing its climate-related financial risk management practices commensurate to its size, complexity, risk profile, and scope of operations?

C. General

Question 3: What challenges do financial institutions face in incorporating these draft principles into their risk management systems? How should the FDIC further engage with financial institutions to understand those challenges?

Question 4: Would regulations or guidelines prescribing particular risk management practices be helpful to financial institutions as they adjust to doing business in a changing climate?

D. Current Risk Management Practices

Question 5: What specific tools or strategies have financial institutions used to successfully incorporate climate-related financial risks into their risk management frameworks?

Question 6: How do financial institutions determine when climate-related financial risks are material and warrant greater than routine attention by the board and management?

Question 7: What time horizon do financial institutions consider relevant when identifying and assessing the materiality of climate-related financial risks?

Question 8: What, if any, specific products, practices, and strategies—for example, insurance or derivatives contracts or other capital market instruments—do financial institutions use to hedge, transfer, or mitigate climate-related financial risks?

Question 9: What, if any, climate-related financial products or services—for example, ''green bonds,'' derivatives, dedicated investment funds, or other instruments that take climate-related considerations into account—do financial institutions offer to clients and customers? [10] What risks, if any, do these products or services pose?

Question 10: How do financial institutions currently consider the impacts of climate-related financial risk mitigation strategies and financial products on households and communities, specifically LMI and other disadvantaged communities? Should the agencies modify existing regulations and guidance, such as those associated with the Community Reinvestment Act, to address the impact climate-related financial risks may have on LMI and other disadvantaged communities?

E. Data, Disclosures, and Reporting

Question 11: What, if any, specific climate-related data, metrics, tools and models from borrowers and other counterparties do financial institutions need to identify, measure, monitor, and control their own climate-related financial risks? How do financial institutions currently obtain this information? What gaps and other concerns are there with respect to these data, metrics, tools or models?

Question 12: How could existing regulatory reporting requirements be augmented to better capture financial

[10] ''Green bonds'' generally refer to fixed-income securities, the proceeds of which are earmarked for environmentally beneficial investment.

institutions' exposure to climate-related financial risks?

F. Scenario Analysis

Question 13: Scenario analysis is an important component of climate risk management that requires assumptions about plausible future states of the world. How do financial institutions use climate scenario models, analysis, or tools and what challenges do they face?

Question 14: What factors are most salient for the FDIC to consider when designing and executing scenario analysis exercises?

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on March 29, 2022.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2022–07065 Filed 4–1–22; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

[Notice 2022–10]

Filing Dates for the Alaska Special Congressional Election

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: Alaska has scheduled special elections on June 11, 2022, and August 16, 2022, to fill the U.S. House of Representatives seat in the At Large Congressional District held by the late Representative Don Young. Committees required to file reports in connection with the Special Primary Election on June 11, 2022, shall file a 12-day Pre-Primary Report. Committees required to file reports in connection with both the Special Primary and Special General Election on August 16, 2022, shall file a 12-day Pre-Primary, a 12-day Pre-General, and a 30-day Post-General Report.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth S. Kurland, Information Division, 1050 First Street NE, Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates who participate in the Alaska Special Primary and Special General Elections shall file a 12-day Pre-Primary Report on May 30, 2022; a 12-day Pre-General Report on August 4, 2022; and a 30-day Post-General Report on September 15, 2022. (See charts below for the closing date for each report.)

Note that these reports are in addition to the campaign committee's regular quarterly filings. (See charts below for the closing date for each report).

Unauthorized Committees (PACs and Party Committees)

Political committees not filing monthly are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the Alaska Special Primary or Special General Elections by the close of books for the applicable report(s). (See charts below for the closing date for each report.)

Committees filing monthly that make contributions or expenditures in connection with the Alaska Special Primary or Special General Elections will continue to file according to the monthly reporting schedule.

Additional disclosure information for the Alaska special elections may be found on the FEC website at *https://www.fec.gov/help-candidates-and-committees/dates-and-deadlines/.*

Disclosure of Lobbyist Bundling Activity

Principal campaign committees, party committees and leadership PACs that are otherwise required to file reports in connection with the special elections must simultaneously file FEC Form 3L if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of $20,200 during the special election reporting periods. (See charts below for closing date of each period.) 11 CFR 104.22(a)(5)(v), (b), 110.17(e)(2), (f).

CALENDAR OF REPORTING DATES FOR ALASKA SPECIAL ELECTIONS

Report	Close of books [1]	Reg./Cert. & overnight mailing deadline	Filing deadline
Political Committees Involved in Only the Special Primary (06/11/2022) Must File			
Pre-Primary	05/22/2022	05/27/2022	[2] 05/30/2022
July Quarterly	06/30/2022	07/15/2022	07/15/2022
Political Committees Involved in Both the Special Primary (06/11/2022) and Special General (08/16/2022) Must File			
Pre-Primary	05/22/2022	05/27/2022	[2] 05/30/2022
July Quarterly	06/30/2022	07/15/2022	07/15/2022
Pre-General	07/27/2022	08/01/2022	08/04/2022
Post-General	09/05/2022	09/15/2022	09/15/2022
October Quarterly	[2] 09/30/2022	10/15/2022	10/15/2022
Political Committees Involved in Only the Special General (08/16/2022) Must File			
Pre-General	07/27/2022	08/01/2022	08/04/2022
Post-General	09/05/2022	09/15/2022	09/15/2022
October Quarterly	09/30/2022	10/15/2022	[2] 10/15/2022

[1] The reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered as a political committee up through the close of books for the first report due.

[2] Notice that this filing deadline falls on a weekend or federal holiday. Filing deadlines are not extended when they fall on nonworking days. Accordingly, reports filed by methods other than registered, certified or overnight mail, or electronically, must be received before the Commission's close of business on the last business day before the deadline.

On behalf of the Commission.

Dated: March 29, 2022.

Allen Dickerson,

Chairman, Federal Election Commission.

[FR Doc. 2022–07040 Filed 4–1–22; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Information Collection Renewal

AGENCY: Federal Mine Safety and Health Review Commission (FMSHRC).

ACTION: Notice.

SUMMARY: FMSHRC, as required by the Paperwork Reduction Act of 1995 (PRA), is publishing the following summary of a proposed collection for public comment. FMSHRC is soliciting comment concerning the renewal of its information collection titled ''Medical Exception Request to the COVID–19 Vaccination Requirement.''

DATES: You should submit written comments by May 4, 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* (Public Comment of Information Collection). Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Leslie Bayless, *lbayless@fmshrc.gov,* FMSHRC Chief Operating Officer, (202) 434–9900, 1331 Pennsylvania Avenue NW, Suite 520N, Washington, DC 20004–1710. When submitting comments or requesting information, please include the document identifier 2022–01441 and project title, Information Collection Renewal, for reference.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title: Medical Exception Request to the COVID–19 Vaccination Requirement.

OMB Control No.: 3079–0001.

Abstract: The Safer Federal Workforce Task Force (Task Force) issued guidance, in accordance with the President's Executive Order 14043 (September 9, 2021), requiring Federal employees to be vaccinated against COVID–19 by November 22, 2021 absent an exception required by law. To determine whether employees who request a medical exception qualify for the exception sought, or, alternatively, must comply with the November 22 deadline, FMSHRC developed the ''Medical Exception Request to the COVID–19 Vaccination Requirement'' which was approved by OMB under an Emergency approval on November 30, 2021. This renewal request seeks to extend the use of the Information Collection Form in the event that COVID–19 Vaccination Requirements are subsequently required in the next three years. This form was developed, consistent with guidance issued by the Task Force, to gather information from employees and applicants for employment who have requested medical exceptions to determine whether such employees qualify for legal exceptions to the vaccine requirement.

Type of Review: Renewal, without change, of a currently approved collection.

Affected Public: Businesses or other for-profit; individuals.

Estimated Number of Respondents: 8 Job Applicants, 8 employees, and 36 medical professionals.

Estimated Burden per Respondent: 0.25 hours for applicants and employees; 0.5 hours for medical professionals.

Total Burden: 22.0 hours.

Dated: March 29, 2022.

Sarah L. Stewart,

Deputy General Counsel, Federal Mine Safety and Health Review Commission.

[FR Doc. 2022–06948 Filed 4–1–22; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Solicitation of Applications for Membership on the Community Advisory Council

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of solicitation of applications.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) established the Community Advisory Council (CAC) as an advisory committee to the Board on issues affecting consumers and communities. This Notice advises individuals who wish to serve as CAC members of the opportunity to be considered for the CAC.

DATES: Applications received between Monday, April 11, 2022 and Friday, June 10, 2022 will be considered for selection to the CAC for terms beginning January 1, 2023.

ADDRESSES: Individuals who are interested in being considered for the CAC may submit an application via the Board's website or via email. The application can be accessed at *https://www.federalreserve.gov/secure/CAC/Application/.* Emailed submissions can be sent to *CCA-CAC@frb.gov.* The information required for consideration is described below.

If electronic submission is not feasible, submissions may be mailed to the Board of Governors of the Federal Reserve System, Attn: Community Advisory Council, Mail Stop I–305, 20th Street and Constitution Ave. NW, Washington, DC 20551.

FOR FURTHER INFORMATION CONTACT: Ellie Dries, Community Development Analyst, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, 20th Street and Constitution Ave. NW, Washington, DC 20551, or (202) 452–2412, or *CCA-CAC@frb.gov.* For users of TTY–TRS, please call 711 from any telephone, anywhere in the United States.

SUPPLEMENTARY INFORMATION: The Board created the Community Advisory Council (CAC) as an advisory committee to the Board on issues affecting consumers and communities. The CAC is composed of a diverse group of experts and representatives of consumer and community development organizations and interests, including from such fields as affordable housing, community and economic development, employment and labor, financial services and technology, small business, and asset and wealth building. CAC members meet semiannually with the members of the Board in Washington, DC to provide a range of perspectives on the economic circumstances and financial services needs of consumers and communities, with a particular focus on the concerns of low- and moderate-income consumers and communities. The CAC complements two of the Board's other advisory councils—the Community Depository Institutions Advisory Council (CDIAC)

and the Federal Advisory Council (FAC)—whose members represent depository institutions.

The CAC serves as a mechanism to gather feedback and perspectives on a wide range of policy matters and emerging issues of interest to the Board of Governors and aligns with the Federal Reserve's mission and current responsibilities. These responsibilities include, but are not limited to, banking supervision and regulatory compliance (including the enforcement of consumer protection laws), systemic risk oversight and monetary policy decision-making, and, in conjunction with the Office of the Comptroller of the Currency (OCC) and Federal Deposit Insurance Corporation (FDIC), responsibility for implementation of the Community Reinvestment Act (CRA).

This Notice advises individuals of the opportunity to be considered for appointment to the CAC. To assist with the selection of CAC members, the Board will consider the information submitted by the candidate along with other publicly available information that it independently obtains.

Council Size and Terms

The CAC consists of at least 15 members. The Board will select members in the fall of 2022 to replace current members whose terms will expire on December 31, 2022. The newly appointed members will serve three-year terms that will begin on January 1, 2023. If a member vacates the CAC before the end of the three-year term, a replacement member will be appointed to fill the unexpired term.

Application

Candidates may submit applications by one of three options:

- *Online:* Complete the application form on the Board's website at *https://www.federalreserve.gov/secure/CAC/Application/.*
- *Email:* Submit all required information to *CCA-CAC@frb.gov.*
- *Postal Mail:* Submissions may be mailed to the Board of Governors of the Federal Reserve System, Attn: Community Advisory Council, Mail Stop I–305, 20th Street and Constitution Ave. NW, Washington, DC 20551.

Interested parties can view the current Privacy Act Statement at: *https://www.federalreserve.gov/aboutthefed/cac-privacy.htm.*

Below are the application fields. Asterisks (*) indicate required fields.

- First and Last Name *
- Email Address *
- Phone Number *
- Postal Mail Street Address *
- Postal Mail City *
- Postal Mail State, Territory, or Federal District *
- Postal Zip Code *
- Organization *
- Title *
- Organization Type (select one) *
  - For Profit
    - Community Development Financial Institution (CDFI)
    - Non-CDFI Financial Institution
    - Financial Services
    - Professional Services
    - Other
  - Non-Profit
    - Advocacy
    - Association
    - Community Development Financial Institution (CDFI)
    - Educational Institution
    - Foundation
    - Service Provider
    - Think Tank/Policy Organization
    - Other
  - Government
- Primary Area of Expertise (select one) *
  - Civil rights
  - Community development finance
  - Community reinvestment and stabilization
  - Consumer protection
  - Economic and small business development
  - Labor and workforce development
  - Financial technology
  - Household wealth building and financial stability
  - Housing and mortgage finance
  - Rural issues
  - Other (please specify)
- Secondary Area of Expertise (select one)
  - Civil rights
  - Community development finance
  - Community reinvestment and stabilization
  - Consumer protection
  - Economic and small business development
  - Labor and workforce development
  - Financial technology
  - Household wealth building and financial stability
  - Housing and mortgage finance
  - Rural issues
  - Other (please specify)
- Resume *
  - The resume should include information about past and present positions you have held, dates of service for each, and a description of responsibilities.
- Cover Letter *
  - The cover letter should explain why you are interested in serving on the CAC as well as what you believe are your primary qualifications.
- Additional Information
  - At your option, you may also provide additional information about your qualifications.

Qualifications

The Board is interested in candidates with knowledge of fields such as affordable housing, community and economic development, employment and labor, financial services and technology, small business, and asset and wealth building, with a particular focus on the concerns of low- and moderate-income consumers and communities. Candidates do not have to be experts on all topics related to consumer financial services or community development, but they should possess some basic knowledge of these areas and related issues. In appointing members to the CAC, the Board will consider a number of factors, including diversity in terms of subject matter expertise, geographic representation, and the representation of women and minority groups.

CAC members must be willing and able to make the necessary time commitment to participate in organizational conference calls and prepare for and attend meetings two times per year (usually for two days). The meetings will be held at the Board's offices in Washington, DC. The Board will provide a nominal honorarium and will reimburse CAC members only for their actual travel expenses subject to Board policy.

By order of the Board of Governors of the Federal Reserve System, acting through the Director of the Division of Consumer and Community Affairs under delegated authority.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2022–06958 Filed 4–1–22; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for

immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than May 4, 2022.

A. Federal Reserve Bank of Philadelphia (William Spaniel, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521. Comments can also be sent electronically to *Comments.applications@phil.frb.org:*

1. *Fulton Financial Corporation, Lancaster, Pennsylvania;* to merge with Prudential Bancorp, Inc., and thereby indirectly acquire Prudential Bank, both of Philadelphia, Pennsylvania.

Board of Governors of the Federal Reserve System, March 30, 2022.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–07057 Filed 4–1–22; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0082; Docket No. 2022–0053; Sequence No. 11]

Information Collection; Federal Acquisition Regulation Part 7 Requirements

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

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, and the Office of Management and Budget (OMB) regulations, DoD, GSA, and NASA invite the public to comment on a revision concerning Federal Acquisition Regulation part 7 requirements. DoD, GSA, and NASA invite comments on: Whether the proposed collection of information is necessary for the proper performance of the functions of Federal Government acquisitions, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. OMB has approved this information collection for use through August 31, 2022. DoD, GSA, and NASA propose that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: DoD, GSA, and NASA will consider all comments received by June 3, 2022.

ADDRESSES: DoD, GSA, and NASA invite interested persons to submit comments on this collection through *https://www.regulations.gov* and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.*

Instructions: All items submitted must cite OMB Control No. 9000–0082, Federal Acquisition Regulation Part 7 Requirements. Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Carrie Moore, Procurement Analyst, at telephone 571–300–5917, or *carrie.moore@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

9000–0082, Federal Acquisition Regulation Part 7 Requirements.

B. Need and Uses

DoD, GSA, and NASA are combining OMB Control Nos. for the Federal Acquisition Regulation (FAR) by FAR part. This consolidation is expected to improve industry's ability to easily and efficiently identify burdens associated with a given FAR part. The review of the information collections by FAR part allows improved oversight to ensure there is no redundant or unaccounted for burden placed on industry. Lastly, combining information collections in a given FAR part is also expected to reduce the administrative burden associated with processing multiple information collections.

This justification supports the revision of OMB Control No. 9000–0082 and combines it with the previously approved information collection under OMB Control No. 9000–0114, with the new title ''Federal Acquisition Regulation Part 7 Requirements''. Upon approval of this consolidated information collection, OMB Control No. 9000–0114 will be discontinued. The burden requirements previously approved under the discontinued number will be covered under OMB Control No. 9000–0082.

This clearance covers the information that offerors or contractors must submit to comply with the following FAR requirements:

FAR clause 52.207–3, Right of First Refusal of Employment, requires contractors to provide the contracting officer, within 120 days of beginning contract performance, the names of personnel who were: Adversely affected or separated from Government employment as a result of the contract award; and subsequently hired by the contractor to perform under the contract within 90 days after contract performance began. The information provided under this clause is used by the Government to ensure: Contractor compliance with providing the right of first refusal to such affected personnel; and certain obligations to displaced employees are met by the Government.

FAR provision 52.207–4, Economic Purchase Quantity—Supplies, permits offerors, who believe that acquisition of supplies in quantity different from what is being solicited would be more advantageous to the Government, to recommend with their offer a more economic purchase quantity for the required supplies. The information provided under this provision is used by the Government to acquire supplies at the total and unit costs most advantageous to the Government and to develop a database for future acquisitions of such items of supply.

C. Annual Burden

Respondents: 14,510.
Total Annual Responses: 14,510.
Total Burden Hours: 14,530.
Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA

Regulatory Secretariat Division, by calling 202–501–4755 or emailing *GSARegSec@gsa.gov.* Please cite OMB Control No. 9000–0082, Federal Acquisition Regulation Part 7 Requirements.

Janet Fry,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2022–06992 Filed 4–1–22; 8:45 am]

BILLING CODE 6820–EP–P

GOVERNMENT ACCOUNTABILITY OFFICE

Request for Nominations for the Board of Governors of the Patient-Centered Outcomes Research Institute (PCORI)

AGENCY: Government Accountability Office (GAO).

ACTION: Request for letters of nomination and resumes.

SUMMARY: The Patient Protection and Affordable Care Act gave the Comptroller General of the United States responsibility for appointing up to 21 members to the Board of Governors of the Patient-Centered Outcomes Research Institute. In addition, the Directors of the Agency for Healthcare Research and Quality and the National Institutes of Health, or their designees, are members of the Board. As the result of terms ending in September 2022, GAO is accepting nominations in the following categories: A surgeon, a state-licensed integrative health care practitioner, a representative of patients and health care consumers, a representative of device manufacturers or developers, a representative of pharmaceutical manufacturers or developers, and a representative of private payers who represents health insurance issuers. Nominations should be sent to the email address listed below. Acknowledgement of submissions will be provided within a week of submission.

DATES: Letters of nomination and resumes should be submitted no later than May 10, 2022, to ensure adequate opportunity for review and consideration of nominees prior to appointment.

ADDRESSES: Submit letters of nomination and resumes to *PCORI@gao.gov.* Include PCORI Nomination in the subject line of the email.

FOR FURTHER INFORMATION CONTACT: Ray Sendejas at (202) 512–7113 or *SendejasR@gao.gov* if you do not receive an acknowledgement or need additional information. For general information, contact GAO's Office of Public Affairs, (202) 512–4800.

Authority: Sec. 6301 and Sec. 10602, Pub. L. 111–148, 124 Stat. 119, 727, 1005 (2010); Div. N, Sec. 104, Pub. L. 116–94, 133 Stat. 2534 (2019).

Gene L. Dodaro,

Comptroller General of the United States.

[FR Doc. 2022–06452 Filed 4–1–22; 8:45 am]

BILLING CODE 1610–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2022–0044]

CDC Recommendations for Hepatitis B Screening and Testing—United States, 2022; Request for Comment

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), located within the Department of Health and Human Services (HHS), announces the opening of a docket to obtain comment on proposed updated recommendations for hepatitis B virus (HBV) infection screening and testing (Proposed Updated Recommendations), including hepatitis B screening at least once in a lifetime for persons 18 years of age and older, using a three-test panel. The Proposed Updated Recommendations also expand existing risk-based testing recommendations to include the following populations, activities, exposures, or conditions associated with increased risk for HBV infection: Persons currently or formerly incarcerated in a jail, prison, or other detention setting; persons with a history of sexually transmitted infections or multiple sex partners; and persons with a history of hepatitis C virus infection. The Proposed Updated Recommendations are intended to inform the practices of and care by U.S. healthcare providers and are based on scientific evidence of the effectiveness and economic value of screening to diagnose current HBV infection among adults in the United States.

DATES: Written comments must be received on or before June 3, 2022.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2022–0044, by either of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Division of Viral Hepatitis, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mailstop U12–3, Atlanta, GA 30329, Attn: Docket No. CDC–2022–0044.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *http://regulations.gov,* including any personal information provided. Do not submit comments by email; CDC does not accept comments by email. For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Erin Conners, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mailstop U12–3, Atlanta, GA 30329; Telephone: 404–639–8000; Email: *DVHpolicy@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Public Participation

Interested persons or organizations are invited to participate by submitting written views, recommendations, and data related to any of the Proposed Updated Recommendations or supporting evidence. In addition, CDC invites comments specifically on the following questions:

- Based on the evidence presented in the full recommendations document (see the Supporting and Related Materials tab in the docket), does the evidence support the Proposed Updated Recommendations for HBV infection screening and testing? If not, please state the reason why and, if available, provide additional evidence for consideration.
- Are CDC's Proposed Updated Recommendations (see Supporting and Related Materials) clearly written? If not, what changes do you propose to make them clearer?
- If implemented as currently drafted, do you believe the Proposed Updated Recommendations would result in a reduction in HBV infections and associated health and financial consequences (*e.g.,* patient and healthcare costs to treat chronic hepatitis B) in the United States? If not, please provide an explanation and supporting data or evidence.

Please note that comments received, including attachments and other supporting materials, are part of the public record and are subject to public disclosure. Comments will be posted on *https://www.regulations.gov.* Therefore, do not include any information in your

comment or supporting materials that you consider confidential or inappropriate for public disclosure. If you include your name, contact information, or other information that identifies you in the body of your comments, that information will be on public display. CDC will review all submissions and may choose to redact, or withhold, submissions containing private or proprietary information such as Social Security numbers, medical information, inappropriate language, or duplicate/near duplicate examples of a mass-mail campaign. Do not submit comments by email. CDC does not accept comments by email.

Background and Brief Description

Hepatitis B virus (HBV) is transmitted via blood or sexual contact. Persons with chronic HBV infection are at increased risk for cirrhosis and liver cancer and require medical care (Schillie et al., 2018). National health survey data indicate that about 880,000 people were living with HBV infection in the United States during 2013–2018, with modeled data putting that estimate at 1.89 million (Roberts, Ly, et al., 2021; Wong et al., 2021). Testing is the first step in accessing treatment, but an estimated two-thirds of people living with hepatitis B in the United States during 2013–2018 were unaware of their HBV infection (Kim et al., 2013). Despite the availability of highly effective hepatitis B vaccines that can prevent development of subsequent acute and chronic liver disease, 70 percent of adults in the United States self-reported they were unvaccinated as of 2018 (Lu et al., 2021). National surveillance data reveal that during 2011–2019, rates of reported acute hepatitis B steadily increased among persons aged 40–49 and 50–59 years (CDC Viral Hepatitis Surveillance, 2021). Among the acute HBV cases reported to CDC in 2019, injection drug use was the most common risk factor (CDC Viral Hepatitis Surveillance, 2021). Rates of newly reported chronic hepatitis B were highest among persons aged 30–49 years, Asian/Pacific Islander persons, and Black/African American persons in 2019 (CDC Viral Hepatitis Surveillance, 2021). Providing a framework to reach the World Health Organization (WHO) viral hepatitis elimination goals, the Viral Hepatitis National Strategic Plan for the United States calls for an increase in the proportion of people with HBV infection who are aware of their infection from a baseline of 32 percent during 2013–2016 to 90 percent by 2030 (Department of Health and Human Services, 2020). In support of this goal, CDC used current evidence to update its previous 2008 recommendations for testing and management for people with chronic hepatitis B in the United States.

As described in the recommendation document found in the Supporting and Related Materials tab of the docket, these recommendations supplement previously published CDC recommendations for testing and identifying persons with chronic HBV infection in the United States published in 2008 (Weinbaum et al., 2008). They do so by adding hepatitis B screening at least once in a lifetime for persons aged 18 years of age and older and specifying the use of the three-test panel during screening to identify persons who: (1) Have a current HBV infection, (2) have resolved infection and who may be susceptible to reactivation, (3) are susceptible and need vaccination, or (4) are vaccinated.

Dated: March 30, 2022.

Angela K. Oliver,

Executive Secretary, Centers for Disease Control and Prevention.

[FR Doc. 2022–07050 Filed 4–1–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–P–0015A and CMS–10394]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by May 4, 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.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at website address at: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicare Current Beneficiary Survey (MCBS); *Use:* CMS is the largest single payer of health care in the United States. The agency plays a direct or indirect role in administering health insurance coverage for more than 120 million people across

the Medicare, Medicaid, CHIP, and Exchange populations. A critical aim for CMS is to be an effective steward, major force, and trustworthy partner in supporting innovative approaches to improving quality, accessibility, and affordability in healthcare. CMS also aims to put patients first in the delivery of their health care needs.

The Medicare Current Beneficiary Survey (MCBS) is the most comprehensive and complete survey available on the Medicare population and is essential in capturing data not otherwise collected through our operations. The MCBS is a nationally-representative, longitudinal survey of Medicare beneficiaries that we sponsor and is directed by the Office of Enterprise Data and Analytics (OEDA). MCBS data collection includes both in-person and phone interviewing. The survey captures beneficiary information whether aged or disabled, living in the community or facility, or serviced by managed care or fee-for-service. Data produced as part of the MCBS are enhanced with our administrative data (*e.g.,* fee-for-service claims, prescription drug event data, enrollment, etc.) to provide users with more accurate and complete estimates of total health care costs and utilization. The MCBS has been continuously fielded for more than 30 years, encompassing over 1.2 million interviews and more than 140,000 survey participants. Respondents participate in up to 11 interviews over a four-year period. This gives a comprehensive picture of health care costs and utilization over a period of time.

The MCBS continues to provide unique insight into the Medicare program and helps CMS and our external stakeholders better understand and evaluate the impact of existing programs and significant new policy initiatives. In the past, MCBS data have been used to assess potential changes to the Medicare program. For example, the MCBS was instrumental in supporting the development and implementation of the Medicare prescription drug benefit by providing a means to evaluate prescription drug costs and out-of-pocket burden for these drugs to Medicare beneficiaries. Beginning in 2023, this proposed revision to the clearance will add a few new measures to existing questionnaire sections and will remove COVID–19-related content that is no longer relevant for administration. New respondent materials are also included in this request. The revisions will result in a net decrease in respondent burden as compared to the current clearance due to the removal of COVID–19 items.

Form Number: CMS–P–0015A (OMB: 0938–0568); *Frequency:* Occasionally; *Affected Public:* Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 13,656; *Total Annual Responses:* 35,998; *Total Annual Hours:* 46,680. (For policy questions regarding this collection contact William Long at 410–786–7927.)

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Application and Triennial Re-application to Be a Qualified Entity to Receive Medicare Data for Performance Measurement; *Use:* The Patient Protection and Affordable Care Act (ACA) was enacted on March 23, 2010 (Pub. L. 111–148). ACA amends section 1874 of the Social Security Act by adding a new subsection (e) to make standardized extracts of Medicare claims data under Parts A, B, and D available to qualified entities to evaluate the performance of providers of services and suppliers. This is the application needed to determine an organization's eligibility as a qualified entity. The information from the collection is used by CMS to determine whether an organization meets the criteria required to be considered a qualified entity to receive Medicare claims data under ACA Section 10332. CMS evaluates the organization's eligibility in terms of organizational and governance capabilities, addition of claims data from other sources, and data privacy and security. This collection covers the application through which organizations provide information to CMS to determine whether they will be approved as a qualified entity. This collection also covers the triennial re-application (CMS–10596; 0938–1317) through which organizations provide information to CMS to determine whether they are approved to continue as a qualified entity. *Form Number:* CMS–10394 (OMB control number: 0938–1144); *Frequency:* Occasionally; *Affected Public:* Not-for-profits institutions and Business or other for-profits; *Number of Respondents:* 30; *Total Annual Responses:* 30; *Total Annual Hours:* 3,800. (For policy questions regarding this collection contact Kari A. Gaare at 410–786–8612.)

Dated: March 30, 2022.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2022–07055 Filed 4–1–22; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Judicial, Court, and Attorney Measures of Performance (New Collection)

AGENCY: Children's Bureau; Administration for Children and Families; HHS.

ACTION: Request for public comment.

SUMMARY: The Children's Bureau, Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is proposing to collect data for a new descriptive study, Judicial, Court, and Attorney Measures of Performance (JCAMP).

DATES: *Comments due within 30 days of publication.* The Office of Management and Budget (OMB) is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. You can also obtain copies of the proposed collection of information by emailing *infocollection@acf.hhs.gov.* Identify all emailed requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: This study will collect information from Court Improvement Program (CIP) staff to (1) understand data capacity and current use of performance measures and (2) gather feedback from the performance measure pilot process. This will be accomplished using two instruments:

JCAMP CIP Data Capacity Survey

The survey asks CIPs about their current capacity to collect specific data elements from the following six categories of measurement: (1) Legal and judicial context (*e.g.,* court docketing), (2) Practices (*e.g.,* attorney pre-petition legal practice), (3) Short-term outcomes that happen during hearings (*e.g.,* discussion of key issues), (4) Intermediate outcomes that happen

during the case (*e.g.,* judicial continuity), (5) Long-term outcomes that happen after case closure (*e.g.,* child safety), and (6) Cross-cutting themes (*e.g.,* equity). The survey asks about capacity broadly and then specifically for a series of subcategories.

JCAMP Pilot Site Debrief Form

The JCAMP Pilot Site Debrief Form is a survey developed to be administered to CIP staff who have assisted with piloting of the performance measures. The survey asks participants about the challenges and successes in collecting pilot data for the measures, their confidence in collecting the data going forward, and suggestions for improving future efforts.

Respondents: Respondents include CIP Administrators and staff.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
JCAMP CIP Data Capacity Survey	106	1	.83	264	88
JCAMP Pilot Debrief Form	24	1	.25	18	6

Estimated Total Annual Burden Hours: 94.

Authority: Section 5106, Public Law 111–320, the Child Abuse Prevention and Treatment Act Reauthorization Act of 2010, and titles IV–B and IV–E of the Social Security Act.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2022–06991 Filed 4–1–22; 8:45 am]

BILLING CODE 4184–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Conversion of Enrollment Slots From Head Start to Early Head Start Multi-Case Study (New Collection)

AGENCY: Office of Planning, Research, and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families (ACF) at the U.S. Department of Health and Human Services (HHS) is proposing a new information collection using qualitative case studies to examine how and why Head Start grant recipients convert enrollment slots from Head Start to Early Head Start and the facilitators and barriers to the implementation of high-quality Early Head Start services following conversion. This information collection aims to present an internally valid description of the experiences of up to six purposively selected cases, not to promote statistical generalization to different sites or service populations.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: Copies of the proposed collection of information can be obtained and comments may be forwarded by emailing *OPREinfocollection@acf.hhs.gov.* Identify all requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: This primary data collection request for the Conversion of Enrollment Slots from Head Start to Early Head Start (HS2EHS) Multi-Case Study aims to gather qualitative data about the experiences of up to six grant recipients that have converted enrollment slots from Head Start to Early Head Start. The HS2EHS Multi-Case Study will collect information about (a) how and why each grant recipient converted enrollment slots from Head Start to Early Head Start; (b) strategic planning for and implementation of high-quality Early Head Start services following conversion; and (c) barriers and facilitators to the provision of high-quality Early Head Start services that meet community needs. The HS2EHS team will also collect information about the state and local early care and education context and community need for Early Head Start services.

Respondents: Head Start directors and staff, Head Start policy council members, Head Start Training and Technical Assistance staff, and state and local Early Care and Education leaders and community partners.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents (total over request period)	Number of responses per respondent (total over request period)	Avg. burden per response (in hours)	Total/annual burden (in hours)
Prep Email Request (Director)	9	1	.5	5
Preparatory Interview Protocol (Director, Onsite coordinator)	18	1	1	18
Full Interview for Head Start staff Protocol	70	1	1.5	105
Full Interview for non-Head Start staff Protocol	12	1	1.5	18

Estimated Total Annual Burden Hours: 146 hours.

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information

technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: Head Start Act section 640 [42 U.S.C. 9835].

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2022–07049 Filed 4–1–22; 8:45 am]

BILLING CODE 4184–22–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Aged Mouse Colony.

Date: April 29, 2022.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Birgit Neuhuber, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS, NIH, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892 301–496–3562, *neuhuber@ninds.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: March 30, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–07010 Filed 4–1–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2022–0104]

National Offshore Safety Advisory Committee; April 2022 Teleconference

AGENCY: U.S. Coast Guard, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee teleconference meeting.

SUMMARY: The National Offshore Safety Advisory Committee (Committee) will meet via teleconference to discuss matters relating to activities directly involved with, or in support of, the exploration of offshore mineral and energy resources, to the extent that such matters are within the jurisdiction of the United States Coast Guard. The meeting will be open to the public.

DATES:

Meeting: The Committee will hold an inaugural meeting by teleconference on Tuesday, April 26, 2022, from 9 a.m. until 3 p.m. Eastern Daylight Time. Please note the teleconference may close early if the Committee has completed its business.

Comments and supporting documents: To ensure your comments are reviewed by Committee members before the teleconference, submit your written comments no later than April 12, 2022.

ADDRESSES: To join the teleconference or to request special accommodations, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section no later than 1 p.m. on April 19, 2022 to obtain the needed information. The number of teleconference lines is limited and will be available on a first-come, first-served basis.

Pre-registration information: Participants will be required to pre-register no later than April 19, 2022 to attend the teleconference. To pre-register, please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT**. You will be asked to provide your name, telephone number, email, and company or group in which you are affiliated.

Instructions: You are free to submit comments at any time, including orally at the teleconference as time permits, but if you want Committee members to review your comments before the teleconference, please submit your comments no later than April 19, 2022. We are particularly interested in comments on the issues in the ''Agenda'' section below. We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* call or email the individual in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. You must include the docket number [USCG–2022–0104]. Comments received will be posted without alteration at *https://www.regulations.gov,* including any personal information provided. You may wish to review the Privacy and Security notice available on the homepage of *https://www.regulations.gov* and DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). If you encounter technical difficulties with comment submission, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Docket Search: Documents mentioned in this notice as being available in the docket, and all public comments, will be in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign-up for email alerts, you will be notified when comments are posted.

FOR FURTHER INFORMATION CONTACT: Lieutenant Kimberly Gates, Alternate Designated Federal Officer of the National Offshore Safety Advisory Committee, 2703 Martin Luther King Jr Ave. SE, Stop 7509, Washington, DC 20593–7509, telephone 202–372–1455, fax 202–372–8382 or *Kimberly.M.Gates@uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the *Federal Advisory Committee Act,* (5. U.S.C. Appendix). The National Offshore Safety Advisory Committee was established on December 4, 2018, by section 601 of the *Frank LoBiondo Coast Guard Authorization Act of 2018* (Pub. L. 115–282, 132 Stat. 4192). That authority is codified in 46 U.S.C. 15106. The Committee operates under the provisions of the *Federal Advisory Committee Act,* (5 U.S.C. Appendix) and 46 U.S.C. 15109. The Committee provides advice on matters relating to activities directly involved with, or in support of, the exploration of offshore mineral and energy resources, to the extent that such matters are within the jurisdiction of the United States Coast Guard.

Agenda

The agenda for the April 26, 2022 teleconference is as follows:

(1) Call to Order.

(2) Roll call and determination of quorum.
(3) Opening Remarks.
(4) Swearing-in/Induction of Committee members.
(5) Presentation of Task.
The Coast Guard will present the task to the Committee:
Review of the recommendations from the Shell AUGER Accident Investigation Report.
(6) Public Comment period.
(7) Closing remarks/plans for next meeting.
(8) Adjournment of meeting.

A copy of all meeting documentation will be available at: *https://homeport.uscg.mil/missions/ports-and-waterways/safety-advisory-committees/nosac/organization* no later than April 21, 2022. Alternatively, you may contact Lieutenant Kimberly Gates as noted in the **FOR FURTHER INFORMATION CONTACT** section above.

During the April 26, 2022, teleconference, a public comment period will be held from approximately 2:30 p.m. to 3 p.m. Speakers are requested to limit their comments to 3 minutes. Please note that this public comment period may start before 2:30 p.m. if all other agenda items have been covered and may end before 3 p.m. if all of those wishing to comment have done so. Please contact Lieutenant Kimberly Gates, listed in the **FOR FURTHER INFORMATION CONTACT** section to register as a speaker.

Dated: March 25, 2022.

Jeffrey G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2022–06998 Filed 4–1–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7056–N–11]

60-Day Notice of Proposed Information Collection: Housing Finance Agency Risk-Sharing Program, OMB Control No.: 2502–0500

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* June 3, 2022.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Housing Finance Agency Risk-Sharing Program.

OMB Approval Number: 2502–0500.

OMB Expiration Date: April 30, 2020.

Type of Request: Reinstatement, with change, of previously approved collection for which approval has expired.

Form Numbers HUD–94192, HUD–94193, HUD–94194, HUD–94195, HUD–94196.

Description of the need for the information and proposed use: Section 542 of the Housing and Community Development Act of 1992 directs the Secretary to implement risk sharing with State and local housing finance agencies (HFAs). Under this program, HUD provides full mortgage insurance on multifamily housing projects whose loans are underwritten, processed, and serviced by HFAs. The HFAs will reimburse HUD a certain percentage of any loss under an insured loan depending upon the level of risk the HFA contracts to assume.

Respondents: Business and other for profit.

Estimated Number of Respondents: 6530.

Estimated Number of Responses: 22,374.

Frequency of Response: Annually, semi-annually, and on-occasion.

Average Hours per Response: 1 hour to 40 hours.

Total Estimated Burden: 43,023.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Janet M. Golrick,

Acting, Chief of Staff for the Office of Housing—Federal Housing Administration.

[FR Doc. 2022–06967 Filed 4–1–22; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7056–N–02]

60-Day Notice of Proposed Information Collection: Continuation of Interest Reduction Payments After Refinancing Section 236 Projects, OMB Control No.: 2502–0572

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget

(OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* June 3, 2022.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Continuation of Interest Reduction Payments after Refinancing Section 236 Projects.

OMB Approval Number: 2502–0572.

Type of Request: Reinstatement, without change, of previously approved collection for which approval has expired.

Form Number:

- HUD–93173 Agreement for Interest Reduction Payments (§ 236(e)(2)).
- HUD–93175 Agreement for Interest Reduction Payments (§ 236(b)).
- HUD–93174 Use Agreement (§ 236(e)(2)).
- HUD–93176 Use Agreement (§ 236(b)).

Description of the need for the information and proposed use: The purpose of this information collection is to preserve low-income housing units. HUD uses the information to ensure that owners, mortgagees and or public entities enter into binding agreements for the continuation of Interest Reduction Payments (IRP) after refinancing eligible Section 236 projects. HUD has created an electronic application for eligible projects to retain the IRP benefits after refinancing.

Respondents: Profit Motivated or Non-Profit Owners of Section 236 projects.

Form No.	Form	Number of respondents	Frequency of response	Total annual responses	Hours per response	Total annual burden hours
Form HUD–93173 ...	Agreement for Interest Reduction Payments (§ 236(e)(2))	870	1	870	0.5	435
Form HUD–93175 ...	Agreement for Interest Reduction Payments (§ 236(b))	870	1	870	0.5	435
Form HUD–93174 ...	Use Agreement (§ 236(e)(2))	5	1	5	0.5	3
Form HUD–93176 ...	Use Agreement (§ 236(b))	5	1	5	0.5	3
Total	.....	875	.....	1,750	1	875

Estimated Number of Respondents: 875.

Estimated Number of Responses: 1,750.

Frequency of Response: 1.

Average Hours per Response: 1 hour.

Total Estimated Burdens: 875.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Janet M. Golrick,

Acting, Chief of Staff for the Office of Housing—Federal Housing Administration.

[FR Doc. 2022–07012 Filed 4–1–22; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6191–N–05]

Section 8 Housing Choice Vouchers: Implementation of the Housing Choice Voucher Mobility Demonstration for Awarded PHAs, Supplementary Notice for Demonstration Participants

AGENCY: Office of the Assistant Secretary for Public and Indian Housing (PIH), Department of Housing and Urban Development (HUD).

ACTION: Notice.

SUMMARY: On July 15, 2020, HUD published a notice (''Implementation Notice'') implementing the Housing Choice Voucher (HCV) mobility demonstration (''demonstration'') authorized by the Consolidated Appropriations Act, 2019. Through that Implementation Notice, HUD made available up to $50,000,000 to participating Public Housing Agencies (''PHAs'') to implement housing mobility programs. On April 30, 2021, HUD announced its selection of PHAs that will participate in the demonstration. These PHAs will receive $45.7 million in total funding under that award. This notice supplements the July 15, 2020, notice to describe additional policies and flexibilities for PHAs selected to participate in the demonstration.

FOR FURTHER INFORMATION CONTACT: Ryan Jones, Director, Housing Voucher Management and Operations Division, Department of Housing and Urban

Development, 451 Seventh Street SW, Room 4214, Washington, DC 20410, telephone number (202) 402–2677. (This is not a toll-free number.) Individuals with hearing or speech impediments may access this number via TTY by calling the Federal Relay during working hours at 800–877–8339. (This is a toll-free number). HUD encourages submission of questions about the demonstration be sent to: *HCVmobilitydemonstration@hud.gov.*

SUPPLEMENTARY INFORMATION:

Background

On July 15, 2020, HUD published an Implementation Notice for the Housing Choice Voucher (HCV) mobility demonstration authorized by the Consolidated Appropriations Act, 2019. Through that Notice, HUD made available up to $50,000,000 to participating PHAs throughout the country to implement housing mobility programs by offering mobility-related services to increase the number of voucher families with children living in opportunity areas. On April 30, 2021, HUD announced that nine lead PHAs will participate in the HCV mobility demonstration and were awarded new housing choice vouchers and mobility-related services funding, and that an additional four PHAs that applied in partnership with a lead PHA were awarded new housing choice vouchers. These PHAs will receive $45.7 million in total funding under that award. Through the demonstration, the awarded PHAs will provide approximately 10,000 families with children better access to low-poverty neighborhoods with high-performing schools and other strong community resources.

The Implementation Notice described broad parameters for selected PHAs, including the set of mobility-related services that they will likely be required to provide to families participating in the program, the likely research design, and an estimated cost of services per family offered participation in the program. The Implementation Notice also described a required evaluation that would be conducted at the selected PHAs and explained that some aspects of the program and research design would be determined jointly by HUD (including its research evaluator and technical assistance provider) in collaboration with the selected PHAs.

During the collaborative process to finalize the program and research design, HUD has identified policies to supplement those identified in the Implementation Notice that will promote the goals of the demonstration. The additional flexibilities will benefit families participating in the programs and the selected PHAs as well as help ensure an effective research evaluation.

HUD now supplements the July 15, 2020, Implementation Notice to describe policies and flexibilities for PHAs selected to participate in the HCV mobility demonstration.

Supplement to the Implementation Notice

I. Pilot Length

The Implementation Notice described that a planning and pilot period would last approximately one year. After working closely with the selected PHAs, HUD has determined that additional flexibility in the length of the pilot may be necessary for PHAs to successfully pilot their programs prior to full program implementation. HUD therefore will determine the length of the pilot in collaboration with the PHA.

Before the pilot can begin, HUD and its evaluator must complete certain tasks and obtain approvals. Once HUD has completed all its required tasks and gained all the required approvals, PHAs may begin their pilots. HUD calls the date that it has completed all the required tasks and received all the required approvals the ''earliest pilot start date.''

Each PHA is expected to start its pilot no later than four months after the established earliest pilot start date. A PHA that is unable to start its pilot within four months after the earliest pilot start date will receive a corrective action plan and technical assistance to identify and support the necessary final preparations. If a PHA is unable to start its pilot within six months after the established earliest pilot start date, HUD may recapture any remaining funds that were awarded to PHA.

The anticipated length of the pilot is six months. PHA sites that are experiencing challenges completing their pilot activities timely will receive a corrective action plan and technical assistance to identify and support the necessary final preparations. If the PHA is unable to complete their pilot activities within nine months from the start date of their pilot, HUD may recapture funds from the PHA.

HUD will issue a Public and Indian Housing (PIH) Notice that describes the policies and procedures regarding funding recapture and reallocation.

II. Enrollment of Existing Voucher Holders and New Admissions

As described in the Implementation Notice, each PHA must enroll families into the evaluation, which includes a randomized controlled trial (RCT). The Implementation Notice estimated that approximately 1,800 existing voucher holders and 150 new admissions would be enrolled at each selected PHA. After discussions with the evaluator, HUD has determined that allowing a PHA limited flexibility in reducing the number of existing voucher holders enrolled and increasing, by the same amount, the number new admissions enrolled, will help ensure the evaluation is able to detect the effects of mobility-related services for new admission families. HUD anticipates that the maximum use of flexibility between existing voucher holders and new admissions would enable a PHA to enroll a maximum of 500 new admission families.

PHAs must submit a written request to HUD to change the number of existing voucher holders and new admissions. Any changes in the numbers of existing voucher holders and new admissions to be enrolled will be documented in each PHA's ''recruitment and enrollment plan.''

This additional flexibility will strengthen PHAs' ability to enroll families into the study and improve HUD's ability to evaluate the effects of the program. PHAs must use their own turnover vouchers—that is, vouchers that become available when a voucher holder exits the HCV program—for any increased new admissions. PHAs may use turnover mobility demonstration vouchers (MDVs) for new admissions enrolled in the demonstration. PHAs must receive prior HUD approval before using any other new incremental vouchers for this purpose. PHAs may not use vouchers from another non-partner PHA for new admissions.

III. Flexibility Between CMRS, SMRS, and Control Group

Families with children receiving voucher assistance that agree to participate in the demonstration will be randomly assigned to a treatment group that receives mobility-related services or a control group that receives HCV program services already offered by the PHA to all HCV applicants and participants. The demonstration has two different treatment groups. The first treatment group will receive comprehensive mobility-related services (CMRS). The second treatment group will receive a subset of the CMRS, which HUD calls selected mobility-related services (SMRS).

To ensure an effective study, HUD also will allow some flexibility between the number of families enrolled in the CMRS, SMRS, and control groups compared to the Implementation Notice. These changes will be based on statistical analysis that helps ensure the

validity of the evaluation. Any changes in the number of families to be enrolled in the CMRS, SMRS, and control groups will be approved by HUD and documented in each PHA's ''recruitment and enrollment plan.''

IV. Memorandum of Understanding and Performance Standards Requirements

The Implementation Notice stated that after the program and research design is finalized, HUD would draft a memorandum of understanding (MOU) and performance standards agreement that outlines roles and responsibilities, the program and research design, description of administrative policies, and recapture and reallocation terms, among other things. After completing the planning phase collaboratively with PHAs, HUD has determined that a statement of responsibilities is the more appropriate document to capture these provisions. Therefore, HUD will draft and issue a statement of responsibilities to the PHA sites that includes the provisions of the MOU and performance standards agreements originally stated in the Implementation Notice. PHAs will have 60 days from the issuance of the statement of responsibilities to opt to withdraw from the demonstration. After 60 days from the issuance of the statement of responsibilities, PHAs will not be able to exit the demonstration without HUD's prior authorization.

V. Eligible Uses of Funds

Through the collaborative process to finalize the program and research design, PHAs and HUD have identified uses of mobility-related services funding that will help implement the program effectively. These uses of mobility-related services funds were not directly addressed by the Implementation Notice. HUD has, for the purposes of transparency and clarity, included a discussion of these uses of funds in this notice.

As part of the evaluation, families enrolling in the study will complete an enrollment process that includes a voluntary baseline survey. The enrollment process and baseline survey will take approximately 135 minutes to complete. In recognition of the time it takes for families to complete the study, HUD will require PHAs to provide a $25 payment to each family upon completion of the survey, contingent on approval by the Office of Management and Budget. HUD encourages PHAs to provide this payment in the form of a gift card. This payment is an eligible use of mobility-related services funding.

PHAs participating in the demonstration must recruit and enroll families into the study over a five-year period. Each PHA site (*i.e.,* an individual PHA or the lead PHA and its partner) may use up to $40,000 each year for staff time and expenses related to recruitment and enrollment.

PHAs participating in the demonstration will have ongoing oversight responsibilities for implementation. Given the nature of the evaluation and importance of ensuring mobility-related services are provided with full fidelity to the agreed upon program and research design, each PHA site may use up to $40,000 each year to supplement salaries of PHA staff, or hire new staff, who are responsible for providing oversight of the program.[1]

PHAs may also use their existing mobility-related services funding award to pay for these activities. PHAs must update their annual expenditure plans to reflect the amount of funds they intend to use for these purposes and begin immediately reporting these expenditures on their invoices.

After the funding awards made on April 30, 2021, HUD has $4,127,590 in remaining mobility-related services funding. HUD will issue an additional **Federal Register** notice describing the allocation process for those remaining funds.

Dominque Blom,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 2022–06997 Filed 4–1–22; 8:45 am]

BILLING CODE 4210–67–P

[1] These annual amounts for staff time and expenses related to recruitment and enrollment and for program oversight are in addition to the one-time, up to five percent of the PHA allocation of mobility related services funding that PHAs were permitted to use for start-up costs as described in the Implementation Notice.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–FAC–2022–N224; FXFR13360900000–FF09F14000–201]

Aquatic Nuisance Species Task Force Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of teleconference/web meeting.

SUMMARY: The U.S. Fish and Wildlife Service gives notice of a teleconference/web meeting of the Aquatic Nuisance Species (ANS) Task Force, in accordance with the Federal Advisory Committee Act.

DATES:

Teleconference/web meeting: The ANS Task Force will meet Tuesday, Wednesday, and Thursday, May 24–26, 2022, from 12 p.m. to 4 p.m. each day (Eastern Time).

Registration: Registration is required. The deadline for registration is May 20, 2022.

Accessibility: The deadline for accessibility accommodation requests is May 20, 2022. Please see *Accessibility Information,* below.

ADDRESSES: The meeting will be held via teleconference and broadcast over the internet. To register and receive the web address and telephone number for participation, contact the Executive Secretary (see **FOR FURTHER INFORMATION CONTACT**) or visit the ANS Task Force website at *https://www.fws.gov/program/aquatic-nuisance-species-task-force.*

FOR FURTHER INFORMATION CONTACT: Susan Pasko, Executive Secretary, ANS Task Force, by telephone at (703) 358–2466, or by email at *Susan_Pasko@fws.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The ANS Task Force was established by the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990, and is composed of Federal and ex-officio members. The ANS Task Force's purpose is to develop and implement a program for U.S. waters to prevent introduction and dispersal of aquatic invasive species; to monitor, control, and study such species; and to disseminate related information.

This meeting is open to the public. The meeting agenda will include: Reports from ANS Task Force members, regional panels, and subcommittees; discussion on priority outputs to advance the goals identified in the ANS Task Force Strategic Plan for 2020–2025; presentation by the U.S Geological Survey on new species occurrences in the United States; recommendations by the ANS Task Force regional panels; and public comment. The final agenda and other related meeting information will be posted on the ANS Task Force website, *https://www.fws.gov/program/aquatic-nuisance-species-task-force.*

Public Input

If you wish to provide oral public comment or provide a written comment

for the ANS Task Force to consider, contact the ANS Task Force Executive Secretary (see **FOR FURTHER INFORMATION CONTACT**) no later than Friday, May 20, 2022.

Depending on the number of people who want to comment and the time available, the amount of time for individual oral comments may be limited. Interested parties should contact the ANS Task Force Executive Secretary, in writing (see **FOR FURTHER INFORMATION CONTACT**), for placement on the public speaker list for this meeting. Requests to address the ANS Task Force during the meeting will be accommodated in the order the requests are received. Registered speakers who wish to expand upon their oral statements, or those who had wished to speak but could not be accommodated on the agenda, may submit written statements to the Executive Secretary up to 30 days following the meeting.

Accessibility Information

Requests for sign language interpretation services, closed captioning, or other accessibility accommodations should be directed to the ANS Task Force Executive Secretary (see **FOR FURTHER INFORMATION CONTACT**) by close of business Friday, May 20, 2022.

Public Disclosure

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: 5 U.S.C. appendix 2.

David A. Miko,

Co-Chair, Aquatic Nuisance Species Task Force.

[FR Doc. 2022–06976 Filed 4–1–22; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[L10200000.LLHQ2200000.PH0000. LXSIWEED0000]

Notice of Intent To Prepare a Programmatic Environmental Impact Statement for Approval of Herbicide Active Ingredients for Use on Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) intends to prepare a Programmatic Environmental Impact Statement (EIS) to analyze the impacts to the environment from approving new herbicide active ingredients for use on BLM-managed public lands. By this notice, the BLM is announcing the beginning of the scoping process and is soliciting public comments regarding potential environmental impacts, potential alternatives, and relevant studies or analyses.

DATES: This notice initiates the 30-day public scoping process for the EIS. The BLM requests comments concerning the scope of the analysis, potential alternatives, and identification of relevant information, studies, and analyses by May 4, 2022.

ADDRESSES: You may submit comments on issues related to the approval of herbicide active ingredients for use on public lands by any of the following methods:

- *Website: https://go.usa.gov/xtk6a.*
- *Email: BLM_Herbicide_EIS@blm.gov.*
- *Mail:* Seth Flanigan—Project Manager, HQ–220, 1387 South Vinnell Way, Boise, ID 83709.

Documents pertinent to this proposal may be examined online at *https://go.usa.gov/xtk6a.*

FOR FURTHER INFORMATION CONTACT: Seth Flanigan, Senior Natural Resource Specialist, telephone: 208–373–4094; email: *BLM_Herbicide_EIS@blm.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services for contacting Mr. Flanigan. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: This document provides notice that the BLM intends to prepare a Programmatic EIS for a review of herbicides that may be approved for use in vegetation treatments on BLM-managed public lands, announces the beginning of the associated scoping process, and seeks public input.

Purpose and Need for the Proposed Action

The BLM's purpose and need is to improve the effectiveness of its invasive plant management efforts by allowing the use of Environmental Protection Agency (EPA)-registered herbicides not currently authorized for use on BLM public lands. Approving additional herbicides would diversify the BLM's herbicide treatment options and help meet the purposes that were first identified in the 2007 and 2016 Programmatic EISs also related to vegetation treatments, which are to make herbicides available for vegetation treatment on public lands and to describe the stipulations that apply to their use.

Preliminary Proposed Action and Alternatives

The BLM proposes to approve and use several herbicide active ingredients, including aminocyclopyrachlor, clethodim, fluozifop-p-butyl, flumioxazin, imazamox, indaziflam, oryzalin, and trifluralin, for use in vegetation treatments on public lands. These active ingredients are registered by the EPA. In an action to approve any of these active ingredients, the BLM will adopt and rely on Human Health and Ecological Risk Assessments prepared by the U.S. Forest Service.

Preliminary Issues

The purpose of the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis, including alternatives, and guide the planning process. Preliminary issues for the analysis have been identified by BLM personnel and other stakeholders. These include effects to vegetation resources including special status plant species, aquatic and terrestrial wildlife species and their habitat including special status animal species, soil ecology, water quality, pollinator habitat, and cultural and historic resources.

Schedule for the Decision-Making Process

The BLM will provide additional opportunities for public participation

consistent with the NEPA process, including a 45-day comment period on the Draft EIS. The Draft EIS is anticipated to be available for public review beginning in November 2022. The BLM anticipates releasing a Final EIS in March 2023 and anticipates issuing a Record of Decision in April 2023.

Public Scoping Process

This notice of intent initiates the scoping period and public review of the planning criteria, which will guide the development and analysis of the Draft EIS.

The BLM does not intend to hold any public meetings during the public scoping period. Should the BLM later decide to hold public meetings, the specific date(s) and location(s) of any meeting will be announced at least 15 days in advance through local media, newspapers, and the BLM website at: *https://go.usa.gov/xtk6a.*

Responsible Official

Assistant Director for Resources and Planning.

Nature of Decision To Be Made

Through this process, the BLM will decide whether to approve the herbicide active ingredients identified earlier for use on BLM-managed public lands. This decision will be based on the best available science and current needs for vegetation management. Any authorization to apply any of these active ingredients at a particular site will be made through a separate, site-specific decision and so is not within the scope of the programmatic EIS or potential decision described in this notice.

Interdisciplinary Team and Coordination

The BLM will identify and analyze the proposed action and all reasonable alternatives to address their reasonably foreseeable impacts and, in accordance with 40 CFR 1502.14(e), include in that analysis appropriate mitigation measures not already included in the proposed action or alternatives. Mitigation may include avoidance, minimization, rectification, reduction or elimination over time, or compensation, and may be considered at multiple scales, including the landscape scale.

The BLM will coordinate the NEPA process with other required reviews under the Endangered Species Act (16 U.S.C. 1536) and section 106 of the National Historic Preservation Act (54 U.S.C. 306108) as provided in 36 CFR 800.2(d)(3), including public involvement requirements of Section 106. Information about historic and cultural resources and threatened and endangered species within areas potentially affected by the proposed action or alternatives will assist the BLM in identifying and evaluating impacts to such resources. The BLM will consult with Indian tribes on a government-to-government basis in accordance with Executive Order 13175, BLM MS 1780, and other Departmental policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration.

Federal, State, and local agencies, along with tribes and other stakeholders that may be interested in or affected by the proposed action that the BLM is evaluating, are invited to participate in the scoping process. If eligible, the BLM may request Federal, State, or local agencies to participate in the development of the environmental analysis as cooperating agencies.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 40 CFR 1501.7)

David Jenkins,

Assistant Director, Resources and Planning.

[FR Doc. 2022–07017 Filed 4–1–22; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[XXX.LLAZ920000.L19200000.ET0000. LRORA2020000, AZA–38426]

Notice of Withdrawal Application and Notice of Public Meetings for the Yuma Proving Ground, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of withdrawal application.

SUMMARY: The United States Army (Army) filed an application with the Bureau of Land Management (BLM) requesting a withdrawal and reservation of 21,200 acres of public lands from all forms of appropriation under the public land laws, including location and entry under the United States mining laws, and from leasing under the mineral and geothermal leasing laws, and 800 acres of Federal surface estate public lands from appropriation under the public land laws for an indefinite period for defense purposes as an addition to the Yuma Proving Ground (YPG) located in La Paz and Yuma Counties, Arizona, subject to valid existing rights. Any decision about the application will be made by the United States Congress. Publication of this notice temporarily segregates the lands for up to 2 years and announces to the public an opportunity to comment and participate in public meetings on the Army's application for withdrawal.

DATES: Comments must be received by July 5, 2022. In addition, the Army and the BLM will host virtual public meetings addressing the requested withdrawal and the associated environmental review process. The dates and instructions for the public meetings are listed in the **SUPPLEMENTARY INFORMATION** section.

ADDRESSES: All comments should be sent to the BLM Arizona State Office, 1 North Central Avenue, Suite 800, Phoenix, AZ 85004; faxed to (602) 417–9452; or sent by email to *BLM_AZ_Withdrawal_Comments@blm.gov.* The BLM will not consider comments via telephone calls.

Information on the proposed action, including the environmental review process, can be viewed at the YPG's website: *https://ypg-environmental.com/highway-95-land-withdrawal-leis/.*

FOR FURTHER INFORMATION CONTACT: Michael Ouellett, Realty Specialist, BLM Arizona State Office, telephone 602–417–9561, email at *mouellett@blm.gov*; or you may contact the BLM Arizona State Office at the earlier-listed address. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: In its application, the Army requests the withdrawal and reservation of the specified public lands for military testing and training purposes for an indefinite term, subject to valid existing rights. In accordance with the Engle Act (43 U.S.C. 155–158), because the public lands requested exceed 5,000 acres, this withdrawal request must be directed to Congress.

The following described public lands are the subject of the Army's withdrawal

application, and are temporarily segregated for a period of up to 2 years from all forms of appropriation under the public land laws, including location and entry under the United States mining laws, and from leasing under the mineral and geothermal leasing laws, subject to valid existing rights:

Gila and Salt River Meridian, Arizona

(Surface and Subsurface)

T. 1 N., R. 19 W.,
Sec. 4, that part lying westerly of the westerly right-of-way of U.S. Route 95;
Secs. 5 and 8;
Sec. 9, that part lying westerly of the westerly right-of-way of U.S. Route 95;
Secs. 17 and 20;
Secs. 21 and 28, those portions lying westerly of the westerly right-of-way of U.S. Route 95;
Sec. 29;
Sec. 33, that part lying westerly of the westerly right-of-way of U.S. Route 95.
T. 2 N., R. 19 W.,
Sec. 33, S½SW¼, and S½SE¼, that part lying westerly of the westerly right-of-way of U.S. Route 95.
T. 1 S., R. 19 W.,
Secs. 4 thru 9 and secs. 16 thru 21;
Sec. 28, that part lying westerly of the westerly right-of-way of U.S. Route 95;
Secs. 29 thru 32;
Sec. 33, that part lying westerly of the westerly right-of-way of U.S. Route 95.
T. 2 S., R. 19 W.,
Sec. 4, that part lying westerly of the westerly right-of-way of U.S. Route 95;
Secs. 5 thru 7;
Sec. 8, that part lying westerly of the westerly right-of-way of U.S. Route 95, excepting NE¼SW¼NW¼SE¼, W½SE¼NW¼SE¼, and NW¼NE¼SW¼SE¼;
Sec. 9, that part lying westerly of the westerly right-of-way of U.S. Route 95;
Sec. 17, that part lying westerly of the westerly right-of-way of U.S. Route 95, excepting S1/2SW¼;
Sec. 18;
Sec. 19, lots 1 thru 4, NW¼ NE¼, and E½NW¼;
Sec. 30, lot 1.

The areas described aggregate 21,200 acres in La Paz and Yuma Counties.

The following-described Federal surface estate public lands are the subject of the Army's withdrawal application, and are temporarily segregated for up to 2 years from all forms of appropriation under the public land laws subject to valid existing rights;

Gila and Salt River Meridian, Arizona

(Surface Only; Subsurface Excepted—Non-Federal Ownership)

T. 1 N., R. 19 W.,
Sec. 32.
T. 2 N., R. 19 W.,
Sec. 32, S½SW¼, and S½SE¼.

The areas described aggregate approximately 800 acres in La Paz and Yuma Counties.

The use of a right-of-way, interagency agreement, or cooperative agreement is precluded because of the expected annual usage, daily duration, and impact to the public of the proposed military activities within the requested withdrawal area.

No additional water rights are needed to fulfill the purpose of the requested withdrawal area.

There are no suitable alternative sites within or outside of the YPG boundaries that are compatible with the proposed use since the subject withdrawal area will be an additional surface safety zone adjacent to an existing YPG parachute drop zone. The drop zone was specifically established for its soil attributes, topography, and airspace which are optimal for testing and observation of parachute and air delivery systems. The additional safety zone is needed to enhance the testing of new technology on existing drop zones by preventing public entry into hazardous areas during high-altitude drop operations.

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.

Notice is hereby given for two public meetings in connection with the proposed withdrawal. In response to the coronavirus (COVID–19) pandemic in the United States, and the U.S. Centers for Disease Control and Prevention recommendations for social distancing and avoidance of large public gatherings, the BLM and Army will not hold in-person public meetings for this action. The BLM and Army will host the public meetings online and by telephone. There will be two public online meetings scheduled for Tuesday June 7, 2022, at 3 p.m. and Wednesday June 8, 2022, at 5 p.m. Mountain Time. The BLM and Army will publish the instructions on how to access the online meetings in the *Yuma Sun* (Yuma), *Bajo El Sol* (Yuma), and *Desert Messenger* (Quartzsite) newspapers at a minimum of 15 days prior to the meetings and on the website: *https://ypg-environmental.com/highway-95-land-withdrawal-leis/.*

For a period until April 4, 2024, the lands will be segregated as specified earlier unless the application is denied or canceled. Licenses, permits, cooperative agreements, or discretionary land-use authorizations of a temporary nature that would not impact the lands may be allowed with the approval of an authorized officer of the BLM during the segregative period.

The application will be processed in accordance with the regulations at 43 CFR part 2310.3 and 43 U.S.C. 155–158.

(Authority: 43 U.S.C. 155–158, 43 U.S.C. 1714(b)(1) and 43 CFR 2300)

Raymond Suazo,

Arizona State Director.

[FR Doc. 2022–07037 Filed 4–1–22; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–11054, AA–11061, AA–11075, AA–11077, AA–11078, AA–11085, AA–12439, AA–12456, AA–12551, AA–41487, AA–41489, AA–41490; 22X.LLAK944000. L14100000.HY0000.P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: The Bureau of Land Management (BLM) hereby provides constructive notice that it will issue an appealable decision approving conveyance of the surface and subsurface estates in certain lands to Chugach Alaska Corporation, an Alaska Native regional corporation, pursuant to the Alaska Native Claims Settlement Act of 1971 (ANCSA), as amended.

DATES: Any party claiming a property interest in the lands affected by the decision may appeal the decision in accordance with the requirements of 43 CFR part 4 within the time limits set out in the **SUPPLEMENTARY INFORMATION** section.

ADDRESSES: You may obtain a copy of the decision from the Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, AK 99513–7504.

FOR FURTHER INFORMATION CONTACT: Sindra D. Wolfsen-Bennison, Land Law Examiner, BLM Alaska State Office, (907) 271–3152 or *swolfsen@blm.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered

within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: As required by 43 CFR 2650.7(d), notice is hereby given that the BLM will issue an appealable decision to Chugach Alaska Corporation. The decision approves conveyance of the surface and subsurface estates in certain lands pursuant to ANCSA (43 U.S.C. 1601, *et seq.*), as amended.

The lands are located in the vicinity of Prince William Sound, in the following townships, and aggregate 162.03 acres: T. 11 S., R. 11 W., Copper River Meridian (CRM); T. 16 S., R. 1 E., CRM; T. 18 S., R. 8 W., CRM; T. 19 S., R. 5 E., CRM; T. 20 S., R. 5 E., CRM; T. 21 S., R. 7 E., CRM; T. 22 S., R. 6 E., CRM; T. 11 N., R. 8 E., Seward Meridian (SM); and T. 11 N., R. 11 E., SM.

The decision addresses public access easements, if any, to be reserved to the United States pursuant to Sec. 17(b) of ANCSA (43 U.S.C. 1616(b)), in the lands described above. The BLM will also publish notice of the decision once a week for four consecutive weeks in the ''Anchorage Daily News'' newspaper. Any party claiming a property interest in the lands affected by the decision may appeal the decision in accordance with the requirements of 43 CFR part 4 within the following time limits:

1. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who fail or refuse to sign their return receipt, and parties who receive a copy of the decision by regular mail not certified, return receipt requested, shall have until May 4, 2022 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4 shall be deemed to have waived their rights. Notices of appeal transmitted by facsimile will not be accepted as timely filed.

Sindra D. Wolfsen,

Land Law Examiner, Adjudication Section.

[FR Doc. 2022–07067 Filed 4–1–22; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–14839–A; F–14839–A2; 22X.LLAK944000.L14100000.HY0000.P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: The Bureau of Land Management (BLM) hereby provides constructive notice that it will issue an appealable decision approving conveyance of the surface estate in certain lands to Kongnikilnomuit Yuita Corporation for the Native village of Bill Moore's Slough, pursuant to the Alaska Native Claims Settlement Act of 1971 (ANCSA). As provided by ANCSA, the BLM will convey the subsurface estate in the same lands to Calista Corporation when the BLM conveys the surface estate to Kongnikilnomuit Yuita Corporation.

DATES: Any party claiming a property interest in the lands affected by the decision may appeal the decision in accordance with the requirements of 43 CFR part 4 within the time limits set out in the **SUPPLEMENTARY INFORMATION** section.

ADDRESSES: You may obtain a copy of the decision from the Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, AK 99513–7504.

FOR FURTHER INFORMATION CONTACT: Eileen Ford, Land Transfer Resolution Specialist, BLM Alaska State Office, (907) 271–5715, or *eford@blm.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: As required by 43 CFR 2650.7(d), notice is hereby given that the BLM will issue an appealable decision to Kongnikilnomuit Yuita Corporation. The decision approves conveyance of the surface estate in certain lands pursuant to ANCSA (43 U.S.C. 1601, *et seq.*). As provided by ANCSA, the subsurface estate in the same lands will be conveyed to Calista Corporation when the surface estate is conveyed to Kongnikilnomuit Yuita Corporation. The lands are located in the vicinity of Bill Moore's Slough, Alaska, and are described as:

Seward Meridian, Alaska

T. 32 N., R. 75 W.,
Sec. 24.
Containing 397.03 acres.

The decision addresses public access easements, if any, to be reserved to the United States pursuant to Sec. 17(b) of ANCSA (43 U.S.C. 1616(b)), in the lands described above.

The BLM will also publish notice of the decision once a week for four consecutive weeks in the ''The Delta Discovery'' newspaper.

Any party claiming a property interest in the lands affected by the decision may appeal the decision in accordance with the requirements of 43 CFR part 4 within the following time limits:

1. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who fail or refuse to sign their return receipt, and parties who receive a copy of the decision by regular mail which is not certified, return receipt requested, shall have until May 4, 2022 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4 shall be deemed to have waived their rights. Notices of appeal transmitted by facsimile will not be accepted as timely filed.

Eileen Ford,

Land Transfer Resolution Specialist, Branch of Adjudication.

[FR Doc. 2022–06993 Filed 4–1–22; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–33521; PPWOCRADN0–PCU00RP16.R50000]

Native American Graves Protection and Repatriation Review Committee Notice of Public Meetings

AGENCY: National Park Service, Interior.

ACTION: Meeting notice.

SUMMARY: The National Park Service is hereby giving notice that the Native American Graves Protection and Repatriation Review Committee (Committee) will hold two virtual meetings as indicated below.

DATES: The Committee will meet via teleconference on Tuesday, May 3, 2022, and Monday, May 9, 2022. Both meetings will be held from 2:00 p.m. until approximately 6:00 p.m. (Eastern) and are open to the public.

FOR FURTHER INFORMATION CONTACT: Melanie O'Brien, Designated Federal Officer, National Native American Graves Protection and Repatriation Act (NAGPRA) Program (2253), National Park Service, telephone (202) 354–2201, or email *nagpra_info@nps.gov.*

SUPPLEMENTARY INFORMATION: The Committee was established in section 8 of the Native American Graves Protection and Repatriation Act of 1990. Information about NAGPRA, the Committee, and Committee meetings is available on the National NAGPRA Program website at *https://www.nps.gov/orgs/1335/events.htm.*

The Committee is responsible for monitoring the NAGPRA inventory and identification process; reviewing and making findings related to the identity or cultural affiliation of cultural items, or the return of such items; facilitating the resolution of disputes; compiling an inventory of culturally unidentifiable human remains that are in the possession or control of each Federal agency and museum, and recommending specific actions for developing a process for disposition of such human remains; consulting with Indian Tribes and Native Hawaiian organizations and museums on matters affecting such Tribes or organizations lying within the scope of work of the Committee; consulting with the Secretary of the Interior on the development of regulations to carry out NAGPRA; and making recommendations regarding future care of repatriated cultural items. The Committee's work is carried out during the course of meetings that are open to the public.

The agenda for each meeting may include a report from the National NAGPRA Program; the discussion of the Review Committee Report to Congress; subcommittee reports and discussion; and other topics related to the Committee's responsibilities under section 8 of NAGPRA. In addition, the agenda may include requests to the Committee for a recommendation to the Secretary of the Interior that an agreed-upon disposition of Native American human remains proceed.

During each meeting, there will be time scheduled for public comments. Written comments may be submitted, see **FOR FURTHER INFORMATION CONTACT**. All comments received will be provided to the Committee. Information on joining the virtual conference by internet or phone will be available on the National NAGPRA Program website at *https://www.nps.gov/orgs/1335/events.htm.*

Public Disclosure of Comments: Before including your address, telephone number, email address, or other personal identifying information in your comments, 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: 5 U.S.C. appendix 2; 25 U.S.C. 3006.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2022–07059 Filed 4–1–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

[Docket No. ONRR–2011–0012; DS63644000 DRT000000.CH7000 223D1113RT]

Major Portion Prices and Due Date for Additional Royalty Payments on Gas Produced From Indian Lands in Designated Areas That Are Not Associated With an Index Zone

AGENCY: Office of Natural Resources Revenue, Interior.

ACTION: Notice.

SUMMARY: In accordance with regulations governing valuation of gas produced from Indian lands, the Office of Natural Resources Revenue (ONRR) is publishing this notice in the **Federal Register** of the major portion prices applicable to calendar year 2020 and the date by which a lessee must pay any additional royalties due under major portion pricing.

DATES: The due date to pay additional royalties based on the major portion prices is June 30, 2022.

FOR FURTHER INFORMATION CONTACT: For questions regarding major portion prices, contact Robert Sudar, Market & Spatial Analytics, by telephone at (303) 231–3511 or email to *Robert.Sudar@onrr.gov.* For questions on *Reporting Information,* contact April Lockler, Reference & Reporting Management, by telephone at (303) 231–3105 or email to *April.Lockler@onrr.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to 30 CFR 1206.174(a)(4)(ii), ONRR must publish major portion prices for each designated area that is not associated with an index zone for each production month, as well as the due date to submit any additional royalty payments. If a lessee owes additional royalties, it must submit an amended form ONRR–2014, Report of Sales and Royalty Remittance, to ONRR and pay the additional royalties due by the due date. If a lessee fails to timely pay the additional royalties, late payment interest begins to accrue pursuant to 30 CFR 1218.54. The interest will accrue from the due date until ONRR receives payment.

The table below lists major portion prices for all designated areas that are not associated with an index zone.

GAS MAJOR PORTION PRICES ($/MMBtu) FOR DESIGNATED AREAS NOT ASSOCIATED WITH AN INDEX ZONE

ONRR-designated areas	Jan 2020	Feb 2020	Mar 2020	Apr 2020
Fort Berthold Reservation	$1.85	$1.52	$1.10	$1.02
Fort Peck Reservation	2.11	1.58	1.26	1.03
Navajo Allotted Leases in the Navajo Reservation	2.17	1.54	1.28	1.14
Turtle Mountain Reservation	1.85	1.38	1.10	0.89
ONRR-designated areas	May 2020	Jun 2020	Jul 2020	Aug 2020
Fort Berthold Reservation	1.14	1.10	1.12	1.47
Fort Peck Reservation	1.17	0.69	1.13	1.38
Navajo Allotted Leases in the Navajo Reservation	1.49	1.49	1.51	1.76
Turtle Mountain Reservation	1.01	0.54	0.64	1.03
ONRR-designated areas	Sep 2020	Oct 2020	Nov 2020	Dec 2020
Fort Berthold Reservation	1.68	1.59	2.20	1.98
Fort Peck Reservation	1.72	1.53	2.70	2.41
Navajo Allotted Leases in the Navajo Reservation	2.04	2.02	2.59	2.54
Turtle Mountain Reservation	1.15	0.98	1.90	1.59

For information on how to report additional royalties due to major portion prices, please refer to ONRR's Dear Payor letter, dated December 1, 1999, which is available at *http://www.onrr.gov/ReportPay/PDFDocs/991201.pdf.*

Authorities: Indian Mineral Leasing Act, 25 U.S.C. 396a–g; Act of March 3, 1909, 25 U.S.C. 396; and the Indian Mineral Development Act of 1982, 25 U.S.C. 2103 *et seq.*

Kimbra G. Davis,

Director, Office of Natural Resources Revenue.

[FR Doc. 2022–06640 Filed 4–1–22; 8:45 am]

BILLING CODE 4335–30–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 Centrifuge Utility Platform and Falling Film Evaporator Systems and Components Thereof, DN 3609;* 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 Apeks, LLC on March 29, 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 centrifuge utility platform and falling film evaporator systems and components thereof. The complainant names as respondents: Ambiopharma Inc. of Beech Island, SC; Calpha Industries Inc. of Laguna Hills, CA; Changzhou Haomai Drying Engineering Co., Ltd. of China; Comerg, LLC of Phoenix, AZ; Ezhydro of Sacramento, CA; Henan Lanphan Industry Co., Ltd. of China; HX Labs, LLC of Albany, OR; Hydrion Scientific Instrument LLC of Vista, CA; Idea Makers, LLC of Salt Lake City, UT; Lab1st Scientific and Industrial Equipment, Inc. of China; Liaoyang Zhonglian Pharmaceutical Machinery Co., Ltd. of China; Miracle Education Distributors, Inc. of Cathedral City, CA; Mountain Pure, LLC of Vineyard, UT; Redford Management of Los Angeles, CA; Ri Hemp Farms, LLC of West Greenwich, RI; Shanghai Yuanhuai Industries Co. Ltd. of China; Toolots.com of Moreno Valley, CA; Toption Instrument Co., Ltd. of China; Tradewheel.com of Wilmington, DE; Vcenna of Canada; Zhangjiagang Blovebird Separations Co., Ltd. of China; Zhangjiagang Chunk Trading Corp. d/b/a Zhangjiangang Charme Trading Corp. Ltd. of China; Zhangjiangang City Huaxiang Centrifuge Manufactory Co., Ltd. of China; and Zhangjigang Heighton Machinery Co., Ltd. of China. The complainant requests that the Commission issue a general exclusion order or in the alternative issue a limited exclusion order, and cease and desist orders 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. 3609'') 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

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

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: March 29, 2022.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2022–06990 Filed 4–1–22; 8:45 am]

BILLING CODE 7020–02–P

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–531–532 and 731–TA–1270–1273 (Review)]

Polyethylene Terephthalate (PET) Resin From Canada, China, India, and Oman

Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the countervailing duty orders on polyethylene terephthalate (''PET'') resin from China and India and the antidumping duty orders on PET resin from Canada, China, India, and Oman would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted these reviews on April 1, 2021 (86 FR 17197) and determined on July 7, 2021 that it would conduct full reviews (86 FR 37343, July 15, 2021). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on October 20, 2021 (86 FR 58101). The Commission conducted its hearing on January 27, 2022. All persons who requested the opportunity were permitted to participate.

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on March 30, 2022. The views of the Commission are contained in USITC Publication 5298 (March 2022), entitled *Polyethylene Terephthalate (PET) Resin from Canada, China, India, and Oman: Investigation Nos. 701–TA–531–532 and 731–TA–1270–1273 (Review).*

By order of the Commission.

Issued: March 30, 2022.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2022–07061 Filed 4–1–22; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On March 29, 2022, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Utah in the lawsuit entitled *United States and the State of Utah* v. *EP Energy E&P Company, L.P.,* Civil Action No. 2:22–cv–00225–DBB.

This is a civil action for injunctive relief and civil penalties brought by the United States and the State of Utah against EP Energy E&P Company L.P. (''EP Energy'') under the Clean Air Act. The Complaint alleges unlawful emissions of volatile organic compounds from storage vessels and their associated vapor control systems that were part of EP Energy's oil and natural gas production systems in the Uinta Basin oil and natural gas production well operations in Utah. The Consent Decree requires EP Energy to institute a comprehensive injunctive program to help ensure it will design, operate, and maintain approximately 250 production facilities in compliance with federal and state law. EP Energy will also pay a $700,000 penalty, to be split evenly between the United States and Utah, and implement a mitigation project at a cost of approximately $1.2 million that will reduce EP Energy's volatile organic compound and methane emissions.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and the State of Utah* v. *EP Energy E&P Company, L.P.,* D.J. Ref. No. 90–5–2–1–12299/1. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.*

We will provide a paper copy of the proposed Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $26.00 (25 cents per page reproduction cost) payable to the United States Treasury.

Jeffrey Sands,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2022–07038 Filed 4–1–22; 8:45 am]

BILLING CODE 4410–15–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NASA (22–026)]

Name of Information Collection: X–59 Quiet SuperSonic Community Response Survey Preparation

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 June 3, 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, on (202) 358–1351, or email *claire.a.little@nasa.gov,* NASA Headquarters, 300 E Street SW, JF0000, Washington, DC 20546.

SUPPLEMENTARY INFORMATION:

I. Abstract

Supersonic passenger flight over land is currently restricted in the U.S. and many countries because sonic booms have been known to disturb people on the ground. There is a potential for a change in federal and international regulations if supersonic flight can occur at acceptably low noise levels. NASA is preparing a series of Community Response Surveys coupled with research flights to gather data on the public acceptability of low noise supersonic flight.

Prior to the Community Response Surveys, NASA will conduct a check of the overall survey process without accompanying flights (Community Response Survey Preparation). This is necessary to minimize the risk of problems or errors with the actual Community Response Surveys, which will involve coordinating efforts with preparing and scheduling flights of the X–59 Quiet SuperSonic Technology aircraft.

NASA has supported two prior field tests to evaluate data collection methods for community response to low noise supersonic flight; one test was at Edwards Air Force Base, California in 2011 and the second was the Quiet Supersonic Flights 2018 (QSF18) study in Galveston, Texas. The findings from these prior tests were not intended for gathering data supporting regulatory changes but to provide lessons learned in the survey methodology that will be employed in this study.

After the Community Response Survey Preparation, NASA plans to conduct up to five Community Response Surveys in different areas of the contiguous U.S. Each Community Response Survey will have a maximum of 113 responses (''activities'') per respondent, spread across a 30-day period. Some responses are collected up to six times per day, while other responses are collected once per day.

II. Methods of Collection

Participants from the public will receive mailings prompting them to complete a web survey that will be available through a direct URL and through a custom app that they will have the option of downloading to their phone or mobile device.

III. Data

Title: X–59 Quiet SuperSonic Community Response Survey Preparation.

OMB Number:

Type of review: New.

Affected Public: Individuals and Households.

Estimated Annual Number of Activities: 113.

Estimated Number of Respondents per Activity: 500.

Annual Responses: 56,500.

Estimated Time per Response: 2 minutes.

Estimated Total Annual Burden Hours: 1,883 hours.

Estimated Total Annual Cost: $58,806.

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. 2022–07051 Filed 4–1–22; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NASA (22–027)]

Name of Information Collection: NASA Virtual Guest Watch Party Registration

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 May 4, 2022.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.*

Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Claire Little, NASA Clearance Officer, on (202) 358–1351 or *claire.a.little@nasa.gov,* NASA Headquarters, 300 E Street SW, JF0000, Washington, DC 20546.

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Aeronautics and Space Administration (NASA) is committed to effectively performing the Agency's communication function in accordance with the Space Act Section 203 (a) (3) to ''provide for the widest practicable and appropriate dissemination of information concerning its activities and the results there of,'' and to enhance public understanding of, and participation in, the nation's space program in accordance with the NASA Strategic Plan.

The Space Act of 1958, directs the Agency to expand human knowledge of Earth and space phenomena. The Virtual Guest Program exists to leverage the excitement around launches and milestones to widely disseminate information about Earth and space phenomena through the sharing of information about research on launches, mission objectives, public engagement activities (coloring pages, social media filters) and the like.

The program provides registration opportunities for individuals and watch parties so that NASA may provide them specific information they are interested in receiving and to share a detailed slice of the NASA efforts in carrying out the other portions of the Space Act of 1958. By learning through information submitted of the plans of Watch Party organizers, NASA can best provide appropriate resources and share information about its activities and results.

II. Methods of Collection

Electronic/Online Web Form.

III. Data

Title: NASA Virtual Guest Watch Party Registration.

OMB Number: 2700–xxxx.

Type of Review: New.

Affected Public: Individuals.

Estimated Annual Number of activities: 1.

Estimated Number of Respondents per Activity: 100,869.

Annual Responses: 100,869.

Estimated Time per Response: 3 minutes.

Estimated Total Annual Burden Hours: 5,043.

Estimated Total Annual Cost: $75,652.

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. 2022–07052 Filed 4–1–22; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2022–030]

Records Management; General Records Schedule (GRS); GRS Transmittal 32

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of new General Records Schedule (GRS) Transmittal 32.

SUMMARY: NARA is issuing revisions to the General Records Schedule (GRS). The GRS provides mandatory disposition instructions for records common to several or all Federal agencies. Transmittal 32 includes only changes we have made to the GRS since we published Transmittal 31 in April 2020. Additional GRS schedules remain in effect that we are not issuing via this transmittal.

DATES: This transmittal is effective April 4, 2022.

ADDRESSES: You can find all GRS schedules, crosswalks, and FAQs at *http://www.archives.gov/records-mgmt/grs.html* (in Word, PDF, and CSV formats). You can download the complete current GRS, in PDF format, from the same location.

FOR FURTHER INFORMATION CONTACT: For more information about this notice or to obtain paper copies of the GRS, contact Kimberly Keravuori, Regulatory and External Policy Program Manager, by email at *regulation_comments@nara.gov* or by telephone at 301.837.3151.

Writing and maintaining the GRS is the GRS Team's responsibility. This team is part of Records Management Services in the National Records Management Program, Office of the Chief Records Officer, at NARA. You may contact NARA's GRS Team with general questions about the GRS at *GRS_Team@nara.gov.*

Your agency's records officer may contact the NARA appraiser or records analyst with whom your agency normally works for support in carrying out this transmittal and the revised portions of the GRS. You may access a list of the appraisal and scheduling work group and regional contacts on our website at *http://www.archives.gov/records-mgmt/appraisal/index.html.*

SUPPLEMENTARY INFORMATION: GRS Transmittal 32 announces changes to the General Records Schedules (GRS) made since we published GRS Transmittal 31 in April 2020. The GRS provide mandatory disposition instructions for records common to several or all Federal agencies. Transmittal 32 includes alterations to seven previously published schedules.

You can find all schedules (in Word and PDF formats), a master crosswalk, FAQs for all schedules, and FAQs about the whole GRS at *http://www.archives.gov/records-mgmt/grs.html.* At the same location, you can also find the entire GRS (just schedules—no crosswalks or FAQs) in a single document you can download.

1. What changes does this transmittal make to the GRS?

GRS Transmittal 32 publishes updates to:

GRS 2.4 Employee Compensation and Benefits Records (see question 2 below)
GRS 2.7 Employee Health and Safety Records (see question 3 below)
GRS 4.2 Information Access and Protection Records (see question 4 below)
GRS 4.4 Library Records (see question 5 below)
GRS 5.3 Continuity and Emergency Planning Records (see question 6 below)
GRS 5.6 Security Records (see question 7 below)
GRS 5.7 Agency Accountability Records (see question 8 below)

2. What changes did we make to GRS 2.4?

We added a flexible retention option (''but longer retention is authorized if required for business use'') to item 035. Our omission of this flexibility from the original item was an oversight.

3. What changes did we make to GRS 2.7?

We added two items to cover records of vaccine attestations for Federal employees and contractors (item 063) and visitors (item 064), and two items to cover symptom screening and testing records for Federal employees (item 065) and contractors and visitors (item 66).

4. What changes did we make to GRS 4.2?

We reduced the retention period of item 100. It previously directed agencies to retain the records for 30 years after completing a declassification review. Now, agencies may destroy records documenting a declassification review immediately upon either of two subsequent events: The agency conducts another declassification review or the agency transfers the reviewed records to NARA. We altered the retention period in response to a request from the Department of State, which pointed out that the previous instruction could result in agencies being required to retain records documenting the declassification process until as late as 105 years after the records were created.

5. What changes did we make to GRS 4.4?

We modified the background information to clarify that the schedule applies to library and information centers within agencies, but not to stand-alone libraries, such as the Library of Congress, or national libraries.

6. What changes did we make to GRS 5.3?

In the first sentence of the Background Information, we changed the generic word ''sensitive'' to a term with a precise definition: ''controlled unclassified.''

7. What changes did we make to GRS 5.6?

We updated this schedule to further clarify that it does not include records related to Federal law enforcement and Federal correctional activities and that this exclusion includes border and transportation security and immigration and naturalization services. We changed the schedule title ''Security Management Records'' to help with this distinction.

We altered item 010 to clarify the subject matter as security *management* and expanded the description's list of examples. We removed the bullet for standard operating procedures manuals, as they are properly covered by GRS 5.7, item 030.

We revised items 030, 090, and 100 to clarify that they do not cover records related to Federal law enforcement and correctional activities including border and transportation security and immigration and naturalization services. Item 090 was revised to make it clear that it does not apply to videos of accidents or incidents or video surveillance of accidents or incidents in Federal facilities or facilities operated by contractors on behalf of the Federal Government.

We revised item 120's disposition instruction to be more concise. We revised item 130's title to clarify that it covers all manner of temporary access identification records. We changed the term ''sensitive data'' to ''controlled unclassified information'' in items 180 and 181.

8. What changes did we make to GRS 5.7?

We revised this schedule to clarify that it applies only to records related to management and oversight of agency administrative functions. This included changing the name of the schedule to ''Administrative Management and Oversight Records'' and updating the background information to clarify that it applies only to management of administrative functions, not functions related to agency mission. The new background section specifically excludes records related to agency strategic planning and performance management.

We altered item 010's title and revised the list of examples to remove generic records types that are arguably not ''management controls.''

We revised the title of item 040 and added a sentence to the description to clarify that the item applies only to requirements for reports related to administrative activities. We also added an exclusion to clarify that item 040 does not cover the reports themselves.

We eliminated from item 050's list of included records reports that are not specific to administrative activities, such as Performance and Accountability Reports (PAR). We also added an exclusion to make it clear that mandatory reports related to non-administrative matters are not covered by this item and must be scheduled by the agency.

9. How do agencies cite GRS items?

When you send records to an FRC for storage, you should cite the records' legal authority—the ''DAA'' number—in the ''Disposition Authority'' column of the table. Please also include schedule and item number. For example, ''DAA–GRS–2017–0007–0008 (GRS 2.2, item 070).''

10. Do agencies have to take any action to implement these GRS changes?

NARA regulations (36 CFR 1226.12(a)) require agencies to disseminate GRS changes within six months of receipt.

Per 36 CFR 1227.12(a)(1), you must follow GRS dispositions that state they must be followed without exception.

Per 36 CFR 1227.12(a)(3), if you have an existing schedule that differs from a new GRS item that does *not* require being followed without exception, and you wish to continue using your agency-specific authority rather than the GRS authority, you must notify NARA within 120 days of the date of this transmittal.

If you do not have an already existing agency-specific authority but wish to apply a retention period that differs from that specified in the GRS, you must submit a records schedule to NARA for approval via the Electronic Records Archives.

David S. Ferriero,

Archivist of the United States.

[FR Doc. 2022–07041 Filed 4–1–22; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings

The National Science Board's Executive Committee hereby gives notice of the scheduling of a teleconference for the transaction of National Science Board business, pursuant to the National Science Foundation Act and the Government in the Sunshine Act.

TIME AND DATE: Tuesday, April 5, 2022, from 2:00–3:00 p.m. EDT.

PLACE: This meeting will be held by teleconference through the National Science Foundation.

STATUS: Open.

MATTERS TO BE CONSIDERED: Committee Chair's opening remarks; approval of Executive Committee minutes of January 26, 2022; and discuss issues and topics for an agenda of the NSB meeting scheduled for May 5–6, 2022.

CONTACT PERSON FOR MORE INFORMATION: Point of contact for this meeting is: Nirmala Kannankutty, 703/292–8000. Members of the public can observe this meeting through a You Tube livestream. The link is *https://youtu.be/3qY4Jf5RAvY.* Information about meeting updates is available from the

NSB website at *https://www.nsf.gov/nsb/meetings/index.jsp#up.*

Chris Blair,

Executive Assistant to the National Science Board Office.

[FR Doc. 2022–07148 Filed 3–31–22; 4:15 pm]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2021–0218]

Information Collection: Specific Domestic Licenses To Manufacture or Transfer Certain Items Containing Byproduct Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, ''Specific Domestic Licenses to Manufacture or Transfer Certain Items Containing Byproduct Material.''

DATES: Submit comments by June 3, 2022. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0218. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* David Cullison, Office of the Chief Information Officer, Mail Stop: T–6 A10M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: David C. Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2021–0218 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0218.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The supporting statement and NRC Form 653, 653A, 653B are available in ADAMS under Accession Nos. ML22028A014 and ML22028A015.
- *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.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2021–0218 in your comment submission.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized below.

1. *The title of the information collection:* Part 32 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Specific Domestic Licenses to Manufacture or Transfer Certain Items Containing Byproduct Material.''
2. *OMB approval number:* 3150–0001.
3. *Type of submission:* Extension.
4. *The form number, if applicable:* NRC Form 653, 653A, 653B.
5. *How often the collection is required or requested:* There is a one-time submittal of information to receive a certificate of registration for a sealed source and/or device. Certificates of registration for sealed sources and/or devices can be amended at any time. In addition, licensee recordkeeping must be performed on an on-going basis, and reporting of transfer of byproduct material must be reported every calendar year, and in some cases, every calendar quarter.
6. *Who will be required or asked to respond:* All specific licensees who manufacture or initially transfer items containing byproduct material for sale or distribution to general licensees, or persons exempt from licensing, medical use product distributors to specific licensees, and those requesting a certificate of registration for a sealed source and/or device.
7. *The estimated number of annual responses:* 3,038 [2,285 reporting + 349 recordkeepers + 404 third-party recordkeepers].
8. *The estimated number of annual respondents:* 662 (156 NRC licenses, registration certificate holder, and 506

Agreement States licensees and registration certificate holders).

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 109,510 (15,601 reporting + 1,122 recordkeeping + 92,787 third-party).

10. *Abstract:* 10 CFR part 32, establishes requirements for specific licenses for the introduction of byproduct material into products or materials and transfer of the products or materials to general licensees, or persons exempt from licensing, medical use product distributors to specific licensees, and those requesting a certificate of registration for a sealed source and/or device. It also prescribes requirements governing holders of the specific licenses. Some of the requirements are for information which must be submitted in an application for a certificate of registration for a sealed source and/or device, records which must be kept, reports which must be submitted, and information which must be forwarded to general licensees and persons exempt from licensing. As mentioned, 10 CFR part 32 also prescribes requirements for the issuance of certificates of registration (concerning radiation safety information about a product) to manufacturers or initial transferors of sealed sources and devices. Submission or retention of the information is mandatory for persons subject to the 10 CFR part 32 requirements. The information is used by the NRC to make licensing and other regulatory determinations concerning the use of radioactive byproduct material in products and devices.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the estimate of the burden of the information collection accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Dated: March 29, 2022.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2022–06956 Filed 4–1–22; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2022–49 and CP2022–54]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing recent Postal Service filings for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filings, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* April 6, 2022.

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

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

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2022–49 and CP2022–54; *Filing Title:* USPS Request to Add Priority Mail Contract 738 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* March 29, 2022; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* April 6, 2022.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2022–07039 Filed 4–1–22; 8:45 am]

BILLING CODE 7710–FW–P

PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

[Notice–PCLOB–2022–01; Docket No. 2022–0009; Sequence No. 1]

Notice of Public Forum

AGENCY: Privacy and Civil Liberties Oversight Board (PCLOB).

ACTION: Request for public comments and notice of public forum on domestic terrorism.

SUMMARY: The PCLOB or Board seeks public comments regarding, and will hold a public forum to consider, privacy and civil liberties issues concerning the government's efforts to counter domestic terrorism. The PCLOB seeks public comments regarding the following topics (described in more detail below): Implications for First Amendment-Protected Activities;

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

Implications for Privacy and Fourth Amendment rights; Federal and State/Local/Tribal/Territorial (SLTT) Government Cooperation in Countering Domestic Terrorism; Use of Technology in Efforts to Combat Domestic Terrorism; Differential Impacts on Racial and Other Minority Groups; and any Other Privacy or Civil Liberties Implications Related to Domestic Terrorism. Additionally, the PCLOB will hold a virtual public forum to examine privacy and civil liberties issues regarding the government's efforts to counter domestic terrorism. During the forum, Board Members will hear a range of expert views.

DATES: The PCLOB plans to hold the public forum in late May or early June 2022. The exact date will be announced on *www.pclob.gov* by no later than Monday, April 25, 2022. PCLOB will consider all public comments received by Thursday, June 30, 2022.

The comment period will remain open beyond the public forum date to enable individuals to submit comments that reflect the presentations and discussion during the forum. However, commenters who seek to inform the final agenda for the Board's forthcoming virtual public forum, are requested to please submit comments on or before Monday, April 25, 2022.

ADDRESSES: The public forum will be held virtually. Instructions for how to attend the virtual forum will be posted to *www.pclob.gov.* The Board invites written comments regarding privacy and civil liberties in the domestic terrorism context. You may submit comments responsive to notice PCLOB–2022–01 via *http://www.regulations.gov.* Please search by Notice PCLOB–2022–01 and follow the on-line instructions for submitting comments. Responsive comments received generally will be posted without change to *regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *regulations.gov* approximately two-to-three business days after submission to verify posting.

Comments may be submitted any time prior to the closing of the docket at 11:59 p.m., EDT, on Thursday, June 30, 2022.

FOR FURTHER INFORMATION CONTACT: Mason Clutter, Acting Executive Director at 202–296–4649; *pao@pclob.gov.*

SUPPLEMENTARY INFORMATION:

Procedures for Public Observation

The event is open to the public. Pre-registration is required. Registration instructions will be posted to *www.pclob.gov.* Individuals who plan to participate virtually and require special assistance should contact *pao@pclob.gov* at least 72 hours prior to the event. The Board welcomes comments on privacy and civil liberties issues related to any of the following topics, including potential recommendations for policy reforms:

Government Actions Against Domestic Terrorism: Authorities, Procedures, Safeguards, and Impacts on First Amendment-Protected Activities

Responsive comments should examine the authorities, procedures, and safeguards governing federal government action countering domestic terrorism when such action could affect protected First Amendment activity. Responsive comments may also address the effects of such government action on First Amendment activity, and what further safeguards, mitigations, or oversight may be needed. Examples include social media and internet surveillance, as well as surveillance of those exercising their rights of free expression and assembly.

Government Surveillance To Combat Domestic Terrorism: Authorities, Procedures, Safeguards, and Impacts on Privacy and Fourth Amendment Rights

Responsive comments should address the use of surveillance to combat domestic terrorism, including the authorities, procedures and safeguards that currently govern such surveillance, and the applicability of the Fourth Amendment and other legal protections for privacy. Responsive comments may also address what further safeguards, mitigations, or oversight may be needed to protect privacy.

Federal and State/Local/Tribal/Territorial (SLTT) Government Cooperation in Countering Domestic Terrorism

Responsive comments should examine the intersection of domestic terrorism activities and privacy and civil liberties implications at the Federal and the SLTT level, both directly (*e.g.,* JTTFs, Fusion Centers) and indirectly (*e.g.,* federal funds used to purchase SLTT surveillance capabilities; SLTT use of federal resources, etc.), including the following questions:

- What are the potential privacy and civil liberties issues raised by this cooperation?
- What safeguards, mitigations, or oversight may be needed to protect against potentially harmful effects?

Use of Technology in Efforts To Combat Domestic Terrorism

Responsive comments should examine the use of technology in investigating and countering domestic terrorism, including the following questions:

- How is the government using technology to counter domestic terrorism?
- Are the technologies and policies used to counter international terrorism being applied to domestic terrorism, either by the government or by private firms; and if so, what are the potential privacy and civil liberties implications for the American public?
- In what ways do private technology firms work with the government to counter domestic terrorism and does this raise further privacy and civil liberties issues?
- What challenges and opportunities, for countering domestic terrorism and for protecting privacy and civil liberties in counterterrorism programs, are created by current and likely future technology changes?
- What safeguards, mitigations, or oversight may be needed to protect against potentially harmful effects?

Differential Impacts on Racial and Other Minority Groups

Per Executive Order 13985 and PCLOB's efforts to enhance equity, the PCLOB seeks comments on potential differential impacts of countering domestic terrorism programs and policies on particular racial groups, historically underserved communities, religious groups, politically disfavored groups, and other individuals. Responsive comments should examine:

- To what extent do government efforts to combat domestic terrorism have differential impacts on particular racial groups, historically underserved communities, religious groups, politically disfavored groups, and other individuals?
- What safeguards, mitigations, or oversight may be needed to protect against potentially harmful effects?

Any Other Privacy or Civil Liberties Implications Related to Domestic Terrorism

The Board welcomes comments on any other privacy or civil liberties concerns related to domestic terrorism not listed above.

David Coscia,

Agency Liaison Officer, Office of Presidential & Congressional Agency Liaison Services, General Services Administration.

[FR Doc. 2022–07011 Filed 4–1–22; 8:45 am]

BILLING CODE 6820–B5–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

1. Title and purpose of information collection: Employee Representative's Status and Compensation Reports; OMB 3220–0014.

Under Section 1(b)(1) of the Railroad Retirement Act (RRA) (45 U.S.C. 231b), the term ''employee'' includes an individual who is an employee representative. As defined in Section 1(c) of the RRA, an employee representative is an officer or official representative of a railway labor organization other than a labor organization included in the term ''employer,'' as defined in the RRA, who before or after August 29, 1935, was in the service of an employer under the RRA and who is duly authorized and designated to represent employees in accordance with the Railway Labor Act, or, any individual who is regularly assigned to or regularly employed by such officer or official representative in connection with the duties of his or her office. The requirements relating to the application for employee representative status and the periodic reporting of the compensation resulting from such status is contained in 20 CFR 209.10.

The RRB utilizes Form DC–2, *Employee Representative's Report of Compensation,* to obtain the information needed to determine employee representative status and to maintain a record of creditable service and compensation resulting from such status. Completion is required to obtain or retain a benefit. One response is requested of each respondent. The RRB proposes no changes to Form DC–2.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
DC–2	82	30	41
Total	82		41

2. Title and purpose of information collection: Application for Survivor Insurance Annuities; OMB 3220–0030.

Under Section 2(d) of the Railroad Retirement Act (RRA) (45 U.S.C. 231a), monthly survivor annuities are payable to surviving widow(er)s, parents, unmarried children, and in certain cases, divorced spouses, mothers (fathers), remarried widow(er)s, and grandchildren of deceased railroad employees if there are no qualified survivors of the employee immediately eligible for an annuity. The requirements relating to the annuities are prescribed in 20 CFR 216, 217, 218, and 219.

To collect the information needed to help determine an applicant's entitlement to, and the amount of, a survivor annuity the RRB uses Forms AA–17, *Application for Widow(er)'s Annuity;* AA–17b, *Applications for Determination of Widow(er)'s Disability;* AA–18, *Application for Mother's/Father's and Child's Annuity;* AA–19, *Application for Child's Annuity;* AA–19a, *Application for Determination of Child's Disability;* AA–20, *Application for Parent's Annuity,* and electronic Forms AA–17cert, *Application Summary and Certification* and AA–17sum, *Application Summary.*

The on-line automated survivor annuity application (Forms AA–17, AA–18, AA–19, and AA–20) process obtains information about an applicant's marital history, work history, benefits from other government agencies, and Medicare entitlement for a survivor annuity. An RRB representative interviews the applicant either at a field office (preferred), an itinerant point, or by telephone. During the interview, the RRB representative enters the information obtained into an on-line information system. Upon completion of the interview, the system generates, for the applicant's review, either Form AA–17cert or AA–17sum, which provides a summary of the information that the applicant provided or verified. Form AA–17cert, *Application Summary and Certification,* requires a tradition pen and ink ''wet'' signature. Form AA–17sum, *Application Summary,* documents the alternate signing method called ''Attestation,'' which is an action taken by the RRB representative to confirm and annotate in the RRB records (1) the applicant's intent to file an application; (2) the applicant's affirmation under penalty of perjury that the information provided is correct; and (3) the applicant's agreement to sign the application by proxy. When the RRB representative is unable to contact the applicant in person or by telephone, for example, the applicant lives in another country, a manual version of the appropriate form is used. One response is requested of each respondent. Completion of the forms is required to obtain a benefit.

The RRB proposes no changes to forms AA–17b, AA–17cert, AA–17sum, AA–19a.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
AA–17 Application Process:			
AA–17cert	900	20	300
AA–17sum	2,100	19	665
AA–17b:			

ESTIMATE OF ANNUAL RESPONDENT BURDEN—Continued

Form No.	Annual responses	Time (minutes)	Burden (hours)
(With assistance)	250	45	188
(Without assistance)	20	55	18
AA–19a:			
(With assistance)	200	45	150
(Without assistance)	15	65	16
Total	3,485		1,337

3. Title and purpose of information collection: Nonresident Questionnaire; OMB 3220–0145.

Under Public Laws 98–21 (42 U.S.C. 410) and 98–76 (45 U.S.C. 231t), benefits under the Railroad Retirement Act payable to annuitants living outside the United States may be subject to taxation under United States income tax laws. Whether the social security equivalent and non-social security equivalent portions of Tier I, Tier II, vested dual benefit, or supplemental annuity payments are subject to tax withholding, and whether the same or different rates are applied to each payment, depends on a beneficiary's citizenship and legal residence status, and whether exemption under a tax treaty between the United States and the country in which the beneficiary is a legal resident has been claimed. To affect the required tax withholding, the Railroad Retirement Board (RRB) needs to know a nonresident's citizenship and legal residence status.

To secure the required information, the RRB utilizes Form RRB–1001, *Nonresident Questionnaire,* as a supplement to an application as part of the initial application process, and as an independent vehicle for obtaining the needed information when an annuitant's residence or tax treaty status changes. Completion is voluntary. One response is requested of each respondent.

The RRB proposes no changes to Form RRB–1001:

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
RRB–1001 (Initial filing)	300	30	250
RRB–1001 (Tax renewal)	1,000	30	400
Total	1,300		650

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, contact Kennisha Tucker at (312) 469–2591 or *Kennisha.Tucker@rrb.gov.* Comments regarding the information collection should be addressed to Brian Foster, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–1275 or emailed to *Brian.Foster@rrb.gov.* Written comments should be received within 60 days of this notice.

Brian D. Foster,

Clearance Officer.

[FR Doc. 2022–06946 Filed 4–1–22; 8:45 am]

BILLING CODE 7905–01–P

SCIENCE AND TECHNOLOGY POLICY OFFICE

Request for Information: Sustainable Chemistry

AGENCY: Office of Science and Technology Policy (OSTP).

ACTION: Notice of Request for Information (RFI) from the public on Federal programs and activities in support of sustainable chemistry.

SUMMARY: The Office of Science and Technology Policy (OSTP) requests input from interested parties on sustainable chemistry to guide future Federal efforts. The term ''sustainable chemistry'' does not have a consensus definition and most uses of the term indicate that it is synonymous with ''green chemistry.'' Therefore, information is requested on the preferred definition for sustainable chemistry. OSTP requests comments on how the definition of sustainable chemistry could impact the following: The role of technology, Federal policies that may aid or hinder sustainable chemistry initiatives, future research to advance sustainable chemistry, financial and economic considerations, and Federal agency efforts. Comments provided in response to this RFI will be used to address Subtitle E—Sustainable Chemistry of the 2021 National Defense Authorization Act (NDAA) to identify research questions and priorities to promote transformational progress in improving the sustainability of the chemical sciences.

DATES: Interested persons and organizations are invited to submit comments on or before 5:00 p.m. ET on June 3, 2022.

ADDRESSES: Interested individuals and organizations should submit comments electronically to *JEEP@ostp.eop.gov* and include ''Sustainable Chemistry RFI'' in the subject line of the email. Due to time constraints, mailed paper submissions will not be accepted, and electronic submissions received after the deadline may not be taken into consideration.

Instructions

Response to this RFI is voluntary. Each responding entity (individual or organization) is requested to submit only one response. OSTP welcomes any responses to inform and guide policies and actions related to Sustainable Chemistry. Please feel free to respond to one or as many topics as you choose, while noting the number of the topic(s) to which you are responding. Submission must not exceed 10 pages in 12-point or larger font, with a page number provided on each page. Responses should include the name of the person(s) or organization(s) filing the comment, as well as the respondent

type (*e.g.,* academic institution, advocacy group, professional society, community-based organization, industry, member of the public, government, other). Respondent's role in the organization may also be provided (*e.g.,* researcher, administrator, student, program manager, journalist) on a voluntary basis. Comments containing references, studies, research, and other empirical data that are not widely published should include copies or electronic links of the referenced materials. No business proprietary information, copyrighted information, or personally identifiable information should be submitted in response to this RFI. Please be aware that comments submitted in response to this RFI, including the submitter's identification (as noted above), may be posted on OSTP's website or otherwise released publicly.

In accordance with Federal Acquisitions Regulations Systems 15.202(3), responses to this notice are not offers and cannot be accepted by the Federal Government to form a binding contract. Additionally, those submitting responses are solely responsible for all expenses associated with response preparation.

FOR FURTHER INFORMATION CONTACT: For additional information, please direct questions to Melanie Buser at *JEEP@ostp.eop.gov* or 202–456–4444.

SUPPLEMENTARY INFORMATION:

Background: The term ''sustainable chemistry'' does not have a consensus definition and most uses of the term indicate that it is synonymous with ''green chemistry.'' Publications and legislation have typically treated sustainable chemistry and green chemistry synonymously.[1] [2] However, green chemistry has traditionally focused on hazardous substances, while sustainable chemistry has been used in the context of both hazardous and non-hazardous substances. An example is the EPA definition:

''*Green chemistry is the design of chemical products and processes that reduce or eliminate the use or generation of hazardous substances. Green chemistry applies across the life cycle of a chemical product, including its design, manufacture, use, and ultimate disposal. Green chemistry is also known as sustainable chemistry.*'' [3]

In 2017, Congress used the term ''sustainable chemistry'' and included expanded concepts such as pollution prevention, reducing risk, efficient manufacturing, and to ''*promote efficient use of resources in developing new materials, processes, and technologies that support viable long-term solutions to a significant number of challenges.*'' [4]

The Organization for Economic Cooperation and Development (OECD) considers a much broader definition that incorporates efficiency in use of natural resources: ''*Sustainable chemistry is a scientific concept that seeks to improve the efficiency with which natural resources are used to meet human needs for chemical products and services. Sustainable chemistry encompasses the design, manufacture and use of efficient, effective, safe and more environmentally benign chemical products and processes.*'' [5]

In early 2018, the Government Accountability Office (GAO) published GAO–18–307, titled Chemical Innovation: Technologies to Make Processes and Products More Sustainable, that equated ''green chemistry'' with ''sustainable chemistry'' and found that participating stakeholders lacked agreement on how to define, measure, or assess the sustainability of chemical processes and products. The GAO did find, however, that there were several common themes underlying what sustainable chemistry strives to achieve:

—Improve the efficiency with which natural resources—including energy, water, and materials—are used to meet human needs for chemical products while avoiding environmental harm;
—reduce or eliminate the use or generation of hazardous substances in the design, manufacture, and use of chemical products;
—protect and benefit the economy, people, and the environment using innovative chemical transformations;
—consider all life-cycle stages including manufacture, use, and disposal when evaluating the environmental impact of a product; and
—minimize the use of non-renewable resources.[6]

OSTP has been tasked under Subtitle E—Sustainable Chemistry of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116–283) [7] with creating a consensus definition for the term ''sustainable chemistry'' to coordinate Federal programs and activities in support of sustainable chemistry. The definition, for which we are seeking comment, will inform OSTP's development of a framework of attributes characterizing sustainable chemistry as well as quantitative assessment metrics. Additionally, it will allow OSTP to assess the state of sustainable chemistry in the United States; coordinate and support Federal research, development, demonstration, technology transfer, commercialization, education, and support for public-private partnerships; identify Federal barriers and opportunities; identify scientific challenges; avoid duplication; and position Federal funding for maximal impact including through synergistic partnerships.

Scope: OSTP invites input from any interested stakeholders, including industry and industry association groups; civil society and advocacy groups; local organizers and community groups; state, local, and tribal governments; academic researchers; technical practitioners specializing in chemistry and chemical processes; and members of the public, representing all backgrounds and perspectives. OSTP has great interest in receiving input from parties developing sustainable chemistry technologies, parties acquiring and using such technologies, and people from communities impacted by their use, including but not limited to environmental justice communities.

Information Requested: OSTP has considered definitions for sustainable chemistry to potentially include incorporating technology, policy, finance/economics, energetics, national security, critical industries, and critical natural resources. OSTP encourages input on these and other considerations for a definition of sustainable chemistry. Respondents may provide information for one or as many topics below as they choose. Through this RFI, OSTP seeks information to develop a consensus definition for the term ''sustainable chemistry'' and to consider the implications of such a definition, including the following topics:

1. *Definition of sustainable chemistry:* OSTP is mandated by the 2021 NDAA to develop a consensus definition of sustainable chemistry. Comments are requested on what that definition should include. The definition will inform OSTP and Federal agencies for prioritizing and implementing research

[1] See, for example: H. Rept 108–462, ''Green Chemistry Research and Development Act of 2004'' H. Rept. 108–462—GREEN CHEMISTRY RESEARCH AND DEVELOPMENT ACT OF 2004 | *Congress.gov* | Library of Congress.

[2] Public Law No: 111–358 (01/04/2011) which uses both terms independently and combined *https://www.congress.gov/bill/111th-congress/house-bill/5116/text?overview=closed&r=12.*

[3] *https://www.epa.gov/greenchemistry/basics-green-chemistry.*

[4] Public Law 114–329, SEC 114(a)(2) approved on January 6, 2017, *https://www.govinfo.gov/content/pkg/PLAW-114publ329/pdf/PLAW-114publ329.pdf.*

[5] *https://www.oecd.org/chemicalsafety/risk-management/sustainablechemistry.htm.*

[6] *https://www.gao.gov/assets/gao-18-307.pdf.*

[7] *https://www.congress.gov/116/plaws/pub|283/PLAW-116publ283.pdf.*

and development programs to advance sustainable chemistry practice in the United States. Comments are also requested on how the definition of ''sustainable chemistry'' relates to the common usage of ''green chemistry'' and whether these terms should be synonymous, exclusive, complementary, or if one should be incorporated into the other.

2. *Technologies that would benefit from Federal attention to move society toward more sustainable chemistry:* What technologies/sectors stand to benefit most from progress in sustainable chemistry or require prioritized investment? Why? What mature technology areas, if any, should be lower priority?

3. *Fundamental research areas:* What fundamental and emerging research areas require increased attention, investment, and/or priority focus to support innovation toward sustainable chemistry (*e.g.,* catalysis, separations, toxicity, biodegradation, thermodynamics, kinetics, life-cycle analysis, market forces, public awareness, tax credits, etc.). What Federal research area might you regard as mature/robustly covered, or which Federal programs would benefit from increased prioritization?

Ancillary topics regarding the definition:

4. *Potential outcome and output metrics based on the definition of sustainable chemistry:* What outcomes and output metrics will provide OSTP the ability to prioritize initiatives and measure their success? How does one determine the effectiveness of the definition of sustainable chemistry? What are the quantitative features characteristic of sustainable chemistry?

5. *Financial and economic considerations for advancing sustainable chemistry:* How are financial and economic factors considered (*e.g.,* competitiveness, externalized costs), assessed (*e.g.,* economic models, full life cycle management tools) and implemented (*e.g.,* economic infrastructure).

6. *Policy considerations for advancing sustainable chemistry:* What changes in policy could the Federal government make to improve and/or promote sustainable chemistry?

7. *Investment considerations when prioritizing Federal initiatives for study:* What issues, consequences, and priorities are not necessarily covered under the definition of sustainable chemistry, but should be considered when investing in initiatives? Public Law 114–329, discussed in the background section above, includes the phrase: ''*support viable long-term solutions to a significant number of challenges*''. OSTP expects the final definition of sustainable chemistry to strongly consider resource conservation and other environmentally focused issues. For example, national security, jobs, funding models, partnership models, critical industries, and environmental justice considerations may all incur consequences from implementation of sustainable chemistry initiatives such as dematerialization, or the reduction of quantities of materials needed to serve and economic function.

Dated: March 30, 2022.

Stacy Murphy,

Operations Manager.

[FR Doc. 2022–07043 Filed 4–1–22; 8:45 am]

BILLING CODE 3270–F2–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–015, OMB Control No. 3235–0021]

Submission for OMB Review; Comment Request; Extension: Rule 6a–3

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information provided for in Rule 6a–3 (17 CFR 240.6a–3) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Act'').

Section 6 of the Act sets out a framework for the registration and regulation of national securities exchanges. Under Rule 6a–3, one of the rules that implements Section 6, a national securities exchange (or an exchange exempted from registration based on limited trading volume) must provide certain supplemental information to the Commission, including any material (including notices, circulars, bulletins, lists, and periodicals) issued or made generally available to members of, or participants or subscribers to, the exchange. Rule 6a–3 also requires the exchanges to file monthly reports that set forth the volume and aggregate dollar amount of certain securities sold on the exchange each month. The information required to be filed with the Commission pursuant to Rule 6a–3 is designed to enable the Commission to carry out its statutorily mandated oversight functions and to ensure that registered and exempt exchanges continue to be in compliance with the Act.

The Commission estimates that each respondent makes approximately 12 such filings on an annual basis. Each response takes approximately 0.5 hours. In addition, respondents incur shipping costs of approximately $20 per submission. Currently, 24 respondents (24 national securities exchanges) are subject to the collection of information requirements of Rule 6a–3. The Commission estimates that the total burden for all respondents is 144 hours and $5,760 per year.

Compliance with Rule 6a–3 is mandatory for registered and exempt exchanges. Information received in response to Rule 6a–3 shall not be kept confidential; the information collected is public information. As set forth in Rule 17a–1 (17 CFR 240.17a–1) under the Act, a national securities exchange is required to retain records of the collection of information for at least five years.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.*

Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: March 30, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–07060 Filed 4–1–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94543; File No. SR–NYSE–2022–16]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Price List

March 29, 2022.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 25, 2022, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List to (1) align the charges for market at-the-close (''MOC'') and limit at-the close (''LOC'') orders on MOC/LOC Tiers 1, 2 and 3, revise the requirements for MOC/LOC Tier 3, introduce incremental per share discounts on MOC orders under MOC/LOC Tier 1, 2 and 3, and revise the rate for all other orders swept into the close; (2) introduce new credits for removing liquidity from the Exchange in Tape C securities; and (3) introduce new Tier 1 Adding Credits in Tape C securities, revise the requirements for Adding Tier 2 in Tape B and C securities, and introduce a new Adding Tier in Tape C securities. The Exchange proposes to implement the rule change on March 25, 2022.[4] The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List to (1) align the charges for MOC and LOC orders on MOC/LOC Tier 1, 2 and 3 revise the requirements for MOC/LOC Tier 3, introduce incremental per share discounts on MOC orders under MOC/LOC Tier 1, 2 and 3, and revise the rate for all other orders swept into the close; (2) introduce new credits for removing liquidity from the Exchange in Tape C securities; and (3) introduce new Tier 1 Adding Credits in Tape C securities, revise the requirements for Adding Tier 2 in Tape B and C securities, and introduce a new Adding Tier in Tape C securities.

The proposed changes responds to the current competitive environment where order flow providers have a choice of where to direct not only liquidity-providing and liquidity-removing orders but also MOC orders in NYSE-listed securities by aligning incentives for member organizations to send additional adding and removing liquidity to the Exchange.

The Exchange proposes to implement the rule change on March 25, 2022.

Current Market and Competitive Environment

The Exchange operates in a highly competitive market. 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.'' [5]

As the Commission itself has recognized, the market for trading services in NMS stocks has become ''more fragmented and competitive.'' [6] Indeed, equity trading is currently dispersed across 16 exchanges,[7] 31 alternative trading systems,[8] and numerous broker-dealer internalizers and wholesalers. Based on publicly-available information, no single exchange has more than 20% of the market.[9] Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, the Exchange's share of executed volume of equity trades in Tapes A, B and C securities is less than 12%.[10]

In addition, in light of this crowded competitive landscape for order flow, including at the close, the Exchange does not have a monopoly over where MOC orders in NYSE-listed securities are executed. Indeed, competition with respect to MOC Orders in NYSE-listed securities is fierce, not only because of the availability of the Cboe Exchange, Inc. (''Cboe'') Market Close, but also, and more relevant, because of the internalization of MOC order flow by some of the largest broker-dealers.[11] In the currently highly competitive national market system, numerous exchanges and other order execution venues compete for order flow intraday as well as at the close, and competition for closing orders is robust. For example, in 2021, 25.2% of volume at the NYSE closing price in NYSE-listed

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[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange originally filed to amend the Price List on January 27, 2022 (SR–NYSE–2022–06). On February 9, 2002, SR–NYSE–2022–06 was withdrawn and replaced by SR–NYSE–2022–07. SR–NYSE–2022–07 was subsequently withdrawn and replaced by this filing. On February 17, 2022, MEMX LLC (''MEMX'') submitted a comment letter in connection with SR–NYSE–2022–07. The Exchange responded to MEMX on March 2, 2022. *See* Letter from David De Gregorio, Associate General Counsel, NYSE, to Vanessa Countryman, Secretary, Securities and Exchange Commission, dated March 2, 2022.

[5] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (S7–10–04) (Final Rule) (''Regulation NMS'').

[6] *See* Securities Exchange Act Release No. 51808, 84FR 5202, 5253 (February 20, 2019) (File No. S7–05–18) (Transaction Fee Pilot for NMS Stocks Final Rule) (''Transaction Fee Pilot'').

[7] *See* Cboe Global Markets, U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/. See generally https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html.*

[8] *See* FINRA ATS Transparency Data, *available at https://otctransparency.finra.org/otctransparency/AtsIssueData.* A list of alternative trading systems registered with the Commission is *available at https://www.sec.gov/foia/docs/atslist.htm.*

[9] *See* Cboe Global Markets U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/.*

[10] *See id.*

[11] In addition, there are at least seven broker-dealer sponsored products competing for volume at the close, including Credit Suisse's CLOSEX; Instinet's Market-on-Close Cross; Morgan Stanley's Market-on-Close Aggregator (MOCHA); Bank of America's Instinct X® and Global Conditional Cross; JP Morgan's JPB–X; Piper Sandler's On-Close Match Book; and Goldman Sachs' One Delta Close Facility (ODCF).

securities was executed off-exchange. During January and February 2022, the percentage increased to 26.5% and was as high as 38% on a single day.[12]

The Exchange believes that the ever-shifting market share among trading venues from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain categories of products, in response to fee changes. While it is not possible to know a firm's reason for shifting order flow, the Exchange believes that one such reason is because of fee changes at any of the registered exchanges or non-exchange venues to which the firm routes order flow. These fees vary month to month, and not all are publicly available. With respect to non-marketable order flow that would provide liquidity on an exchange, member organizations can choose from any one of the 16 currently operating registered exchanges to route such order flow. With respect to MOC Order flow, member organizations can choose among multiple options of where to execute such orders. 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.

In response to this competitive environment, the Exchange has established incentives for member organizations who submit orders that provide liquidity on the Exchange. The Exchange has also established incentives for member organizations to remove liquidity from the Exchange. As detailed below, the proposed higher fees and credits are intended to align incentives for trading both on the close and intraday, which the Exchange believes will increase the quality of order execution on the Exchange's market, which benefits all market participants.

Proposed Rule Change

The Exchange proposes changes to credits and fees for certain executions at the close as well as for adding and removing liquidity in Tape C securities in order to attract liquidity to the Exchange. The Exchange believes that the proposed changes, taken together, will incentivize submission of additional liquidity in Tape A, B and Tape C securities to a public exchange, thereby promoting price discovery and transparency and enhancing order execution opportunities for member organizations.

Align MOC and LOC Orders in MOC/LOC Tiers 1, 2 and 3

The Exchange currently charges different fees for MOC and LOC orders in MOC/LOC Tiers 1, 2 and 3. The Exchange proposes to align the fees for MOC and LOC orders by raising the rates for MOC orders to parity with the rates for LOC orders, as follows.

Currently, for MOC/LOC Tier 1, the Exchange charges $0.0004 per share for MOC orders and $0.0007 per share for LOC orders from any member organization in the prior three billing months executing (1) an average daily trading volume (''ADV'') of MOC activity on the NYSE of at least 0.45% of NYSE consolidated ADV (''CADV''),[13] (2) an ADV of total close activity (MOC/LOC and executions at the close) on the NYSE of at least 0.7% of NYSE CADV, and (3) whose MOC activity comprised at least 35% of the member organization's total close activity (MOC/LOC and other executions at the close). The Exchange proposed to charge $0.0007 per share for MOC orders meeting the requirements of MOC/LOC Tier 1. The requirements of MOC/LOC Tier 1 would remain the same.

For MOC/LOC Tier 2, the Exchange currently charges $0.0005 per share for MOC orders and $0.0008 per share for LOC orders from any member organization in the prior three billing months executing (1) an ADV of MOC activity on the NYSE of at least 0.35% of NYSE CADV, (2) an ADV of total close activity (MOC/LOC and other executions at the close) on the NYSE of at least 0.525% of NYSE CADV, and (3) whose MOC activity comprised at least 35% of the member organization's total close activity (MOC/LOC and other executions at the close). The Exchange proposes to charge $0.0008 per share for MOC orders meeting the requirements of MOC/LOC Tier 2. The tier requirements would remain unchanged.

For MOC/LOC Tier 3, the Exchange currently charges $0.0008 per share for MOC orders and $0.0009 per share for LOC orders from any member organization executing in the current billing month (1) an ADV of MOC activity on the NYSE of at least 0.25% of NYSE (Tape A) CADV, (2) an ADV of the member organization's total close activity (MOC/LOC and other executions at the close) on the NYSE of at least 0.35% of NYSE (Tape A) CADV, and (3) whose MOC activity comprised at least 35% of the member organization's total close activity (MOC/LOC and other executions at the close). The Exchange proposes to charge $0.0009 per share for MOC orders meeting the revised requirements for MOC/LOC Tier 3. Specifically, member organization executing in the current billing month would need (1) an ADV of MOC activity on the NYSE of at least 0.20% of NYSE (Tape A) CADV and (2) an ADV of the member organization's total close activity (MOC/LOC and other executions at the close) on the NYSE of at least 0.30% of NYSE (Tape A) CADV. The third requirement for MOC/LOC Tier 3, that member organizations MOC activity comprise at least 35% of the member organization's total close activity (MOC/LOC and other executions at the close), would remain unchanged.

MOC/LOC Tier 1 and 2 pricing on the Exchange has remained unchanged since 2018.[14] The MOC/LOC Tier 3 rate has also remained unchanged since its adoption in 2018.[15] The revised tiered rates in 2018 were designed in part to address a competitive landscape that included the availability of the Cboe Market Close and greater broker-dealer internalization of order flow. However, the 2018 fee changes did not have a material impact on the competitive landscape with respect to internalized MOC order flow, which has continued to grow steadily.[16] The proposed change to the rate for Tier 1 and 2 MOC orders would revert to the rates to those in effect prior to the 2018 MOC/LOC Tier fee changes.[17] However, as described below, the Exchange will provide member organizations an opportunity to qualify for incremental per share discounts that would allow a member organization to qualify for MOC/LOC Tier pricing that would be in line with the current tier pricing for MOC Orders. But even without the discounts described below, the proposed rates for MOC orders under Tier 1 and Tier 2, would be lower than or equal to the best applicable rate on other primary listing exchanges.[18]

[12] *See* note 15, *infra.*

[13] ADV and CADV are defined in footnote * of the Price List.

[14] *See* Securities Exchange Act Release No. 82563 (January 22, 2018), 83 FR 3799 (January 26, 2018) (SR–NYSE–2018–03).

[15] *See* Securities Exchange Act Release No. 82706 (February 13, 2018), 83 FR 7282 (February 20, 2018) (SR–NYSE–2018–08).

[16] In 2018, the percentage of volume at the NYSE closing price in NYSE-listed securities executed off-exchange was 21.3%. In 2019, the percentage increased to 23.5%. After dipping briefly to 22.1% in 2020, the percentage resumed its upward trend and increased to 25.2% in 2021. During January and February 2022, the percentage increased to 26.5% and was as high as 38% on a single day.

[17] *See* Securities Exchange Act Release No. 78233 (July 6, 2016), 81 FR 45190 (July 12, 2016) (SR–NYSE–2016–47) (setting the MOC/LOC Tier 1 fee to $0.0007 per share and the MOC/LOC Tier 2 fee to $0.0008).

[18] For example, the best applicable fee on the NASDAQ Stock Market, LLC (''NASDAQ'') is

Continued

Incremental Per Share Discounts on MOC Orders

As a way of offsetting the proposed higher fees for tiered MOC orders, the Exchange proposes incremental discounts per share on MOC orders for member organizations that meet the requirements of the MOC/LOC Tiers 1–3 in the billing month. These proposed discounts are designed to align incentives among both trading on the close and intraday trading on the Exchange.

As proposed, member organizations that have an Adding ADV [19] in Tapes A, B and C Securities as a percentage of Tapes A, B and C CADV, excluding any liquidity added by a Designated Market Maker (''DMM''), that is at least 0.50%, would be eligible for an incremental discount per share of $0.0001. Alternatively, a member organization has an Adding ADV in Tapes A, B and C Securities as a percentage of Tapes A, B and C CADV, excluding any liquidity added by a DMM, that is at least 1.00% would instead be eligible for a $0.0002 incremental discount per share. Finally, member organizations with an ADV of at least 250,000 shares entered and executed by its affiliated Floor broker would also be eligible for an incremental per share discount of $0.0001. This last discount would be in addition to either of the first two discounts. For purposes of the proposed discount, an affiliated Floor broker eligible for the discount would be a Floor broker under 75% common ownership or control of the member organization.[20]

For example, assume Member Organization A in the billing month has an ADV of at least:

- 0.45% of Adding as a percentage of Tape A, B and C CADV;
- 0.20% of MOC as a percentage of Tape A CADV;
- 0.30% of total close as a percentage of Tape A CADV; and
- 35% of MOC as a percentage of that member organization's total close ADV.

Based on the foregoing, under the proposed change, Member Organization A would qualify for per share fees for MOC and LOC orders of $0.0009 under MOC/LOC Tier 3. Without the proposed change, Member Organization A would not qualify under the current higher requirements of 0.25% of MOC and 0.35% of total close as a percentage of Tape A CADV, and would be charged the non-tier rate of $0.0010 per share. Accordingly, the proposed change could result in a fee reduction for member organizations that would currently only be eligible for the higher non-tier rate.

Assume instead that Member Organization A had an Adding ADV of 0.55% of Tape A, B, and C CADV. In that case, Member Organization A would qualify for a MOC per share discount of $0.0001 and a combined MOC order fee of $0.0008. If Member Organization A had a trading Floor ADV of at least 250,000 shares, including adding, removing, open and close ADV, executed by that member organization's affiliated Floor broker, Member Organization A would then qualify for an additional $0.0001 per share discount, for a combined MOC order fee of $0.0007.

Assume Member Organization A had an Adding ADV of at least 1.00% rather than 0.55%. In that case, Member Organization A would qualify for a $0.0002 per share discount, instead of $0.0001 as in the previous example, for combined discount of $0.0003 and a combined MOC order fee of $0.0006 (including the additional $0.0001 per share Floor broker discount), which would be *lower* than the current MOC/LOC Tier 3 rate of $0.0008 per share. Member Organization A's fee for LOC orders would remain at the MOC/LOC Tier 3 fee of $0.0009.

As the example shows, the discounts provide for several ways for member organizations to lower their effective MOC fee to levels that are comparable and even below the current rates for MOC orders on MOC/LOC Tier 3 and equal to the current MOC/LOC Tier 1 and 2 today. In addition, because the discounts are structured such that they are available based on higher adding volumes or sending orders to affiliated Floor brokers, the discounts also enhance liquidity provision on the Exchange and/or support the maintenance and potential expansion of a trading Floor presence by member organizations. The Exchange believes that expanding the trading Floor presence by member organizations would benefit investors by increasing the amount of order flow to and execution opportunities on a public exchange, thereby encouraging greater participation and liquidity. Moreover, it should be noted that member organizations have alternative ways to participate in lower MOC rates at the closing auction. MOC orders executed by a Floor broker are eligible for a $0.0005 standard rate unless a lower tiered fee applies. Member organizations also have the option of utilizing D Orders last modified (as defined in the Price List) earlier than 25 minutes before the scheduled close of trading, which would give the member organization a $0.0003 rate, which is lower than the lowest proposed MOC/LOC Tier 1 rate. D Orders entered and last modified from 25 minutes up to 3 minutes before the scheduled close are also charged a $0.0007 fee, which is in line with MOC/LOC Tier 1 and lower than the other two MOC/LOC Tiers. The Exchange notes that these discounts also provide member organizations with flexibility to qualify for discounts, either through Adding ADV or through their affiliated Floor broker. In addition, the first 750,000 ADV of D Orders are free. Finally, member organizations can also get free execution at the Close using closing offset orders.

Since the proposed incremental discounts are new, the Exchange does not know how many member organizations could qualify for the new discounts based on their current trading profile and if they choose to direct order flow to the Exchange. Based on the profile of liquidity-adding firms generally, the Exchange believes that additional member organizations could qualify for the discounts if they choose to direct order flow to the Exchange. However, without having a view of member organization's activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any member organization directing orders to the Exchange in order to qualify for the discounts.

Orders at the Close

Currently, the Exchange does not charge member organizations for the first 750,000 ADV of the aggregate of executions at the close for d-Quote, Floor broker executions swept into the close, excluding verbal interest, and executions at the close, excluding MOC orders, LOC orders and CO orders. As set forth in the Price List, the Exchange charges certain fees differentiated by

$0.0016 per executed share, with the lowest possible rate available on Nasdaq of $0.0008 per executed share, which is available only if a firm adds liquidity in all Tapes above 1.75.% of Consolidated Volume or MOC/LOC volume above 0.50% of Consolidated Volume. *See* NASDAQ Price List, available at *https://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2*. The highest rate for LOC orders in Tier 3 would also be lower than the NASDAQ fee. The closing auction fee on Cboe BZX for listed securities is $0.00100. *See* Cboe BZX Fee Schedule, available at *https://www.cboe.com/us/equities/membership/fee_schedule/bzx/*. The Exchange notes that the NASDAQ requirements for MOC/LOC volume is a percentage of all Tapes CADV, whereas the NYSE requirement is all close (MOC/LOC and other orders at the close) as a percentage of just Tape A CADV.

[19] Footnote 2 to the Price List defines ADV as ''average daily volume'' and ''Adding ADV'' as ADV that adds liquidity to the Exchange during the billing month.

[20] The Price List defines ''affiliate'' as any member organization under 75% common ownership or control of that member organization. *See* Price List, General, Section I (Billing Disputes).

time of entry (or last modification) for D Orders at the close after the first 750,000 ADV of the aggregate of executions at the close by a member organization. All other orders from continuous trading swept into the close are charged $0.0007. The Exchange proposes to charge all other orders from continuous trading swept into the close $0.0008, which is in line with the applicable fee on other marketplaces.[21]

Credits for Removing Liquidity in Tape C Securities

For Tape B and C securities, the Exchange currently offers a Remove Tier for securities at or above $1.00 for member organizations that have a minimum amount of Adding ADV. The Exchange also charges a lower remove fee of $0.00285 in Tapes B and C for member organization with an Adding ADV, excluding liquidity added by a DMM, that is at least 250,000 ADV on the NYSE in Tape A.

The Exchange proposes two new credits for member organizations removing liquidity in Tape C securities. First, the Exchange proposes a $0.0026 per share fee for removing in Tape C securities if the member organizations achieves a 0.25% Adding Tape C percentage of Tape C CADV. Second, the Exchange proposes a $0.0027 per share fee for removing in Tape C securities if the member organization achieves a 0.10% Adding Tape C percentage of Tape C CADV.

Since the proposed credits are new, the Exchange does not know how many member organizations could qualify for the new credits based on their current trading profile and if they choose to direct order flow to the Exchange. Based on the profile of liquidity-adding firms generally, the Exchange believes that additional member organizations could qualify for the tier if they choose to direct order flow to the Exchange. However, without having a view of member organization's activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any member organization directing orders to the Exchange in order to qualify for either of the new credits.

Tiered Adding Credits in Tape B and C Securities

The current Tier 1 Adding Credit in Tape B and C Securities offers a credit of $0.0026 per share on a per tape basis for transactions in stocks with a per share price of $1.00 or more when adding liquidity to the Exchange if the member organization has at least 0.10% of Adding CADV in Tape B or C on a per tape basis. For purposes of qualifying for this tier, the 0.10% of Adding CADV could include shares of both an SLP-Prop and an SLMM of the same or an affiliated member organization.[22] The Exchange proposes that member organizations meeting the adding liquidity requirements for Tier 1, which would remain unchanged, would be eligible for a $0.0029 per share credit instead for Tape C securities. Member organizations meeting the adding liquidity requirements for Tier 1 would continue to be eligible for the existing $0.0026 per share credit for Tape B securities.

Similarly, the current Tier 2 Adding Credit offers a per tape credit of $0.0023 per share for transactions in stocks with a per share price of $1.00 or more when adding liquidity to the Exchange if the member organization has at least 0.03% of Adding CADV in Tape B or C on a per tape basis. For purposes of qualifying for this tier, the 0.03% of Adding CADV could include shares of both an SLP-Prop and an SLMM of the same or an affiliated member organization. The Exchange proposes to require at least 0.05% of Adding CADV in Tape B or C in order to qualify for this credit. The current credit would remain unchanged.

Finally, the Exchange proposes a new Tape C Adding Tier credit that would offer a per tape credit of $0.0031 per share for transactions in stocks with a per share price of $1.00 or more when adding liquidity to the Exchange if the member organization has at least 0.25% of Adding CADV in Tape C securities. The Exchange believes that the proposed Tape C Adding Tier would further contribute to incenting member organizations to provide additional amounts of liquidity on the Exchange. As noted above, the Exchange operates in a competitive environment, particularly as it relates to attracting non-marketable orders, which add liquidity to the Exchange. The Exchange does not know how much order flow in Tape C securities that member organizations choose to route to other exchanges or to off-exchange venues. Because the proposed Tape C Adding Tier would be new, the Exchange does not know how many member organizations could qualify for the new credit based on their current trading profile and if they choose to direct order flow to the Exchange. Based on the profile of liquidity-adding firms generally, the Exchange believes that additional member organizations could qualify for the tier if they choose to direct order flow to the Exchange. However, without having a view of member organization's activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any member organization directing orders to the Exchange.[23]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[24] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[25] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposed Change Is Reasonable

In light of the competitive environment in which the Exchange currently operates, the proposed rule change is a reasonable attempt to increase liquidity on the Exchange and improve the Exchange's market share relative to its competitors. The Exchange believes the proposed change is also reasonable because it is designed to attract higher volumes of orders transacted on the Exchange by member organizations by aligning incentives for trading both on the close and intraday, which would benefit all market participants by offering greater price discovery and an increased opportunity to trade on the Exchange, both intraday and during the closing auction.

[21] For example, the NASDAQ's Continuous Book fee is $0.00085. *See* NASDAQ Price List, available at *https://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2*.

[22] Under Rule 107B, a SLP can be either a proprietary trading unit of a member organization (''SLP-Prop'') or a registered market maker at the Exchange (''SLMM''). For purposes of the 10% average or more quoting requirement in assigned securities pursuant to Rule 107B, quotes of an SLP-Prop and an SLMM of the same member organization are not aggregated. However, for purposes of adding liquidity for assigned SLP securities in the aggregate, shares of both an SLP-Prop and an SLMM of the same member organization are included.

[23] The Exchange proposes the non-substantive change of relocating the phrase ''(including shares of both an SLP-Prop and an SLMM of the same or an affiliated member organization)'' without change from Tier 1 and Tier 2 to the first column of the chart following ''Per-Tape Requirement (Non-SLP and Floor broker Adding % Tape CADV)'' in order to avoid duplication. Further, the Exchange proposes the non-substantive change of deleting ''per share on a per Tape basis'' in Tier 1 and ''per share'' in Tier 2 and adding ''per share'' following ''Display Adding Rate'' in the first column to similarly to similarly avoid duplication.

[24] 15 U.S.C. 78f(b).

[25] 15 U.S.C. 78f(b)(4) & (5).

Orders at the Close

The Exchange believes that the proposed fee change for certain executions at the close are reasonable. The Exchange's closing auction is a recognized industry benchmark,[26] and member organizations receive a substantial benefit from the Exchange in obtaining high levels of executions at the Exchange's closing price on a daily basis.

The Exchange believes that the proposed increased fees and incentives for fee discounts for MOC orders are a reasonable way to encourage greater liquidity and achieving the proposed discounts. MOC orders are always marketable and therefore have a higher likelihood of execution at the close which have value. MOC orders also contribute meaningfully to the price and size discovery, which is the hallmark of the closing auction process. Higher volumes of MOC orders contribute to the quality of the Exchange's closing auction and provide market participants whose orders are swept into the close with a greater opportunity for execution. Further, as noted above, in the currently highly competitive national market system, competition for closing orders among exchanges, ATSs and other market execution venues is robust.

In addition, the Exchange believes that lowering the required ADV of MOC activity on the NYSE as a percentage of Tape A CADV and total close activity (MOC/LOC and other executions at the close) on the NYSE as a percentage of Tape A CADV in order to qualify for MOC/LOC Tier 3 is reasonable because, coupled with the increased fee, the Exchange believes the change would encourage greater participation which leads to greater marketable and other liquidity at the closing auction. As noted, higher volumes of MOC orders contribute to the quality of the Exchange's closing auction and provide market participants whose orders are executed at the close with a greater opportunity for execution, which benefits all participants As noted above, the rate for MOC orders has remained unchanged since 2018, and the proposed change to the rate for Tier 1 and 2 MOC orders would revert to the rates to those in effect prior to the changes made in 2018 to lower the MOC/LOC Tier 1 and 2 rates. Moreover, even without the proposed incremental discounts, the proposed rates for MOC orders, including the highest proposed rate, would be lower than or in line with the applicable rate on other marketplaces.[27] The Exchanges offers other ways for member organizations to achieve lower fees in the close, including MOC orders through their Floor broker or D Orders last modified earlier than 25 minutes before the scheduled close of trading.

Further, the Exchange believes that offering proposed incremental per share discounts on MOC orders is a reasonable way to lower a member organization's effective fee for MOC orders. The proposed discounts based on increased Adding ADV in Tapes A, B and C Securities as a percentage of Tapes A, B and C CADV and/or through entry by an affiliated Floor broker is also a reasonable way to encourage submission of additional liquidity to a public exchange and the submission of additional marketable liquidity to the Exchange's closing auction. Member organizations can also achieve discounts by using their affiliated Floor broker to achieve the ADV requirement, which combined with the above discount gives member organizations flexibility in achieve lower fees for MOC orders. As noted, members and member organizations benefit from the substantial amounts of liquidity that are present on the Exchange during such time.

The Exchange notes that other marketplaces provide discounts based on intraday adding volume, and that aligning incentives for lower pricing at the close with additional intraday volume is thus neither novel nor an unreasonable stance in a competitive marketplace. For example, NASDAQ offers six MOC/LOC tiers with fees ranging from $0.0008 to $0.00145 and a non-tier rate of $0.0016 based on adding volume or MOC/LOC volume per MPID as a percentage of Tapes A, B and C. The proposed requirements to achieve the proposed discounts are lower than NASDAQ's current requirements and, as noted, even without the discounts, the proposed rates are lower than or in line with NASDAQ's discounted rates.[28] Similarly, on NYSE Arca, Inc. (''NYSE Arca''), ETP Holders that qualify for Tier 1, Tier 2, or Tier 3 Adding Tiers, which are based on intraday adding volume, are also eligible for discounted rates for Closing orders.[29] In the prevailing competitive marketplace, there is nothing unreasonable in raising base rates and offering incentives to members who support the venue. Similarly, in this competitive marketplace, there is nothing unreasonable in establishing incentives for one type of activity on the Exchange that considers other facets of Exchange participation. For example, under the ''Liquidity Removal Tier'' offered by MEMX, qualifying members that post orders on its venue are charged a discounted fee for taking liquidity (including when accessing MEMX's protected quote).[30] Finally, the Exchange believes that increasing the fee for all other orders from continuous trading swept into the close is also reasonable because it remains in line or better when compared with other exchanges.[31]

Tape C Incentives

The Exchange believes that the proposed incentives relating to adding and removing liquidity in Tape C securities are a reasonable way to incentivize member organizations to add and remove liquidity on a public exchange.

Specifically, the proposal to introduce new credits for member organizations removing liquidity in Tape C securities of $0.0026 and $0.0027 would incentivize member organizations to remove additional liquidity from the Exchange, thereby increasing the number of orders adding liquidity that are executed on the Exchange to achieve the tier requirements which improves overall liquidity on a public exchange and resulting in lower costs for member organizations that qualify for the rate. Without having a view of a member organization's activity on other markets and off-exchange venues, the Exchange believes the proposed credits would provide an incentive for member organizations to remove additional liquidity from the Exchange in Tape C securities. The Exchange notes that the proposed fees are in line with or better than the applicable rate on other marketplaces.[32]

The proposed changes to the Tier 1 and Tier 2 Adding Credits in Tape B and C Securities and the introduction of a Tier 3 Adding Credit in Tape C securities are also reasonable. The proposed $0.0029 per share credit for Tape C securities for member organizations meeting the adding liquidity requirements of Tier 1 and requiring a higher Adding CADV in Tape B or C in order to qualify for the Tape 2 Adding Credit are reasonable because the changes would further

[26] For example, the pricing and valuation of certain indices, funds, and derivative products require primary market prints.

[27] *See* note 17, *supra.*

[28] *See* note 17, *supra.*

[29] *See* NYSE Arca Equities Fees and Charges, available at *https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf.*

[30] *See* MEMX Fee Schedule, available at *https://info.memxtrading.com/fee-schedule/.*

[31] For example, the NASDAQ's Continuous Book fee is $0.00085. *See* NASDAQ Price List, available at *https://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2.*

[32] *See* note 17, *supra.*

contribute to incenting member organizations to provide additional amounts of liquidity on the Exchange in Tape C securities, and all member organizations would benefit from such increased levels of liquidity.

Finally, the proposed new Tape C Tier Adding credit of $0.0031 per share when adding liquidity to the Exchange if the member organization has at least 0.25% of Adding CADV in Tape C securities is reasonable because it would also further contribute to incenting member organizations to provide additional amounts of liquidity on the Exchange. As noted above, the Exchange operates in a competitive environment, particularly as it relates to attracting non-marketable orders, which add liquidity to the Exchange. The Exchange does not know how much order flow member organizations choose to route to other exchanges or to off-exchange venues. The Exchange believes that the higher adding requirement to qualify for adding credits in Tape C securities would provide greater incentives for member organizations to add more liquidity to the Exchange. The Exchange does not know how much order flow member organizations choose to route to other exchanges or to off-exchange venues. Based on the profile of liquidity-adding firms generally, the Exchange believes that additional member organizations could qualify for the proposed tiered credit if they choose to direct order flow to the Exchange. However, without having a view of member organizations' activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any additional member organizations directing orders to the Exchange in order to qualify for the proposed Tape C Tier.

The Proposal Is an Equitable Allocation of Fees

The Exchange believes the proposal equitably allocates fees and credits among market participants because all member organizations that participate on the Exchange may qualify for the proposed credits and fees on an equal basis. The Exchange believes its proposal equitably allocates its fees and credits among its market participants by fostering liquidity provision and stability in the marketplace.

Orders at the Close

The Exchange believes that the proposed fees for MOC orders and associated discounts are an equitable allocation of fees because the proposed changes, taken together, will incentivize member organizations to send additional adding liquidity to achieve lower fees and encourage greater marketable and other liquidity at the closing auction. Higher volumes of MOC orders contribute to the quality of the Exchange's closing auction and provide market participants whose orders are swept into the close with a greater opportunity for execution of orders on the Exchange, thereby promoting price discovery and transparency and enhancing order execution opportunities and improving overall liquidity on a public exchange. The Exchange also believes that the proposed change is equitable because it would apply to all similarly situated member organizations that utilize MOC orders on the Exchange. The proposed change also is equitable because the proposed fees, including the highest proposed fee, would be lower than or in line with the applicable rate on other marketplaces.[33]

The Exchange believes that the proposed incremental per share discounts on MOC orders are equitable because the discounts would be available on an equal basis to all similarly situated member organizations that utilize MOC orders on the Exchange. In this regard, the proposed discounts are equitable because any member organization can choose to increase their adding ADV volume in order to qualify for the proposed discounts and any member organization can choose to have an affiliated Floor broker in order to qualify for the additional proposed discount. Moreover, as noted above, alternative ways to achieve lower MOC fees are also available to all similarly situated member organizations that utilize MOC orders on the Exchange on an equal basis.

Tape C Incentives

The Tape C incentives for removing and adding liquidity equitably allocate fees and credits among the Exchange's market participants because all member organizations that participate on the Exchange may receive the proposed credits for removing liquidity in Tape C securities and the proposed credits for adding liquidity in if they elect to send their orders to the Exchange and meet the corresponding requirements, including the enhanced requirement for the Tier 2 Adding Credit, in order to qualify for the credits. Without having a view of member organization's activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any member organizations sending more of their orders to the Exchange. The Exchange cannot predict with certainty how many member organizations would avail themselves of this opportunity, but additional orders would benefit all market participants because it would provide greater execution opportunities on the Exchange.

The Exchange also believes that the proposed change is equitable because it would apply to all similarly situated member organizations that remove and add liquidity in Tape C securities. The proposal neither targets nor will it have a disparate impact on any particular category of market participant. Specifically, the Exchange believes that the proposal constitutes an equitable allocation of fees because all similarly situated member organizations would be eligible for the same credits if they meet the corresponding requirements for the fee or credit. As to those member organizations that do not presently qualify for the adding liquidity credit, the proposal will not adversely impact their existing pricing or their ability to qualify for other credits provided by the Exchange. The proposed change also is equitable because it would be consistent with the applicable rate on other marketplaces. For example, the Cboe BZX fee for removing is $0.0030 and the requirement to achieve a credit for removing of $0.0031 is an adding ADV of 1.00% of CADV or 100 million shares ADV.[34]

As previously noted, the Exchange operates in a competitive environment, particularly as it relates to attracting non-marketable orders, which add liquidity to the Exchange. The Exchange does not know how much order flow member organizations choose to route to other exchanges or to off-exchange venues. Because the proposed Tape C incentive involves the introduction of new credits and/or new requirements, the Exchange does not know how many member organizations could qualify for the new remove and add fees based on their current trading profile and if they choose to direct order flow to the Exchange. However, without having a view of member organization's activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any member organization directing orders to the Exchange.

[33] *See* note 17, *supra.*

[34] *See* Cboe BZX Fee Schedule, available at *https://www.cboe.com/us/equities/membership/fee_schedule/bzx/.*

The Proposal Is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory. In the prevailing competitive environment, member organizations are free to disfavor the Exchange's pricing if they believe that alternatives offer them better value.

Orders at the Close

The proposed increased fees for MOC orders and associated discounts are not unfairly discriminatory because the proposed fees would be applied to all similarly situated member organizations and other market participants, who would all be subject to the same fees, requirements and discounts on an equal basis. For the same reason, the proposal neither targets nor will it have a disparate impact on any particular category of market participant. Accordingly, no member organization already operating on the Exchange would be disadvantaged by this allocation of fees. Further, the Exchange believes the proposal would incentivize member organizations to send more orders to the Exchange to qualify for higher credits. Finally, the submission of orders to the Exchange is optional for member organizations in that they could choose whether to submit orders to the Exchange and, if they do, the extent of its activity in this regard.

Further, the Exchange believes that the proposed incremental per share discounts on MOC orders is not unfairly discriminatory because the discounts would be available on an equal basis to all similarly situated member organizations. As noted above, additional ways to achieve lower MOC fees are also available to all similarly situated member organizations that utilize MOC orders on the Exchange on an equal basis.

Tape C Incentives

The Exchange believes it is not unfairly discriminatory to provide additional credits and fees for adding liquidity to the Exchange in Tape C securities because the credits and fees would be provided on an equal basis to all member organizations that add liquidity by meeting the new proposed adding tier requirements. In the prevailing competitive environment, member organizations are free to disfavor the Exchange's pricing if they believe that alternatives offer them better value. The Exchange believes it is not unfairly discriminatory to provide additional credits and revised requirements to encourage liquidity in Tape C securities as the proposed credits and requirements would be provided on an equal basis to all member organizations. Further, the Exchange believes the proposed credits would incentivize member organizations that meet the new requirements to send more orders to the Exchange. Since the proposed credits would be new, no member organization currently qualifies for them. As noted, without a view of member organization activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any member organization qualifying for the tier. The Exchange believes the proposed credits provide a reasonable incentive for member organizations to direct their order flow to the Exchange and provide meaningful added levels of liquidity in order to qualify for the credits, thereby contributing to depth and market quality on the Exchange.

In addition, the Exchange believes that the proposal is not unfairly discriminatory because it neither targets nor will it have a disparate impact on any particular category of market participant. All member organizations that provide liquidity could be eligible to qualify for the proposed credits in Tape C securities if they meet the proposed requirements. The Exchange believes that offering credits for providing liquidity will continue to attract order flow and liquidity to the Exchange, thereby providing additional price improvement opportunities on the Exchange and benefiting investors generally. As to those market participants that do not presently qualify for the adding liquidity credits, the proposal will not adversely impact their ability to qualify for other credits provided by the Exchange. Finally, as noted, the submission of orders is optional for member organizations in that they could choose whether to submit orders to the Exchange and, if they do, they can choose the extent of their activity in this regard. The Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[35] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the proposal would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for member organization. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [36]

Intramarket Competition. The proposed change is designed to attract additional order flow to the Exchange. As described above, the Exchange believes that the proposed change would provide additional incentives for market participants to route liquidity-removing and liquidity-providing orders to the Exchange. Greater liquidity benefits all market participants on the Exchange by providing more trading opportunities and encourages member organizations to send orders, thereby contributing to robust levels of liquidity, which benefits all market participants on the Exchange. Greater overall order flow, trading opportunities, and pricing transparency benefit all market participants on the Exchange by enhancing market quality and continuing to encourage member organizations to send orders, thereby contributing towards a robust and well-balanced market ecosystem. The current and proposed credits would be available to all similarly-situated market participants, and, as such, the proposed change would not impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily choose to send their orders to other exchanges and off-exchange venues if they deem fee levels at those other venues to be more favorable. As noted above, the Exchange currently has less than 12% market share of executed volume of equities trading. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and off-exchange venues. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange does not believe its proposed fee change

[35] 15 U.S.C. 78f(b)(8).

[36] Regulation NMS, 70 FR at 37498–99.

can impose any burden on intermarket competition.

Finally, as previously noted, the Exchange operates in a highly competitive market for MOC Orders in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and non-exchange trading venues that are not subject to the same transparency or statutory standards applicable to exchanges relating to setting fees. Because competitors are free to modify their own fees and credits in response, some without the requirement of making a filing with the Commission, and because market participants may readily adjust their order routing practices, the Exchange believes that any degree to which fee changes in this market may impose any burden on competition would be extremely limited.

The Exchange believes that the proposed change could promote competition between the Exchange and other execution venues, including those that currently offer similar order types and comparable transaction pricing, by encouraging additional orders to be sent to the Exchange for execution.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [37] of the Act and subparagraph (f)(2) of Rule 19b–4 [38] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [39] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2022–16 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2022–16. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the 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–NYSE–2022–16 and should be submitted on or before April 25, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[40]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–06980 Filed 4–1–22; 8:45 am]

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[37] 15 U.S.C. 78s(b)(3)(A).

[38] 17 CFR 240.19b–4(f)(2).

[39] 15 U.S.C. 78s(b)(2)(B).

[40] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34 94537; File No. SR–NSCC–2021–010]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Withdrawal of a Proposed Rule Change To Establish the Securities Financing Transaction Clearing Service and Make Other Changes

March 29, 2022.

On July 22, 2021, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–NSCC–2021–010 (''Proposed Rule Change'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The Proposed Rule Change was published for comment in the **Federal Register** on August 12, 2021.[3]

On September 2, 2021, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve, disapprove, or institute proceedings to determine whether to approve or disapprove the Proposed Rule Change.[5] On November 5, 2021, the Commission instituted proceedings pursuant to Section

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 92570 (August 5, 2021), 86 FR 44482 (August 12, 2021) (SR–NSCC–2021–010). NSCC also filed the proposal contained in the Proposed Rule Change as advance notice SR–NSCC–2021–803 (''Advance Notice'') with the Commission pursuant to Section 806(e)(1) of the Dodd-Frank Wall Street Reform and Consumer Protection Act entitled the Payment, Clearing, and Settlement Supervision Act of 2010 (''Clearing Supervision Act''). 12 U.S.C. 5465(e)(1); 17 CFR 240.19b–4(n)(1)(i). Notice of filing of the Advance Notice was published for comment in the **Federal Register** on August 12, 2021. Securities Exchange Act Release No. 92568 (August 5, 2021), 86 FR 44530 (August 12, 2021) (SR–NSCC–2021–803). The proposal contained in the Proposed Rule Change and the Advance Notice shall not take effect until all regulatory actions required with respect to the proposal are completed.

[4] 15 U.S.C. 78s(b)(2).

[5] Securities Exchange Act Release No. 92860 (September 2, 2021), 86 FR 50569 (September 9, 2021) (SR–NSCC–2021–010).

19(b)(2)(B) of the Act,[6] to determine whether to approve or disapprove the Proposed Rule Change.[7] On February 7, 2022, pursuant to Section 19(b)(2) of the Act,[8] the Commission designated a longer period for Commission action on the proceedings to determine whether to approve or disapprove the Proposed Rule Change.[9]

On March 25, 2022, NSCC withdrew the Proposed Rule Change (SR–NSCC–2021–010).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–06982 Filed 4–1–22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94539; File No. SR–CboeEDGX–2022–018]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Applicable to Various Market Data Products

March 29, 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 March 16, 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.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (''EDGX'' or the ''Exchange'') is filing with the Securities and Exchange Commission (the ''Commission'') a proposed rule change to amend the fees applicable to various market data products. 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 the Market Data section applicable to its equities trading platform (''EDGX Equities''). Particularly, the Exchange proposes to (i) increase the External Distribution fee applicable to EDGX Top, (ii) modify the External Subscriber fees applicable to EDGX Top Derived Data API Service, (iii) adopt a New External Distributor Credit applicable to Cboe One Premium, (iv) extend the New External Distributor Credit applicable to EDGX Summary Depth Feed from one (1) month to three (3) months, and (v) eliminate the waiver of EDGX Top and EDGX Last Sale External Distribution fees for External Distributors of EDGX Depth.[3]

Market Background

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues, and also recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [4] As the Commission itself recognized, the market for trading services in NMS stocks has become ''more fragmented and competitive.'' [5]

Equity trading is currently dispersed across sixteen exchanges, more than 50 alternative trading systems,[6] and numerous broker-dealer internalizers and wholesalers, all competing fiercely for order flow. Based on publicly-available information, no single U.S. equities exchange has more than 17% market share.[7] In turn, the market for top-of-book quotation and transaction data is highly competitive as national securities exchanges compete vigorously with each other to provide efficient, reliable, and low-cost data to a wide range of investors and market participants. In fact, there are twelve competing products offered by other national securities exchanges today,[8] not counting products offered by the Exchange's affiliates, and each of the Exchange's affiliated U.S. equities exchanges also offers similar top-of-book data. Each of those exchanges offer top-of-book quotation and last sale information based on their own quotation and trading activity that is substantially similar to the information provided by the Exchange through the EDGX Top Feed.[9] Exchange top-of-book

[6] 15 U.S.C. 78s(b)(2)(B).

[7] Securities Exchange Act Release No. 93532 (November 5, 2021), 86 FR 62851 (November 12, 2021) (SR–NSCC–2021–010).

[8] 15 U.S.C. 78s(b)(2).

[9] Securities Exchange Act Release No. 94168 (February 7, 2022), 87 FR 8062 (February 11, 2022) (SR–NSCC–2021–010).

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange initially filed the proposed fee changes on January 3, 2022 (SR–CboeEDGX–2022–002). On March 3, 2022 the Exchange withdrew that filing and refiled (SR–CboeEDGX–2022–012). On March 15, 2022, the Exchange withdrew that filing and refiled (SR–CboeEDGX–2022–016). On March 16, 2022 the Exchange withdrew that filing and submitted this proposal.

[4] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37495, 37499 (June 29, 2005) (S7–10–04) (Final Rule) (''Regulation NMS Adopting Release'').

[5] *See* Securities Exchange Act Release No. 84875, 84 FR 5202, 5253 (February 20, 2019) (File No. S7–05–18) (Transaction Fee Pilot for NMS Stocks Final Rule) (''Transaction Fee Pilot'').

[6] See FINRA ATS Transparency Data, available at *https://otctransparency.finra.org/otctransparency/AtsData.* A list of alternative trading systems registered with the Commission is available at *https://www.sec.gov/foia/docs/atslist.htm.*

[7] See Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (December 10, 2021) available at *http://markets.cboe.com/us/equities/market_share/.*

[8] Competing top-of-book products include, Nasdaq Basic, BX Basic, PSX Basic, NYSE BQT, NYSE BBO/Trades, NYSE Arca BQT, NYSE Arca BBO/Trades, NYSE American BBO/Trades, NYSE Chicago BBO/Trades, IEX TOPS, MIAX PEARL Equities Top of Market Feed, and MEMX MEMOIR Top.

[9] For example, The Nasdaq Stock Market LLC (''Nasdaq'') offers ''Nasdaq Basic'' which is a real-time market data product that offers best bid and offer and last sale information for all U.S. exchange-listed securities based on liquidity within the Nasdaq market center and trades reported to the FINRA/Nasdaq Trade Reporting Facility (''Nasdaq TRF''). *See* Nasdaq Equity Rules, Equity 7, Pricing Schedule, Section 147(a). The type of information contained on the EDGX Top Feed is substantially similar to that offered through Nasdaq Basic, except that the Exchange disseminates information about

data is therefore widely available today from a number of different sources.

Fees for External Distribution of EDGX Top

The Exchange first proposes to increase the external distribution fee applicable to EDGX Top,[10] which is an uncompressed data feed that offers top-of-book quotations and execution information based on equity orders entered into the System.[11] Currently, the Exchange charges an external distribution fee (*i.e.,* distribution outside the distributor's own firm) of $1,500 per month to External Distributors [12] of EDGX Top. The Exchange also charges a professional user fee of $4.00 per month and a non-professional user fee of $0.10 per month, or an enterprise fee [13] of $15,000 per month and a digital media enterprise fee [14] of $2,500 per month that is applicable to External Distributors. The external distribution fees have been in place, without change, since June 1, 2016.[15] In the time since, the Exchange has made a number of significant enhancements to its platform, including, among other things, trading hours beginning at 4 a.m. Eastern time (which has required additional operational support) and the introduction of Retail Priority Orders.[16] These enhancements have resulted in improved trading opportunities for investors and, consequently, more valuable market data. As such, the Exchange proposes to increase the monthly charge for external distribution of EDGX Top from $1,500 to $2,250 per month (*i.e.,* an increase of $750 per month),[17] which would continue to be cheaper than similar products offered by the certain of the Exchange's competitors.[18] The Exchange proposes no changes to the professional, non-professional, enterprise and digital media enterprise fees associated with external distribution. Further, various incentive programs that the Exchange has adopted to facilitate the provision of lower-cost market data to retail and other investors would continue to apply.[19] As a result, the Exchange believes that the proposed fee changes would allow it to be appropriately compensated for the value of its market data, particularly from professional financial services firms that use that data for external distribution, while simultaneously ensuring that its data would continue to be available to a wide range of investors and market participants at a cost that facilitates widespread availability of such data.

EDGX Top Derived Data API Service External Subscriber Fees

The Exchange next proposes to modify fees charged to Distributors that distribute EDGX Top Derived Data through an Application Programming Interface (''API'')—*i.e.,* the Derived Data API Service.[20] By way of background, ''Derived Data'' is pricing data or other data that (i) is created in whole or in part from Exchange data, (ii) is not an index or financial product, and (iii) cannot be readily reverse-engineered to recreate Exchange Data or used to create other data that is a reasonable facsimile or substitute for Exchange Data. The Derived Data API Service program offers discounted fees for Distributors that make Derived Data available through an API, thereby allowing Distributors to benefit from reduced fees when distributing Derived Data to subscribers that establish their own platforms (rather than relying on a hosted display solution).

As discussed above, the Exchange currently charges a fee of $1,500 per month for external distribution of EDGX Top (which is proposed to be increased to $2,250). Instead of being assessed the flat regular fee for external distribution, Distributors that distribute Derived Data through an API are charged a tiered External Subscriber Fee based on the number of API Service Platforms (*i.e.,* ''External Subscribers'') that receive Derived Data from the Distributor through a Derived Data API Service. Currently, Distributors under this program continue to be charged a fee of $1,500 per month (the fee normally assessed to External Distributors for EDGX Top) for each External Subscriber if the Distributor makes Derived Data available to 1—5 External Subscribers. Distributors that make Derived Data available to additional External Subscribers however benefit from discounted pricing based on the number of subscribers. Specifically, the external distribution fee is lowered to $1,250 per month for each External Subscriber if the Distributor makes Derived Data available to 6—20 External Subscribers, and further lowered to $1,000 per month for each External Subscriber if the Distributor makes Derived Data available to 21 or more External Subscribers. In light of the proposed increase of the EDGX Top external distribution fee to $2,250, the Exchange proposes to make corresponding changes to the distribution fees for Distributors of Derived Data through a Derived API Service. Particularly, the Exchange proposes to modify the External Subscriber fees as follows:

Number of external subscribers	Current fee	Proposed fee
1—5	$1,500	$2,250
6–20	1,250	1,800
21 and above	1,000	1,500

The Exchange notes that the External Subscriber Fee is non-progressive and based on the number of External Subscribers that receive Derived Data from the Distributor. To illustrate how the discount is applied, the Exchange has codified an example in the Fees

quotes and trades on EDGX, whereas Nasdaq Basic provides information about quotes and trades on Nasdaq and the Nasdaq TRF. Other national securities with competing top-of-book products also offer substantially similar types of information through those top-of-book products.

[10] *See* Exchange Rule 13.8(c).

[11] *See* Exchange Rule 1.5(cc).

[12] An External Distributor of an Exchange Market Data product is a Distributor that receives the Exchange Market Data product and then distributes that data to a third party or one or more Users outside the Distributor's own entity.

[13] As an alternative to user fees, a recipient firm may purchase a monthly Enterprise license to receive EDGX Top from an External Distributor for distribution to an unlimited number of professional and non-professional users. A recipient firm must pay a separate Enterprise Fee for each External Distributor that controls the display of EDGX Top if it wishes such user to be covered by the Enterprise Fee.

[14] As an alternative to user fees, a recipient firm may purchase a monthly digital media enterprise license to receive EDGX Top from an External Distributor for distribution to an unlimited number of users for viewing via television, websites, and mobile devices for informational and non-trading purposes only.

[15] *See* Securities Exchange Act Release No. 77888 (May 24, 2016) 81 FR 34384 (May 31, 2016) (SR–BatsEDGX–2016–18).

[16] *See* Exchange Rule 11.9.01.

[17] The Exchange notes that the fee for Cboe One Summary is equivalent to the aggregate EDGX Top, BZX, Top, BYX Top, and EDGA Top fees. The Exchange is not proposing to change the current Cboe One Summary external distribution fee. Instead, the Cboe BYX Exchange, Inc. (''BYX'') has simultaneously with this proposal proposed to decrease its fee for BYX Top by $750 in order to ensure the proposed fee will continue to not cause the combined cost of subscribing to EDGX, EDGA, BYX, and BZX individual Top and Last Sale feeds to be greater than those currently charged to subscribe to the Cboe One Summary fee.

[18] *See* infra notes 43, 44, 45, and 46.

[19] *See e.g.,* EDGX Fees Schedule, Small Retail Broker Distribution Program, which provides for a reduced EDGX Top Distribution Fee for small broker-dealers that operate a retail business and Retail Membership Program, which provides for discounted membership fees, logical and physical port fees, and market data fees and provides for an opportunity for Members to receive an enhanced rebate for retail volume.

[20] An ''API Service'' is a type of data feed distribution in which a Distributor delivers an API or similar distribution mechanism to a third-party entity for use within one or more platforms. The service allows Distributors to provide Derived Data to a third-party entity for use within one or more downstream platforms that are operated and maintained by the third-party entity. The Distributor maintains control of the entitlements, but does not maintain technical control of the usage or the display.

Schedule under the notes section of the Derived Data Platform Service section, which it now proposes to update in connection with the proposed changes to the External Subscriber fees. Currently, the example provides that a Distributor providing Derived Data based on EDGX Top to six (6) External Subscribers that are API Service Platforms would be charged a monthly fee of $7,500 (*i.e.,* 6 External Subscribers x $1,250 each). The Exchange proposes to update the example to provide that Distributor providing Derived Data based on EDGX Top to six (6) External Subscribers that are API Service Platforms would be charged a monthly fee of $10,800 (*i.e.,* 6 External Subscribers × $1,800 each).

Cboe One Premium and EDGX Top Depth New External Distributor Credit

The Exchange next proposes to adopt a New External Distributor Credit applicable to Cboe One Premium and extend the New External Distributor Credit applicable to EDGX Summary Depth Feed from one (1) month to three (3) months. By way of background, Cboe One Premium is a data feed that disseminates, on a real-time basis, the aggregate best bid and offer (''BBO'') of all displayed orders for securities traded on EDGX and its affiliated exchanges (*i.e.,* BYX, Cboe EDGA Exchange, Inc. (''EDGA''), and Cboe BZX Exchange, Inc. (''EDGX'')) and contains optional functionality which enables recipients to receive aggregated two-sided quotations from EDGX and its affiliated equities exchanges for up to five (5) price levels.[21] Currently, the Exchange charges an external distribution fee of $12,500 per month to External Distributors [22] of Cboe One Premium. The Exchange now proposes to adopt a New External Distributor Credit which provide that new External Distributors of the Cboe One Premium Feed will not be charged an External Distributor Fee for their first three (3) months in order to allow them to enlist new Users to receive the Cboe One Premium Feed. The Exchange believes the proposal will incentivize External Distributors to enlist new users to receive Cboe One Premium. To ensure consistency across the Cboe Equity Exchanges, BZX, BYX, and EDGA will be filing companion proposals to reflect this proposal in their respective fee schedules.

The Exchange notes that it offers similar credits for other market data products. For example, the Exchange currently offers a one (1) month New External Distributor Credit applicable to Cboe One Summary,[23] which is a data feed that disseminates, on a real-time basis, the aggregate BBO of all displayed orders for securities traded on EDGX and its affiliated equities exchanges and also contains individual last sale information for the EDGX and its affiliated equities exchanges.[24] It also offers a New External Distributor Credit of one (1) month for subscribers of EDGX Summary Depth, which is a data feed that offers aggregated two-sided quotations for all displayed orders entered into the System for up to five (5) price levels. EDGX Summary Depth also contains the individual last sale information, Market Status, Trading Status, and Trade Break messages.[25] The External Distribution fees for Cboe One Premium is equivalent to the aggregate EDGX Summary Depth, BZX Summary Depth, BYX Summary Depth, and EDGA Summary Depth External Distribution fees. In order to alleviate any competitive issues that may arise with a vendor seeking to offer a product similar to the Cboe One Premium Feed based on the underlying data feeds, the Exchange proposes to also extend the current New External Distributor Credit for EDGX Summary Depth from one (1) month to three (3) months and the Exchange's affiliates BYX, BZX and EDGA are also submitting similar proposals to increase the length of their respective Summary Depth New External Distributor Credits from one (1) month to three (3) months. The respective proposals to extend these credits to three months ensures the proposed New External Distributor Credit for Cboe One Premium will continue to not cause the combined cost of subscribing to EDGX, EDGA, BYX, and BZX Summary Depth feeds for new External Distributors to be greater than those currently charged to subscribe to the Cboe One Premium feed.

Waiver of External Distribution Fees for EDGX Top and EDGX Last Sale

The Exchange currently provides External Distributors of EDGX Depth,[26] upon request and at no additional External Distribution Fee, access to the EDGX Top or EDGX Last Sale [27] feeds for External Distribution. This waiver was intended to encourage the distribution of the EDGX Top and Last Sale data products. The waiver has been in place, without change, since June 1, 2016.[28] The Exchange believes such waiver has been in place for ample time to allow External Distributors to grow their respective subscriber bases and no longer wishes to provide this waiver of the External Distribution fees for EDGX Top and EDGX Last Sale feeds. Accordingly, the Exchange proposes to strike this language from the fees schedule.

Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[29] in general, and furthers the objectives of Section 6(b)(4),[30] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other recipients of Exchange data. In addition, the Exchange believes that the proposed rule change is consistent with Section 11(A) of the Act as it supports (i) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets, and (ii) the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.[31] Finally, the proposed rule change is also consistent with Rule 603 of Regulation NMS,[32] which provides that any national securities exchange that distributes information with respect to quotations for or transactions in an

[21] The Cboe Aggregated Market (''Cboe One'') Feed is a data feed that contains the aggregate best bid and offer of all displayed orders for securities traded on the Exchange and its affiliated exchanges (*i.e.,* BYX, Cboe EDGA Exchange, Inc. (''EDGA''), and Cboe BZX Exchange, Inc. (''BZX''')). *See* Exchange Rule 13.8(b). The Cboe One Feed contains optional functionality which enables recipients to receive aggregated two-sided quotations from the Cboe Equities Exchanges for up to five (5) price levels (''Cboe One Premium Feed''). *See* Exchange Rule 13.8(b)(i). The Cboe One Premium external distribution fee is equal to the aggregate EDGX Summary Depth, BYX Summary Depth, EDGA Summary Depth, and BZX Summary Depth external distribution fees.

[22] An External Distributor of an Exchange Market Data product is a Distributor that receives the Exchange Market Data product and then distributes that data to a third party or one or more Users outside the Distributor's own entity.

[23] *See* Exchange Rule 13.8(b).

[24] The Exchange notes that when it first adopted the New External Distributor Credit for Cboe One Summary, it similarly applied for a new External Distributor's first three (3) months. *See* Securities Exchange Act Release No. 74282 (February 17, 2015), 80 FR 9487 (February 23, 2015) (SR–EDGX–2015–09).

[25] *See* Exchange Rule 13.8(f).

[26] EDGX Depth is a data feed that contains all displayed orders for listed securities trading on the Exchange, order executions, order cancellations, order modifications, order identification numbers, and administrative messages. *See* Exchange Rule 13.8(a).

[27] EDGX Last Sale is an uncompressed data feed that offers only execution information based on orders entered into the System. *See* Exchange Rule 13.8(d).

[28] Supra note 15.

[29] 15 U.S.C. 78f.

[30] 15 U.S.C. 78f(b)(4).

[31] 15 U.S.C. 78k–1.

[32] *See* 17 CFR 242.603.

NMS stock do so on terms that are not unreasonably discriminatory.

The Exchange operates in a highly competitive environment. Indeed, there are now sixteen registered U.S equities exchanges, and with the exception of Long-Term Stock Exchange, Inc. (''LTSE''), which has determined to not offer any proprietary market data feeds, each of these exchanges offer associated market data products to their customers, either with or without a fee. It is in this robust and competitive market in which the Exchange is proposing to increase its fees, while still providing its data at a significantly lower price than competing products offered by other national securities exchanges with similar data quality.

The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Further, with respect to market data, the decision of the United States Court of Appeals for the District of Columbia Circuit in NetCoalition v. SEC upheld the Commission's reliance on the existence of competitive market mechanisms to evaluate the reasonableness and fairness of fees for proprietary market data: ''In fact, the legislative history indicates that the Congress intended that the market system 'evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed' and that the SEC wield its regulatory power 'in those situations where competition may not be sufficient,' such as in the creation of a 'consolidated transactional reporting system.' '' [33] The court agreed with the Commission's conclusion that ''Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.''' [34] As discussed in this filing, significant competitive forces constrain the ability of the Exchange to charge supra-competitive fees.

EDGX Top and EDGX Top Derived Data API Service

i. The EDGX Top Feed Is an Optional Market Data Product, and the Exchange Is Constrained in Its Pricing by Significant Competitive Forces

Subscribing to EDGX Top is entirely optional. The Exchange is not required to make EDGX Top available to any customers, nor is any customer required to purchase EDGX Top.[35] A customer's decision as to whether to purchase EDGX Top is therefore entirely discretionary and is based on that firms individual business needs. Generally, firms that choose to subscribe to EDGX Top do so because they believe that it is a cost-effective source for top-of-book data that provides valuable information about the market for national market system (''NMS'') stocks traded on the Exchange, where a consolidated display covering all U.S. equities exchanges is not required. Such firms are able to determine for themselves whether EDGX Top helps them to achieve their business goals, and if so, whether or not it is attractively priced compared to other similar top-of-book products offered by competing exchanges. Indeed, if EDGX Top does not provide sufficient value to firms based on the uses those firms may have for it, such firms may simply choose to conduct their business operations in ways that do not use EDGX Top. In fact, comparing the number of External Distributors that currently subscribe to EDGX Top, based on data compiled by the Exchange as of November 2021, to the total number of External Distributors that subscribe to core data offered by the CTA and UTP SIPs, as published on plan websites for Q1 2021,[36] less than 7.37% of External Distributors that purchase U.S. equities data choose to subscribe to EDGX Top.[37] The EDGX Top Feed therefore represents an insignificant proportion of the market for such market data, and significantly more External Distributors choose not to purchase this product than those that do. Given the insignificant percentage of External Distributors that consume EDGX Top, it is clear that such firms can and do exercise their right to choose to purchase, or not purchase, this particular market data product. And, as discussed later in this filing, any External Distributor of top-of-book data that does not wish to purchase EDGX Top, due to the price of that data or for any other reason, can choose to substitute similar information from other exchanges. Although the Exchange is not required to make any data, including top-of-book data, available through its proprietary market data platform, the Exchange believes that making such data available increases investor choice, and contributes to a fair and competitive market. Specifically, making such data publicly available through proprietary data feeds allows investors to choose alternative, potentially less costly, market data based on their business needs. For example, a broker or fintech firm may choose to purchase EDGX Top, or a similar product from another exchange, in order to perform investment analysis, or to provide general information about the market for U.S. equity securities, respectively. In either case the choice to purchase EDGX Top would be based on the firm's determination of the value of the data offered by their chosen product compared to the cost of acquiring this data instead of receiving similar data from other sources. EDGX Top serves as a valuable reference for investors that do not require a consolidated display. Making alternative products available to market participants ultimately ensures competition in the marketplace, and constrains the ability of exchanges to charge supra-competitive fees. Further, in the event that a market data customer views one exchange's top-of-book data product and/or fees as more or less attractive than a competitor's offerings they can and often do switch between competing products. As discussed, similar top-of-book information is available from a number of competing U.S. equities exchanges.[38] This includes a number of large established exchanges that charge for access to such top-of-book data, as well as certain smaller or new exchange entrants that provide similar data without charge, in many cases as a way of attracting customers to their exchange while they seek to grow market share. In this way, EDGX Top and other top-of-book products offered

[33] *NetCoalition* v. *SEC,* 615 F.3d 525, 535 (D.C. Cir. 2010) (''*NetCoalition I*'') (quoting H.R. Rep. No. 94–229 at 92 (1975), *as reprinted* in 1975 U.S.C.C.A.N. 323).

[34] *Id.* at 535.

[35] The Exchange notes that broker-dealers are not required to purchase proprietary market data to comply with their best execution obligations. *See* In the Matter of the Application of Securities Industry and Financial Markets Association for Review of Actions Taken by Self-Regulatory Organizations, Release Nos. 34–72182; AP–3–15350; AP–3–15351 (May16, 2014). Similarly, there is no requirement in Regulation NMS or any other rule that proprietary data be utilized for order routing decisions, and some broker-dealers and ATSs have chosen not to do so.

[36] See CTA Quarterly Population Metrics (Q1 2021), *available at https://www.ctaplan.com/publicdocs/ctaplan/CTAPLAN_Population_Metrics_3Q2021.pdf;* UTP Quarterly Population Metrics (Q1 2021), *available at https://www.utpplan.com/DOC/UTP_2021_Q1_Stats_with_Processor_Stats.pdf.*

[37] This statistic reflects the number of External Distributors that purchase EDGX Top divided by the number of External Distributors that purchase consolidated market data from the SIPs, as reflected in publicly available information. *Id.* The Exchange does not have similar information about the number of External Distributors that purchase top-of-book data from other exchanges as competing exchanges do not typically make this information publicly available due to the commercially sensitive nature of such information.

[38] Although the Exchange does not have access to the customer lists for other competing products, it understands based on conversations with subscribers to EDGX Top that they typically view exchange top-of-book products as substitutes and do not generally look to purchase such data from more than one national securities exchange.

by a number of U.S. equities exchanges, are all substitutes. The availability of these substitute products constrains the Exchange's ability to charge supra-competitive prices as market participants can easily obtain similar data from one of the Exchange's many competitors. In fact, the impact of competition on the market in which EDGX Top is offered to market participants and investors is showcased by Exchange affiliates' other recent fee changes related to this product, which involved the reduction of fees to facilitate the Exchange affiliates' ability to compete for customers.[39] And, other exchanges have similarly filed to reduce the prices of their top-of-book data in order to compete with products offered by the Exchange and other competing exchanges.[40]

Distributors can discontinue use of EDGX Top at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Other External Distributors are free to similarly cancel their subscriptions in favor of a competitor offering, or cheaper or free data offered by the Exchange's affiliated U.S. equities exchanges, if they believe that the fees are too high given their particular use case for obtaining the data that the Exchange provides over EDGX Top. The Exchange offers all of its proprietary market data products pursuant to a month-to-month contract that allows subscribers to choose to terminate their subscription at any time. As a result, there are no contractual or other legal impediments for firms that wish to cancel their subscription to the Exchange's market data products, including EDGX Top. In addition, the Exchange notes that a majority of External Distributors of EDGX Top either receive this data through a market data vendor, as opposed to directly from the Exchange, or is a market data vendor itself. Thus, firms can seamlessly switch to any other competitor product offered by their chosen vendor without incurring additional switching costs, such as the cost of establishing connectivity to another exchange to receive its market data.[41]

In setting the proposed fees for EDGX Top, the Exchange considered the competitiveness of the market for proprietary data and all of the implications of that competition. Indeed, the Exchange is not in a position to charge unreasonable fees for its top-of-book data as there are a number of competing products in the market, including products that are currently offered free of charge by certain other exchanges that have determined not to charge for their market data. The existence of alternatives to EDGX Top ensures that the Exchange cannot set unreasonable fees when vendors and subscribers can freely elect these alternatives or choose not to purchase a specific proprietary data product if the attendant fees are not justified by the returns that any particular vendor or data recipient would achieve through the purchase.

Similarly, in an effort to widen distribution to market participants that use equities market data to compute pricing for certain derivatives instruments, national securities exchanges, including for example the Exchange and The Nasdaq Stock Market LLC (''Nasdaq''),[42] offer discounted pricing for Derived Data that is created using their top of book products. Derived Data is largely used to create derivative instruments, such as contracts for difference, rather than to trade equity securities, and is often purchased by market data customers outside of the U.S. where such derivative instruments are more commonly offered. As a result, customers that purchase top of book data to create Derived Data do not need a consolidated quotation, and typically only purchase top of book data to create Derived Data from one source. If a competing exchange were to charge less for a similar product than the Exchange proposes to charge under the EDGX Top Derived Data API Service fee structure, prospective subscribers may choose not subscribe to, or cease subscribing to, the EDGX Top Derived Data API Service. The existence of alternatives ensures that the Exchange cannot set unreasonable or unfairly discriminatory fees, as subscribers are free to elect such alternatives.

ii. The Proposed Fees Are Reasonable Given the Value of the Data Provided to Customers, and When Compared to Competing Market Data Products

The proposed fees are also reasonable as even with the proposed fee increase they would continue to represent a relatively modest fee for top-of-book data that has proven valuable for investors. EDGX Top is a competitively-priced alternative to top-of-book data disseminated by other national securities exchanges. It is purchased by a wide variety of market participants and vendors, including data platforms, websites, fintech firms, buy-side investors, retail brokers, regional banks, and securities firms inside and outside of the U.S. that desire low cost, high quality, real-time U.S. equity market data. By providing lower cost access to U.S. equity market data, EDGX Top benefits a wide range of investors that participate in the national market system. As discussed, the decision to purchase a particular market data product from a particular exchange is largely based on two factors: (1) The quality of the data, and (2) the price charged for access to that data. The Exchange believes that EDGX Top is competitive on both of these factors.

First, EDGX Top would remain competitively priced compared to similar products offered by other comparable U.S. equities exchanges. Although EDGX Top is not offered free of charge like certain other competitor offerings, particularly those offered by newer U.S. equities exchanges that are seeking to grow market share, it is made available at a price that is less than the prices charged by the Exchange's main competitors—*i.e.,* those with comparable market shares and data quality. Notably, even with the proposed fee increase, EDGX Top would remain significantly cheaper than similar products offered by New York Stock Exchange LLC (''NYSE'') and Nasdaq in terms of the fees charged for external distribution. For example, NYSE charges a total of $4,000 per month for access and redistribution of their equivalent products, *i.e.,* $1,500 per month for applicable top-of-book quotation information,[43] and an additional $1,500 per month for transaction information,[44] both of which are included in EDGX Top for a single fee. In addition, a $1,000 per month redistribution fee is applied by NYSE. NYSE Arca, Inc. (''Arca''), which has a similar pricing model to NYSE, charges a rate of $2,250 per month for access and redistribution of its equivalent products, separated into a $750 per month charge for top-of-book quotation information, an additional $750 per month charge for transaction information, and $750 per month for

[39] *See, e.g.,* Securities Exchange Act Release No. 88221 (February 14, 2020), 85 FR 9904 (February 20, 2020) (SR–CboeBYX–2020–007).

[40] *See, e.g.,* Securities Exchange Act Release No. 90616 (December 9, 2020), 85 FR 81237 (December 15, 2020) (SR–NASDAQ–2020–086).

[41] Market data vendors typically establish connectivity to a number of national securities exchanges to be able to offer their market data to customers.

[42] *See* Nasdaq Equity Rules, Equity 7, Pricing Schedule, Section 147(c)(1). In addition, Nasdaq also charges distributors a $100 monthly administrative fee. *See* Nasdaq Equity Rules, Equity 7, Pricing Schedule, Section 135.

[43] *See* NYSE PDP Market Data Pricing, Section 1.3, NYSE BBO.

[44] *See* NYSE PDP Market Data Pricing, Section 1.4, NYSE Trades.

redistribution.[45] Therefore, while Arca's fees are slightly less than the proposal, the proposed fees are in-line with those charged by Arca. Finally, Nasdaq charges its External Distributors a fee of $2,000 per month for Nasdaq Basic, which includes both top-of-book quotation information and transaction information for the same fee, a $350 per month Data Consolidation fee, and a $100 per month Monthly Administrative Fee.[46] The external distribution charges associated with obtaining comparable U.S. equities market data from NYSE and Nasdaq runs more than the proposed fee to be charged by the Exchange, meaning that the Exchange would continue to be offering its data at a price that is attractive compared to the prices charged by its competitors. The fee for EDGX Top Derived Data API Service would remain competitively priced compared to Nasdaq which also offers pricing discounts for Derived Data.[47]

Second, the proposed fees are reasonable given the value of the data provided in EDGX and used by data recipients in their profit-generating activities. EDGX Top provides top-of-book quotations and transactions executed on the Exchange, and provides a valuable window into the market for securities traded on a market that accounts for about 5% of U.S. equity market volume today. As discussed, the Exchange offers EDGX Top in a competitive environment where firms may freely choose which market data products best suit their business needs. Invariably, firms that choose to purchase EDGX Top instead of receiving one of the many free products offered by other exchanges,[48] have decided that the value of EDGX Top is greater than that offered by those other products. The Exchange consistently ranks among the top U.S. equities exchanges in terms of various market quality measures, *e.g.,* NBBO quote quality and NBBO market share.[49] In turn, investors may choose to rely on the Exchange's market data products instead of other competitor offerings based on the value they provide in relation to any additional cost associated with obtaining that market data from the Exchange. For example, investors may wish to obtain market data from an exchange that has a higher time at the inside, as data obtained from an exchange that is quoting more often at the NBBO may better reflect the applicable market for securities it trades. Similarly, an exchange with greater overall market share will produce more transaction information that may be valuable to consumers of its data. Improvements in market quality will therefore directly impact the value of the market data that an exchange is able to offer to investors.

iii. The Proposed Fees Are Equitable and Not Unfairly Discriminatory as External Distributors Will Be Subject to Uniform Pricing Based on Their Usage of the Data and Differences Between the Fees Charged for Internal and External Distribution Are Appropriate

The Exchange believes the proposed fees for external distribution of EDGX Top will continue to be allocated fairly and equitably among subscribers, and are not unfairly discriminatory, as the proposed fees will apply equally to all data recipients that choose to subscribe to EDGX Top and distribute that data to external subscribers. As proposed, all External Distributors of EDGX Top will continue to be subject to the same external distribution fee, regardless of the type of business that they operate, or the use they plan to make of the data feed. Thus, all External Distributors would have access to EDGX Top on the same equitable and non-discriminatory terms.

The Exchange believes that it is also fair and equitable, and not unfairly discriminatory to continue to charge different fees for internal and external distribution of the EDGX Top. As is common practice, the Exchange charges lower fees to distributors that use its market data products for internal distribution only than to distributors that redistribute that data externally to their customers. In the case of EDGX Top, External Distributors are subject to a higher distribution fee, and are also subject to professional user fees, non-professional user fees or an enterprise fee, and a digital media enterprise fee. The Exchange continues to believe that it is appropriate to distinguish between internal and External Distributors in setting fees for EDGX Top as External Distributors can redistribute the Exchange's market data to its clients for a fee, whereas Internal Distributors are not allowed to redistribute the data.

Finally, the Exchange believes the proposed changes to the distribution fees for Distributors of EDGX Top Derived Data through a Derived API Service is equitable and not unfairly discriminatory because the Exchange will apply the same fees to any similarly situated Distributors that elect to participate in the program based on the number of External Subscribers provided access to the Derived Data through an API Service. The Exchange believes that it is equitable and not unfairly discriminatory to continue to provide discounted rates to Distributors that provide access to at least six External Subscribers as the discounted rates are designed to incentivize firms to grow the number of External Subscribers that purchase Derived Data from the Exchange.

New External Distributor Fee Credit

The Exchange also believes that adopting a New External Distributor Credit for Cboe One Premium is equitable and reasonable. As discussed above, a similar New External Distributor Fee Credit was initially adopted at the time the Exchange began to offer the Cboe One Summary to subscribers. It was intended to incentivize new Distributors to enlist Users to subscribe to Cboe One Summary in an effort to broaden the product's distribution. Now the Exchange proposes to adopt a similar credit for Cboe One Premium subscribers for their first three (3) months to similarly incentivize new Distributors to enlist Users to subscribe to Cboe One Premium in an effort to broaden the product's distribution. While this incentive is not available to Internal Distributors of Cboe One Premium, the Exchange believes it is appropriate as Internal Distributors have no subscribers outside of their own firm. Furthermore, External Distributors are subject to higher risks of launch as the data is provided outside their own firm. For these reasons, the Exchange believes it is appropriate to provide this incentive so that External Distributors have sufficient time to test the data within their own systems prior to going live externally. The Exchange believes extending the New External Distributor Credit for EDGX Summary Depth from one (1) month to three (3) months is also equitable and reasonable, as it (along with simultaneous corresponding proposals by the Exchange's affiliates) ensures the proposed New External Distributor Credit for Cboe One Premium will continue to not cause the combined cost of subscribing to EDGX, EDGA, BYX, and BZX Summary Depth feeds for new External Distributors to be greater than those currently charged to subscribe to the Cboe One Premium feed.

[45] *See* NYSE PDP Market Data Pricing, Section 3.3, NYSE Arca BBO; NYSE PDP Market Data Pricing, Section 3.4, NYSE Arca Trades.

[46] *See* Nasdaq Equity Rules, Equity 7, Pricing Schedule, Section 147(c)(1). In addition, Nasdaq also charges distributors a $100 monthly administrative fee. *See* Nasdaq Equity Rules, Equity 7, Pricing Schedule, Section 135.

[47] See generally, the Nasdaq Basic fees at *http://www.nasdaqtrader.com/TraderB.aspx?id=MDDPricingALLN.*

[48] *See, e.g.,* Cboe EDGA Exchange, Inc., Fee Schedule, EDGA Top.

[49] *See https://www.cboe.com/us/equities/market_statistics/market_quality/.*

EDGX Top and EDGX Last Sale External Distribution Fee Waiver For Fees for External Distributors of EDGX Depth

Finally, the Exchange amending the fee waiver of EDGX Top and EDGX Last Sale feeds for External Distributors of EDGX Depth is equitable and reasonable. The Exchange believes eliminating the fee waiver is equitable and reasonable because it has been available, without change, since June 1, 2016 [50] providing External Distributors with ample time to grow their subscriber bases. Moreover, the Exchange is not required to provide any such waiver to External Distributors of EDGX Depth.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive environment, and its ability to price top-of-book data and derived data is constrained by competition among exchanges that offer similar data products to their customers. Top-of-book data and derived data is broadly disseminated by competing U.S. equities exchanges. There are therefore a number of alternative products available to market participants and investors, including products offered by certain competing exchanges without charge. Further, the Exchange's proposal to extend the New External Distributor Credit applicable to EDGX Summary Depth from one (1) month to three (3) months, adopt a new External Distributor credit for Cboe Premium[sic], and eliminate the waiver of EDGX Top and EDGX Last Sale External Distribution fees for External Distributors of EDGX Depth involves no change to the existing fees, but simply extends offers or eliminates a waiver, respectively. Other exchanges are free to adopt a similar waiver if they choose. In this competitive environment potential subscribers are free to choose which competing product to purchase to satisfy their need for market information. Often, the choice comes down to price, as market data customers look to purchase cheaper data products, and quality, as market participants seek to purchase data that represents significant market liquidity.

Intramarket Competition. The Exchange believes that the proposed fees do not put any market participants at a relative disadvantage compared to other market participants. As discussed, the proposed fees, credit, and eliminated waiver would apply to all External Distributors of EDGX Top, Cboe One Premium, and EDGX Depth, respectively, on an equal and non-discriminatory basis. The continued difference in fees for internal and external distribution of EDGX Top are appropriate given the ability for External Distributors to redistribute data externally to their clients. Similarly, the credit applicable to only External Distributors is appropriate as it incentivizes such External Distributors to enlist subscribers, whereas Internal Distributors have no subscribers outside their firm. The Exchange therefore believes that the proposed fees neither favor nor penalize one or more categories of market participants in a manner that would impose an undue burden on competition.

Intermarket Competition. The Exchange believes that the proposed fees do not impose a burden on competition or on other SROs that is not necessary or appropriate in furtherance of the purposes of the Act. In setting the proposed fees for EDGX Top, the Exchange is constrained by the availability of numerous substitute products offered by other national securities exchanges. Because market data customers can find suitable substitute feeds, an exchange that overprices its market data products stands a high risk that users may substitute another product. These competitive pressures ensure that no one exchange's market data fees can impose an undue burden on competition, and the Exchange's proposed fees do not do so here.

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 [51] and paragraph (f) of Rule 19b–4 [52] 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–2022–018 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–2022–018. 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

[50] *Supra* note 15.

[51] 15 U.S.C. 78s(b)(3)(A).

[52] 17 CFR 240.19b–4(f).

Number SR–CboeEDGX–2022–018 and should be submitted on or before April 25, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[53]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–06988 Filed 4–1–22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94540; File No. SR–CBOE–2022–014]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Update Its Fees Schedule in Connection With the Exchange's Plans To List and Trade Nanos S&P 500 Index Options

March 29, 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 March 23, 2022, Cboe Exchange, Inc. (''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (''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 Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to update its Fees Schedule in connection with the Exchange's plans to list and trade Nanos S&P 500 (''NANOS'') Index options. 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://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), 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 Fees Schedule in connection with its plans to list and trade Nanos options.[3]

NANOS options are options on the Mini-S&P 500 (''XSP'') Index (the value of which is 1/10th the value of the S&P 500 (''SPX'') Index) that have an index multiplier of one, and thus a smaller notional value. The Exchange believes that investors will benefit from the availability of NANOS options by making options overlying the larger-valued SPX Index more readily available as an investing tool and at more affordable prices for investors.[4] The Exchange also believes that the investor-base for NANOS options will be a similar investor-base for XSP options, as well as Mini-Russell 2000 (''MRUT'') options, which are also proprietary, reduced-value (1/10th) options on a broad-based index. XSP and MRUT options are also designed to provide low-cost means to hedge investors' portfolios in connection with larger-value broad-based indexes (*i.e.,* the RUT and SPX Index) with a smaller outlay of capital. The Exchange now proposes to amend its Fees Schedule to accommodate the planned listing and trading of NANOS options. The Exchange notes that because NANOS, MRUT and XSP are all options on mini-indexes and are intended for a similar investor-base, the majority of the proposed changes amend the Fees Schedule in connection with trading in NANOS options in a manner that is generally consistent with the way in which existing transactions fees and programs currently apply to trading in XSP and MRUT options.

Standard Transaction Rates and Surcharges

First, the Exchange proposes to adopt certain standard transaction fees in connection with NANOS options. Specifically, the proposed rule change adopts certain fees for NANOS options in the Rate Table for All Products Excluding Underlying Symbol A,[5] as follows:

- Adopts fee code NO, appended to all Customer (capacity ''C'') orders in NANOS options and assesses no fee;
- Adopts fee code NN, appended to all non-Customer, non-Market-Maker (*i.e.,* Clearing Trading Permit Holders (capacity ''F''), Non-Clearing Trading Permit Holder Affiliates (capacity ''L''), Broker-Dealers (capacity ''B''), Joint Back-Offices (capacity ''J''), Non-Trading Permit Holder Market-Makers (capacity ''N''), and Professionals (capacity ''U'')) orders in NANOS options and assesses a fee of $0.01 per contract; and
- Adopts fee code NM, which is appended to all Market-Maker (capacity ''M'') orders in NANOS options and assesses a fee of $0.01 per contract.

The Exchange notes that the proposed standard transaction fees in connection with NANOS options are slightly less than the fees assessed for XSP options. As described above, both NANOS options and XSP options overly the Mini-S&P 500 Index; however, NANOS options are lower-priced given their multiplier of one.

The Exchange proposes to exclude NANOS orders from the AIM Contra Fee by amending footnote 18 (appended to the AIM Contra Fee) to provide that the AIM Contra Execution Fee applies to all orders (excluding facilitation orders, per footnote 11) in all products, except MRUT, NANOS, XSP, Sector Indexes and Underlying Symbol List A, executed in the Automated Improvement Mechanism (''AIM''), Solicitation Auction Mechanism (''SAM''), FLEX AIM and FLEX SAM auctions, that were initially entered as the contra party to an Agency/Primary Order. Applicable standard transaction fees will apply to AIM, SAM, FLEX AIM and FLEX SAM executions in MRUT, NANOS, XSP, Sector Indexes and Underlying Symbol List A. The Exchange also proposes to exclude Market-Maker and non-Customer, non-Market-Maker complex orders in NANOS from the Complex Surcharge by amending footnote 35 (appended to the Complex Surcharge) to provide that the

[53] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange initially filed the proposed fee changes on March 14, 2022 (SR–CBOE–2022–010). On March 23, 2022, the Exchange withdrew that filing and submitted this filing.

[4] *See* Securities Exchange Act Release Nos. 90853 (January 5, 2021), 86 FR 2006 (January 11, 2021) (SR–CBOE–2020–117); *and* 91528 (April 9. 2021), 86 FR 19933 (April 15, 2021) (SR–CBOE–2020–117).

[5] Underlying Symbol List A includes OEX, XEO, RUT, RLG, RLV, RUI, UKXM, SPX (includes SPXW), SPESG and VIX. *See* Cboe Options Fees Schedule, Footnote 34.

Complex Surcharge applies per contract per side surcharge for noncustomer complex order executions that remove liquidity from the COB and auction responses in the Complex Order Auction (''COA'') and AIM in all classes except MRUT, NANOS, XSP, Sector Indexes and Underlying Symbol List A. The proposed exclusion from the AIM Contra Fee (and, instead, the application of the proposed standard transaction fees) and Complex Surcharge in connection with transactions in NANOS will provide consistency with the fees and exclusions currently applicable to transactions in similar reduced-value XSP and MRUT options.

Fees Programs

The proposed rule change excludes NANOS volume from the Liquidity Provider Sliding Scale, which offers credits on Market-Maker orders where a Market-Maker achieves certain volume thresholds based on total national Market-Maker volume in all underlying symbols, excluding Underlying Symbol List A, MRUT and XSP, during the calendar month. Specifically, the proposed rule change updates the Liquidity Provider Sliding Scale table to provide that volume thresholds are based on total national Market-Maker volume in all underlying symbols excluding Underlying Symbol List A, MRUT, NANOS and XSP during the calendar month, and that it applies in all underlying symbols excluding Underlying Symbol List A, MRUT, NANOS and XSP. The proposed rule change also updates footnote 10 (appended to the Liquidity Provider Sliding Scale) to provide that the Liquidity Provider Sliding Scale applies to Liquidity Provider (Cboe Options Market-Maker, DPM and LMM) transaction fees in all products except (1) Underlying Symbol List A (34), MRUT, NANOS and XSP, and (2) volume executed in open outcry.[6]

The proposed rule change updates the Volume Incentive Program (''VIP'') table to exclude NANOS volume from the VIP, which currently offers a per contract credit for certain percentage threshold levels of monthly Customer volume in all underlying symbols, excluding Underlying Symbol List A, Sector Indexes, DJX, MRUT, MXEA, MXEF and XSP. The proposed rule change also amends footnote 36 (appended to the VIP table) to reflect the proposed exclusion of NANOS from the VIP by providing (in relevant part) that: The Exchange shall credit each Trading Permit Holder the per contract amount resulting from each public customer (''C'' capacity code) order transmitted by that Trading Permit Holder which is executed electronically on the Exchange in all underlying symbols excluding Underlying Symbol List A, Sector Indexes, DJX, MRUT, MXEA, MXEF, NANOS, XSP, QCC trades, public customer to public customer electronic complex order executions, and executions related to contracts that are routed to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in Rule 5.67, provided the Trading Permit Holder meets certain percentage thresholds in a month as described in the Volume Incentive Program (VIP) table; the percentage thresholds are calculated based on the percentage of national customer volume in all underlying symbols excluding Underlying Symbol List A, Sector Indexes, MRUT, MXEA, MXEF, NANOS, DJX and XSP entered and executed over the course of the month; and in the event of a Cboe Options System outage or other interruption of electronic trading on Cboe Options, the Exchange will adjust the national customer volume in all underlying symbols excluding Underlying Symbol List A, Sector Indexes, MRUT, MXEA, MXEF, NANOS, DJX and XSP for the entire trading day.

The proposed rule change excludes NANOS from the list of products eligible to receive Break-Up Credits in orders executed in AIM, SAM, FLEX AIM, and FLEX SAM, by amending the Break-Up Credits table to exclude NANOS along with the products currently excluded—Underlying Symbol List A, Sector Indexes, DJX, MRUT, MXEA, MXEF and XSP.

The Exchange also proposes to exclude Firm (*i.e.,* Clearing Trading Permit Holders (capacity ''F'') and Non-Clearing Trading Permit Holder Affiliates (capacity ''L'')) transactions in NANOS from the Clearing TPH Fee Cap. Specifically, it amends footnote 22 (appended to the Clearing TPH Fee Cap table) to provide that all non-facilitation business executed in AIM or open outcry, or as a QCC or FLEX transaction, transaction fees for Clearing TPH Proprietary and/or their Non-TPH Affiliates in all products except MRUT, NANOS, XSP, Sector Indexes and Underlying Symbol List A (which includes SPX), in the aggregate, are capped at $65,000 per month per Clearing TPH. It additionally updates footnote 11 (which is also appended to the Clearing TPH Fee Cap table) to provide that the Clearing TPH Fee Cap in all products except MRUT, NANOS, XSP, Underlying Symbol List A and Sector Indexes (the ''Fee Cap''), among other programs, apply to (i) Clearing TPH proprietary orders (''F'' capacity code), and (ii) orders of Non-TPH Affiliates of a Clearing TPH.

The Exchange proposes to exclude NANOS from eligibility for the Order Router Subsidy (''ORS'') and Complex Order Router Subsidy (''CORS'') Programs, in which Participating TPHs or Participating Non-Cboe TPHs may receive a payment from the Exchange for every executed contract routed to the Exchange through their system in certain classes. Specifically, the proposed rule change updates the ORS/CORS Program tables to provide that ORS/CORS participants whose total aggregate non-customer ORS and CORS volume is greater than 0.25% of the total national volume (excluding volume in options classes included in Underlying Symbol List A, Sector Indexes, DJX, MRUT, MXEA, MXEF, NANOS or XSP) will receive an additional payment for all executed contracts exceeding that threshold during a calendar month, and updates footnote 30 (appended to the ORS/CORS Program tables) to accordingly provide that Cboe Options does not make payments under the program with respect to executed contracts in options classes included in Underlying Symbols List A, Sector Indexes, DJX, MRUT, MXEA, MXEF, NANOS or XSP.

The Exchange proposes to exclude NANOS from the Floor Broker Sliding Scale Rebate Program. The Floor Broker Sliding Scale Rebate Program offers rebates for Firm Facilitated and non-Firm Facilitated orders that correspond to certain volume tiers and is designed to incentivize order flow in multiply-listed options to the Exchange's trading floor. As such, the Floor Broker Sliding Scale Rebate Program excludes options that are not multiply-listed, which would include NANOS. As proposed, the Floor Broker Sliding Scale Rebate Program applies to all products except for Underlying Symbol List A, Sector Indexes, DJX, MRUT, MXEA, MXEF, NANOS and XSP.

The Exchange notes that excluding NANOS transactions from the above-described programs is consistent with the manner in which XSP and MRUT

[6] The proposed rule change also updates footnote 6, which is appended to the Liquidity Provider Sliding Scale Program, the VIP, and the ORS/CORS Programs to reflect the exclusion of MRUT options from these programs in the same manner as the options classes currently excluded from these programs. Specifically, amended footnote 6 provides that in the event of a Cboe Options System outage or other interruption of electronic trading on Cboe Options that lasts longer than 60 minutes, the Exchange will adjust the national volume in all underlying symbols excluding Underlying Symbol List A, Sector Indexes, MRUT, MXEA, MXEF, NANOS, DJX and XSP for the entire trading day.

transactions are also excluded each of these programs today.

Additionally, the Exchange proposes to include NANOS in the Marketing Fee Program. The Exchange notes that XSP is also currently included in the Marketing Fee Program. The Marketing Fee is assessed on transactions of Market-Makers, resulting from customer orders at the per contract rate provided above on all classes of equity options, options on ETFs, options on ETNs and index options, except that the marketing fee shall not apply to Sector Indexes, DJX, MRUT, MXEA, MXEF or Underlying Symbol List A. A Designated Primary Market-Maker (''DPM''), a ''Preferred Market-Maker (''PMM''), or a Lead Market-Maker (''LMM'') (collectively ''Preferenced Market-Maker'') are given access to the marketing fee funds generated from a Preferenced order. The funds collected via this Marketing Fee are then put into pools controlled by the Preferenced Market-Maker. The Preferenced Market-Maker controlling a certain pool of funds can then determine the order flow provider(s) to which the funds should be directed in order to encourage such order flow provider(s) to send orders to the Exchange. The Exchange proposes to add NANOS to the Marketing Fee table to be assessed a $0.09 collection per contract, which is less than the current collection fee of $0.25 for XSP. The Exchange notes that, like XSP, NANOS will not be eligible for the SCORe Program—a discount program for Retail, Non-FLEX Customer (''C'' origin code) volume in SPX (including SPXW), VIX, RUT, MXEA and MXEF (''Qualifying Classes'') available to any TPH Originating Clearing Firm or non-TPH Originating Clearing Firm that sign up for the program—but instead eligible for the Marketing Fee Program. Because not all Firms are registered for the SCORe Program, the Exchange believes that providing NANOS, like XSP, as eligible for the Marketing Fee Program (which automatically applies to all classes unless otherwise explicitly excluded) as opposed to the SCORe Program potentially generates more customer order flow in NANOS by allowing Preferenced Market-Makers to amass a pool of funds from NANOS transactions with which to use to incentivize any customer order flow provider to submit Customer orders in NANOS to the Exchange.

NANOS LMM Program

Finally, the Exchange proposes to adopt a financial program in connection with NANOS options for LMMs appointed to the program. As proposed, the NANOS LMM Incentive Program provides that if the LMM appointed to the NANOS LMM Incentive Program provides continuous electronic quotes during Regular Trading Hours that meet or exceed the proposed heightened quoting standards (below) in at least 99% of the series 90% of the time in a given month, the LMM will receive a payment for that month in the amount of $15,000 (or pro-rated amount if an appointment begins after the first trading day of the month or ends prior to the last trading day of the month).[7]

Premium level	Width	Size
VIX Value at Prior Close <20		
$0.00–$2.00	$0.28	1000
$2.01–$5.00	0.32	1000
$5.01–$15.00	0.35	500
Greater than $15.00	0.50	300
VIX Value at Prior Close from 20–30		
$0.00–$2.00	0.30	1000
$2.01–$5.00	0.35	500
$5.01–$15.00	0.40	500
Greater than $15.00	0.55	300
VIX Value at Prior Close from >30		
$0.00–$2.00	0.35	500
$2.01–$5.00	0.40	500
$5.01–$15.00	0.45	300
Greater than $15.00	0.60	200

The Exchange notes the different sets of quoting standards are applicable depending on the VIX Index value at the (*i.e.,* at the close of the preceding RTH session). Meeting or exceeding the heightened quoting standards in NANOS, as proposed, to receive the proposed compensation payment is optional for an LMM appointed to the Program. The Exchange may consider other exceptions to this quoting standard based on demonstrated legal or regulatory requirements or other mitigating circumstances. In calculating whether an LMM met the heightened quoting standard each month, the Exchange will exclude from the calculation in that month the business day in which the LMM missed meeting or exceeding the heightened quoting standard in the highest number of series. The heightened quoting requirements offered by the NANOS LMM Incentive Program are designed to incentivize LMMs appointed to the Program to provide significant liquidity in NANOS options during the trading day upon their listing and trading on the Exchange, which, in turn, would provide greater trading opportunities,

[7] For the month of March 2022, the Exchange proposes to apply the heightened quoting standard from March 14 to March 31, in light of the mid-month launch of NANOS options and proposal to adopt the heighted quoting standards. The appointed LMM will be eligible for the full financial payment for March 2022 if the LMM meets the heightened quoting standard from March 14 to March 31. The Exchange notes that other LMM Incentive Programs in the Fees Schedule have previously adopted the same mid-month application upon adopting or modifying the program mid-month. *See e.g.,* Securities Exchange Act Release No. 87590 (November 22, 2019), 84 FR 65859 (November 29, 2019) (SR–CBOE–2019–109).

added market transparency and enhanced price discovery for all market participants in NANOS.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[8] in general, and furthers the objectives of Section 6(b)(4),[9] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and issuers and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with the objectives of Section 6(b)(5) [10] 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, and, particularly, is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Standard Transaction Rates and Surcharges

The Exchange believes that the proposed amendments to the Fees Schedule in connection with standard transaction rates and surcharges for NANOS transactions are reasonable, equitable and not unfairly discriminatory. Specifically, the Exchange believes that it is reasonable to assess fees for Customer, Market-Maker, and non-Market-Maker, non-Customer orders in NANOS that are slightly less than those fees for transactions in XSP options (both of which overly the Mini-S&P 500 Index) because NANOS options have a smaller notional value given their multiplier of one. Moreover, the Exchange believes it is reasonable to exclude NANOS from the Complex Surcharge and AIM Contra Fee (and to apply the standard transaction fees for NANOS orders in lieu of the AIM Contra Fee) because these proposed surcharge exclusions will provide consistency between the fees assessed for orders in MRUT and XSP, which, like NANOS, are reduced-value index options designed to offer investors lower cost options to obtain the potential benefits of options on a broad-based index option and intended for a similar investor-base. Therefore, the Exchange believes it is appropriate to amend the Fees Schedule in a manner that generally situates fees assessed for orders in NANOS options with those assessed for orders in XSP and MRUT options.

The Exchange believes the proposed standard transaction rates and exclusion from certain surcharges are equitable and not unfairly discriminatory because they will apply automatically and uniformly to all capacities as applicable (*i.e.,* Customer, Market-Maker and non-Market-Maker, non-Customer), in NANOS options. The Exchange also notes that, regarding the proposed standard transaction rate of no charge for Customer transactions in NANOS options, there is a history in the options markets of providing preferential treatment to customers and customer order flow attracts additional liquidity to the Exchange, providing market participants with more trading opportunities and signaling an increase in Market-Maker activity, which facilitates tighter spreads. This may cause an additional corresponding increase in order flow from other market participants, contributing overall towards a robust and well-balanced market ecosystem, particularly in a newly listed and traded product.

Fees Programs

The Exchange believes that the proposed updates to the Fees Schedule in connection with the application of certain fees programs to transactions in NANOS options are reasonable, equitable and not unfairly discriminatory. Particularly, the Exchange believes it is reasonable to exclude transactions in NANOS options from the Liquidity Provider Sliding Scale, the VIP, the Break-Up Credits table, the Clearing TPH Fee cap, the ORS/CORS, and the Floor Broker Sliding Scale Rebate programs in the same manner in which transactions in XSP and MRUT options are currently excluded from the same programs today as the Exchange believes it is appropriate to update these fees programs in a manner that generally situates transactions in NANOS with transactions in XSP and MRUT, as all three index options are designed to offer investors lower cost options to obtain the potential benefits of options on a broad-based index options and are intended for a similar investor base. The Exchange believes that excluding NANOS transactions from certain fees programs is equitable and not unfairly discriminatory because the programs will equally not apply to, or exclude in the same manner, all market participants' orders in NANOS options. The Exchange notes that the proposed rule change does not alter any of the existing program rates or volume calculations, but instead, merely proposes not to include transactions in NANOS in those programs and volume calculations in the same way that transactions in XSP and MRUT options are not currently included.

Additionally, the Exchange believes that including NANOS in the Marketing Fee Program is reasonably designed to attract additional NANOS order flow to the Exchange, which would increase liquidity and benefit all market participants. More specifically, the Exchange believes it is reasonable, equitable and not unfairly discriminatory to incentivize customer order flow providers to submit customer order flow in NANOS via the Marketing Fee because customer order flow benefits all market participants as it attracts liquidity to the Exchange by providing more trading opportunities. This, in turn, attracts Market-Makers, signaling additional corresponding increase in order flow from other market participants, and, as a result, contributing towards a robust, well-balanced market ecosystem to the benefit of investors. The Exchange believes that assessing a collection fee of $0.09 per contract for NANOS orders in the Marketing Fee Program is reasonable because it is less than the collection fee assessed for other classes, including XSP, which have a higher notional value than NANOS. The Exchange additionally believes that providing NANOS, like XSP, as eligible for the Marketing Fee Program (which automatically applies) as opposed to the SCORe Program potentially generates more customer order flow in NANOS, which ultimately benefits investors, by providing an incentive to all customer order flow providers to submit customer orders in NANOS to the Exchange. The Exchange believes it is reasonable to include NANOs in the Marketing Fee Program along with XSP, as both NANOS and XSP options are options on the same underlying index—the Mini-S&P 500 Index. The Exchange lastly believes the proposed marketing fee for NANOS is equitable and not unfairly discriminatory because it will apply equally to all applicable transactions in NANOS, in that all Market-Maker orders in NANOS resulting from customer orders will be uniformly assessed under, and otherwise a part of, the Marketing Fee Program.

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78f.(b)(5).

NANOS LMM Program

The Exchange believes the proposed NANOS LMM Incentive Program is reasonable, equitable and not unfairly discriminatory. Particularly, the proposed NANOS LMM Incentive Program is a reasonable financial incentive program because the proposed heightened quoting standards and rebate amount for meeting the heightened quoting standards in NANOS series are reasonably designed to incentivize an LMM appointed to the Program to meet the proposed heightened quoting standards during RTH for NANOS, thereby providing liquid and active markets, which facilitates tighter spreads, increased trading opportunities, and overall enhanced market quality to the benefit of all market participants, particularly in a newly listed and traded product on the Exchange during the trading day.

The Exchange believes that the proposed heightened quoting standards are reasonable because they are similar to the detail and format (VIX Index value indicator, where applicable, corresponding premiums, quote widths, and sizes) of the quoting standards currently in place for LMM Incentive Programs for other proprietary Exchange products.[11] The Exchange also believes that proposed heightened quoting requirements are reasonably tailored to reflect market characteristics of NANOS. The Exchange believes the generally smaller premium levels and widths appropriately reflect the lower-priced NANOS product. The Exchange also notes that the larger quote size requirements reflect NANOS smaller multiplier, but are comparatively ''smaller'' in notional size than the quote size requirements of LMM Incentive Programs for other proprietary Exchange products. For example, a NANOS order for a size of 1000 only equates to an SPX order for a size of one, as NANOS options are 1/1000 the size of SPX options (XSP options are 1/10th the size of SPX options and, given a multiplier of one, NANOS are 1/100th the size of XSP options). The Exchange believes the proposed finer premiums, smaller quote widths and smaller sizes (comparatively) in the proposed heightened quoting standards for the NANOS LMM Incentive Program reasonably reflect what the Exchanges believes will be typical market characteristics in NANOS options, given their multiplier of one, their smaller notional value and general anticipated retail base, thus smaller, retail-sized orders. The Exchange also notes that the proposed heightened quoting requirements do not provide for various expiration categories which the Exchange believes is reasonable because it will make the proposed heightened quoting requirements relatively easier for appointed LMMs to meet at the onset of the listing and trading of NANOS, thereby incentivizing additional liquidity in a new product. The Exchange notes it may update the heightened quoting requirements in the future to accommodate expiry categories.

The Exchange further believes the proposed heighten quoting requirements are also reasonably tailored to reflect then-current market conditions and market characteristics, as the proposed quoting standards that are applicable depend on the VIX Index value at the prior market close (*i.e.,* at the close of the preceding RTH session). Spreads in SPX-based options generally widen when the market experiences higher volatility (*i.e.,* the VIX Index level is higher in value). Therefore, to encourage LMMs to meet the proposed quoting standards regardless of market volatility, the proposed rule change adopts generally wider widths and smaller quote sizes where the market may be experiencing higher volatility (*i.e.,* when the value of the VIX Index in the proposed VIX value categories becomes relatively higher compared to the closing index value from the preceding trading session). The Exchange notes that the quoting standards currently in place under the GTH1 and GTH2 VIX/VIXW and SPX/SPXW LMM Incentive Programs are tailored in a similar manner. Moreover, the Exchange believes that the proposed $15,000 monthly rebate for an appointed LMM that meets the proposed heightened quoting standards in NANOS in a month is reasonable and equitable as it equal or comparable to the rebates offered for other LMM Incentive Programs for other proprietary products.[12] For example, the GTH1 and GTH2 LMM Incentive Programs for SPX/SPXW and for VIX/VIXW offer $15,000 per month for SPX and VIXW, respectively, in which an appointed LMM meets the given quoting standards.

Finally, the Exchange believes it is equitable and not unfairly discriminatory to offer the financial incentive to LMMs appointed to the NANOS LMM Incentive Program, because it will benefit all market participants trading in NANOS during RTH by encouraging the appointed LMMs to satisfy the heightened quoting standards, which incentivizes continuous increased liquidity and thereby may provide more trading opportunities and tighter spreads. Indeed, the Exchange notes that these LMMs serve a crucial role in providing quotes and the opportunity for market participants to trade NANOS, which can lead to increased volume, providing for robust markets. The Exchange ultimately proposes to offer the NANOS LMM Incentive Program to sufficiently incentivize the appointed LMMs to provide key liquidity and active markets in the newly listed and traded NANOS options during the trading day to encourage liquidity, thereby protecting investors and the public interest. The Exchange also notes that an LMM appointed to the Program may undertake added costs each month to satisfy that heightened quoting standards (*e.g.,* having to purchase additional logical connectivity). The Exchange believes the proposed program is equitable and not unfairly discriminatory because similar programs currently exist for LMMs appointed to programs in other proprietary products,[13] and the proposed program will equally apply to any TPH that is appointed as an LMM to the NANOS LMM Incentive Program. Additionally, if an appointed LMM does not satisfy the heightened quoting standard in NANOS for any given month, then it simply will not receive the offered payment for that month.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed amendments to its Fee Schedule will not 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 that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed NANOS transaction fees for the separate types of market participants will be assessed automatically and uniformly to all such market participants, *i.e.,* all qualifying Customer orders in NANOS will be assessed the same amount, all Market-Maker orders in NANOS will be assessed the same amount, and all non-Customer, non-Market-Maker orders in NANOS will be assessed the same

[11] *See* Cboe Options Fees Schedule, ''MRUT LMM Incentive Program'', ''MSCI LMM Incentive Program'', ''GTH1 VIX/VIXW LMM Incentive Program'', ''GTH2 VIX/VIXW LMM Incentive Program'', ''GTH1 SPX/SPXW LMM Incentive Program'', ''GTH2 SPX/SPXW LMM Incentive Program'', and ''RTH SPESG LMM Incentive Program''.

[12] *See id.*

[13] *See supra* note 11.

amount. The Exchange again notes that there is a history in the options markets of providing preferential treatment to customers and, as described above, customer order flow tends to attract key liquidity from other market participants. Further, the proposed rule change will uniformly exclude all transactions in NANOS from certain programs and fees/surcharges (*i.e.,* the AIM Contra Fee and Complex Surcharge), as it currently does for XSP and MRUT options, and as it does for many of the Exchange's other proprietary products. In addition to this, the proposed rule change to include NANOS in the Marketing Fee Program will apply equally to all applicable transactions in NANOS, in that, all Market-Maker orders in NANOS resulting from customer orders will be uniformly assessed under, and otherwise a part of, the Marketing Fee Program (as almost all other classes on the Exchange are). The Exchange again notes that XSP, which is also on option on the Mini-SPX Index, is currently included in the Marketing Fee Program. Overall, the proposed rule change is designed to increase incentive for customer order flow providers to submit customer order flow in a newly listed and traded product, which, as indicated above, contributes to a more robust market ecosystem to the benefit of all market participants.

The Exchange also does not believe that the proposed LMM Incentive Program for NANOS options would impose any burden on intramarket competition because it applies to all LMMs appointed to the NANOS LMM Incentive Program in a uniform manner, in the same way similar programs apply to appointed LMMs in other proprietary products today. To the extent appointed LMMs receive a benefit that other market participants do not, these LMMs in their role as Market-Makers on the Exchange have different obligations and are held to different standards. For example, Market-Makers play a crucial role in providing active and liquid markets in their appointed products, especially in the newly developing NANOS market, thereby providing a robust market which benefits all market participants. Such Market-Makers also have obligations and regulatory requirements that other participants do not have. The Exchange also notes that an LMM appointed to an incentive program may undertake added costs each month to satisfy that heightened quoting standards (*e.g.,* having to purchase additional logical connectivity). The Exchange also notes that the NANOS LMM Incentive Program, like the other LMM Incentive Programs, is designed to attract additional order flow to the Exchange, wherein greater liquidity benefits all market participants by providing more trading opportunities, tighter spreads, and added market transparency and price discovery, and signals to other market participants to direct their order flow to those markets, thereby contributing to robust levels of liquidity.

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 rule changes apply only to a product exclusively listed on the Exchange. Additionally, the Exchange notes it operates in a highly competitive market. In addition to Cboe Options, TPHs have numerous alternative venues that they may participate on and director 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 16% of the market share of executed volume of options trades.[14] Therefore, no exchange possesses significant pricing power in the execution of option order flow. 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.'' [15] 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'. . . .''.[16] Accordingly, the Exchange does not believe its proposed changes to the incentive programs impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

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 [17] and paragraph (f) of Rule 19b–4 [18] 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–CBOE–2022–014 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.

[14] See Cboe Global Markets, U.S. Options Market Volume Summary by Month (March 14, 2022), available at *http://markets.cboe.com/us/options/market_share/.*

[15] See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[16] *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)).

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f).

All submissions should refer to File Number SR–CBOE–2022–014. 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–CBOE–2022–014, and should be submitted on or before April 25, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–06987 Filed 4–1–22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94544; File No. SR–ICC–2022–002]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change Relating to the ICC Risk Parameter Setting and Review Policy

March 29, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 22, 2022, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change, as described in Items I, II and III below, which Items have been prepared primarily by ICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed rule change is to make changes to ICC's Risk Parameter Setting and Review Policy. These revisions do not require any changes to the ICC Clearing Rules (the ''Rules'').

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change, security-based swap submission, or advance notice and discussed any comments it received on the proposed rule change, security-based swap submission, or advance notice. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

ICC proposes revising its Risk Parameter Setting and Review Policy, which describes the process of setting and reviewing the risk management model core parameters and the performance of sensitivity analyses related to certain parameter settings. ICC believes that such revisions will facilitate the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts, and transactions for which it is responsible. ICC proposes to make such changes effective following Commission approval of the proposed rule change. The proposed revisions are described in detail as follows.

ICC proposes to amend the ''Univariate Level Parameters'' subsection (Subsection 1.7.1), which describes the univariate level parameters associated with the integrated spread response model component. For single name risk factors, ICC proposes to clarify how the end-of-day (''EOD'') recovery rate is derived from quotes. The proposed changes describe how the EOD recovery rate would deviate when the single name risk factor is distressed. The proposed language further specifies the role of the established EOD recovery rate upon using the ISDA Standard Model in terms of price-to-spread mapping. Finally, ICC proposes to update the revision history to reflect the proposed changes accordingly. Overall, the proposed amendments are intended to serve as clarifications and would not change the methodology.

(b) Statutory Basis

ICC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act[3] and the regulations thereunder applicable to it, including the applicable standards under Rule 17Ad–22.[4] In particular, Section 17A(b)(3)(F) of the Act[5] requires that the rule change be consistent with the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts and transactions cleared by ICC, the safeguarding of securities and funds in the custody or control of ICC or for which it is responsible, and the protection of investors and the public interest. The revisions are limited to clarification changes and would not amend the methodology. As described above, for single name risk factors, ICC proposes to clarify how the EOD recovery rate is derived from quotes. The proposed changes also describe how the EOD recovery rate would deviate when the single name risk factor is distressed and the role of the established EOD recovery rate in respect of the ISDA Standard Model. Such changes would ensure transparency and clarity in the Risk Parameter Setting and Review Policy with respect to ICC's parameter setting and calibration process to support the effectiveness of ICC's risk management system. The proposed rule change is therefore consistent with the prompt and accurate clearing and settlement of the contracts cleared by ICC, the safeguarding of securities and funds in the custody or control of ICC or for which it is responsible, and the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.[6]

[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78q–1.

[4] 17 CFR 240.17Ad–22.

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] *Id.*

Rule 17Ad–22(e)(4)(ii)[7] requires each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by maintaining additional financial resources at the minimum to enable it to cover a wide range of foreseeable stress scenarios that include, but are not limited to, the default of the two participant families that would potentially cause the largest aggregate credit exposure for the covered clearing agency in extreme but plausible market conditions. ICC believes that the proposed changes provide additional clarity in the Risk Parameter Setting and Review Policy, which strengthens ICC's process for reviewing and setting the model core parameters and, in turn, serves to promote the soundness of ICC's risk management model, its ability to manage risks and maintain appropriate financial resources. Such changes enhance the readability and transparency of the Risk Parameter Setting and Review Policy, which would strengthen the documentation and ensure that it remains up-to-date, clear, and transparent. As such, the proposed amendments would strengthen ICC's ability to maintain its financial resources and withstand the pressures of defaults, consistent with the requirements of Rule 17Ad–22(e)(4)(ii).[8]

Rule 17Ad–22(e)(4)(vi)(B)[9] requires each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by testing the sufficiency of its total financial resources available to meet the minimum financial resource requirements, including by conducting a comprehensive analysis on at least a monthly basis of underlying parameters and assumptions. Under the proposed changes, the Risk Parameter Setting and Review Policy continues to provide a clear framework for ICC to set and review the model core parameters and perform sensitivity analyses related to certain parameter settings on at least a monthly basis. The proposed changes provide additional clarity with respect to the univariate level parameters and do not change ICC's methodology. As such, ICC believes the proposed rule change is consistent with the requirements of Rule 17Ad–22(e)(4)(vi)(B).[10]

Rule 17Ad–22(e)(6)(i)[11] requires each covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, considers, and produces margin levels commensurate with, the risks and particular attributes of each relevant product, portfolio, and market. As described above, the proposed clarifications would promote clarity and transparency in the documentation. In ICC's view, the proposed changes thus enhance and strengthen ICC's process for reviewing and setting the model core parameters, which in turn serves to promote the soundness of ICC's risk management model and system, which will continue to consider and produce margin levels commensurate with the risks and particular attributes of each relevant product, portfolio, and market, consistent with the requirements of Rule 17Ad–22(e)(6)(i).[12]

(B) Clearing Agency's Statement on Burden on Competition

ICC does not believe the proposed rule change would have any impact, or impose any burden, on competition. The proposed changes to ICC's Risk Parameter Setting and Review Policy will apply uniformly across all market participants. Therefore, ICC does not believe the proposed rule change imposes any burden on competition that is inappropriate in furtherance of the purposes of the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. ICC will notify the Commission of any written comments received by ICC.

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 self-regulatory organization 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–ICC–2022–002 on the subject line.

Paper Comments

Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–ICC–2022–002. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's website at *https://www.theice.com/clear-credit/regulation.* 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.

[7] 17 CFR 240.17Ad–22(e)(4)(ii).

[8] *Id.*

[9] 17 CFR 240.17Ad–22(e)(4)(vi)(B).

[10] *Id.*

[11] 17 CFR 240.17Ad–22(e)(6)(i).

[12] *Id.*

You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICC–2022–002 and should be submitted on or before April 25, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–06983 Filed 4–1–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–225, OMB Control No. 3235–0235]

Submission for OMB Review; Comment Request; Extension: Rule 17a–8

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Rule 17a–8 (17 CFR 270.17a–8) under the Investment Company Act of 1940 (the ''Act'') (15 U.S.C. 80a–1 *et seq.*) is entitled ''Mergers f affiliated companies.'' Rule 17a–8 exempts certain mergers and similar business combinations (''mergers'') of affiliated registered investment companies (''funds'') from prohibitions under section 17(a) of the Act (15 U.S.C. 80a–17(a)) on purchases and sales between a fund and its affiliates. The rule requires fund directors to consider certain issues and to record their findings in board minutes. The rule requires the directors of any fund merging with an unregistered entity to approve procedures for the valuation of assets received from that entity. These procedures must provide for the preparation of a report by an independent evaluator that sets forth the fair value of each such asset for which market quotations are not readily available. The rule also requires a fund being acquired to obtain approval of the merger transaction by a majority of its outstanding voting securities, except in certain situations, and requires any surviving fund to preserve written records describing the merger and its terms for six years after the merger (the first two in an easily accessible place).

The average annual burden of meeting the requirements of rule 17a–8 is estimated to be 7 hours for each fund. The Commission staff estimates that each year approximately 384 funds rely on the rule. The estimated total average annual burden for all respondents therefore is 2,688 hours.

The average cost burden of preparing a report by an independent evaluator in a merger with an unregistered entity is estimated to be $15,000. The average net cost burden of obtaining approval of a merger transaction by a majority of a fund's outstanding voting securities is estimated to be $100,000. The Commission staff estimates that each year approximately 59 funds hold shareholder votes that would not otherwise have held a shareholder vote. The total annual cost burden of meeting these requirements is estimated to be $5,900,000.

The estimates of average burden hours and average cost burdens are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The public may view the background documentation for this information collection at the following website, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Lindsay.M.Abate@omb.eop.gov;* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John R. Pezzullo, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* 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.

Dated: March 30, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–07054 Filed 4–1–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94541; File No. SR–Phlx–2022–10]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Withdrawal of Proposed Rule Changes To Amend Open Outcry Options Transaction Charges

March 29, 2022.

On March 10, 2022, Nasdaq PHLX LLC (''Phlx'') 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 increase the Floor Lead Market Maker and Floor Market Maker options transaction charge and pay a Floor Broker rebate whenever a Floor Broker executes an order contra a Floor Lead Market Maker or Floor Market Maker in certain open outcry transactions in multiply-listed Penny and non-Penny symbols. The proposed rule change was immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.[3] The proposed rule change was published for comment in the **Federal Register** on March 23, 2022.[4] On March 29, 2022, Phlx withdrew the proposed rule change (SR–Phlx–2022–10).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[5]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–06984 Filed 4–1–22; 8:45 am]

BILLING CODE 8011–01–P

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A). A proposed rule change may take effect upon filing with the Commission if it is designated by the exchange as ''establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization.'' 15 U.S.C. 78s(b)(3)(A)(ii).

[4] *See* Securities Exchange Act Release No. 94453 (March 17, 2022), 87 FR 16529 (March 23, 2022).

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, April 7, 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: March 31, 2022.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2022–07182 Filed 3–31–22; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94538; File No. SR–DTC–2021–014]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Withdrawal of a Proposed Rule Change To Provide Settlement Services for Transactions Entered Into Under the Proposed Securities Financing Transaction Clearing Service of the National Securities Clearing Corporation

March 29, 2022.

On July 22, 2021, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–DTC–2021–014 (''Proposed Rule Change'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The Proposed Rule Change was published for comment in the **Federal Register** on August 11, 2021.[3]

On September 2, 2021, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve, disapprove, or institute proceedings to determine whether to approve or disapprove the Proposed Rule Change.[5] On November 5, 2021, the Commission instituted proceedings pursuant to Section 19(b)(2)(B) of the Act,[6] to determine whether to approve or disapprove the Proposed Rule Change.[7] On February 7, 2022, pursuant to Section 19(b)(2) of the Act,[8] the Commission designated a longer period for Commission action on the proceedings to determine whether to approve or disapprove the Proposed Rule Change.[9]

On March 25, 2022, DTC withdrew the Proposed Rule Change (SR–DTC–2021–014).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–06985 Filed 4–1–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94542; File No. SR–OCC–2022–003]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change by The Options Clearing Corporation Concerning Cash-Settled FLEX ETF Options

March 29, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 16, 2022, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change would amend various provisions of the OCC By-Laws and Rules to accommodate the issuance, clearance and settlement of flexibly structured options on exchange-traded funds (''fund shares'' or ''ETFs'') that are cash settled (''Cash Settled Flex ETF Options''). The proposed changes to OCC's By-Laws and Rules are contained in Exhibits 5A and 5B to file number SR–OCC–2022–003, respectively. Material proposed to be added to OCC's By-Laws and Rules as currently in effect is marked by underlining, and material proposed to be deleted is marked with strikethrough text. All terms with initial capitalization that are not otherwise defined herein have the same meaning as set forth in the By-Laws and Rules.[3]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 92572 (August 5, 2021), 86 FR 44077 (August 11, 2021) (SR–DTC–2021–014).

[4] 15 U.S.C. 78s(b)(2).

[5] Securities Exchange Act Release No. 92861 (September 2, 2021), 86 FR 50570 (September 9, 2021) (SR–DTC–2021–014).

[6] 15 U.S.C. 78s(b)(2)(B).

[7] Securities Exchange Act Release No. 93533 (November 5, 2021), 86 FR 62853 (November 12, 2021) (SR–DTC–2021–014).

[8] 15 U.S.C. 78s(b)(2).

[9] Securities Exchange Act Release No. 94167 (February 7, 2022), 87 FR 8061 (February 11, 2022) (SR–DTC–2021–014).

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] OCC's By-Laws and Rules can be found on OCC's public website: *https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules.*

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The NYSE American Exchange (''NYSE American'') received approval to list Cash Settled Flex ETF Options as a variation of currently-traded, physically-settled equity flex options.[4] Cash Settled Flex ETF Options will generally have characteristics of physically settled equity flexes; however, exercises and assignments will settle in cash (as opposed to physical settlement), with the settlement amount based on the difference between the underlying price on the date of exercise and the strike price of the exercised option.

OCC does not currently settle equity options in cash unless (i) the underlying security undergoes a corporate action resulting in the conversion of the option deliverable to only cash or (ii) the underlying security is otherwise unavailable for delivery.[5] Since OCC does not currently settle equity options in cash except for in rare circumstances, OCC's By-Laws and Rules are drafted on the premises that (i) all equity options are physically settled options; and (ii) certain provisions apply to physically settled options and certain provisions apply to cash settled options. To accommodate the Cash Settled Flex ETF Option product, OCC must revise its By-Laws and Rules to establish the following as further described below: (i) Cash Settled Flex ETF Options settle in cash; (ii) the distinction between Cash Settled Flex ETF Options and physically settled options on the same underlying security; (iii) certain provisions that currently apply only to physically settled options will also apply to Cash Settled Flex ETF Options; and (iv) specific deposits would not be allowed as collateral for Cash Settled Flex ETF Options.

Revisions To Distinguish Cash Settled Flex ETF Options From Physically Settled Options

OCC proposes the following modifications to its By-Laws to emphasize the distinction between physically settled flexibly structured options and Cash Settled Flex ETF Options.

- Article I (Definitions), Section 1(F)(8). OCC is proposing to revise the definition of ''Flexibly Structured Option'' to (i) emphasize that such options may be physically settled or cash settled depending on the listing exchange's rules and (ii) clarify that Cash Settled Flex ETF Options would not be fungible with physically settled flexibly structured options and would not be consolidated with standard options listed after a flexibly structured option with the same strike, expiration date, and underlying security, as is the case with a physically settled flexibly structured option that is fungible.
- Article I (Definitions), Section 1(S)(12). OCC proposes to revise the definition of ''Series'' to state that the options of the same series have the same settlement method.
- Article I (Definitions), Section 1(V)(1). OCC proposes to revise the definition of ''Variable Terms'' to recognize that in addition to the variable terms itemized in the definition, flexibly structured options on fund shares may be either physically or cash settled.
- Article XVII (Index Options and Certain Other Cash-Settled Options), Introduction. OCC proposes to revise the introduction to add flexibly structured options that cash settle to the list of options for which Article XVII of the By-Laws applies.
- Article XVII (Index Options and Certain Other Cash-Settled Options), Section 1(C)(4). OCC proposes to revise the definition of ''Class of Options'' to state that flexibly structured options that cash settle shall constitute a different class of options from physically settled options on the same underlying interest.

Revisions To Apply Certain Provisions for Physically Settled Options to, and Exclude the Application of Certain Provisions for Index Options and Other Cash Settled Options From, Cash Settled Flex ETF Options

OCC also proposes the following modifications to its By-Laws and Rules to emphasize the application of certain provisions that otherwise apply only to physically settled options and to exclude application of certain provisions that otherwise would apply to all cash settled options.

- Article I (Definitions), Section 1(C)(15). OCC proposes to revise the definition of ''Clearing Member'' to clarify that a Clearing Member is not an ''Index Clearing Member'' solely by virtue of being approved to clear Cash Settled Flex ETF Options.
- Article I (Definitions), Section 1(R)(5). OCC currently defines ''Reporting Authority'' when used with respect of any cash-settled contract to mean the source that OCC uses as the official source for the current price or value of the underlying interest. OCC would revise this definition to emphasize that the reporting for Cash Settled Flex ETF Options will be the same source used by OCC for physically settled equity options with the same underlying interest. This change is designed to facilitate the use of the same closing price for automatic exercise determinations on both physically settled and cash settled options with the same underlying security, thereby ensuring that expiration processing for a Cash Settled Flex ETF Option will align with expiration processing for a physically settled product on the same underlying security.
- Article XVII (Index Options and Certain Other Cash-Settled Options), Section 1(R)(3). ''Reporting Authority'' is also defined in Article XVII for index and certain other cash settled options. OCC proposes to revise this definition to explicitly exclude Cash Settled Flex ETF Options and to emphasize that the reporting authority for Cash Settled Flex ETF Options is the same source used by OCC for physically settled equity options.
- Article XVII (Index Options and Certain Other Cash-Settled Options), Sections 3(a) and 3(h). This provision currently states that the adjustment provisions of Article VI, Section 11A do not apply to cash settled equity contracts. Since adjustment decisions for Cash Settled Flex ETF Options and physically settled options on the same underlying should be the same, OCC is proposing to add language to this section to state explicitly that Article VI, Section 11A of the By-Laws applies to Cash Settled Flex ETF Options.

Revisions Unique to the Nature of Cash Settled Flex ETF Options

Finally, OCC proposes to revise the following By-Laws and Rules to accommodate unique characteristics of Cash Settled Flex ETF Options.

- Article XVII (Index Options and Certain Other Cash-Settled Options), Section 4(a)(2). This provision states the method by which the exercise

[4] *See* Securities Exchange Act Release No. 88131 (February 5, 2020), 85 FR 7806 (February 11, 2020) (SR–NYSEAMER–2019–38).

[5] *See* OCC By-Laws Article VI, Section 11A, Interpretations and Policies .05 and Article VI, Section 19(c).

settlement amount for exercised contracts of an affected series is fixed for index options and certain other cash-settled options. OCC proposes to add a sentence to this provision to state that the exercise settlement amount for Cash Settled Flex ETF Options shall be determined by using the last reported sale price for the underlying security during regular trading hours. This is consistent with the expiration closing price determination for physically settled options in Rule 805.

• Chapter VI (Margins), Rule 610 (Deposits in Lieu of Margin). Rule 610 allows for Clearing Members to use specific deposits of the underlying security as collateral to short customer positions on a call option. Specific deposits allow a short call position to be fully covered because the security that will need to be delivered if the call option writer is assigned is pledged to OCC for the purpose of covering the short position. OCC proposes to modify Rule 610 to disallow specific deposits for Cash Settled Flex ETF Options because such options do not require delivery of the underlying security upon assignment. Consequently, a specific deposit of the underlying security will not cover the delivery requirement of Cash Settled Flex ETF Options as it does for a physically settled option. OCC would, however, allow escrow deposits to be made for Cash Settled Flex ETF Options.

• Chapter VIII (Exercise and Assignment), Rule 805 (Expiration Exercise Procedure) and Chapter XVIII (Index Options and Certain Other Cash Settled Options), Rule 1804 (Expiration Exercise Procedure for Cash-Settled Options). Rule 805(j) states that the ''closing price'' used for any underlying security in Rule 805 is the last reported sale price for the underlying security during regular trading hours (as determined by OCC) on the trading day immediately preceding the expiration date, or on the expiration date if the expiration date is a trading day, on such national securities exchange or other domestic securities market as OCC shall determine. OCC is proposing to revise Rule 805(j) to state explicitly that the same definition of ''closing price'' applies to underlying securities for Cash Settled Flex ETF Options. Rule 1804 generally provides for the expiration exercise procedure for cash-settled options. OCC is proposing to add an interpretation and policy to Rule 1804 to clarify that, notwithstanding its general application to cash-settled options, the determination of the closing price for an underlying security of a flexibly structured cash settled equity option is the same as the determination of the closing price per Rule 805(j).

• Chapter XVIII (Index Options and Certain Other Cash Settled Options), Rule 1804 (Expiration Exercise Procedure for Cash Settled Options). OCC proposes to revise Rule 1804(a) and Rule 1804(b) to state that Cash Settled Flex ETF Options will be deemed exercised on expiration if the strike price is $0.01 or more in-the-money in accordance with the provisions of Rule 805(d). This will ensure that the threshold used for automatic exercises of Cash Settled Flex ETF Options will be the same as the threshold established for physically settled equity options rather than the $1.00 per contract threshold established in Rule 1804.

• Chapter VIII (Exercise and Assignment) Rule 805 (Expiration Exercise Procedure) I&P.03 and Chapter XVIII (Index Options and Certain Other Cash Settled Options), Rule 1804 (Expiration Exercise Procedure for Cash Settled Options). Rule 805, interpretation and policy .03 states that the exercise procedures set forth in Rule 805 apply to flexibly structured equity options. OCC proposes to add language excepting from application of Rule 805(d) American-style Cash Settled Flex ETF Options subject to delayed settlement for any deliverable component. Similarly, OCC is proposing to add language to Rule 1804(a) to state explicitly that Rule 805(d) does not apply to American-style Cash Settled Flex ETF Options that have a deliverable component subject to delayed settlement. These changes are necessary because any such option with a pended delivery component on its expiration date should not be automatically exercised, as the total value of the option deliverable can only be estimated. OCC anticipates this outcome would be rare, and likely the result of a contract adjustment that involves cash in lieu of fractional shares that have yet to be finalized on an option's an expiration date.

(2) Statutory Basis

Section 17A(b)(3)(F) of the Act[6] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions. OCC believes the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act[7] because it is designed to promote prompt and accurate clearance and settlement of securities transactions in flexibly structured options. The proposed rule change accomplishes this by maintaining consistency between OCC's By-Laws and Rules and NYSE American's rules as applied to the clearance and settlement of Cash Settled Flex ETF Options. Because Cash Settled Flex ETF Options are fundamentally unique from currently listed flexibly structured equity options, OCC By-Laws and Rules must provide for two different types of settlement methods for flexibly structured options with ETFs as the underlying securities to provide clearance and settlement of Cash Settled Flex ETF Options. The proposed changes are necessary to make explicit the differences between Cash Settled Flex ETF Options and physically settled options on the same underlying ETF, and will allow OCC to issue, clear, and settle Cash Settled Flex ETF Options in alignment with exchange rules for this product type. Accordingly, OCC believes the proposed rule change is designed to promote the prompt and accurate clearance and settlement of securities and derivatives transactions in accordance with Section 17A(b)(3)(F) of the Act.[8]

In addition, the proposed rule change is not inconsistent with the existing By-Laws and Rules of OCC, including any rules proposed to be amended.

(B) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 15 U.S.C. 78q–1.

[8] *Id.*

the self-regulatory organization 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.

OCC shall post notice on its website of proposed changes that are implemented. The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–OCC–2022–003 on the subject line.

Paper Comments

- Send paper comments in triplicate to Vanessa Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–OCC–2022–003. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's website at *https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules.*

All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–OCC–2022–003 and should be submitted on or before April 25, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–06981 Filed 4–1–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94536; File No. SR–NSCC–2021–803]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Withdrawal of an Advance Notice To Establish the Securities Financing Transaction Clearing Service and Make Other Changes

March 29, 2022.

On July 22, 2021, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') advance notice SR–NSCC–2021–803 (''Advance Notice''), pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act entitled the Payment, Clearing, and Settlement Supervision Act of 2010 (''Clearing Supervision Act'') [1] and Rule 19b–4(n)(1)(i) under the Securities Exchange Act of 1934 (''Exchange Act'').[2] The Advance Notice was published for comment in the **Federal Register** on August 12, 2021.[3]

On August 30, 2021, the Commission requested additional information for consideration of the Advance Notice from NSCC, pursuant to Section 806(e)(1)(D) of the Clearing Supervision Act,[4] which tolled the Commission's period of review of the Advance Notices until 60 days from the date the information required by the Commission was received by the Commission.[5] On December 13, 2021, the Commission received NSCC's response to the Commission's request for additional information.[6]

On February 7, 2022, under Section 806(e)(1)(H) of the Clearing Supervision Act,[7] the Commission extended the review period of the Advance Notice for additional 60 days to issue an objection or non-objection to the Advance Notice.[8]

On February 28, 2022, the Commission requested additional information for consideration of the Advance Notice from NSCC, pursuant to Section 806(e)(1)(D) of the Clearing Supervision Act,[9] which tolled the Commission's period of review of the Advance Notices until 60 days from the date the information required by the Commission was received by the Commission.[10]

On March 25, 2022, NSCC filed a withdrawal of the Advance Notice (SR–NSCC–2021–803) from consideration by the Commission. The Commission is hereby publishing notice of the withdrawal.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–06979 Filed 4–1–22; 8:45 am]

BILLING CODE 8011–01–P

[9] 17 CFR 200.30–3(a)(12).

[1] 12 U.S.C. 5465(e)(1).

[2] 17 CFR 240.19b–4(n)(1)(i).

[3] Securities Exchange Act Release No. 92568 (August 5, 2021), 86 FR 44530 (August 12, 2021) (SR–NSCC–2021–803).

[4] 12 U.S.C. 5465(e)(1)(D).

[5] *See* 12 U.S.C. 5465(e)(1)(E)(ii) and (G)(ii); *see* Memorandum from the Office of Clearance and Settlement Supervision, Division of Trading and Markets, titled ''Commission's Request for Additional Information,'' *available at https://www.sec.gov/rules/sro/nscc-an/2021/34-92568-memo-nscc.pdf.*

[6] *See* 12 U.S.C. 5465(e)(1)(E)(ii) and (G)(ii); *see* Memorandum from the Office of Clearance and Settlement Supervision, Division of Trading and Markets, titled ''Response to the Commission's Request for Additional Information,'' *available at https://www.sec.gov/rules/sro/nscc-an/2021/34-92568-memo-response-nscc.pdf.*

[7] 12 U.S.C. 5465(e)(1)(H).

[8] Securities Exchange Act Release No. 94168 (February 7, 2022), 87 FR 8062 (February 11, 2022) (SR–NSCC–2021–803).

[9] 12 U.S.C. 5465(e)(1)(D).

[10] *See* 12 U.S.C. 5465(e)(1)(E)(ii) and (G)(ii); *see* Memorandum from the Office of Clearance and Settlement Supervision, Division of Trading and Markets, titled ''Commission's Second Request for Additional Information,'' *available at https://www.sec.gov/rules/sro/nscc-an/2022/34-94203-memo-nscc.pdf.*

[11] 17 CFR 200.30–3(a)(92).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17381 and #17382; Puerto Rico Disaster Number PR–00040]

Presidential Declaration of a Major Disaster for the State of Puerto Rico

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of PUERTO RICO (FEMA—4649—DR), dated 03/29/2022.

Incident: Severe Storms, Flooding and Landslides.

Incident Period: 02/04/2022 through 02/06/2022.

DATES: Issued on 03/29/2022.

Physical Loan Application Deadline Date: 05/31/2022.

Economic Injury (EIDL) Loan Application Deadline Date: 12/29/2022.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 03/29/2022, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Catano, Dorado, Toa Baja, Vega Alta, Vega Baja.

Contiguous Counties (Economic Injury Loans Only):

Puerto Rico: Bayamon, Corozal, Guaynabo, Manati, Morovis, San Juan, Toa Alta.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	2.875
Homeowners without Credit Available Elsewhere	1.438
Businesses with Credit Available Elsewhere	5.880
Businesses without Credit Available Elsewhere	2.940
Non-Profit Organizations with Credit Available Elsewhere	1.875
Non-Profit Organizations without Credit Available Elsewhere	1.875
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	2.940
Non-Profit Organizations without Credit Available Elsewhere	1.875

The number assigned to this disaster for physical damage is 17381 6 and for economic injury is 17382 0.

(Catalog of Federal Domestic Assistance Number 59008)

Cynthia Pitts,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2022–07016 Filed 4–1–22; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[License No. 05/05–0314]

Monroe Capital Corporation SBIC LP; Surrender of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration under the Small Business Investment Act of 1958, as amended, under Section 309 of the Act and Section 107.1900 of the Small Business Administration Rules and Regulations (13 CFR 107.1900) to function as a small business investment company under the Small Business Investment Company License No. 05/05–0314 issued to Monroe Capital Corporation SBIC LP, said license is hereby declared null and void.

Small Business Administration.

Bailey DeVries,

Associate Administrator, Office of Investment and Innovation.

[FR Doc. 2022–07018 Filed 4–1–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF STATE

[Public Notice 11700]

Notice of Public Meeting in Preparation for the International Maritime Organization FAL 46 Meeting

The Department of State will conduct a public meeting at 9 a.m. on Monday, May 2, 2022, by way of teleconference. The primary purpose of this meeting is to prepare for the forty-sixth session of the International Maritime Organization's (IMO) Facilitation Committee (FAL) to be held virtually from Monday, May 9, 2022 to Friday, May 13, 2022.

Members of the public may participate up to the capacity of the teleconference phone line, which can handle 500 participants. To RSVP, participants should contact the meeting coordinator, James Bull, by email at *James.T.Bull@uscg.mil.* To access the teleconference line, participants should call (202) 475–4000 and use Participant Code: 303 334 49#.

The agenda items to be considered at this meeting mirror those to be considered at FAL 46, and include:

—Adoption of the agenda
—Decisions of other IMO bodies
—Consideration and adoption of proposed amendments to the Convention
—Review and update of the annex of the FAL Convention
—Application of single-window concept
—Review and revision of the IMO Compendium on Facilitation and Electronic Business, including additional e-business solutions
—Developing guidance for authentication, integrity and confidentiality of content for the purpose of exchange via a maritime single window
—Consideration of descriptions of Maritime Services in the context of e-navigation
—Development of guidelines for harmonized communication and electronic exchange of operational data for port calls
—Development of amendments to the *Recommendations on the establishment of National Facilitation Committees* (FAL.5/Circ.2)
—Unsafe mixed migration by sea
—Consideration and analysis of reports and information on persons rescued at sea and stowaways
—Guidance to address maritime corruption
—Regulatory scoping exercise for the use of Maritime Autonomous Surface Ships (MASS)
—Development of guidelines for the prevention and suppression of the smuggling of wildlife on ships engaged in international maritime traffic
—Introduction of the API/PNR concept in maritime transport
—Analysis of possible means of auditing compliance with the Convention on Facilitation of International Maritime Traffic
—Technical cooperation activities related to facilitation of maritime traffic
—Relations with other organizations
—Application of the Committee's procedures on organization and method of work

—Work programme
—Any other business
—Consideration of the report of the Committee on its forty-sixth session

Please note: The Committee may adjust the FAL 46 agenda to accommodate the constraints associated with the virtual meeting format. Any changes to the agenda will be reported to those who RSVP.

Those who plan to participate may contact the meeting coordinator, Mr. James Bull, by email at *James.T.Bull@uscg.mil,* by phone at (202) 372–1144, or in writing at 2703 Martin Luther King Jr. Ave. SE, Stop 7509, Washington, DC 20593–7509 prior to the meeting with any questions. Members of the public needing reasonable accommodation should advise Mr. Bull not later than April 25, 2022. Requests made after that date will be considered, but might not be possible to fulfill.

Additional information regarding this and other IMO public meetings may be found at: *https://www.dco.uscg.mil/IMO.*

Emily A. Rose,

Coast Guard Liaison Officer, Office of Ocean and Polar Affairs, Department of State.

[FR Doc. 2022–06954 Filed 4–1–22; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2022–0345]

Airport Improvement Program (AIP) Grant Assurances

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

ACTION: Notice of proposed modification of Airport Improvement Program grant assurances; opportunity to comment.

SUMMARY: The FAA proposes to modify the AIP grant assurances to reflect recently issued executive orders, clarify recodification and addition of certain public laws, update civil rights requirements, and make technical corrections.

DATES: The FAA will accept public comments concerning these proposed modified grant assurances for 14 days. Comments must be submitted on or before April 12, 2022. In response to comments received, the FAA will consider appropriate revisions to these grant assurance modifications and publish a subsequent notice in the **Federal Register** to finalize the grant assurances.

ADDRESSES: You may send comments [identified by Docket Number FAA–2022–0345] using any of the following methods:

- *Government-wide Rulemaking Website:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Operations, U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, Routing Symbol M–30, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Fax:* 1–202–493–2251.
- *Hand Delivery:* To Docket Operations, Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dave Cushing, Manager, Airports Financial Assistance Division, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, telephone (202) 267–8827; fax: (202) 267–5302.

Authority for Grant Assurance Modifications

This notice is published under the authority described in subtitle VII, part B, chapter 471, sections 47107 and 47122 of title 49 United States Code (U.S.C.). In addition, the statutory authorities delegated to the Federal Aviation Administration are enumerated in title 49 Code of Federal Regulations (CFR) 1.83 (''Delegations to the Federal Aviation Administration'').

SUPPLEMENTARY INFORMATION: A sponsor (applicant) seeking financial assistance in the form of an AIP grant for airport planning, airport development, noise compatibility planning, or noise mitigation under 49 U.S.C., as amended, must agree to comply with certain assurances. These grant assurances are incorporated in, and become part of a sponsor's grant agreement for Federal assistance. As need dictates, the FAA modifies these assurances to reflect new Federal requirements. Notice of such modifications is published in the **Federal Register**, and an opportunity for public comment is provided. The assurances that apply to a sponsor depend on the type of sponsor.

There are four types of AIP grant assurances:

- Airport Sponsor (applicable for airport development);
- Non-Airport Sponsors Undertaking Noise Compatibility Program Projects;
- Planning Agency Sponsors; and
- Aviation State Block Grant Program.

The current assurances were published on February 28, 2020, at 85 FR 12048. Prior to the FAA Reauthorization Act of 2018 (Pub. L. 115–254), the assurances were published on:

- September 6, 1984, at 49 FR 35282;
- February 3, 1988, at 53 FR 3104 and amended on September 6, 1988, at 53 FR 34361;
- August 29, 1989, at 54 FR 35748;
- June 10, 1994, at 59 FR 30076;
- January 4, 1995, at 60 FR 521;
- June 2, 1997, at 62 FR 29761;
- August 18, 1999, at 64 FR 45008;
- August 24, 2004, at 69 FR 52057 and amended on March 29, 2005, at 70 FR 15980;
- March 18, 2011, at 76 FR 15028;
- April 13, 2012, at 77 FR 22376; and
- April 3, 2014, at 79 FR 18755.

A complete list of the draft grant assurances may be viewed at: *https://www.faa.gov/airports/aip/grant_assurances/drafts_2022/.*

Discussion of AIP Grant Assurance Modifications

The FAA proposes making several changes to the AIP grant assurances. If adopted, these changes will be in effect for grants issued on or after a subsequent notice in the **Federal Register** finalizing the grant assurances. The proposed changes to the AIP grant assurances are listed below. The grant assurance numbers referenced relate to the Airport Sponsor assurance:

Technical Corrections and Updates

Because the technical corrections have no change on the substance of the assurances, these proposed changes, including minor edits to grant assurances 5, 11, 19, 29, 31, 34, and 37, have not been specifically called out. For example, the FAA proposes to change the title of grant assurance 11 from ''Pavement Preventive Maintenance'' to ''Pavement Preventive Maintenance-Management'' and proposes to correct the citation for the Fraud Civil Remedies Act in grant assurance 37. The FAA proposes to update the list of the applicable Advisory Circulars referenced in grant assurance 34 that is publicly available here: *https://www.faa.gov/airports/aip/media/aip-pfc-checklist.pdf.*

The FAA also proposes a number of corrections to reflect recodification of certain public laws and to add United State Code (U.S.C.) section information in grant assurance 1 to clarify applicable legislation. Additionally, the FAA proposes to add the Civil Rights Restoration Act of 1987, Public Law 100–209 to the list of applicable Federal Legislation.

Additions to List of Executive Orders

The FAA proposes to add the following Executive Orders:

- Executive Order 13166 (''Improving Access to Services for Persons with Limited English Proficiency''),
- Executive Order 13985 (''Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government''),
- Executive Order 13988 (''Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation''),
- Executive Order 14005 (''Ensuring the Future is Made in all of America by All of America's Workers''), and
- Executive Order 14008 (''Tackling the Climate Crisis at Home and Abroad'') to the list of executive orders applicable in grant assurance 1.

Addition of Assurances 23 and 37 to the List of Assurances That Apply to Airport Planning Undertaken by a Sponsor

For a planning project, not all of the airport sponsor grant assurances apply, some project-specific assurances apply while the planning project is going on, and others continue to apply after the planning project is over. The FAA proposes to add grant assurance 23, Exclusive Rights, and grant assurance 37, Disadvantaged Business Enterprises, to the list of applicable assurances.

Per 49 U.S.C. 47107, a person providing, or intending to provide, aeronautical services to the public must not be given an exclusive right to the airport except if certain specific conditions apply. Since Sponsors who are receiving funds for planning projects must be, at minimum, intending to provide airport services, grant assurance 23 applies when an airport sponsor takes a grant for airport planning.

Per 49 CFR part 26, each Sponsor undertaking any project where it is receiving grant funds via an agreement with FAA is required to have a Disadvantaged Business Enterprise program, regardless of the type of project the Sponsor undertakes. Therefore, grant assurance 37 is also applicable to Sponsors undertaking planning projects.

Section B Duration and Applicability, (3) Airport Planning Undertaken by a Sponsor, is now proposed to read:

Unless otherwise specified in this Grant Agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 23, 25, 30, 32, 33, 34, and 37 in Section C apply to planning projects. The terms, conditions, and assurances of this Grant Agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport.

Updates to Grant Assurance 28, Land for Federal Facilities

The FAA proposes to remove the language ''rights in buildings of the sponsor'' from grant assurance 28 because sponsors are not obligated to furnish rent-free space in a facility owned by the airport sponsor unless otherwise provided for in section 147 of the FAA Reauthorization Act of 2018 (Pub. L. 115–254).

Updates to Grant Assurance 30, Civil Rights Requirements

The FAA proposes to update the civil rights protected bases to align with, and explicitly list, the applicable legal authorities. Also, previously, the grant assurance indicated that the civil rights requirements are applicable to ''any activity conducted with, or benefiting from, funds received from [the] Grant.'' The FAA proposes to add the word ''program'' to better align requirements with the Americans with Disability Act and Title VI of the Civil Rights Act of 1964.

Issued in Washington, DC, on March 29, 2022.

Robert John Craven,

Director, Office of Airport Planning and Programming.

[FR Doc. 2022–06968 Filed 4–1–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Final Federal Agency Actions on Proposed Highway in Kansas

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of limitation on claims.

SUMMARY: The FHWA is issuing this notice to announce actions related to a proposed highway project, South Lawrence Trafficway Project 10–23 KA–3634–01 in the City of Lawrence, Douglas County, State of Kansas. Those actions grant permits, licenses, or approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before September 1, 2022. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For FHWA: Javier Ahumada, Environmental/Freight & Innovation Coordinator, Kansas Division FHWA, 6111 SW 29th Street, Suite 100, Topeka, KS 66614. Office Phone: (785) 273–2649, Email: *javier.ahumada@dot.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA has taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the following highway project in the State of Kansas: KDOT, in cooperation with FHWA, proposes to construct upgrades and widen the west section of the South Lawrence Trafficway (K–10 Highway), located within the south and west limits of the City of Lawrence, Douglas County, Kansas. The proposed project will upgrade the existing two-lane undivided west section of the SLT to a median-divided fully access controlled freeway facility with four lanes. Existing interchanges at West 6th Street/US 40, Bob Billings Parkway, Clinton Parkway, and US–59/Iowa Street would remain interchanges with modifications to accommodate additional freeway travel lanes. Farmers Turnpike will maintain full access to K–10. The existing at-grade West 27th Street/Wakarusa Drive signalized intersection will be improved to a new grade separated interchange. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Record of Decision for the project, approved on March 21, 2022. The FHWA ROD and KDOT/FHWA Final SEIS can be accessed at the following link *www.slt-ks.org.* This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

(1) Council on Environmental Quality regulations; [40 CFR parts 1500, 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1508, 1515, 1516, 1517, and 1518]

(2) National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351];

(3) Infrastructure Investment and Jobs Act (IIJA);

(4) Department of Transportation Act of 1966 [49 U.S.C. 101–119, 301–355, 501–526, 701–727];

(5) Federal Aid Highway Act of 1970 [23 U.S.C. 109 and 23 U.S.C. 128];

(6) Clean Air Act Amendments of 1990 [42 U.S.C. 7401–7671(q)];

(7) Noise Control Act of 1972 [42 U.S.C. 4901 *et seq.*];

(8) 23 CFR part 772 FHWA Noise Standards, Policies and Procedures;

(9) Department of Transportation Act of 1966, Section 4(f) [49 U.S.C. 303];

(10) Clean Water Act of 1977 and 1987 [33 U.S.C. 1251–1377];

(11) Endangered Species Act of 1973 [16 U.S.C. 1531–1544 and Section 1536];

(12) Migratory Bird Treaty Act [16 U.S.C. 703–712];

(13) National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*];

(14) Historic Sites Act of 1935[16 U.S.C. 461];

(15) Title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)].

Authority: 23 U.S.C. 139(l)(1).

Dated: March 28, 2022.

Richard E. Backlund,

Division Administrator, Kansas Division, Federal Highway Administration, Topeka, Kansas.

[FR Doc. 2022–06887 Filed 4–1–22; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2022–0031]

Agency Information Collection Activities; Notice and Request for Comment; Fatality Analysis Reporting System (FARS) and Non-Traffic Surveillance (NTS)

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice and request for comments on a request for extension with modification of a currently approved information collection.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) invites public comments about our intention to request approval from the Office of Management and Budget (OMB) for an extension of a currently approved information collection. Before a Federal agency can collect certain information from the public, it must receive approval from OMB. Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections. This document describes two collection of information for which NHTSA intends to seek OMB approval that collect data on motor vehicle crashes involving fatalities.

DATES: Comments must be submitted on or before June 3, 2022.

ADDRESSES: You may submit comments identified by the Docket No. NHTSA–2022–0031 through any of the following methods:

- *Electronic submissions:* Go to the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail or Hand Delivery:* Docket Management, 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. To be sure someone is there to help you, please call (202) 366–9322 before coming.

Instructions: All submissions must include the agency name and docket number for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *https://www.transportation.gov/privacy.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or the street address listed above. Follow the online instructions for accessing the dockets via internet.

FOR FURTHER INFORMATION CONTACT: For additional information or access to background documents, contact Barbara Rhea, State Data Reporting Systems Division (NSA–120), (202) 366–2714, National Highway Traffic Safety Administration, Room W53–304, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. Please identify the relevant collection of information by referring to its OMB Control Number (2127–0006).

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following: (a) 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) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) how to enhance the quality, utility, and clarity of the information to be collected; and (d) how to minimize 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, *e.g.* permitting electronic submission of responses. In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information for which the agency is seeking approval from OMB.

Title: Fatality Analysis Reporting System (FARS) and Non-Traffic Surveillance (NTS)

OMB Control Number: 2127–0006.

Form Number(s): N/A.

Type of Request: Revision of a currently approved collection of information.

Type of Review Requested: Regular.

Requested Expiration Date of Approval: 3 years from date of approval.

Summary of the Collection of Information: NHTSA is authorized by 49 U.S.C. 30182 and 23 U.S.C. 403 to collect data on motor vehicle traffic crashes to aid in the identification of issues and the development, implementation, and evaluation of motor vehicle and highway safety countermeasures to reduce fatalities and the property damage associated with motor vehicle crashes. Using this authority, NHTSA established the Fatal Analysis Reporting System (FARS) and the Non-Traffic Surveillance (NTS), which collect data on fatal motor vehicle traffic crashes. Among other things, the information aids in the establishment and enforcement of motor vehicle regulations and highway safety programs.

The FARS is in its forty-sixth year of operation and is a census of all defined crashes involving fatalities. The FARS collects data from all 50 States, the District of Columbia, and Puerto Rico. NHTSA established cooperative agreements with the 50 States, the District of Columbia and Puerto Rico to report a standard set of data on each fatal crash within their jurisdictions.

State employees extract and transcribe information from existing State files including police crash reports as well as driver license, vehicle registration, highway department, and vital statistics files. This collected information comprises a national database, Fatality Analysis Reporting System (FARS), that is NHTSA's and many States' principal means of tracking trends involving motor vehicle traffic fatalities and quantifying problems or potential problems in highway safety.

The Non-Traffic Surveillance (NTS) is a data collection effort for collecting information about counts and details regarding fatalities and injuries that occur in non-traffic crashes and non-crash incidents. Non-traffic crashes are crashes that occur off a public trafficway (*e.g.* private roads, parking lots, or driveways), and non-crash incidents are incidents involving motor vehicles but without a crash scenario such as, carbon monoxide poisoning and hypo/hyperthermia. NTS non-traffic crash data are obtained through NHTSA's data collection efforts for the Crash Report Sampling System (CRSS),[1] the Crash Investigation Sampling System (CISS),[2] and FARS. NTS also includes data outside of NHTSA's own data collections. NTS' non-crash injury data is based upon emergency department records from a special study conducted by the Consumer Product Safety Commission's National Electronic Injury Surveillance System (NEISS) All Injury Program. NTS non-crash fatality data is derived from death certificate information from the Centers for Disease Control's National Vital Statistics System.

Data is collected differently under each of NHTSA's three data collection efforts that feed into NTS. The CRSS and CISS data collection efforts obtain NTS applicable reports received from the sample sites during their normal data collection efforts for CRISS and CISS. The FARS data collection effort uncovers NTS applicable reports received from the State during their normal data collection activities for FARS. Therefore, the burden for NTS is included in each study's calculation. This notice only seeks comment on the part of the NTS data that comes from the FARS data collection effort.

Description of the Need for the Information and Proposed Use of the Information: NHTSA's mission is to save lives, prevent injuries, and reduce economic losses resulting from motor vehicle crashes. In order to accomplish this mission, NHTSA needs high-quality data on motor vehicle crashes. The FARS supports this mission by providing the agency with vital information about all crashes involving fatalities that occur on our nation's roadways. The FARS does this by collection national fatality information directly from existing State files and documents and aggregate them for research and analysis.

FARS data is used extensively by all the NHTSA program and research offices, other DOT modes, States, and local jurisdictions. The highway research community uses the FARS data for trend analysis, problem identification, and program evaluation. Congress uses the FARS data for making decisions concerning safety programs. The FARS data are also available upon request to anyone interested in highway safety.

Affected Public: States, the District of Columbia, and Puerto Rico.

Estimated Number of Respondents: 52.

Frequency: On occasion.

NHTSA has established cooperative agreements with the 50 States, the District of Columbia, and Puerto Rico to report a standard set of data on each fatal crash in their jurisdictions. State respondents report based on the occurrence of crashes involving fatalities. When a fatal crash occurs, State employees extract and transcribe information from existing files and input the information into FARS, with the frequency of reporting determined by the frequency of fatal crashes occurring in the respondent's jurisdiction.

Estimated Total Annual Burden Hours: 107,209.

For both FARS and NTS, there are 52 respondents (50 States, the District of Columbia, and Puerto Rico) reporting on approximately 34,790 fatal crash cases per year. Of these cases, 34,205 are reported to FARS and approximately 585 are identified and reported as non-traffic fatal crashes (NTS).

The State employee (or employees depending on the number of fatal crashes per year occurring in the jurisdiction) acquires and codes the required information, as fatal crashes occur, in the FARS records-based system. For FARS, although there is only one information collection, NHTSA calculates the total burden using four burden categories: (1) FARS Manual Protocol Case Entry, (2) overhead burden for FARS in States without EDT, (3) FARS coding in States with EDT, and (4) FARS EDT mapping maintenance.

FARS Manual Protocol Case Entry

NHTSA estimates that there are currently 33 States providing crash reports (including case materials) via manual protocol. For these respondents, NHTSA estimates that it takes analysts approximately 4.25 hours to collect fatal crash information and code a FARS case entry in the FARS data entry system. This estimate is based on information, over a five-year period, of the average number of analysts, full- and part-time, back-up analysts, FARS supervisors, and coding assistance respondents needed to complete an annual FARS file. NHTSA estimates that, on average, 16,205 cases are collected and coded annually using this access method. Therefore, NHTSA estimates the total annual burden associated with FARS Manual Protocol case entry to be approximately 68,871 hours annually (16,205 cases × 4.25 hours = 68,871 hours).

FARS Manual Protocol In-Kind Process Support

In addition to the time for each crash entry, some respondents using the FARS Manual Protocol are also expected to incur overhead burden time. NHTSA estimates that 8 States provide overhead support and that the total annual burden for this support is 2,000 hours, or an average of 250 hours per respondent. This burden includes hours spent by supervisors and State managers responding to and supporting FARS operations that are not accounted for in the coding hours every year, including supporting data acquisition and other associated tasks.

FARS EDT Mapping Maintenance

NHTSA estimates that there are approximately 19 States already participating in Electronic Data Transfer (EDT). For these respondents, PAR data is automatically transferred from the State's centralized crash database to NHTSA's CDAN system. The crash data is then prepopulated in NHTSA's crash data systems, including FARS.

NHTSA estimates the burden to maintain the protocol is estimated at two hours per State (respondent) or a total of 38 hours per year (19 States × 2 hours). This represents time to monitor case quality and timeliness, conduct quality control processes, and maintain communications with NHTSA and its contractors to ensure accurate data transfer. The specific task associated with this maintenance of effort is referred to as ''mapping''. Upon becoming an EDT State, the respondent

[1] NHTSA's information collection for CRSS is covered by the ICR with OMB Control No. 2127–0714.

[2] NHTSA's information collection for CISS is covered by the ICR with OMB Control No. 2127–0706.

participates in an initial mapping process. The process requires an alignment between the State Specific Coding Instructions and the FARS Coding and Validation guidance.[3] During quality control processes, which are conducted year-round, data anomalies may be detected, at which time action must be taken to review and ultimately correct the shifts in the data. This process, while managed by the Office of Data Acquisition, requires concurrence from the respondent, which is what the burden represents.

FARS EDT Manual Case Entry for Supporting Case Materials

Participation in EDT reduces but does not eliminate the manual entry of data into FARS. Although information from PARs is pre-populated into the system, EDT State respondents must still collect and enter supporting case materials, such as driver records, toxicology reports, death certificate information, and coroner's/medical examiners reports to complete a FARS case. NHTSA estimates that completing each case entry in an EDT States takes 2 hours, which is slightly less than half the time the process is estimated to take for non-EDT States. On average, NHTSA estimates that 18,000 FARS cases will have pre-populated data. Accordingly, NHTSA estimates the total burden associated with completing the FARS case entries for these cases to be 36,000 hours (18,000 cases × 2 hours).

Total Burden for FARS

The collective and cumulative efforts of all 52 respondents results in an estimated annual burden of 106,909 hours (68,871 hours + 2,000 hours + 38 hours + 36,000 hours). Table 1 provides a summary of the burden associated with FARS.

TABLE 1—BURDEN CATEGORY ESTIMATES AND TOTAL BURDEN FOR FARS

Burden category	Cases processed	Participating respondents	Burden per response (hours)	Hours per respondent	Total hours
FARS EDT (mapping maintenance)	N/A	19	N/A	2	38
FARS EDT Manual Case Entry (supporting case materials)	18,000	19	2.00	1,895	36,000
FARS Manual Protocol Case Entry Process (including supporting case materials)	16,205	33	4.25	2,087	68,871
FARS Manual Protocol In-kind Process Support	N/A	8	N/A	250	2,000
Total	34,205	52	3.13	2,056.94	106,909

NTS Data Collection

Non-traffic fatal crashes are collected by approximately 25 States as part of the FARS data collection process. NHTSA estimates that it takes twelve hours per respondent annually to account for NTS cases. Therefore, NHTSA estimates that the total burden for NTS case identification and coding is 300 hours annually (25 respondents × 12 hours).

Burden for FARS and NTS

NHTSA estimates the total annual burden for the two information collections, FARS and NTS, is 107,209 hours per year (106,909 hours + 300 hours). Table 2 provides a summary of the burdens for the two information collections.

TABLE 2—SUMMARY OF BURDENS FOR FARS AND NTS

Information collection	Responses	Respondents	Burden per response	Hours per respondent	Total burden (hours)
FARS	34,205	52	3.13	2,056.94	106,909
NTS	585	25	0.5	12	300
Total	34,790	52	.....	.....	107,209

The annual burden and associated costs for this information collection have increased from 106,244 to 107,209 hours due to the increase in the complexity of coding the FARS cases along with an increase in the number of fatal crashes across most jurisdictions, and accounting for the processing of the non-traffic fatalities. Furthermore, over the past two years, there has been an increase in staff turnover at the State level, adding an increase in administrative hours to provide for State field personnel turnover, training, and coding assistance to continue operations. This is an increase of 965 hours.

Estimated Total Annual Burden Cost: $0.

NHTSA estimates that there are no costs associated with this information collection other than labor costs associated with burden hours. This is a decrease of $100,000 from when NHTSA last sought approval for this information collection. The decrease in costs is a result of removing labor costs associated with labor hours that were incorrectly included in response to question 13, which was incorrect.

Public Comments Invited: You are asked to comment on any aspects of this information collection, including (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity

[3] The burden associated with this task is accounted for under NHTSA ICR that covers EDT (OMB Control Number 2127–0753).

of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; 49 CFR 1.49; and DOT Order 1351.29.

Chou-Lin Chen,

Associate Administrator, National Center for Statistics and Analysis.

[FR Doc. 2022–06986 Filed 4–1–22; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2021–0051]

Agency Information Collection Activities; Notice and Request for Comment; National Survey of Pedestrian and Bicyclist Attitudes, Knowledge, and Behaviors

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice and request for comments on a reinstatement with modification of a previously approved collection of information.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) invites public comments about our intention to request approval from the Office of Management and Budget (OMB) for a reinstatement with modification of a previously approved collection of information. Before a Federal agency can collect certain information from the public, it must receive approval from OMB. Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections. This document describes a collection of information for which NHTSA intends to seek OMB approval on the National Survey of Pedestrian and Bicyclist Attitudes, Knowledge, and Behaviors.

DATES: Comments must be submitted on or before June 3, 2022.

ADDRESSES: You may submit comments identified by the Docket No. NHTSA–2021–0051 through any of the following methods:

- *Electronic submissions:* Go to the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail or Hand Delivery:* Docket Management, 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. To be sure someone is there to help you, please call (202) 366–9322 before coming.

Instructions: All submissions must include the agency name and docket number for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *https://www.transportation.gov/privacy.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or the street address listed above. Follow the online instructions for accessing the dockets via internet.

FOR FURTHER INFORMATION CONTACT: For additional information or access to background documents, contact Kristie Johnson, Ph.D., Office of Behavioral Safety Research (NPD–310), (202) 366–2755, *kristie.johnson@dot.gov,* National Highway Traffic Safety Administration, W46–498, 1200 New Jersey Avenue SE, Washington, DC 20590. Please identify the relevant collection of information by referring to its OMB Control Number 2127–0684.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*), before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following: (a) 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) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) how to enhance the quality, utility, and clarity of the information to be collected; and (d) how to minimize 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, *e.g.,* permitting electronic submission of responses. In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information for which the agency is seeking approval from OMB.

Title: National Survey of Pedestrian and Bicyclist Attitudes, Knowledge, and Behaviors.

OMB Control Number: 2127–0684.

Form Numbers: NHTSA Forms 1148, 1613, 1614, 1615, 1616, 1617, 1618.

Type of Request: Reinstatement with modification of a previously approved information collection (OMB Control No. 2127–0684).

Type of Review Requested: Regular.

Requested Expiration Date of Approval: 3 years from date of approval.

Summary of the Collection of Information: NHTSA is seeking approval to conduct a National Survey of Pedestrian and Bicyclist Attitudes, Knowledge, and Behaviors by web and mail among a national probability sample of 7,500 adults (and 150 adults for a pilot survey), age 18 and older to obtain up-to-date information about bicyclist and pedestrian attitudes and behaviors. Participation by respondents would be voluntary. Survey topics include the extent to which Americans engage in walking and bicycling activity, their attitudes toward and experience with various facilities, road conditions, and technologies, and their opinions on pedestrian and bicycling safety topics.

In conducting the proposed research, the survey would use computer-assisted web interviewing (*i.e.,* a programmed, self-administered web survey) to minimize recording errors, as well as optical mark recognition and image scanning for the paper and pencil survey to facilitate ease of use and data accuracy. A Spanish-language survey option would be used to minimize language barriers to participation. Surveys would be conducted with respondents using an address-based

sampling design that encourages respondents to complete the survey online. Although web-based interviewing would be the primary data collection mode, a paper questionnaire would be sent to households that do not respond to the web invitations. This collection only requires respondents to report their answers; there are no recordkeeping costs to the respondents.

Description of the Need for the Information and Proposed Use of the Information: NHTSA was established by the Highway Safety Act of 1970 and its mission is to reduce the number of deaths, injuries, and economic losses resulting from motor vehicle crashes on the Nation's highways. To further this mission, NHTSA is authorized to conduct research as a foundation for the development of traffic safety programs. Title 23, United States Code, Section 403, gives the Secretary of Transportation (NHTSA by delegation) authorization to use funds appropriated to conduct research and development activities, including demonstration projects and the collection and analysis of highway and motor vehicle safety data and related information, with respect to all aspects of highway and traffic safety systems and conditions relating to vehicle, highway, driver, passenger, motorcyclist, bicyclist, and pedestrian characteristics; accident causation and investigations; and human behavioral factors and their effect on highway and traffic safety. Pedestrian safety and bicyclist safety are two of multiple behavioral areas for which NHTSA has developed comprehensive programs to meet its injury reduction goals. The major components of pedestrian and bicyclist safety programs are education, enforcement, and outreach.

NHTSA encourages walking and bicycling as alternate modes of transportation to motor vehicle travel; however, pedestrians and bicyclists are among the most vulnerable road users. Motor vehicle crashes in 2019 accounted for 6,205 pedestrian fatalities and 846 bicyclist and other cyclist fatalities.[1] That same year, 76,000 pedestrians and 49,000 bicyclists were injured in traffic crashes. Moreover, increasing safe walking and bicycling behavior is promoted as a positive contributor to the quality of life. But an increase in walking and bicycling often means an increase in exposure to potential risk of collision with motor vehicles, underscoring the need to have in place aggressive pedestrian and bicyclist safety programs to reduce injuries and fatalities. This in turn requires periodic data collection to assess whether the programs continue to be responsive to the public's information needs, behavioral intentions, attitudes, physical environment, and other factors that contribute to safety while walking or bicycling.

The National Survey of Pedestrian and Bicyclist Attitudes, Knowledge, and Behaviors was conducted on two previous occasions—first in 2002 and again in 2012. Those surveys provided program planners and community leaders with detailed information on walking and bicycling behavior, level of support for facilities assisting those activities and awareness of safety issues. Since it has been ten years since NHTSA last conducted the survey, the information needs updating, especially given recent programs and initiatives to increase walking and bicycling, as well as the emergence of new technologies including e-bikes, e-scooters, and fitness trackers. This project will provide that update by conducting the 2022 National Survey of Bicyclist and Pedestrian Attitudes and Behaviors. In the 2022 survey, NHTSA intends to examine the extent to which Americans engage in walking and bicycling activity, their attitudes towards and experience with various facilities, road conditions, and technologies, and their opinions on pedestrian and bicycling safety topics. Furthermore, NHTSA plans to assess whether self-reported behaviors, attitudes, and perceptions regarding walking and bicycling have changed over time since the administration of the prior national surveys. NHTSA will use the findings to assist States, localities, and communities in developing and refining walking and bicycling safety programs that will aid in their efforts to reduce pedestrian and bicyclist crashes and injuries.

NHTSA will use the information to produce a technical report that presents the results of the study. The technical report will provide aggregate (summary) statistics and tables as well as the results of statistical analysis of the information, but it will not include any personally identifiable information. The technical report will be shared with State highway offices, local governments, and those who develop traffic safety communications that aim to reduce pedestrian and bicyclist crashes.

Affected Public: Participants will be U.S. adults (18 years old and older). Businesses are ineligible for the sample and would not be interviewed.

Estimated Number of Respondents: 7,650.

Participation in this study will be voluntary. For the main survey collection, 7,500 participants will be sampled from all 50 States and the District of Columbia using address data from the most recent U.S. Postal Service (USPS) computerized Delivery Sequence File (DSF) of residential addresses. An estimated 22,943 households will be contacted and have the study described to them. No more than one respondent will be selected per household.

Prior to the main survey, a pilot survey will be administered to test the survey and the mailing protocol and procedures. Participation in this study will be voluntary with 150 participants sampled from all 50 States and the District of Columbia using address data from the most recent USPS computerized DSF of residential addresses. An estimated 459 households will be contacted and have the study described to them. No more than one respondent will be selected per household.

Frequency of Collection: The study will be conducted one time during the three-year period for which NHTSA is requesting approval, with a small pilot study occurring several months before the study's full launch. This study is part of a tracking and trending study to measure changes over time. The last study was administered in 2012.

Estimated Total Annual Burden Hours: NHTSA estimates the total burden of this information collection by estimating the burden to those who NHTSA contacts but do not respond (non-responders) and those who respond and are eligible for participation (eligible respondents or actual participants). As virtually all households have at least one adult 18 or older, all households are eligible to participate and, as such, no burden is calculated for ineligible respondents. The estimated time to contact 22,943 potential participants (actual participants and non-responders) for the survey and 459 potential participants (actual participants and non-responders) for the pilot is one minute per person per contact attempt. Contact attempts will be made in five waves with fewer potential participants contacted in each subsequent wave. NHTSA estimates that 7,500 people will respond to the survey request and 150 will respond to the pilot. The estimated time to contact (1 minute) and complete the survey (20 minutes) for 7,500 participants and 150 pilot participants is 21 minutes per person. Table 1 provides a description for each of the forms used in the survey

[1] National Center for Statistics and Analysis. (2021, March). *Quick facts 2019* (Report No. DOT HS 813 124). National Highway Traffic Safety Administration. *https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813124.*

protocol as well as their mailing wave. Details of the burden hours for each wave in the pilot and full survey are included in Tables 2 and 3 below. When rounded up to the nearest whole hour for each data collection effort, the total estimated annual burden is 4,182 hours for the project activities. Table 4 provides total burden hours associated with each form.

TABLE 1—NHTSA FORM NUMBER, DESCRIPTION, AND MAILING WAVE

NHTSA Form No.	Description	Mailing wave
1148	Questionnaire—National Survey of Pedestrian and Bicyclist Attitudes, Knowledge, and Behaviors (English)	3, 5
1613	Questionnaire—National Survey of Pedestrian and Bicyclist Attitudes, Knowledge, and Behaviors (Spanish)	3, 5
1614	Initial Invitation Letter	1
1615	Reminder Postcard #1	2
1616	Cover Letter included with 1st mailing of the paper survey	3
1617	Reminder Postcard #2	4
1618	Cover Letter included with 2nd mailing of the paper survey	5

TABLE 2—ESTIMATED TOTAL BURDEN FOR PILOT SURVEY

Mailing wave (Form No.)	Number of contacts	Participant type	Estimated burden per sample unit (in minutes)	Frequency of burden	Number of sample units	Burden hours *	Total burden hours *
Wave 1 (NHTSA Form 1614).	459	Contacted potential participant—Non-respondent.	1	1	409	7	25
		Recruited participant—Eligible respondent.	21	1	50	18	
Wave 2 (NHTSA Form 1615).	409	Contacted potential participant—Non-respondent.	1	1	379	7	18
		Recruited participant—Eligible respondent.	21	1	30	11	
Wave 3 (NHTSA Forms 1148, 1613, 1616).	379	Contacted potential participant—Non-respondent.	1	1	341	6	20
		Recruited participant—Eligible respondent.	21	1	38	14	
Wave 4 (NHTSA Form 1617).	341	Contacted potential participant—Non-respondent.	1	1	322	6	13
		Recruited participant—Eligible respondent.	21	1	19	7	
Wave 5 (NHTSA Forms 1148, 1613, 1618).	322	Contacted potential participant—Non-respondent.	1	1	309	6	11
		Recruited participant—Eligible respondent.	21	1	13	5	
Total							87

* Rounded up to the nearest hour.

TABLE 3—ESTIMATED TOTAL BURDEN FOR MAIN DATA COLLECTION SURVEY

Mailing wave (Form No.)	Number of contacts	Participant type	Estimated burden per sample unit (in minutes)	Frequency of burden	Number of sample units	Burden hours *	Total burden hours *
Wave 1 (NHTSA Form 1614).	22,943	Contacted potential participant—Non-respondent.	1	1	20,443	341	1,216
		Recruited participant—Eligible respondent.	21	1	2,500	875	
Wave 2 (NHTSA Form 1615).	20,443	Contacted potential participant—Non-respondent.	1	1	18,943	316	841
		Recruited participant—Eligible respondent.	21	1	1,500	525	
Wave 3 (NHTSA Forms 1148, 1613, 1616).	18,943	Contacted potential participant—Non-respondent.	1	1	17,049	285	948
		Recruited participant—Eligible respondent.	21	1	1,894	663	
Wave 4 (NHTSA Form 1617).	17,049	Contacted potential participant—Non-respondent.	1	1	16,102	269	601
		Recruited participant—Eligible respondent.	21	1	947	332	
Wave 5 (NHTSA Forms 1148, 1613, 1618).	16,102	Contacted potential participant—Non-respondent.	1	1	15,443	258	489
		Recruited participant—Eligible respondent.	21	1	659	231	
Total							4,095

* Rounded up to the nearest hour.

TABLE 4—ESTIMATED TOTAL BURDEN BY NHTSA FORM FOR THE PILOT AND MAIN DATA COLLECTION SURVEYS

Information collection	Number of responses	Burden per response (minutes)	Burden per respondent (minutes)	Total burden hours
NHTSA Forms 1148 and 1613	7,650	20	20	2,550
NHTSA Form 1614	*23,850	1	1	*398
NHTSA Form 1615	20,852	1	1	348
NHTSA Form 1616	19,322	1	1	322
NHTSA Form 1617	17,390	1	1	290
NHTSA Form 1618	16,424	1	1	274
Total				4,182

* Rounded up based on individual waves.

Estimated Total Annual Burden Cost: Participation in this study is voluntary, and there are no costs to respondents beyond the time spent completing the questionnaires.

Public Comments Invited: You are asked to comment on any aspects of this information collection, including (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (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 the use of automated collection techniques or other forms of information technology.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; 49 CFR 1.49; and DOT Order 1351.29.

Nanda Narayanan Srinivasan,

Associate Administrator, Research and Program Development.

[FR Doc. 2022–06989 Filed 4–1–22; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[DOT–NHTSA–2021–0082]

National Emergency Medical Services Advisory Council Notice of Public Meeting

AGENCY: National Highway Traffic Safety Administration, U.S. Department of Transportation (DOT).

ACTION: Notice of public meeting.

SUMMARY: This notice announces a meeting of the National Emergency Medical Services Advisory Council (NEMSAC).

DATES: The meeting will be virtual. It will be held May 11–12, 2022, from 9:00 a.m. to 5:00 p.m. ET. Pre-registration is required to attend this meeting. A link permitting access to the meeting will be distributed to registrants within 24 hours of the meeting start time. If you wish to speak during the meeting, you must submit a written copy of your remarks to DOT by May 3, 2022.

Other scheduled NEMSAC meeting dates in the 2022 include August 10 and 11; and November 2 and 3. Notifications containing specific details for each meeting will be published in the **Federal Register** no later than 30 days prior to the respective meeting dates.

ADDRESSES: This meeting will be held virtually. General information about the Council is available on the NEMSAC internet website at *www.ems.gov.* The registration portal and meeting agenda will be available on the NEMSAC internet website at *www.ems.gov* at least one week in advance of the meeting.

FOR FURTHER INFORMATION CONTACT: Clary Mole, EMS Specialist, National Highway Traffic Safety Administration, U.S. Department of Transportation is available by phone at (202) 868–3275 or by email at *Clary.Mole@dot.gov.* Any committee-related requests should be sent to the person listed in this section.

SUPPLEMENTARY INFORMATION:

I. Background

The NEMSAC was established pursuant to Section 31108 of the Moving Ahead for Progress in the 21st Century (MAP–21) Act of 2012, under the Federal Advisory Committee Act. The purpose of NEMSAC is to serve as a nationally recognized council of emergency medical services (EMS) representatives to provide advice and consult with:

a. The Federal Interagency Committee on Emergency Medical Services (FICEMS) on matters relating to EMS issues; and

b. The Secretary of Transportation on matters relating to EMS issues affecting DOT.

The NEMSAC provides an important national forum for the non-Federal deliberation of national EMS issues and serves as a platform for advice on DOT's national EMS activities. NEMSAC also provides advice and recommendations to the FICEMS. NEMSAC is authorized under Section 31108 of the MAP–21 Act of 2012, codified at 42 U.S.C. 300d–4.

II. Agenda

At the meeting, the agenda will cover the following topics:

- Updates from Federal Emergency Services Liaisons
- Updates on the FICEMS Initiatives
- Updates on NHTSA Initiatives
- Subcommittee Reports

III. Public Participation

This meeting will be open to the public. NHTSA is committed to provide equal access to this meeting for all program participants. Persons with disabilities in need of an accommodation should send your request to the individual in the **FOR FURTHER INFORMATION CONTACT** section of this notice no later than May 3, 2022. A sign language interpreter will be provided, and closed captioning services will be provided for this meeting through the WebEx virtual meeting platform.

A period of time will be allotted for comments from members of the public joining the meeting. Members of the public may present questions and comments to the Council using the live chat feature available during the meeting. Members of the public may also submit materials, questions, and comments in advance to the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Members of the public wishing to reserve time to speak directly to the Council during the meeting must submit a request. The request must include the name, contact information (address,

phone number, and email address), and organizational affiliation of individual wishing to address NEMSAC; it must also include a written copy of prepared remarks; and it must be forwarded to the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice no later than May 3, 2022.

All advance submissions will be reviewed by the Council Chairperson and Designated Federal Officer. If approved, advance submissions shall be circulated to NEMSAC representatives for review prior to the meeting. All advance submissions are subject to becoming part of the official record of the meeting.

Authority: 42 U.S.C. 300d–4(b); 49 CFR part 1.95(i)(4).

Issued in Washington, DC.

Nanda Narayanan Srinivasan,

Associate Administrator, Research and Program Development.

[FR Doc. 2022–06964 Filed 4–1–22; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons whose property and interests in property have been unblocked and have been removed from OFAC's Specially Designated Nationals and Blocked Persons List (SDN List).

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Andrea Gacki, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Actions

On March 18, 2022, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following person are unblocked and he has been removed from the SDN List under the relevant sanctions authorities listed below.

Individual

1. ROSENTHAL HIDALGO, Yani Benjamin, 5 Calle, 24 Avenida S.O. #226, San Pedro Sula, Honduras; DOB 14 Jul 1965; POB Honduras; Passport B255530 (Honduras); National ID No. 0501196506001 (Honduras); RTN 05011965060013 (Honduras) (individual) [SDNTK].

Dated: March 18, 2022.

Gregory T. Gatjanis,

Associate Director, Office of Global Targeting, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2022–06978 Filed 4–1–22; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

United States Mint

Notification of Citizens Coinage Advisory Committee April 19, 2022, Public Meeting

ACTION: Notice of meeting.

Pursuant to United States Code, title 31, section 5135(b)(8)(C), the United States Mint announces the Citizens Coinage Advisory Committee (CCAC) teleconference public meeting scheduled for April 19, 2022.

Date: April 19, 2022.

Time: 9 a.m. to 3 p.m. (EDT).

Location: This meeting will occur via teleconference. Interested members of the public may dial in to listen to the meeting at (888) 330–1716; Access Code: 1137147.

Subject: Review and discussion of the reverse candidate designs for all five of the 2023 American Women Quarters *(Pub. L. 116–330*), and reverse candidate designs for 2023 Native American $1 Coin *(Pub. L. 110–82).*

Interested persons should call the CCAC HOTLINE at (202) 354–7502 for the latest update on meeting time and access information.

The CCAC advises the Secretary of the Treasury on any theme or design proposals relating to circulating coinage, bullion coinage, Congressional Gold Medals, and national and other medals; advises the Secretary of the Treasury with regard to the events, persons, or places to be commemorated by the issuance of commemorative coins in each of the five calendar years succeeding the year in which a commemorative coin designation is made; and makes recommendations with respect to the mintage level for any commemorative coin recommended.

For members of the public interested in listening in to the provided call number, this is a reminder that the public attendance is for listening purposes only. Any member of the public interested in submitting matters for the CCAC's consideration is invited to submit them by email to *info@ccac.gov.*

For Accommodation Request: If you need an accommodation to listen to the CCAC meeting, please contact the Diversity Management and Civil Rights Office by April 12, 2022, at 202–354–7260 or 1–888–646–8369 (TYY).

FOR FURTHER INFORMATION CONTACT: Jennifer Warren, United States Mint Liaison to the CCAC; 801 9th Street NW; Washington, DC 20220; or call 202–354–7208.

(Authority: 31 U.S.C. 5135(b)(8)(C))

Eric Anderson,

Executive Secretary, United States Mint.

[FR Doc. 2022–06974 Filed 4–1–22; 8:45 am]

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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 March 31, 2022

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