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

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

## OFFICE OF MANAGEMENT AND BUDGET

### 2 CFR Part 200

#### Uniform Administrative Requirements, Cost Principles, and Audit Requirements

**AGENCY:** Office of Management and Budget.

**ACTION:** Guidance.

**SUMMARY:** This document announces the availability of the 2022 Compliance Supplement (2022 Supplement) for the Office of Management and Budget's uniform administrative requirements, cost principles, and audit requirements regulations. This document also offers interested parties an opportunity to comment on the 2022 Supplement.

**DATES:** The 2022 Supplement replaces the 2021 Supplement (issued in August 2020), its Addenda 1 & 2 (issued in December 2021 and January 2022), and the technical update (issued April 2022). The Supplement applies to fiscal year audits that cover any period beginning after June 30, 2021.

All comments to the 2022 Supplement must be in writing and received by July 11, 2022. Late comments will be considered to the extent practicable.

**ADDRESSES:** Comments will be reviewed and addressed, when appropriate, in the 2023 Compliance Supplement. Electronic mail comments may be submitted to: <http://www.regulations.gov>. Please include "2 CFR part 200 Subpart F—Audit Requirements, Appendix XI—Compliance Supplement—2022" in the subject line and the full body of your comments in the text of the electronic message and as an attachment. Please include your name, title, organization, postal address, telephone number, and email address in the text of the message. Comments may also be sent to: [GrantsTeam@omb.eop.gov](mailto:GrantsTeam@omb.eop.gov).

*Please note that all public comments received are subject to the Freedom of Information Act and will be posted in their entirety, including any personal and/or business confidential information provided. Do not include any information you would not like to be made publically available.*

The 2022 Supplement is available online on the OMB home page at <https://www.whitehouse.gov/omb/office-federal-financial-management/>.

#### FOR FURTHER INFORMATION CONTACT:

Recipients and auditors should contact their cognizant or oversight agency for audit, or Federal awarding agency, as appropriate. The Federal agency contacts are listed in appendix III of the Supplement. Subrecipients should contact their pass-through entity. Federal agencies should contact Gil Tran at [Hai\\_M.\\_Tran@omb.eop.gov](mailto:Hai_M._Tran@omb.eop.gov) or (202) 881-7830 or the OMB Grants team at [GrantsTeam@omb.eop.gov](mailto:GrantsTeam@omb.eop.gov).

**SUPPLEMENTARY INFORMATION:** The 2022 Supplement (2 CFR part 200, subpart F, and appendix XI to Part 200) adds five new programs (that are funded by the American Rescue Plan Act) and provides updates on many other programs, where necessary. In total, the 2022 Supplement contains audit guidance for 235 individual programs and 48 clusters of programs from 22 Federal agencies. The 2022 Supplement is a continuation of efforts to maximize the value of grant funding by applying a risk-based, data-driven framework that balances compliance requirements with demonstrating successful results. It requires a review for performance reporting for 63 programs.

As part of the development of the audit guidance contained in the Supplement, OMB shared the draft language developed by the agencies with recipient and audit stakeholders, including the American Institute of Certified Public Accountants (AICPA), the National Association of State Auditors, Controllers and Treasurers (NASACT), the U.S. Government Accountability Office (GAO), and agency Inspector General offices for comments. The comments were reviewed, adjudicated, and addressed by the relevant agencies and OMB. All

necessary changes are reflected in the final published version.

**Deidre A. Harrison,**  
Acting Controller.

[FR Doc. 2022-10182 Filed 5-11-22; 8:45 am]

**BILLING CODE 3110-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2022-0016; Project Identifier MCAI-2021-00945-T; Amendment 39-22022; AD 2022-09-02]

RIN 2120-AA64

#### Airworthiness Directives; Bombardier, Inc., Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Bombardier, Inc., Model BD-100-1A10 airplanes. This AD was prompted by a report that the nose wheel steering selector valve (SSV) can be slow to deactivate under low temperature conditions. This AD requires replacing the affected nose wheel SSV with a redesigned nose wheel SSV, and performing an operational test of the nose wheel SSV and nose wheel steering control system. This AD also prohibits the installation of a certain nose wheel SSV. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective June 16, 2022.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of June 16, 2022.

**ADDRESSES:** For service information identified in this final rule, contact Bombardier Business Aircraft Customer Response Center, 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514-855-2999; email [ac.yul@aero.bombardier.com](mailto:ac.yul@aero.bombardier.com); internet <http://www.bombardier.com>. You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For

information on the availability of this material at the FAA, call 206-231-3195. It is also available on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2022-0016.

**Examining the AD Docket**

You may examine the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2022-0016; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Chirayu Gupta, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7300; email [9-avs-nyaco-cos@faa.gov](mailto:9-avs-nyaco-cos@faa.gov).

**SUPPLEMENTARY INFORMATION:**

**Discussion**

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued TCCA AD CF-2021-29, dated August 18, 2021 (TCCA AD CF-2021-29) (also referred to as the

MCAI), to correct an unsafe condition for certain Bombardier, Inc., Model BD-100-1A10 airplanes. You may examine the MCAI in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2022-0016.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc., Model BD-100-1A10 airplanes. The NPRM published in the **Federal Register** on January 27, 2022 (87 FR 4170). The NPRM was prompted by a report that the nose wheel SSV can be slow to deactivate under low temperature conditions. The NPRM proposed to require replacing the affected nose wheel SSV with a redesigned nose wheel SSV, and performing an operational test of the nose wheel SSV and nose wheel steering control system. The NPRM also proposed to prohibit the installation of a certain nose wheel SSV. The FAA is issuing this AD to address a slow nose wheel SSV deactivation, which, in combination with an uncommanded steering input, could lead to a delayed transition to free castor mode and result in an aircraft runway excursion. See the MCAI for additional background information.

**Comments**

The FAA gave the public the opportunity to participate in developing this final rule. The FAA received no comments on the NPRM or on the determination of the cost to the public.

**Conclusion**

The FAA reviewed the relevant data and determined that air safety and the public interest require adopting this final rule as proposed, except for minor editorial changes. The FAA has determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for addressing the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

**Related Service Information Under 14 CFR Part 51**

Bombardier has issued Service Bulletin 100-32-35, dated March 30, 2021; and Service Bulletin 350-32-011, dated March 30, 2021. This service information describes procedures for replacing the existing nose wheel SSV (part number 41130-107) with a redesigned nose wheel SSV (part number 41130-111), and performing an operational test of the nose wheel SSV and nose wheel steering control system. These documents are distinct since they apply to different airplane configurations. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

**Costs of Compliance**

The FAA estimates that this AD affects 660 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

**ESTIMATED COSTS FOR REQUIRED ACTIONS**

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
4 work-hours × \$85 per hour = \$340 .....	\$5,793	\$6,133	\$4,047,780

**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:

**2022-09-02 Bombardier, Inc.:** Amendment 39-22022; Docket No. FAA-2022-0016; Project Identifier MCAI-2021-00945-T.

#### (a) Effective Date

This airworthiness directive (AD) is effective June 16, 2022.

#### (b) Affected ADs

None.

#### (c) Applicability

This AD applies to Bombardier, Inc., Model BD-100-1A10 airplanes, certificated in any category, serial numbers 20003 through 20892 inclusive.

#### (d) Subject

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

#### (e) Unsafe Condition

This AD was prompted by a report that the nose wheel steering selector valve (SSV) can be slow to deactivate under low temperature conditions. The FAA is issuing this AD to address a slow nose wheel SSV deactivation, which, in combination with an un-commanded steering input, could lead to a delayed transition to free castor mode and result in an aircraft runway excursion.

#### (f) Compliance

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

#### (g) Replacement of Nose Wheel SSV

Within 36 months after the effective date of this AD: Replace the nose wheel SSV part number 41130-107 with the redesigned nose wheel SSV part number 41130-111; and before further flight, perform an operational test of the nose wheel SSV and nose wheel steering control system; in accordance with paragraphs 2.B. and 2.C. of the Accomplishment Instructions of the applicable service information specified in paragraphs (g)(1) and (2) of this AD. If any test fails, do applicable corrective actions and repeat the test until the part passes the test.

(1) Bombardier Service Bulletin 100-32-35, dated March 30, 2021.

(2) Bombardier Service Bulletin 350-32-011, dated March 30, 2021.

#### (h) Parts Installation Prohibition

Do not install nose wheel SSV, part number 41130-107 on any airplane as of the applicable compliance time specified in paragraph (h)(1) or (2) of this AD.

(1) For airplanes that have nose wheel SSV, part number 41130-107 installed as of the effective date of this AD: After replacement of nose wheel SSV as required by paragraph (g) of this AD.

(2) For airplanes that, as of the effective date of this AD, do not have nose wheel SSV, part number 41130-107 installed: As of the effective date of this AD.

#### (i) No Reporting Requirement

Although the service information specified in paragraphs (g)(1) and (2) of this AD specifies to submit certain information to the manufacturer, this AD does not include that requirement.

#### (j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7300. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

#### (k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Transport Canada AD CF-2021-29, dated August 18, 2021, for related information. This MCAI may be found in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2022-0016.

(2) For more information about this AD, contact Chirayu Gupta, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7300; email [9-avs-nyaco-cos@faa.gov](mailto:9-avs-nyaco-cos@faa.gov).

#### (l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this

paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

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

(i) Bombardier Service Bulletin 100-32-35, dated March 30, 2021.

(ii) Bombardier Service Bulletin 350-32-011, dated March 30, 2021.

(3) For service information identified in this AD, contact Bombardier Business Aircraft Customer Response Center, 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514-855-2999; email [ac.yul@aero.bombardier.com](mailto:ac.yul@aero.bombardier.com); internet <http://www.bombardier.com>.

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

(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](mailto:fr.inspection@nara.gov), or go to: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued on April 11, 2022.

**Lance T. Gant,**

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

[FR Doc. 2022-10139 Filed 5-11-22; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

**[Docket No. FAA-2022-0466; Project Identifier MCAI-2021-00572-T; Amendment 39-22025; AD 2022-09-05]**

**RIN 2120-AA64**

#### **Airworthiness Directives; Embraer S.A. (Type Certificate Previously Held by Yaborã Indústria Aeronáutica S.A.) Airplanes**

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

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

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain Embraer S.A. Model ERJ 190-300, and -400 airplanes. This AD was prompted by a report of premature failures of the alternating current motor pump (ACMP) 3A at hydraulic system #3 due to excessive wear of the ACMP tail bearing. This AD requires repetitive replacement of the hydraulic system ACMP 3A having a certain part number with a serviceable part, as specified in an Agência Nacional de Aviação Civil

(ANAC) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD becomes effective May 27, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 27, 2022.

The FAA must receive comments on this AD by June 27, 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:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For material incorporated by reference (IBR) in this AD, contact ANAC, Aeronautical Products Certification Branch (GGCP), Rua Dr. Orlando Feirabend Filho, 230—Centro Empresarial Aquarius—Torre B—Andares 14 a 18, Parque Residencial Aquarius, CEP 12.246-190—São José dos Campos—SP, Brazil; telephone 55 (12) 3203-6600; email [pac@anac.gov.br](mailto:pac@anac.gov.br); internet [www.anac.gov.br/en/](http://www.anac.gov.br/en/). You may find this IBR material on the ANAC website at <https://sistemas.anac.gov.br/certificacao/DA/DAE.asp>. You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available in the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2022-0466.

#### Examining the AD Docket

You may examine the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2022-0466; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the mandatory continuing airworthiness information (MCAI), any comments received, and other

information. The street address for Docket Operations is listed above.

#### FOR FURTHER INFORMATION CONTACT:

Krista Greer, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206-231-3221; [Krista.Greer@faa.gov](mailto:Krista.Greer@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include “Docket No. FAA-2022-0466; Project Identifier MCAI-2021-00572-T” at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

##### Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Krista Greer, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206-231-3221; [Krista.Greer@faa.gov](mailto:Krista.Greer@faa.gov). Any commentary that the FAA receives which is not specifically designated as

CBI will be placed in the public docket for this rulemaking.

##### Background

The ANAC, which is the aviation authority for Brazil, has issued ANAC AD 2021-05-01, effective May 14, 2021 (ANAC AD 2021-05-01) (also referred to as the MCAI), to correct an unsafe condition for certain Embraer S.A. Model ERJ 190-300, and -400 airplanes.

This AD was prompted by a report of premature failures of the ACMP 3A at hydraulic system #3 due to excessive wear of the ACMP tail bearing. Excessive wear, if allowed to progress, increases the probability of ACMP failures. The FAA is issuing this AD to address excessive wear of the ACMP tail bearing, which could lead to loss of hydraulic system #3 and affect the electrical power distribution system. This condition, in combination with an independent failure in one engine, could cause loss of control of the airplane. See the MCAI for additional background information.

##### Related Service Information Under 14 CFR Part 51

ANAC AD 2021-05-01 specifies procedures for repetitive replacement of the hydraulic system ACMP 3A having part number (P/N) 3033041-101 with a serviceable part. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

##### FAA's Determination

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

##### Requirements of This AD

This AD requires accomplishing the actions specified in ANAC AD 2021-05-01 described previously, except for any differences identified as exceptions in the regulatory text of this AD.

##### Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA)

ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, ANAC AD 2021–05–01 is incorporated by reference in this AD. This AD requires compliance with ANAC AD 2021–05–01 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Service information required by ANAC AD 2021–05–01 for compliance will be available at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2022–0466 after this AD is published.

**Interim Action**

The FAA considers this AD interim action. If final action is later identified, the FAA might consider further rulemaking then.

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

There are currently no domestic operators of these products. Accordingly, notice and opportunity for prior public comment are unnecessary, pursuant to 5 U.S.C. 553(b)(3)(B). In addition, for the forgoing reason(s), the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days.

**Regulatory Flexibility Act (RFA)**

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

**Costs of Compliance**

Currently, there are no affected U.S.-registered airplanes. If an affected airplane is imported and placed on the U.S. Register in the future, the FAA provides the following cost estimates to comply with this AD:

**ESTIMATED COSTS FOR REQUIRED ACTIONS**

Labor cost	Parts cost	Cost per product
2 work-hours × \$85 per hour = \$170 .....	*\$0	\$170

\* The FAA has received no definitive data on which to base the parts cost estimate.

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

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national

government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

- (1) Is not a “significant regulatory action” under Executive Order 12866, and
- (2) Will not affect intrastate aviation in Alaska.

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

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

**The Amendment**

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

**PART 39—AIRWORTHINESS DIRECTIVES**

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

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

**§ 39.13 [Amended]**

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

**2022–09–05 Embraer S.A. (Type Certificate Previously Held by Yaborã Indústria Aeronáutica S.A.); Amendment 39–22025; Docket No. FAA–2022–0466; Project Identifier MCAI–2021–00572–T.**

**(a) Effective Date**

This airworthiness directive (AD) is effective May 27, 2022.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Embraer S.A. (Type Certificate Previously Held by Yaborã Indústria Aeronáutica S.A.) Model ERJ 190–300, and –400 airplanes, certificated in any category, as identified in Agência Nacional de Aviação Civil (ANAC) AD 2021–05–01, effective May 14, 2021 (ANAC AD 2021–05–01).

**(d) Subject**

Air Transport Association (ATA) of America Code 29, Hydraulic power.

**(e) Unsafe Condition**

This AD was prompted by a report of premature failures of the alternating current motor pump (ACMP) 3A at hydraulic system #3 due to excessive wear of the ACMP tail bearing. The FAA is issuing this AD to address excessive wear of the ACMP tail bearing, which could lead to loss of hydraulic system #3 and affect the electrical power distribution system. This condition, in combination with an independent failure in one engine, could cause loss of control of the airplane.

**(f) Compliance**

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

**(g) Requirements**

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, ANAC AD 2021–05–01.

**(h) Exceptions to ANAC AD 2021–05–01**

(1) Where ANAC AD 2021–05–01 refers to its effective date, this AD requires using the effective date of this AD.

(2) The “Alternative methods of compliance (AMOCs)” section of ANAC AD 2021–05–01 does not apply to this AD.

(3) For the initial replacement required by paragraph (b) of ANAC AD 2021–05–01: If the accumulated flight hours on a hydraulic system ACMP 3A having part number 3033041–101 cannot be conclusively determined, this AD requires accomplishing that replacement within 300 flight hours after the effective date of this AD.

(4) Where paragraph (b) of ANAC AD 2021–05–01 specifies to repeat the replacement “before the hydraulic system ACMP 3A with [part number] PN 3033041–101 accumulates 2,700 flight hours,” for this AD use “before the hydraulic system ACMP 3A with PN 3033041–101 accumulates 2,700 flight hours since installation in the ACMP 3A position.”

(5) Where Note 3 of ANAC AD 2021–05–01 specifies “for the intent of this Airworthiness Directive, it is considered a serviceable ACMP 3A” for this AD use “for this AD a serviceable ACMP 3A is one listed in paragraphs (b)(i) through (iv) of ANAC AD 2021–05–01.”

**(i) Additional AD Provisions**

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer*: For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or ANAC; or ANAC’s authorized Designee. If approved by the ANAC Designee, the approval must include the Designee’s authorized signature.

**(j) Related Information**

For more information about this AD, contact Krista Greer, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3221; [Krista.Greer@faa.gov](mailto:Krista.Greer@faa.gov).

**(k) Material Incorporated by Reference**

(1) The Director of the Federal Register approved the incorporation by reference of

the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

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

(i) Agência Nacional de Aviação Civil (ANAC) AD 2021–05–01, effective May 14, 2021.

(ii) [Reserved]

(3) For ANAC AD 2021–05–01, contact National Civil Aviation Agency (ANAC), Aeronautical Products Certification Branch (GGCP), Rua Dr. Orlando Feirabend Filho, 230—Centro Empresarial Aquarius—Torre B—Andares 14 a 18, Parque Residencial Aquarius, CEP 12.246–190—São José dos Campos—SP, Brazil; telephone 55 (12) 3203–6600; email: [pac@anac.gov.br](mailto:pac@anac.gov.br); internet [www.anac.gov.br/en/](http://www.anac.gov.br/en/). You may find this IBR material on the ANAC website at <https://sistemas.anac.gov.br/certificacao/DA/DAE.asp>.

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

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

Issued on April 14, 2022.

**Lance T. Gant,**

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

[FR Doc. 2022–10143 Filed 5–11–22; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

**[Docket No. FAA–2022–0087; Project Identifier MCAI–2021–01025–T; Amendment 39–22023; AD 2022–09–03]**

**RIN 2120–AA64**

**Airworthiness Directives; Airbus SAS Airplanes**

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is superseding Airworthiness Directive (AD) 2020–21–06, which applied to certain Airbus SAS Model A350–941 and –1041 airplanes. AD 2020–21–06 required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. Since the FAA issued AD

2020–21–06, the FAA has determined that new or more restrictive airworthiness limitations are necessary. This AD retains the requirements of AD 2020–21–06 and requires revising the applicability by adding airplanes. This AD also requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, 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 June 16, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 16, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of November 18, 2020 (85 FR 64961, October 14, 2020).

**ADDRESSES:** For material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); internet [www.easa.europa.eu](http://www.easa.europa.eu). You may find this IBR material on the EASA website at <https://ad.easa.europa.eu>. You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2022–0087.

**Examining the AD Docket**

You may examine the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2022–0087; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone

and fax 206–231–3225; email [dan.rodina@faa.gov](mailto:dan.rodina@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0206, dated September 15, 2021 (EASA AD 2021–0206) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all Airbus SAS Model A350–941 and –1041 airplanes. Airplanes with an original airworthiness certificate or original export certificate of airworthiness issued after June 30, 2021, must comply with the airworthiness limitations specified as part of the approved type design and referenced on the type certificate data sheet; this AD therefore does not include those airplanes in the applicability. EASA AD 2021–0206 supersedes EASA AD 2020–0091, dated April 22, 2020 (EASA AD 2020–0091).

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2020–21–06, Amendment 39–21279 (85 FR 64961, October 14, 2020) (AD 2020–21–06). AD 2020–21–06 applied to certain Airbus SAS Model A350–941 and –1041 airplanes. The NPRM published in the **Federal Register** on February 7, 2022 (87 FR 6798). The NPRM was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The NPRM proposed to continue to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in EASA AD 2020–0091. The NPRM also proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in EASA AD 2021–0206. The NPRM also proposed to revise the applicability by adding airplanes. Accomplishing the new maintenance or inspection program revision specified in paragraph (j) of this AD terminates the retained maintenance or inspection program revision specified in paragraph (g) of this AD.

The FAA is issuing this AD to address the potential failure of certain life-limited parts, which could result in reduced structural integrity of the airplane. See the MCAI for additional background information.

#### Discussion of Final Airworthiness Directive

##### Comments

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

##### Conclusion

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

#### Related Service Information Under 14 CFR Part 51

EASA AD 2021–0206 describes new or more restrictive airworthiness limitations for airplane structures and safe life limits.

This AD also requires EASA AD 2020–0091, dated April 22, 2020, which the Director of the Federal Register approved for incorporation by reference as of November 18, 2020 (85 FR 64961, October 14, 2020).

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

The FAA estimates the total cost per operator for the retained actions from AD 2020–21–06 to be \$7,650 (90 work-hours × \$85 per work-hour).

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate.

The FAA estimates the total cost per operator for the new actions to be \$7,650 (90 work-hours × \$85 per work-hour).

#### 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 (AD) 2020–21–06, Amendment 39–21279 (85 FR 64961, October 14, 2020); and
  - b. Adding the following new AD:

**2022-09-03 Airbus SAS:** Amendment 39-22023; Docket No. FAA-2022-0087; Project Identifier MCAI-2021-01025-T.

**(a) Effective Date**

This airworthiness directive (AD) is effective June 16, 2022.

**(b) Affected ADs**

This AD replaces AD 2020-21-06, Amendment 39-21279 (85 FR 64961, October 14, 2020) (AD 2020-21-06).

**(c) Applicability**

This AD applies to Airbus SAS Model A350-941 and -1041 airplanes, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued on or before June 30, 2021.

**(d) Subject**

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

**(e) Reason**

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address the potential failure of certain life-limited parts, which could result in reduced structural integrity of the airplane.

**(f) Compliance**

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

**(g) Retained Maintenance or Inspection Program Revision, With No Changes**

This paragraph restates the requirements of paragraph (g) of AD 2020-21-06, with no changes. For airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or before June 7, 2019: 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 2020-0091, dated April 22, 2020 (EASA AD 2020-0091). Accomplishing the revision of the existing maintenance or inspection program required by paragraph (j) of this AD terminates the requirements of this paragraph.

**(h) Retained Exceptions to EASA AD 2020-0091, With No Changes**

This paragraph restates the requirements of paragraph (h) of AD 2020-21-06, with no changes. For airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or before June 7, 2019:

(1) The requirements specified in paragraph (1) of EASA AD 2020-0091 do not apply to this AD.

(2) Paragraph (2) of EASA AD 2020-0091 specifies revising “the approved AMP” within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, to incorporate the “limitations” specified in paragraph (2) of EASA AD 2020-

0091 within 90 days after November 18, 2020 (the effective date of AD 2020-21-06).

(3) The initial compliance time for complying with the limitations specified in paragraph (2) of EASA AD 2020-0091 is at the applicable “limitations” specified in paragraph (2) of EASA AD 2020-0091, or within 90 days after November 18, 2020 (the effective date of AD 2020-21-06), whichever occurs later.

(4) The provisions specified in paragraphs (3) and (4) of EASA AD 2020-0091 do not apply to this AD.

(5) The “Remarks” section of EASA AD 2020-0091 does not apply to this AD.

**(i) Retained Provisions for Alternative Actions and Intervals, With a New Exception**

This paragraph restates the requirements of paragraph (i) of AD 2020-21-06, with a new exception. For airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or before June 7, 2019: Except as required by paragraph (j) of this AD, after the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (e.g., inspections) and intervals are allowed unless they are approved as specified in the provisions of the “Ref. Publications” section of EASA AD 2020-0091.

**(j) New Maintenance or Inspection Program Revision**

Except as specified in paragraph (k) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2021-0206, dated September 15, 2021 (EASA AD 2021-0206). Accomplishing the revision of the existing maintenance or inspection program required by this paragraph terminates the requirements of paragraph (g) of this AD.

**(k) Exceptions to EASA AD 2021-0206**

(1) Where EASA AD 2021-0206 refers to its effective date, this AD requires using the effective date of this AD.

(2) The requirement specified in paragraph (1) of EASA AD 2021-0206 does not apply to this AD.

(3) Paragraph (2) of EASA AD 2021-0206 specifies revising “the approved AMP” within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(4) The initial compliance time for doing the tasks specified in paragraph (2) of EASA AD 2021-0206 is at the applicable “limitations” as incorporated by the requirements of paragraph (2) of EASA AD 2021-0206, or within 90 days after the effective date of this AD, whichever occurs later.

(5) The provisions specified in paragraph (3) and (4) of EASA AD 2021-0206 do not apply to this AD.

(6) The “Remarks” section of EASA AD 2021-0206 does not apply to this AD.

**(l) New Provisions for Alternative Actions and Intervals**

After the revision of the existing maintenance or inspection program has been accomplished as required by paragraph (j) of

this AD, no alternative actions (e.g., inspections) and intervals are allowed unless they are approved as specified in the provisions of the “Ref. Publications” section of EASA AD 2021-0206.

**(m) Additional AD Provisions**

The following provisions also apply to this AD:

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

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

**(n) Related Information**

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

**(o) Material Incorporated by Reference**

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

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

(3) The following service information was approved for IBR on June 16, 2022.

(i) European Union Aviation Safety Agency (EASA) AD 2021-0206, dated September 15, 2021.

(ii) [Reserved]

(4) The following service information was approved for IBR on November 18, 2020 (85 FR 64961, October 14, 2020).

(i) European Union Aviation Safety Agency (EASA) AD 2020-0091, dated April 22, 2020.

(ii) [Reserved]

(5) For EASA AD 2021-0206 and EASA AD 2020-0091, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu*. You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu*.

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

(7) 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](mailto:fr.inspection@nara.gov), or go to: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued on April 11, 2022.

**Lance T. Gant,**

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

[FR Doc. 2022-10140 Filed 5-11-22; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2020-1140; Project Identifier AD-2020-01009-T; Amendment 39-21972; AD 2022-06-06]

RIN 2120-AA64

#### Airworthiness Directives; The Boeing Company Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is superseding Airworthiness Directive (AD) 2017-14-13, which applied to certain The Boeing Company Model 737-600, -700, -700C, -800, -900, and -900ER series airplanes. AD 2017-14-13 required a torque check of the screws in the cover assembly of the heel rest for both the captain's and the first officer's rudder pedals, and corrective action if necessary. This AD was prompted by a report of an aborted takeoff because the rudder pedals were not operating correctly, and subsequent reports of loose rudder pedal cover fasteners on airplanes on which the actions required by AD 2017-14-13 were done and on additional airplanes that were not included in the applicability of AD 2017-14-13. This AD requires modifying the rudder pedal cover and shroud assemblies, and applies to all The Boeing Company Model 737-600, -700, -700C, -800, -900, and -900ER series airplanes and Model 737-8 and 737-9 airplanes. This AD also limits the installation of affected parts under certain conditions. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective June 16, 2022.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of June 16, 2022.

**ADDRESSES:** For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110-SK57, Seal Beach, CA 90740-5600; telephone 562-797-1717; internet <https://www.myboeingfleet.com>. You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-1140.

#### Examining the AD Docket

You may examine the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-1140; 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:** Douglas Tsuji, Aerospace Engineer, Systems and Equipment Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone: 206-231-3548; email: [douglas.tsuji@faa.gov](mailto:douglas.tsuji@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2017-14-13, Amendment 39-18957 (82 FR 33007, July 19, 2017) ("AD 2017-14-13"). AD 2017-14-13 applied to certain The Boeing Company Model 737-600, -700, -700C, -800, -900, and -900ER series airplanes. AD 2017-14-13 required a torque check of the screws in the cover assembly of the heel rest for both the captain's and the first officer's rudder pedals, and corrective action if necessary.

The NPRM published in the **Federal Register** on January 21, 2021 (86 FR 6273). The NPRM was prompted by a report of an aborted takeoff because the

rudder pedals were not operating correctly and subsequent reports of loose rudder pedal cover fasteners on airplanes on which the actions required by AD 2017-14-13 had been done. These reports demonstrated that the required torque checks were ineffective in guaranteeing fastener retention and that additional airplanes that had not been included in the applicability of AD 2017-14-13 are also affected (*i.e.*, all Model 737-8 and 737-9 airplanes; and Model 737-600, -700, -700C, -800, -900, and -900ER series airplanes, having line numbers 3556 and subsequent). In the NPRM, the FAA proposed to require modifying the rudder pedal cover and shroud assemblies with a new design that prevents the fasteners from backing out. The NPRM also proposed to limit the installation of affected parts under certain conditions, including modification of the cover or shroud assembly in accordance with the requirements of paragraph (h) of this AD. The FAA is issuing this AD to address cover assembly fasteners interfering with the operation of a rudder pedal. A fastener can back out and restrict rudder pedal motion and reduce differential braking control during takeoff or landing, which could cause a high-speed runway excursion.

#### Discussion of Final Airworthiness Directive

##### Comments

The FAA received supportive comments from two commenters: Air Line Pilots Association, International (ALPA) and United Airlines (UAL). ALPA supported the NPRM without change. UAL supported the NPRM, but requested clarification regarding the method for part marking, as discussed later in this discussion.

The FAA also received comments from Boeing, Aviation Partners Boeing, and Delta Air Lines (DAL). The following presents the comments received on the NPRM and the FAA's response to each comment.

#### Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that the installation of winglets per Supplemental Type Certificate STC ST00830SE does not affect compliance with the proposed actions.

The FAA agrees with the commenter. The installation of STC ST00830SE does not affect an operator's ability to accomplish the actions required by this AD. The FAA has not changed this AD.

### Request To Update the Service Information to the Latest Revision

Boeing requested that the FAA require Boeing Requirements Bulletin 737–27A1314 RB, Revision 2, dated July 6, 2021, because an individual airplane was omitted from the effectivity of the previous revision of the service bulletin (the NPRM proposed that operators do actions using Boeing Alert Requirements Bulletin 737–27A1314 RB, Revision 1, dated June 24, 2020).

The FAA agrees to require Boeing Requirements Bulletin 737–27A1314 RB, Revision 2, dated July 6, 2021, because the individual airplane added to the effectivity of that service bulletin was already in the applicability of the proposed rule and therefore no change to the applicability of the final rule is necessary.

Furthermore, Boeing Requirements Bulletin 737–27A1314 RB, Revision 2, dated July 6, 2021, does not add new actions or revise the existing actions specified in Boeing Alert Requirements Bulletin 737–27A1314 RB, Revision 1, dated June 24, 2020, which the NPRM proposed as a method of compliance for doing the actions required by this AD.

The FAA has revised this AD to specify that required actions be done in accordance with Boeing Requirements Bulletin 737–27A1314 RB, Revision 2, dated July 6, 2021, as applicable, and to give credit for actions done in accordance with Boeing Alert Requirements Bulletin 737–27A1314 RB, Revision 1, dated June 24, 2020.

### Request To Change Applicability of the Proposed AD

Boeing requested that the applicability of the proposed AD be revised to match the effectivity defined in Boeing Alert Requirements Bulletin 737–27A1313 RB, Revision 1, dated June 24, 2020, or Boeing Alert Requirements Bulletin 737–27A1314 RB, Revision 1, dated June 24, 2020. Boeing stated that the shroud and cover do not meet the definition of “rotatable parts” in the new configuration, because the parts are no longer interchangeable following modification and must also have the mating part (the part that attached to the aircraft structure) modified to be installed. Boeing also stated a “pre-modified part” cannot be installed on an airplane having the service bulletin modifications. Based on this non-interchangeability, Boeing does not consider these as rotatable.

The FAA disagrees with changing the applicability, as specified in paragraph (c) of this AD, because the FAA has determined there is a rotatability issue. It is true that an original shroud assembly

cannot be installed with an upper cover assembly modified as specified in the requirements bulletins identified in this AD, and conversely a shroud assembly modified as specified in the requirements bulletins cannot be installed with an original upper cover assembly. However, it is still physically possible to install an original shroud assembly and an original upper cover assembly (the combination with the unsafe condition) on an airplane not identified in the Boeing requirements bulletins. Therefore, no changes have been made to this AD regarding this request.

### Request for Definition of “Production Equivalent”

Boeing and DAL requested that the FAA revise paragraph (g) of the proposed AD to further define what constitutes a “production equivalent.” DAL asked if certain part numbers and subsequent part numbers that are fully interchangeable can be installed. Boeing stated that more guidance is needed for operators on how to verify that the change is incorporated on production airplanes that have been delivered. Boeing stated that for airplanes modified by Boeing, operators do not have a corresponding maintenance record and that delivery records may be used for verification of production equivalent.

The FAA agrees with the request. The NPRM did not provide a definition of a “production equivalent,” which need not be further modified. Paragraph (g) of this AD has been revised to include the following information: “A production equivalent can be determined by its upper cover assembly part numbers (P/Ns 251A3122–15 (pilot) and 251A3122–16 (first officer), or later approved part numbers) and shroud assembly part numbers (P/Ns 233A2319–5 or –6, or later approved part numbers, used for both pilot and first officer).”

### Request for Re-Identification of Modified Housing and Shrouds

DAL requested that the service information be revised. DAL stated that modified housing and shrouds should be re-identified with a new dash number instead of with the service bulletin number. DAL stated that configuration control could be an issue if the pre- and post-modification parts were to share a common part number. The commenter asserted that in an aircraft on ground or “AOG” situation (such as when a maintenance issue prevents the airplane from departing from an airport until the issue is resolved), the operator could find out too late that a part brought to the

airplane is unmodified and is, therefore, restricted for installation, which could lead to an operational delay to allow for part modification prior to returning the aircraft to service. DAL argued that a new, unique part number would eliminate that risk.

The FAA disagrees with the requested change. The FAA acknowledges that parts are typically identified by part numbers, and that continued use of the same part number for both modified and unmodified parts could make it difficult for operators to keep track of them. However, the FAA disagrees with re-identifying modified parts with a new dash number, because some operators have already modified their airplanes using the existing service information and imposing this additional requirement would necessitate work unrelated to addressing the unsafe condition. Furthermore, waiting for revised service information that incorporates the identification of new dash numbers would delay the issuance of this AD. After this AD is issued, operators could coordinate with the manufacturer to create a unique new part number for parts modified in accordance with the service information, and the manufacturer could propose installation of the new part number as an alternative method of compliance (AMOC) to this AD. This AD has not been changed with regard to this request.

### Request To Allow Part Marking by Hand Lettering

DAL requested a change in paragraph (i) of the proposed AD to specify either rubber stamp or hand lettering, because hand lettering is an acceptable alternate method of part marking for the affected part. DAL also stated that the manufacturer agrees hand lettering is an acceptable alternative to the rubber stamp method. In addition, UAL requested that the FAA clarify the part marking in the required for compliance (RC) step of the service information that refers to the standard overhaul practices manual (SOPM). UAL stated that the SOPM includes a note referring to alternate marking methods (*i.e.*, hand lettering instead of rubber stamp).

The FAA disagrees with the request to modify paragraph (i) of this AD because the service information does not specify the method by which the part marking must be applied. This AD requires that part marking must be done. However, the method of part marking is not mandated, as the service information refers to the SOPM. The use of the “refer to” indicates the SOPM is guidance on how to do the part marking. The SOPM



specifies using a rubber stamp and allows for hand lettering as an alternative action so operators may use either method or may use an accepted alternative. This AD has not been changed regarding this request.

**Request To Change To Allow Installation of New Housing**

DAL requested a change to correct certain discrepancies in Boeing Alert Service Bulletin 737-27A1314, Revision 1, dated June 24, 2020. In the non-RC sections “Work Package 1, Part 2: Installation, Test and Close Access” and “Work Package 2, Part 2: Installation, Test and Close Access,” DAL asked for a change in wording of the proposed AD to indicate that a “new or changed” upper cover assembly could be installed. The commenter explained that the work instructions allow either Option 1 (modify then reinstall existing housing) or Option 2 (install new housing).

The FAA disagrees with the request. While the non-RC work instructions in Boeing Alert Service Bulletin 737-27A1314, Revision 1, dated June 24, 2020, accurately describe the allowable installations, changing the AD would not be warranted because the indicated sections are not within Boeing Alert Requirements Bulletin 737-27A1314 RB, Revision 2, dated July 6, 2021 (or

within Revision 1, dated June 24, 2020). “Work Package 1, Part 2: Installation, Test and Close Access” and “Work Package 2, Part 2: Installation, Test and Close Access,” of Boeing Alert Service Bulletin 737-27A1314, Revision 2, dated July 6, 2021, are for reference only. The manufacturer may choose to update this section of the service information in a future revision, but this section does not affect compliance with this AD. Operators can use either option as specified in Boeing Alert Requirements Bulletin 737-27A1314 RB, Revision 2, dated July 6, 2021. This AD has not been changed regarding this request.

**Clarification of Parts Installation Prohibition**

Paragraphs (k)(1) and (2) of the proposed AD specified the parts installation prohibition for airplanes with an original airworthiness certificate or original export certificate of airworthiness issued after the effective date of this AD and prior to the effective date of this AD. However, airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on the effective date of this AD were not identified in either paragraph. The FAA has revised paragraph (k)(1) of this AD to include the parts installation prohibition for

airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or after the effective date of this AD.

**Conclusion**

The FAA reviewed the relevant data, considered the comments received, and determined that air safety requires adopting the requirements of this AD.

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

The FAA reviewed Boeing Alert Requirements Bulletin 737-27A1313 RB, Revision 1, dated June 24, 2020; and Boeing Alert Requirements Bulletin 737-27A1314 RB, Revision 2, dated July 6, 2021. The service information describes procedures for modifying the captain’s and first officer’s rudder pedal cover and shroud assemblies. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in ADDRESSES.

**Costs of Compliance**

The FAA estimates that this AD affects 2,048 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

**ESTIMATED COSTS FOR REQUIRED ACTIONS**

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modifying the rudder pedal cover and shroud assemblies.	Up to 13 work-hours × \$85 per hour = Up to \$1,105.	\$5,560	Up to \$6,665 .....	Up to \$13,649,920.

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

**Authority for This Rulemaking**

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and

procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

**Regulatory Findings**

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

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

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and

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

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

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

**The Amendment**

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

**PART 39—AIRWORTHINESS DIRECTIVES**

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

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

**§ 39.13 [Amended]**

- 2. The FAA amends § 39.13 by:
  - a. Removing Airworthiness Directive 2017–14–13, Amendment 39–18957 (82 FR 33007, July 19, 2017); and
  - b. Adding the following new AD:

**2022–06–06 The Boeing Company:**  
Amendment 39–21972; Docket No. FAA–2020–1140; Project Identifier AD–2020–01009–T.

**(a) Effective Date**

This airworthiness directive (AD) is effective June 16, 2022.

**(b) Affected ADs**

This AD replaces AD 2017–14–13, Amendment 39–18957 (82 FR 33007, July 19, 2017) (AD 2017–14–13).

**(c) Applicability**

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

- (1) Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes.
- (2) Model 737–8 and 737–9 airplanes.

**(d) Subject**

Air Transport Association (ATA) of America Code 27, Flight controls.

**(e) Unsafe Condition**

This AD was prompted by a report of an aborted takeoff because the rudder pedals were not operating correctly, and subsequent reports of loose rudder pedal cover fasteners on airplanes on which the actions required by AD 2017–14–13 were done and on additional airplanes that were not included in the applicability of AD 2017–14–13. The FAA is issuing this AD to address cover assembly fasteners interfering with the operation of a rudder pedal. A fastener can back out and restrict rudder pedal motion and reduce differential braking control during takeoff or landing, which could cause a high-speed runway excursion.

**(f) Compliance**

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

**(g) Determination of Modification Status**

For airplanes with an original airworthiness certificate or original export certificate of airworthiness issued before the effective date of this AD: Within 27 months after the date of issuance of the original airworthiness certificate or original export certificate of airworthiness, or within 27 months after the effective date of this AD, whichever occurs later, determine whether the captain's and first officer's rudder pedal cover and shroud assemblies have been modified as specified in Boeing Alert Requirements Bulletin 737–27A1313 RB, Revision 1, dated June 24, 2020; or 737–27A1314 RB, Revision 2, dated July 6, 2021; as applicable, or has a production equivalent. A production equivalent can be determined by its upper cover assembly part numbers (P/Ns 251A3122–15 (pilot) and 251A3122–16 (first officer), or later approved part numbers)

and shroud assembly part numbers (P/Ns 233A2319–5 or –6, or later approved part numbers, used for both pilot and first officer). A review of airplane maintenance records is acceptable for this requirement if the modification status can be conclusively determined from that review.

**(h) Modification**

For airplanes that have not been modified as determined by paragraph (g) of this AD: At the applicable times specified in the “Compliance” paragraph of Boeing Alert Requirements Bulletin 737–27A1313 RB, Revision 1, dated June 24, 2020, or Boeing Alert Requirements Bulletin 737–27A1314 RB, Revision 2, dated July 6, 2021, as applicable, except as specified by paragraph (i) of this AD, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 737–27A1313 RB, Revision 1, dated June 24, 2020; or Boeing Alert Requirements Bulletin 737–27A1314 RB, Revision 2, dated July 6, 2021; as applicable.

**Note 1 to paragraph (h):** Guidance for accomplishing the actions required by paragraph (h) of this AD can be found in Boeing Alert Service Bulletin 737–27A1313, Revision 1, dated June 24, 2020; and Boeing Alert Service Bulletin 737–27A1314, Revision 2, dated July 6, 2021; which are referred to in Boeing Alert Requirements Bulletin 737–27A1313 RB, Revision 1, dated June 24, 2020; and Boeing Alert Requirements Bulletin 737–27A1314 RB, Revision 2, dated July 6, 2021; respectively.

**(i) Exception to Service Information Specifications**

Where Boeing Alert Requirements Bulletin 737–27A1313 RB, Revision 1, dated June 24, 2020; and Boeing Alert Requirements Bulletin 737–27A1314 RB, Revision 2, dated July 6, 2021, use the phrase “the original issue date of” each Requirements Bulletin for compliance, this AD requires using the effective date of this AD.

**(j) Credit for Previous Actions**

This paragraph provides credit for the actions specified in paragraph (h) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Requirements Bulletin 737–27A1313 RB, dated March 18, 2020; Boeing Alert Requirements Bulletin 737–27A1314 RB, dated March 18, 2020; or Boeing Alert Requirements Bulletin 737–27A1314 RB, Revision 1, dated June 24, 2020.

**(k) Parts Installation Limitation**

(1) For airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or after the effective date of this AD: As of the effective date of this AD, no person may install a captain's or first officer's rudder pedal cover or shroud assembly on any airplane, unless the cover or shroud assembly has been modified in accordance with the requirements of paragraph (h) of this AD.

(2) For airplanes with an original airworthiness certificate or original export certificate of airworthiness issued prior to the effective date of this AD: After the

modification required by paragraph (h) of this AD has been done, no person may install a captain's or first officer's rudder pedal cover or shroud assembly on any airplane, unless the cover or shroud assembly has been modified in accordance with the requirements of paragraph (h) of this AD. Reinstallation of a rudder pedal cover or shroud assembly that has not been modified in accordance with paragraph (h) of this AD but has been removed for other maintenance is allowed.

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

(1) The Manager, Seattle ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or 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 (m) of this AD. Information may be emailed to: [9-ANM-Seattle-ACO-AMOC-Requests@faa.gov](mailto:9-ANM-Seattle-ACO-AMOC-Requests@faa.gov).

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) AMOCs approved previously for AD 2017–14–13 are not approved as AMOCs for the corresponding provisions of this AD.

**(m) Related Information**

For more information about this AD, contact Douglas Tsuji, Aerospace Engineer, Systems and Equipment Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3548; email: [douglas.tsuji@faa.gov](mailto:douglas.tsuji@faa.gov).

**(n) 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) Boeing Alert Requirements Bulletin 737–27A1313 RB, Revision 1, dated June 24, 2020.

(ii) Boeing Alert Requirements Bulletin 737–27A1314 RB, Revision 2, dated July 6, 2021.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110–SK57, Seal Beach, CA 90740–5600;

telephone 562-797-1717; internet <https://www.myboeingfleet.com>.

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

(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](mailto: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. 2022-10178 Filed 5-11-22; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2021-0870; Project Identifier MCAI-2021-00644-T; Amendment 39-22007; AD 2022-08-04]

RIN 2120-AA64

#### Airworthiness Directives; Airbus SAS Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A300 series airplanes. This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. This AD requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, 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 June 16, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 16, 2022.

**ADDRESSES:** For material incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); internet [www.easa.europa.eu](http://www.easa.europa.eu). You may find this IBR material on the EASA

website at <https://ad.easa.europa.eu>. You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0870.

#### Examining the AD Docket

You may examine the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0870; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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

#### SUPPLEMENTARY INFORMATION:

##### Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021-0134, dated June 1, 2021 (EASA AD 2021-0134) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all Airbus SAS Model A300 series airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus SAS Model A300 series airplanes. The NPRM published in the **Federal Register** on October 7, 2021 (86 FR 55749). The NPRM was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The NPRM proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in EASA AD 2021-0134.

The FAA is issuing this AD to prevent reduced structural integrity of the airplane. See the MCAI for additional background information.

#### Discussion of Final Airworthiness Directive

##### Comments

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

The FAA received an additional comment from UPS Airlines. The following presents the comment received on the NPRM and the FAA's response.

##### Request To Reference Related Rulemaking

UPS Airlines stated that paragraph (b) of the proposed AD does not refer to any affected ADs. UPS Airlines added that this is in contrast to NPRM MCAI-2021-00385-T, dated August 9, 2021 (Docket No. FAA-2021-0617 (86 FR 43440, August 9, 2021)), which also would individually mandate an airworthiness limitations section (ALS) Variation document without superseding prior rulemaking. UPS Airlines noted that in paragraph (b) of that NPRM, the current ALS Part 2 rulings are identified as affected by the proposed rule. UPS Airlines proposed to include in paragraph (b) of this proposed AD the applicable existing mandatory ruling(s) for the A300 ALS Part 2, Revision 3, and subsequent released variations (the FAA notes the existing requirements for incorporating the A300 ALS Part 2, Revision 3 are in AD 2018-19-17, Amendment 39-19417 (83 FR 48207, September 24, 2018) (AD 2018-19-17)).

The FAA agrees with the commenter's request. By definition, an "affected AD" is one where all or part of the requirements of that AD is affected by the new AD. Affected ADs are provided in paragraph (b) of AD actions solely for information. Paragraph (h)(2) of this AD states that the new limit of validity (LOV) required by this AD replaces the LOVs required by AD 2018-19-17. Therefore, the FAA has revised paragraph (b) of this AD to refer to AD 2018-19-17.

##### Clarification for Paragraph (h)(2) of the Proposed AD

Paragraph (h)(2) of the proposed AD incorrectly specifies the date for Airbus A300 ALS, Part 2, Revision 03, as "March 16, 2021." The correct date is August 28, 2017. Paragraph (h)(2) of this AD has been revised to refer to the correct date.

##### Conclusion

The FAA reviewed the relevant data, considered the comments received, and determined that air safety requires

adopting this AD as proposed. Except for minor editorial changes and any other changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products.

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

EASA AD 2021–0134 describes new or more restrictive airworthiness limitations for airplane LOVs. 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 1 airplane of U.S. registry. The FAA estimates the following costs to comply with this AD:

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the agency estimates the average total cost per operator to be \$7,650 (90 work-hours × \$85 per work-hour).

#### 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:

**2022–08–04 Airbus SAS:** Amendment 39–22007; Docket No. FAA–2021–0870; Project Identifier MCAI–2021–00644–T.

##### (a) Effective Date

This airworthiness directive (AD) is effective June 16, 2022.

##### (b) Affected ADs

This AD affects AD 2018–19–17, Amendment 39–19417 (83 FR 48207, September 24, 2018) (AD 2018–19–17).

##### (c) Applicability

This AD applies to all Airbus SAS Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes, certificated in any category.

##### (d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

##### (e) Reason

This AD was prompted by a determination that new or more restrictive airworthiness

limitations are necessary. The FAA is issuing this AD to prevent reduced structural integrity of the airplane.

##### (f) Compliance

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

##### (g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2021–0134, dated June 1, 2021 (EASA AD 2021–0134).

##### (h) Exceptions to EASA AD 2021–0134

(1) Where EASA AD 2021–0134 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph (1) of EASA AD 2021–0134 specifies “This AD invalidates the LOV [limit of validity] as specified in Airbus A300 ALS Part 2 Revision 03 [EASA AD 2017–0207],” this AD replaces the LOVs specified in paragraph 1.3 of Airbus A300 Airworthiness Limitations Section (ALS), Part 2–Damage Tolerant Airworthiness Limitation Items (DT–ALI), Revision 03, dated August 28, 2017, as required by FAA AD 2018–19–17.

(3) Paragraph (2) of EASA AD 2021–0134 specifies revising “the approved AMP” within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(4) The “Remarks” section of EASA AD 2021–0134 does not apply to this AD.

##### (i) Provisions for Alternative Actions and Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (e.g., inspections) or intervals are allowed unless they are approved as specified in the provisions of the “Ref. Publications” section of EASA AD 2021–0134.

##### (j) Additional AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions

from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

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

#### (k) Related Information

For more information about this AD, contact Dan Rodina, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206-231-3225; email [dan.rodina@faa.gov](mailto:dan.rodina@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 2021-0134, dated June 1, 2021.

(ii) [Reserved]

(3) For EASA AD 2021-0134, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADS@easa.europa.eu](mailto:ADS@easa.europa.eu); internet [www.easa.europa.eu](http://www.easa.europa.eu). You may find this EASA AD on the EASA website at <https://www.easa.europa.eu>.

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

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

Issued on April 4, 2022.

**Lance T. Gant,**

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

[FR Doc. 2022-10157 Filed 5-11-22; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2021-1030; Airspace Docket No. 21-ASW-10]

RIN 2120-AA66

#### Amendment of VOR Federal Airways V-47, V-54, V-69, V-94, V-140, V-278, V-305, and Revocation of V-397; Southeastern United States

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

**ACTION:** Final rule.

**SUMMARY:** This action amends VHF Omnidirectional Range (VOR) Federal airways V-47, V-54, V-140, V-278, V-305, and removes V-397, in association with the Graceland VOR Minimum Operational Network (MON) project in the southeastern United States. This action is necessary due to the planned decommissioning of the following ground-based navigation aids: Dyersburg, TN, (DYR) VOR Tactical Air Navigation (VORTAC); Malden, MO, (MAW) VORTAC; Monticello, AR, (MON) VOR/Distance Measuring Equipment (VOR/DME); and the Muscle Shoals, AL, (MSL) VORTAC. VOR Federal airways V-69 and V-94 are removed from this docket action for further planning and coordination.

**DATES:** Effective date 0901 UTC, July 14, 2022. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

**ADDRESSES:** 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/](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:** Paul Gallant, 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).

#### History

The FAA published a notice of proposed rulemaking for Docket No. FAA-2021-1030 in the **Federal Register** (86 FR 70776; December 13, 2021), amending seven VOR Federal airways and removing one airway in the southeastern United States. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

#### Availability and Summary of Documents for Incorporation by Reference

This document amends 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.

#### Differences From the NPRM

VOR Federal airways V-69 and V-94 are removed from this docket action for further planning and coordination. They will be addressed in a subsequent docket action at a later date.

This rule includes changes to VOR Federal airways V-140, V-278, and V-305 to enable ongoing review by the Department of Defense. So as to avoid the premature removal of route segments, the three airways are being revised to implement only those structural changes necessary due to the scheduled decommissioning of the Dyersburg, TN (DYR) VORTAC; Malden, MO (MAW) VORTAC; Monticello, AR (MON) VOR/DME; and the Muscle Shoals, AL (MSL) VORTAC.

As described below, V-140 is amended to retain the Walnut Ridge, AR (ARG) VORTAC. A separate docket action removed the Kingfisher, OK (IFI) VORTAC from the route. V-278 is amended to retain the segments between

the Greenville, MS (GLH) VOR/DME, and the Vulcan, AL (VUZ) VORTAC. V-305 is amended to retain the segments between the Little Rock AR, (LIT) VORTAC and the Walnut Ridge, AR (ARG) VORTAC.

For clarification, V-47, V-54, and V-397 will remain as proposed in the NPRM.

Domestic VOR Federal airways are published in paragraph 6010(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 VOR Federal airways listed in this document will be subsequently published in, or removed from FAA Order JO 7400.11.

### The Rule

The FAA is amending 14 CFR part 71 to amend VOR Federal airways V-47, V-54, V-140, V-278, V-305, and to remove V-397, in support of the FAA's VOR MON program. The route changes are described below.

**V-47:** V-47 currently consists of two separate parts: From Pine Bluff, AR, to Pocket City, IN; and From Cincinnati, KY, to Flag City, OH. The FAA is removing the segments from Pine Bluff, AR, to Dyersburg, TN. Therefore, the first part of V-47 extends from Cunningham, KY, to Pocket City, IN. The second part of the route extends from Cincinnati, KY to Flag City, OH, as currently charted.

**V-54:** V-54 currently consists of two separate parts: From Waco, TX, to Cedar Creek, TX; and From Texarkana, AR, to Kinston, NC. The FAA is removing the segments from Marvell, AR, to Charlotte, NC. This change configures V-54 into three parts: From Waco, TX, to Cedar Creek, TX; From Texarkana, AR, to Little Rock, AR; and From Sandhills, NC, to Kinston, NC.

**V-140:** V-140 currently consists of two parts: From Panhandle, TX, to London, KY; and from Bluefield, WV, to Casanova, VA. The NPRM proposed removing the Walnut Ridge, AR, Dyersburg, TN, and Hazard, KY, navigation aids from V-140. A separate docket action removed the Kingfisher, OK, (IFI) VORTAC from the route. This rule retains the Walnut Ridge VORTAC as part of V-140. As a result, V-140 consists of the following four parts: From Panhandle, TX, to Burns Flat, OK; From Tulsa, OK, to Walnut Ridge, AR; From Nashville, TN, to London, KY; and From Bluefield, WV, to Casanova, VA

**V-278:** V-278 currently consists of two parts: From Texico, NM, to Plainview, TX; and from Bowie, TX, to Vulcan, AL. The NPRM proposed to remove the segments from Monticello, AR, to Vulcan, AL. This rule removes

Monticello, AR from the route, but retains the segments from Greenville, MS to Vulcan, AL. The first part of V-278 (from Texico to Plainview) remains unchanged. The second part of the route is amended as follows: From Bowie, TX; Bonham, TX; Paris, TX; Texarkana, AR; to INT Texarkana 088° and Eldorado, AR 034° radials; From Greenville, MS; Sidon, MS; Bigbee, MS; to Vulcan, AL.

**V-305:** V-305 currently extends from El Dorado, AR, to Kokomo, IN. The NPRM proposed to remove Walnut Ridge, AR, and Malden, MO, from the route. This rule removes Malden, MO, but retains the segments from Little Rock, AR, to Walnut Ridge, AR. As amended, V-305 consists of two separate parts: From Eldorado, AR, to Walnut Ridge, AR; and From Cunningham, KY, to Kokomo, IN.

**V-397:** V-397 currently extends from Monroe, LA, to Marvell, AR. The FAA is removing the entire route.

Full route descriptions of the above routes are listed in "The Amendment" section of this rule.

FAA Order 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 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 only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### Environmental Review

The FAA has determined that this action of amending five VOR Federal airways, and removing one airway, in the southeastern United States qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5-6.5a, which categorically excludes from

further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points); and paragraph 5-6.5b, which categorically excludes from further environmental impact review "Actions regarding establishment of jet routes and Federal airways (see 14 CFR 71.15, *Designation of jet routes and VOR Federal airways*) . . .". As such, this action is not expected to cause any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5-2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA has determined no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

### The Amendment

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

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

- 1. The authority citation for part 71 continues to read as follows:

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

#### § 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 6010(a) Domestic VOR Federal Airways.*

\* \* \* \* \*

#### V-47 [Amended]

From Cunningham, KY; to Pocket City, IN. From Cincinnati, KY; Rosewood, OH; to Flag City, OH.

\* \* \* \* \*

#### V-54 [Amended]

From Waco, TX; to Cedar Creek, TX. From Texarkana, AR; INT Texarkana 052° and

Little Rock, AR, 235° radials; to Little Rock. From Sandhills, NC; INT Sandhills 146° and Fayetteville, NC, 267° radials; Fayetteville; to Kinston, NC.

\* \* \* \* \*

#### V-140 [Amended]

From Panhandle, TX; to Burns Flat, OK. From Tulsa, OK; Razorback, AR; Harrison, AR; to Walnut Ridge, AR; From Nashville, TN; Livingston, TN; to London, KY. From Bluefield, WV; INT Bluefield 071° and Montebello, VA, 250° radials; Montebello; to Casanova, VA.

\* \* \* \* \*

#### V-278 [Amended]

From Texico, NM; to Plainview, TX. From Bowie, TX; Bonham, TX; Paris, TX; Texarkana, AR; to INT Texarkana 088° and El Dorado, AR 034° radials; From Greenville, MS; Sidon, MS; Bigbee, MS; to Vulcan, AL.

\* \* \* \* \*

#### V-305 [Amended]

From El Dorado, AR; Little Rock, AR; to Walnut Ridge, AR; From Cunningham, KY; Pocket City, IN; INT Pocket City 046° and Hoosier, IN, 205° radials; Hoosier; INT Hoosier 025° and Brickyard, IN, 185° radials; Brickyard; INT Brickyard 038° and Kokomo, IN, 182° radials; to Kokomo.

\* \* \* \* \*

#### V-397 [Removed]

\* \* \* \* \*

Issued in Washington, DC, on May 3, 2022.

**Scott M. Rosenbloom,**

*Manager, Airspace Rules and Regulations.*

[FR Doc. 2022-09923 Filed 5-11-22; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2022-0173]

RIN 1625-AA00

#### Safety Zone; Barge Based Fireworks, Hudson River, Wappingers Falls, NY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for all navigable waters within a 600-foot radius of the fireworks launch site which is located on the Hudson River, Wappingers Falls, NY, in the vicinity south of Crum Elbow. This safety zone is needed to protect personnel, vessels, and the marine environment from the potential hazards during a fireworks display on May 28, 2022. Entry of vessels or persons into, transiting

through, mooring, or anchoring within this zone are prohibited unless authorized by the Captain of the Port New York.

**DATES:** This rule is effective from 10 p.m. through 11 p.m. on May 28, 2022.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2022-0173 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 MST1 S. Stevenson, Waterways Management Division, U.S. Coast Guard; telephone 719-354-4000, email [D01-SMB-SecNY-Waterways@uscg.mil](mailto:D01-SMB-SecNY-Waterways@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

CFR Code of Federal Regulations  
COTP Captain of the Port New York  
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 doing so would be impracticable and contrary to the public interest. The final details for this event were not known to the Coast Guard until there was insufficient time to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be impracticable because it would inhibit the Coast Guard’s ability to protect the public and vessels from the hazards associated with a barge based fireworks display. The expeditious implementation of this rule is in the public interest because it will help ensure the safety of those involved in displaying the fireworks, the spectators, and users of the waterway during the fireworks 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 New York (COTP) has determined that potential hazards associated with this fireworks display, on May 28, 2022, will pose a significant risk to public safety and property. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the fallout zone immediately before, during, and after the fireworks display.

##### IV. Discussion of the Rule

This rule establishes a temporary safety zone on all navigable waters within a 600-foot radius of a barge located at approximate position 41°45’21.06” N 73°56’35.94” W on the Hudson River, Wappingers Falls, NY, in the vicinity south of Crum Elbow. No vessel or person will be permitted to enter the safety zone between 10 p.m. through 11 p.m. on May 28, 2022. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters during the fireworks display. 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 duration and time-of-day of the safety zone. This safety zone will restrict vessel traffic from entering or transiting within a 600-foot radius of the fireworks launch site which is located on the Hudson River, Wappingers Falls, NY, in the vicinity south of Crum Elbow. The approximate position is 41°45’21.06” N 73°56’35.94” W. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF-

FM marine channel 16 about the zone, and the rule allows vessels to seek permission to enter the zone. Vessel traffic will be able to safely transit around the safety zone which would impact a small designated area of the Hudson River. Vessel traffic will only be restricted in the limited access area for 1 hour on May 28, 2022. Advance public notifications will also be made to local mariners through appropriate means, which may include Local Notice to Mariners and Broadcast Notice to Mariners.

#### 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 only 1 hour that will prohibit entry within a 600 foot radius of the fireworks launch site. 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 will be 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.T01–0173 to read as follows:

#### § 165.T01–0173 Safety Zone; 2022 Barge Based Fireworks, Hudson River, Wappingers Falls, NY.

(a) *Location.* The safety zone will cover all navigable waters within a 600-foot radius of the fireworks launch site located on the Hudson River, Wappingers Falls, NY, approximate position 41°45′21.06″ N 73°56′35.94″ W, in the vicinity south of Crum Elbow.

(b) *Enforcement period.* This rule will be enforced from 10 p.m. through 11 p.m. on May 28, 2022.

(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 via VHF–FM Marine Channel 16 or by contacting the Coast Guard Sector New York command center at 718–354–4356 or on VHF 16 to obtain permission.

(d) *Definitions.* As used in this section, *Designated representative* means a Coast Guard Patrol



Commander, including a Coast Guard coxswain, petty officer or other officer operating a Coast Guard vessel and a Federal, State and local officer designated by or assisting the Captain of the Port New York (COTP) in the enforcement of this section.

Dated: April 14, 2022.

**M. Sennick,**

*Captain, U.S. Coast Guard, Captain of the Port New York.*

[FR Doc. 2022-10208 Filed 5-11-22; 8:45 am]

BILLING CODE 9110-04-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2022-0245]

RIN 1625-AA00

#### Safety Zone; International Special Operations Exercise, Seddon Channel, Tampa, FL

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the waters of Seddon Channel in Tampa Bay, in Tampa, Florida, during the International Special Operations Exercise. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by airborne and waterborne activities occurring during the exercise. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port (COTP) St. Petersburg or a designated representative.

**DATES:** This rule is effective from 12 p.m. until 3 p.m., on May 17, 2022, through May 18, 2022.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2022-0245 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 Marine Science Technician Second Class Regina L. Cuevas, Sector St. Petersburg Prevention Department, Coast Guard; telephone (813) 228-2191, email [Regina.L.Cuevas@uscg.mil](mailto:Regina.L.Cuevas@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 it is impracticable and contrary to the public interest to do so. The primary justification for this action is that the Coast Guard was given short notice from the event sponsor leaving insufficient time to publish an NPRM and to receive public comments prior to the exercise. We must establish a safety zone by May 17, 2022, to protect the public from hazards associated with the International Special Operations Exercise.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because immediate action is needed to respond to the potential dangers to the public during the exercise.

### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port St. Petersburg (COTP) has determined that potential hazards associated with the exercise will be a safety concern for anyone within the exercise area. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone during the exercise.

### IV. Discussion of the Rule

This rule establishes a safety zone on certain navigable waters of the Seddon Channel from 12 p.m. until 3 p.m., on May 17, 2022 through May 18, 2022. The safety zone will cover an area of the Seddon Channel located in the vicinity

of the Tampa Convention Center in Tampa, Florida. The International Special Operations Exercise is expected to consist of multiple airborne and waterborne activities including: Persons fast-roping and jumping out of helicopters, high-speed boat pursuits, amphibious vehicles operations, and blank ammunition use.

The duration of the zone is intended to ensure the safety of the participants, spectators, and the general public during the scheduled events. No vessel or person, not involved in the events, will be permitted to enter, transit through, anchor in or remain within the safety zone without obtaining permission from the COTP or a designated representative. If authorization to enter, transit through, anchor in, or remain within the safety zone is granted by the COTP or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of 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 following reasons: (1) The safety zone only being enforced for a total of six hours over two days; (2) although persons and vessels may not enter, transit through, anchor in, or remain within the zone without authorization from the COTP or a designated representative, they may operate in the surrounding area during the enforcement period; (3) persons and vessels may still enter, transit through, anchor in, or remain within the areas during the enforcement period if authorized by the COTP or a designated representative.

### 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 temporary safety zone that will prohibit non-participant persons and vessels from entering, transiting through, anchoring in, or remaining within a limited area on the waters of the Seddon Channel in the vicinity of Tampa, Florida. 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 where indicated under **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 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, 160.5; and Department of Homeland Security Delegation No. 00170.1, Revision No. 01.2.

■ 2. Add § 165.T07–0351 to read as follows:

#### § 165.T07–0351 Safety Zone; International Special Operations Exercise, Seddon Channel, Tampa, FL.

(a) *Location.* The following regulated area is a safety zone: All waters of Seddon Channel within the following area: North of 27°56′15″ N, 082°27′19″ W and 27°56′14″ N, 082°27′25″ W; northeast of 27°56′22″ N, 082°27′16″ W and 27°56′25″ N, 082°27′17″ W; south of 27°56′30″ N, 082°27′29″ W and 27°56′29″ N, 082°27′33″ W (Platt St. Bridge); west of 27°56′23″ N, 082°27′32″ W and 27°56′25″ N, 082°27′35″ W (South Harbor Island Blvd. Bridge). All coordinates are North American Datum 1983.

(b) *Definition.* The term “designated representative” means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port (COTP) St. Petersburg in the enforcement of the regulated area.

(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, unless you are an authorized participant in the event.

(2) To seek permission to enter, transit through, anchor in or remain within the safety zone contact the COTP St. Petersburg by telephone at (727) 824–7506 or the COTP’s representative via VHF–FM radio on channel 16. 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) *Effective date.* This rule is effective from 12 p.m. until 3 p.m., on May 17, 2022, through May 18, 2022.

Dated: May 6, 2022.

**Matthew A. Thompson,**

*Captain, U.S. Coast Guard, Captain of the Port St. Petersburg.*

[FR Doc. 2022-10181 Filed 5-11-22; 8:45 am]

BILLING CODE 9110-04-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 50 and 51**

[EPA-HQ-OAR-2022-0313; FRL-9812-01-OAR]

**Identifying Additional Areas Subject to Mitigation Plan Requirements Under the 2016 Exceptional Events Rule: Notice of Availability**

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

**ACTION:** Notification of availability.

**SUMMARY:** Notification is hereby given that the Environmental Protection Agency (EPA) has finalized a list of additional areas subject to the mitigation plan requirements found in the 2016 Exceptional Events Rule. This list is included within this document and is available on the Agency's website and in the electronic docket for this action. The EPA is separately notifying states with areas newly subject to these requirements. These notification letters are also available on the Agency's website and in the electronic docket for this action.

**DATES:** May 12, 2022.

**FOR FURTHER INFORMATION CONTACT:** For general questions concerning this notice, please contact, Gobeail McKinley, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Policy Division, C539-04, Research Triangle Park, NC 27711, telephone (919) 541-5246, email at [mckinley.gobeail@epa.gov](mailto:mckinley.gobeail@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**1. General Information**

*Where can I get information related to this action?*

*Docket:* The EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2022-0313. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information may not be publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy. Publicly available docket materials are available electronically through <https://www.regulations.gov>.

*Agency website:* A list of the additional areas subject to mitigation plans is found on the website that contains information related to exceptional events at: <https://www.epa.gov/air-quality-analysis/treatment-air-quality-data-influenced-exceptional-events-homepage-exceptional>.

**II. What is the purpose of this action?**

In keeping with the EPA's mission to protect public health and consistent with the principles included at the Clean Air Act section 319(b)(3)(A), the 2016 Exceptional Events Rule (Rule) promulgated new regulations requiring states to develop mitigation plans for areas with historically documented or known seasonal exceptional events. Using air quality monitoring data contained within the Air Quality System (AQS) for the period January 1, 2013, through December 31, 2015, the EPA initially identified 29 areas required to submit mitigation plans within 2 years of the effective date of the Rule.<sup>1</sup>

Further, the 2016 Exceptional Events Rule states that as areas become subject to the mitigation plan requirements, the Administrator will notify the states in writing. However, the Rule did not establish a specific process for providing notice to states with areas

newly identified as being subject to mitigation plan requirements. This action establishes a process for providing that notice and fulfills our obligation to identify additional areas with recurring events of the same type and pollutant. Table 1 contains a list of the newly identified areas subject to mitigation requirements. Generally, areas subject to the mitigation requirements have experienced three events or three seasons of events of the same type and pollutant in a 3-year period. For purposes of this analysis and notification, the EPA evaluated rolling 3-year periods for January 1, 2016, through December 31, 2020. A detailed description of the process the EPA followed to identify these areas and a summary of required components of a mitigation plan are included in a background document placed in the docket for this rulemaking titled, "Additional Areas Subject to Mitigation Plan Requirements in 40 CFR 51.930(b)."

Within 2 years of being notified that they are subject to the mitigation plan provisions within the 2016 Exceptional Events Rule, air agencies responsible for ensuring air quality for the areas identified in Table 1 shall submit mitigation plans to the applicable EPA Regional Administrator. Consistent with the 2016 Exceptional Events Rule, after this 2-year timeframe, if an air agency has not submitted the required mitigation plan, the EPA will not concur with an air agency's request to exclude data that have been influenced by an event of the type that is the subject of a required mitigation plan. An air agency may submit a mitigation plan in advance of, or as part of, an exceptional events demonstration submission of the same event type and pollutant as the focus of the mitigation plan.

The discussion of the mitigation plan components is included in the preamble to the 2016 Exceptional Events Rule<sup>2</sup> and 40 CFR 51.930(b)(2) identifies the required components for each mitigation plan. A discussion of mitigation plan components is also included in the background document placed in the docket for this rulemaking.

TABLE 1—ADDITIONAL AREAS SUBJECT TO THE MITIGATION REQUIREMENTS IN 40 CFR 51.930(b) <sup>a</sup>

Pollutant	AQS flag <sup>b</sup>	AQS flag description	State	County/nonattainment area boundary
Ozone .....	RT .....	Wildfire-U.S .....	NV .....	Washoe.
Ozone .....	RT .....	Wildfire-U.S .....	CA .....	Tehama (Tuscan Buttes).
Ozone .....	RT .....	Wildfire-U.S .....	CA .....	Ventura.

<sup>1</sup> 81 FR 68272, Table 6—Areas Subject to the Mitigation Requirements in 40 CFR 51.930(b), October 3, 2016.

<sup>2</sup> 81 FR 68273, October 3, 2016.

TABLE 1—ADDITIONAL AREAS SUBJECT TO THE MITIGATION REQUIREMENTS IN 40 CFR 51.930(b) <sup>a</sup>—Continued

Pollutant	AQS flag <sup>b</sup>	AQS flag description	State	County/nonattainment area boundary
PM <sub>10</sub> .....	RJ .....	High Winds .....	CA .....	Ventura.
PM <sub>10</sub> .....	RJ .....	High Winds .....	WY .....	Campbell.
PM <sub>10</sub> .....	RJ .....	High Winds .....	WY .....	Sweetwater.
PM <sub>10</sub> .....	RJ .....	High Winds .....	NM .....	Bernalillo.
PM <sub>10</sub> .....	RT .....	Wildfire-U.S .....	CA .....	Santa Barbara.
PM <sub>10</sub> .....	RT .....	Wildfire-U.S .....	CA .....	San Joaquin Valley.
PM <sub>2.5</sub> .....	RT .....	Wildfire-U.S .....	CA .....	Butte.
PM <sub>2.5</sub> .....	RT .....	Wildfire-U.S .....	CA .....	San Joaquin Valley.
PM <sub>2.5</sub> .....	RT .....	Wildfire-U.S .....	CA .....	South Coast.
PM <sub>2.5</sub> .....	RH .....	Fireworks .....	CA .....	San Joaquin Valley.
PM <sub>2.5</sub> .....	RH .....	Fireworks .....	CA .....	South Coast.
PM <sub>2.5</sub> .....	RJ .....	High Winds .....	CA .....	San Joaquin Valley.

<sup>a</sup> The EPA identified these counties using data submitted through the Exceptional Events Submission and Tracking System, EPA's AQS, and other sources for the January 1, 2016–December 31, 2020, timeframe. The EPA used these data to identify areas with three events or event seasons within a 3-year period.

<sup>b</sup> The complete list of AQS qualifier codes and descriptions is available at <https://www.epa.gov/aqs/aqs-code-list>.

**Panagiotis Tsirigotis,**  
*Director, Office of Air Quality Planning and Standards.*

[FR Doc. 2022–09748 Filed 5–11–22; 8:45 am]

**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R10–OAR–2020–0684; FRL–9402–02–R10]

**Air Plan Approval; OR; Air Contaminant Discharge Permit Fee Revision**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a revision to the Oregon State Implementation Plan (SIP) submitted on November 5, 2020. The revision establishes new fees to be paid by stationary sources of air contaminants that submit notices of intent to construct. The revision also adds a new basic air contaminant discharge permit category to allow certain minor sources, that would otherwise be required to obtain a general, simple, or standard permit, the option to qualify for a basic permit.

**DATES:** This final rule is effective June 13, 2022.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2020–0684. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information the disclosure of which 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 at <https://www.regulations.gov>, or please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Kristin Hall (15–H13), EPA Region 10, 1200 Sixth Avenue (Suite 155), Seattle, WA 98101, (206) 553–6357, [hall.kristin@epa.gov](mailto:hall.kristin@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever “we” or “our” is used, it refers to the EPA.

**Table of Contents**

- I. Background
- II. Final Action
- III. Incorporation by Reference
- IV. Statutory and Executive Order Reviews

**I. Background**

On November 5, 2020, Oregon submitted a SIP revision addressing stationary source permitting and associated fees.<sup>1</sup> The revision, State effective September 21, 2020, makes updates to SIP-approved air quality permitting regulations. Oregon’s air quality regulations are codified in Divisions 200 through 268 of Chapter 340 of the Oregon Administrative Rules (OAR).

We proposed to approve the submitted SIP revision on February 14, 2022 (87 FR 8222). The reasons for our proposed approval are included in the

<sup>1</sup> Oregon subsequently revised the scope of the SIP revision submitted for EPA approval in a letter dated December 22, 2021. In the letter, Oregon clarified that OAR 340–216–8020, which includes the specific fee amounts to be paid by sources, is not submitted for SIP approval. The letter has been placed in the docket for this action.

proposal and will not be restated here. The public comment period closed on March 16, 2022. We received no public comments, therefore, we are finalizing the action as proposed.

**II. Final Action**

The EPA is approving, and incorporating by reference, revisions to the Oregon SIP submitted on November 5, 2020, for the purposes of SIP-related permitting. Upon the effective date of this action, the Oregon SIP will include the following regulations, State effective September 21, 2020:

- OAR 340–210–0230, Notice of Construction and Approval of Plans: Notice to Construct;
- OAR 340–210–0240, Notice of Construction and Approval of Plans: Construction Approval; and
- OAR 340–216–8010, Table 1—Activities and Sources.

**III. 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, we are finalizing the incorporation by reference of Oregon regulatory provisions as described in Section II of this preamble and set forth below in the amendments to 40 CFR part 52. The EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the Clean Air

Act as of the effective date of the final rule of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>2</sup>

**IV. 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 CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA.

Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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 it will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this

action must be filed in the United States Court of Appeals for the appropriate circuit by July 11, 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 3, 2022.  
**Michelle L. Pirzadeh,**  
*Acting Regional Administrator, Region 10.*

For the reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

**Subpart MM—Oregon**

- 2. In § 52.1970, amend table 2 in paragraph (c) by revising the entries for "210-0230", "210-0240", and "216-8010" to read as follows:

**§ 52.1970 Identification of plan.**

\* \* \* \* \*  
 (c) \* \* \*

TABLE 2—EPA-APPROVED OREGON ADMINISTRATIVE RULES (OAR)<sup>1</sup>

State citation	Title/subject	State effective date	EPA approval date	Explanations
<b>Chapter 340—Department of Environmental Quality</b>				
*	*	*	*	*

<sup>2</sup> 62 FR 27968 (May 22, 1997).

TABLE 2—EPA-APPROVED OREGON ADMINISTRATIVE RULES (OAR) <sup>1</sup>—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanations
<b>Division 210—Stationary Source Notification Requirements</b>				
*	*	*	*	*
<b>Notice of Construction and Approval of Plans</b>				
*	*	*	*	*
210–0230 .....	Notice to Construct .....	9/21/2020	5/12/2022, [INSERT <b>Federal Register</b> CITATION].	
210–0240 .....	Construction Approval .....	9/21/2020	5/12/2022, [INSERT <b>Federal Register</b> CITATION].	
*	*	*	*	*
<b>Division 216—Air Contaminant Discharge Permits</b>				
*	*	*	*	*
216–8010 .....	Table 1—Activities and Sources .....	9/21/2020	5/12/2022, [INSERT <b>Federal Register</b> CITATION].	
*	*	*	*	*

<sup>1</sup> The EPA approves the requirements in Table 2 of this paragraph (c) only to the extent they apply to (1) pollutants for which NAAQS have been established (criteria pollutants) and precursors to those criteria pollutants as determined by the EPA for the applicable geographic area; and (2) any additional pollutants that are required to be regulated under Part C of Title I of the CAA, but only for the purposes of meeting or avoiding the requirements of Part C of Title I of the CAA.

\* \* \* \* \*  
 [FR Doc. 2022–09977 Filed 5–11–22; 8:45 am]  
 BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R09–OAR–2022–0306; FRL–9713–02–R9]

**Determination To Defer Sanctions; California; San Diego County Air Pollution Control District**

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

**ACTION:** Interim final determination.

**SUMMARY:** The Environmental Protection Agency (EPA) is making an interim final determination that the State of California has submitted rules that satisfy the requirements of part D of the Clean Air Act (CAA or “Act”) permitting program for areas under the jurisdiction of the San Diego County Air Pollution Control District (SDAPCD or “District”). This determination is based on a proposed approval, published elsewhere in this **Federal Register**, of District rules addressing these requirements. The effect of this interim final determination is to defer the imposition of sanctions that were triggered by a previous EPA action that included a limited disapproval of the District’s rules.

**DATES:** This interim final determination is effective on May 12, 2022. However, comments will be accepted until June 13, 2022.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R09–OAR–2022–0306 at <https://www.regulations.gov>. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need

assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. **FOR FURTHER INFORMATION CONTACT:** Laura Yannayon, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105; by phone: (415) 972–3534, or by email to [yannayon.laura@epa.gov](mailto:yannayon.laura@epa.gov). **SUPPLEMENTARY INFORMATION:** Throughout this document, the terms “we,” “us,” and “our” refer to the EPA.

**Table of Contents**

- I. Background
- II. EPA Action
- III. Statutory and Executive Order Reviews

**I. Background**

On September 16, 2020, the EPA issued a final action addressing revisions to the SDAPCD portion of the California State Implementation Plan (SIP) (“2020 NSR Action”).<sup>1</sup> The 2020 NSR Action addressed the District’s permitting program for the issuance of New Source Review (NSR) permits for stationary sources, including review and permitting of major and minor sources under the Act. In the 2020 NSR Action, we determined that while the District’s SIP revision submittal strengthened the California SIP, the submittal did not fully meet the requirements for NSR permitting programs under the CAA.

<sup>1</sup> 85 FR 57727.

Accordingly, the 2020 NSR Action included a limited disapproval under title I, part D, of the Act, relating to requirements for nonattainment areas. Pursuant to section 179 of the CAA and our regulations at 40 CFR 52.31, this limited disapproval action started a sanctions clock for imposition of offset sanctions 18 months after the action's effective date of October 16, 2020, and highway sanctions 6 months later.

On October 14, 2021, the District revised its NSR permitting program rules and on February 2, 2022, the State submitted three revised NSR permitting rules to the EPA for approval into the San Diego County portion of the California SIP ("2022 NSR Submittal"), including revisions to one rule intended to address the limited disapproval issue identified in the 2020 NSR Action. In the Proposed Rules section of this **Federal Register**, we have proposed approval of the District's 2022 NSR submittal. Based on this proposed approval action, we are also taking this final rulemaking action, effective upon publication, to defer imposition of the offset sanctions and highway sanctions that were triggered by the 2020 NSR Action's limited disapproval of the District's NSR permitting program, because we believe that the 2022 NSR Submittal corrects the deficiency that triggered these sanctions.

The EPA is providing the public with an opportunity to comment on this deferral of sanctions. If comments are submitted that change our assessment, as described in this final determination and in our proposed full approval of the District's 2022 NSR Submittal, with respect to the deficiency identified as the basis for our limited disapproval in the 2020 NSR Action, we will take final action proposing to lift this deferral of sanctions under 40 CFR 52.31. If no comments are submitted that change our assessment, then all sanctions and any sanction clocks triggered by our 2020 NSR Action will be permanently terminated on the effective date of our final approval of the 2022 NSR Submittal.

## II. EPA Action

We are making an interim final determination to defer CAA section 179 sanctions associated with our September 16, 2020 limited disapproval of the District's NSR permitting program. This determination is based on our concurrent proposal to fully approve the District's 2022 NSR submittal, which resolves the deficiency that triggered sanctions under section 179 of the CAA.

Because the EPA has preliminarily determined that the District's 2022 NSR

Submittal addresses the deficiency identified in the 2020 NSR Action and is fully approvable, relief from sanctions should be provided as quickly as possible. Therefore, the EPA is invoking the good cause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect (5 U.S.C. 553(b)(3)). However, by this action, the EPA is providing the public with a chance to comment on the EPA's determination after the effective date, and the EPA will consider any comments received in determining whether to reverse such action.

The EPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest. The EPA has reviewed the District's submittal and, through its proposed action, is indicating that it is more likely than not that it corrects the deficiencies that were the basis for the action that started the sanctions clocks. Therefore, it is not in the public interest to impose sanctions. The EPA believes that it is necessary to use the interim final rulemaking process to defer sanctions while we complete our rulemaking process on the approvability of the District's submittal. Moreover, with respect to the effective date of this action, the EPA is invoking the good cause exception to the 30-day notice requirement of the APA because the purpose of this notice is to relieve a restriction (5 U.S.C. 553(d)(1)).

## III. Statutory and Executive Order Reviews

This action defers sanctions and imposes no additional requirements. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, 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 rules do 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 (CRA), and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. The CRA allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and comment rulemaking procedures are impracticable, unnecessary or contrary to the public interest (5 U.S.C. 808(2)). The EPA has made a good cause finding for this rule as discussed in section II of this preamble, including the basis for that finding.

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 July 11, 2022. Filing a petition for reconsideration by the EPA Administrator of this final rule does not affect the finality of this rule for the purpose of judicial review nor does it extend the time within which 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 CAA section 307(b)(2)).

## List of Subjects in 40 CFR Part 52

Environmental protection, Administrative practice and procedure,

Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

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

Dated: April 29, 2022.

**Martha Guzman Aceves,**

*Regional Administrator, Region IX.*

[FR Doc. 2022-09742 Filed 5-11-22; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA-HQ-OPP-2021-0632; FRL-9800-01-OCSPP]

### Complex Polymeric Polyhydroxy Acid (CPPA); Exemption From the Requirement of a Tolerance

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

**ACTION:** Final rule.

**SUMMARY:** This regulation amends an exemption from the requirement of a tolerance for residues of complex polymeric polyhydroxy acid (CPPA) by establishing use in or on all food commodities when used, in accordance with label directions and good agricultural practices. This regulation eliminates the need to establish a maximum permissible level for residues of CPPA.

**DATES:** This regulation is effective May 12, 2022. Objections and requests for hearings must be received on or before July 11, 2022 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2021-0632, is available at <https://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room and OPP Docket is (202) 566-1744. Due to the public health concerns related to COVID-19, the EPA Docket Center (EPA/DC) and Reading Room is open to visitors by

appointment only. For the latest status information on EPA/DC services and access, visit <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Charles Smith, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; main telephone number: (703) 305-7090; email address: [BPPDFRNotices@epa.gov](mailto:BPPDFRNotices@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. General Information

##### A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

##### B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Office of the Federal Register's e-CFR site at <https://www.ecfr.gov/current/title-40>.

##### C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2021-0632 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before July 11, 2022. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please

submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA-HQ-OPP-2021-0632, by one of the following methods:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

- **Mail:** OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.

- **Hand Delivery:** To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <https://www.epa.gov/dockets/contacts.html>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets>.

#### II. Background and Statutory Findings

In the **Federal Register** of November 23, 2021 (86 FR 66512) (FRL-8792-05-OCSPP), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of two pesticide tolerance petitions (PP 1F8918 and 1F8928) by FBSciences, Inc., 153 N. Main St. Ste 100, Collierville, TN 38017. The petitions requested that the existing exemption from the requirement of a tolerance at 40 CFR 180.1321 for residues of complex polymeric polyhydroxy acids (CPPA) be amended by adding uses as a fungicide and insecticide in accordance with label directions and good agricultural practices. Those documents referenced summaries of the petitions prepared by the petitioner, FBSciences, Inc, which are available in the docket, <https://www.regulations.gov>. There were no comments received in response to the notice of filing.

#### III. Aggregate Risk Assessment and Determination of Safety

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is "safe." Section 408(c)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will



result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.” This includes exposure through drinking water and in residential settings but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to “ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . . .” Additionally, FFDCA section 408(b)(2)(D) requires that the Agency consider “available information concerning the cumulative effects of a particular pesticide’s residues” and “other substances that have a common mechanism of toxicity.”

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be clearly demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no harm to human health. If EPA is able to determine that a tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(c)(2)(A), and the factors specified in FFDCA section 408(c)(2)(B), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for CPPA including exposure resulting from the exemption established by this action. EPA’s assessment of exposures and risks associated with CPPA follows.

#### A. Toxicological Profile

Complex Polymeric Polyhydroxy Acids (CPPA) is derived from naturally occurring organic matter (NOM) in soils and ground and surface waters. NOM is ubiquitous in soil and water. It is formed as a result of the decomposition of plants, animal, and microbial materials in soil and water, and is comprised of a variety of humic substances such as tannins, humic acids and fulvic acids. CPPA contains a

complex mixture of these naturally occurring organic substances.

EPA has previously assessed CPPA toxicity and concluded that, with regard to the overall toxicological profile, CPPA is of minimal toxicity. Specifically, based on acute studies, CPPA is of low acute oral toxicity, acute inhalation toxicity and acute dermal and is non-irritating to the skin and eye. The chemical is not a skin sensitizer. All human health toxicity subchronic data requirements were satisfied by a combination of guideline studies and studies obtained from the open scientific literature for (90-day oral, developmental toxicity, reproductive toxicity and mutagenicity data). (See “Biopesticides Registration Action Document, Complex Polymeric Polyhydroxy Acids (CPPA),” which can be found on <https://regulations.gov> in Docket Number EPA–HQ–OPP–2009–0917; the document identification number is EPA–HQ–OPP–2009–0917–0011.)

There were no adverse subchronic effects for any route of exposure. The active ingredient was determined to be non-mutagenic, and no adverse effects were identified relative to either developmental toxicity or reproductive toxicity. Moreover, there are no known effects on endocrine systems via oral, dermal, or inhalation exposure. Based on this toxicological profile, EPA did not identify any toxicological endpoints of concern for CPPA.

#### B. Toxicological Points of Departure/ Levels of Concern

No toxicological endpoint of concern has been identified for CPPA.

#### C. Exposure Assessment

1. *Dietary exposure from food, feed uses, and drinking water.* As part of its previous qualitative risk assessment for CPPA, the Agency considered the potential for dietary (food and drinking water) exposure to residues of this substance. CPPA is derived from naturally occurring organic matter (NOM) in soils and ground and surface waters, which is already present as an undesirable component of drinking water due to organoleptic effects. No significant exposure via drinking water or food beyond what is already present is expected when CPPA is used according to the product label directions. The active ingredient has a half-life of 25.7 days in the environment, is applied at extremely low application rates and is not directly applied to water; therefore, residues of CPPA are unlikely to accumulate in drinking water or exceed the levels at which NOM is already present. In the

unlikely event that exposure to the active ingredient via drinking water does occur, the health risk(s) would be expected to be minimal based on the lack of acute oral toxicity (and overall lack of toxicity for all routes of exposure) of CPPA and the fact that CPPA (humic acids, fulvic acids and tannins) are substances that are ubiquitous in soil and water.

2. *From non-occupational exposure.* Based on the Agency’s current practices, a quantitative post-application inhalation exposure and risk assessment has not been performed for CPPA. Currently, there are no proposed residential uses for this active ingredient. However, even if non-occupational (residential) exposures were to occur, CPPA is presumed to have negligible risk in these scenarios due to low acute inhalation toxicity (Toxicity Category IV) and minimal irritation to the eye or skin (Toxicity Category IV). Additionally, no adverse effects have been identified in repeat-dose toxicology studies.

3. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider “available information” concerning the cumulative effects of a particular pesticide’s residues and “other substances that have a common mechanism of toxicity.” EPA has not found that CPPA shares a common mechanism of toxicity with any other substances, and they do not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed CPPA does not have a common mechanism of toxicity with other substances. For information regarding EPA’s efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA’s website at <https://www.epa.gov/pesticides/cumulative>.

#### D. Safety Factor for Infants and Children

FFDCA Section 408(b)(2)(C) provides that EPA shall retain an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA safety factor (SF). In applying this

provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor. An FQPA safety factor is not required at this time for CPPA because EPA has conducted a qualitative dietary assessment based on low toxicity and anticipated negligible exposure to the active ingredient.

#### E. Aggregate Risk

Based on the available data and information, EPA has previously concluded that a qualitative aggregate risk assessment is appropriate to support the pesticidal uses (plant growth regulator and nematocide) of CPPA, and that risks of concern are not anticipated from aggregate exposure to the substance. This conclusion is based on the low toxicity of the active ingredient and expected degradation of CPPA in the environment. For the new uses (as an insecticide and fungicide), EPA similarly concludes that the use of CPPA will be safe, *i.e.*, that there is a reasonable certainty that no harm will result from aggregate exposures to CPPA. In fact, EPA concludes that how CPPA is used as a pesticide (*i.e.*, plant growth regulator, fungicide, etc.) is immaterial and that any use as a pesticide will be safe due to the lack of toxicity of CPPA. This lack of toxicity negates the need to compare exposure across use patterns and, therefore, supports all pesticidal uses of CPPA.

A full explanation of the data upon which EPA relied and its risk assessment based on those data can be found within the document entitled “Revised Science Review in Support of Adding a New Use as a Fungicide and Insecticide for the End-Use Product (EP) FBS Defense 500 with 0.9% Complex Polymeric Polyhydroxy Acid (CPPA) as its Active Ingredient” available in the docket for this action as described under ADDRESSES.

#### IV. Determination of Safety for U.S. Population, Infants and Children

Based on the Agency’s assessment, EPA concludes that there is reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of CPPA.

#### V. Other Considerations

##### A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

#### B. Revisions to Petitioned-For Tolerances

The petitioner requested that the exemption for CPPA be amended by adding the additional use patterns for CPPA of “insecticide” and “fungicide”, so that the exemption would apply to residues resulting from those additional uses. EPA has considered the available toxicity data and environmental fate information and concludes that the use restriction is unnecessary. Due to the lack of toxicity for this pesticide, EPA concludes that exposures will be safe regardless of the pesticidal use pattern and is modifying the regulatory text to reflect any pesticidal use, including, but not limited to, plant growth regulatory, nematocide, fungicide, and insecticide.

#### VI. Conclusions

Therefore, EPA is amending the currently established exemption for residues of complex polymeric polyhydroxy acids (CPPA) when used on all food commodities in accordance with label directions and good agricultural practices.

#### VII. Statutory and Executive Order Reviews

This action amends an exemption from the requirement of a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled “Regulatory Planning and Review” (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule,

the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the National Government and the States or Tribal Governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, the Agency has determined that Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

#### VIII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule 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**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 3, 2022.

**Charles Smith,**

*Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.*

Therefore, for the reasons stated in the preamble, EPA is amending 40 CFR chapter I as follows:

## PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. Revise § 180.1321 to read as follows:

### § 180.1321 Complex Polymeric Polyhydroxy Acids (CPPA); exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of the pesticide complex polymeric polyhydroxy acids (CPPA) in or on all food commodities, when used in accordance with label directions and good agricultural practices.

[FR Doc. 2022–10162 Filed 5–11–22; 8:45 am]

**BILLING CODE** 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA–HQ–OPP–2021–0204 and EPA–HQ–OPP–2021–0432; FRL–9745–01–OCSPP]

### Mandestrobin; Pesticide Tolerances

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of mandestrobin in or on lettuce, head; lettuce, leaf; and rapeseed subgroup 20A. The Interregional Project Number 4 (IR–4) and the registrant, Valent U.S.A. LLC, requested these tolerances under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective May 12, 2022. Objections and requests for hearings must be received on or before July 11, 2022 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** The dockets for this action, identified by docket identification (ID) numbers EPA–HQ–OPP–2021–0204 and EPA–HQ–OPP–2021–0432, are available at <https://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal

holidays. The telephone number for the Public Reading Room and the OPP Docket is (202) 566–1744.

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is open to visitors by appointment only. For the latest status information on EPA/DC services and access, visit <https://www.epa.gov/dockets>.

### FOR FURTHER INFORMATION CONTACT:

Marietta Echeverria, Acting Director, Registration Division (7505T), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (202) 566–1030; email address: [RDfrNotices@epa.gov](mailto:RDfrNotices@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. General Information

##### A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

##### B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Office of the Federal Register's e-CFR site at <https://www.ecfr.gov/current/title-40>.

##### C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID numbers EPA–HQ–OPP–2021–0204 and EPA–HQ–OPP–2021–0432 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received

by the Hearing Clerk on or before July 11, 2022. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID numbers EPA–HQ–OPP–2021–0204 and EPA–HQ–OPP–2021–0432, by one of the following methods:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

- **Mail:** OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.

- **Hand Delivery:** To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <https://www.epa.gov/dockets/where-send-comments-epa-dockets>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets>.

## II. Summary of Petitioned-For Tolerance

In the **Federal Register** of June 1, 2021 (86 FR 29229) (FRL–10023–95), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 0E8888) by IR–4, North Carolina State University, 1730 Varsity Drive, Venture IV, Suite 210, Raleigh, NC 27606. The petition requested that 40 CFR 180.690 be amended by establishing tolerances for residues of mandestrobin, 2-[(2,5-dimethylphenoxy)methyl]- $\alpha$ -methoxy-N-methylbenzeneacetamide, in or on the raw agricultural commodities: Lettuce, head at 0.08 parts per million (ppm) and Lettuce, leaf at 4 ppm.

In the **Federal Register** of August 24, 2021 (86 FR 47275) (FRL–8792–02–OCSPP), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 1F8925) by Valent U.S.A. LLC, 4600 Norris Canyon Road, P.O. Box 5075, San Ramon, CA

94583–0975. The petition requested that 40 CFR 180.690 be amended by establishing a tolerance for residues of mandestrobin, 2-[(2,5-dimethylphenoxy)methyl]- $\alpha$ -methoxy-N-methylbenzeneacetamide, in or on the raw agricultural commodity: Rapeseed subgroup 20A, seed at 0.2 ppm.

These documents referenced a summary of the petition prepared by Valent U.S.A., the registrant, which are available in dockets EPA–HQ–OPP–2021–0204 and EPA–HQ–OPP–2021–0432, <https://www.regulations.gov>. There were no timely comments received in response to either of the notices of filing. One supportive comment from the U.S. Department of Agriculture (USDA) was submitted after the comment period for the rapeseed subgroup 20A notice of filing closed. It was in response to the notice of receipt of applications for new uses and is not applicable to the notice of filing.

Based upon review of the data supporting petition 1F8925, EPA has modified the commodity definition for Rapeseed subgroup 20A, seed. A discussion of this modification can be found in section IV.C.

### III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is “safe.” Section 408(b)(2)(A)(ii) of FFDCA defines “safe” to mean that “there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.” This includes exposure through drinking water and in residential settings but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to “ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .”

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for mandestrobin including exposure resulting from the tolerances established by this action.

EPA’s assessment of exposures and risks associated with mandestrobin follows.

In an effort to streamline its publications in the **Federal Register**, EPA is not reprinting sections that repeat what has been previously published for tolerance rulemaking of the same pesticide chemical. Where scientific information concerning a particular chemical remains unchanged, the content of those sections would not vary between tolerance rulemaking and republishing the same sections is unnecessary. EPA considers referral back to those sections as sufficient to provide an explanation of the information EPA considered in making its safety determination for the new rulemaking.

EPA has previously published a tolerance rulemaking for mandestrobin in which EPA concluded, based on the available information, that there is a reasonable certainty that no harm would result from aggregate exposure to mandestrobin and established tolerances for residues of that chemical. EPA is incorporating previously published sections from this rulemaking as described further in this rulemaking, as they remain unchanged.

*Toxicological profile.* For a discussion of the Toxicological Profile of mandestrobin, see Unit III.A. of the October 11, 2016, final rulemaking (81 FR 70038) (FRL–9945–37).

*Toxicological points of departure/Levels of concern.* For a summary of the Toxicological Points of Departure/Levels of Concern for mandestrobin used for human risk assessment, please reference Unit III.B. of the October 11, 2016, final rulemaking.

*Exposure assessment.* Much of the exposure assessment remains the same although updates have occurred to accommodate the exposures from the petitioned-for tolerances. These updates are discussed in this section; for a description of the rest of the EPA approach to and assumptions for the exposure assessment, please reference Unit III.C of the October 11, 2016, final rulemaking.

EPA’s dietary exposure assessments have been updated to include the additional exposures from the new uses of mandestrobin on lettuce, head; lettuce, leaf; and rapeseed subgroup 20A. An unrefined chronic dietary (food and drinking water) exposure and risk assessment was conducted using the Dietary Exposure Evaluation Model software with the Food Commodity Intake Database (DEEM–FCID) Version 4.0. The chronic assessment used tolerance level residues for all crops and assumed that 100% of the crops were treated with mandestrobin. Empirical

and the Agency’s default processing factors were used where available. An acute dietary exposure assessment was not conducted since there was no adverse effect observed for a single dose of mandestrobin.

*Drinking water exposure.* The new uses do not result in an increase in the estimated residue levels in drinking water, so EPA used the same estimated drinking water concentrations in the chronic dietary assessment as identified in the October 11, 2016, rulemaking.

*Non-occupational exposure.* There are no residential (non-occupational) exposures expected from the proposed new uses of mandestrobin on lettuce, nor from the proposed foliar and seed treatment uses on rapeseed subgroup 20A. However, there are registered uses of mandestrobin on turf grasses that cause non-occupational exposures. EPA’s residential exposure assessment has changed since the October 11, 2016, rulemaking based on a revised practice. Because all current mandestrobin labels require handlers to wear specific clothing and personal protective equipment, EPA now assumes that mandestrobin is applied by professional applicators, not residential (homeowner) applicators. Therefore, the current assessment does not consider exposure to residential handlers. For residential post-application exposure, only hand-to-mouth exposures for children 1 to less than 2 years old (1 < 2) were assessed, as a dermal endpoint was not selected.

*Cumulative exposure.* Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to mandestrobin and any other substances and mandestrobin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this action, therefore, EPA has not assumed that mandestrobin has a common mechanism of toxicity with other substances.

*Safety factor for infants and children.* EPA continues to conclude that there are reliable data to support the reduction of the Food Quality Protection Act (FQPA) safety factor (SF) from 10X to 1X for all risk scenarios. See Unit III.D. of the October 11, 2016, final rulemaking for a discussion of the Agency’s rationale for that determination.

*Aggregate risks and determination of safety.* EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute population adjusted dose (aPAD) and

the chronic population adjusted dose (cPAD). Short-, intermediate-, and chronic term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate points of departure to ensure that an adequate margin of exposure (MOE) exists. For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure.

An acute dietary exposure assessment was not conducted since there was no adverse effect observed for a single dose of mandestrobin. Chronic dietary risks are below the Agency's level of concern of 100% of the cPAD; they are 2.7% of the cPAD for children 1–2 years old, the most highly exposed population subgroup.

The short-term aggregate exposure assessment for children 1 to less than 2 years old includes dietary (food and drinking water) and incidental oral exposure from hand-to-mouth activities from post-application exposure to turf applications. The short-term aggregate risk estimate for children 1 < 2 years old is an MOE of 2,900, which is greater than the level of concern of 100 and is not of concern. An adult aggregate assessment was not conducted because there are no existing/proposed residential handler scenarios. Since the short- and intermediate-term points of departure (PODs) are the same and short-term exposure estimates are greater than their intermediate-term counterparts, the short-term aggregate risk assessment is protective of the intermediate-term aggregate exposure. An acute aggregate exposure assessment was not required due to no adverse effect observed for a single dose for mandestrobin; and chronic aggregate risks to adults and children are equivalent to the dietary (food and drinking water) risks for those respective assessments and are not of concern.

Mandestrobin is classified as “not likely to be a human carcinogen” based on the lack of treatment-related tumors in the combined chronic/oncogenicity rat study or in the carcinogenicity mouse study, and the lack of genotoxicity in an acceptable battery of mutagenicity studies.

Therefore, based on the risk assessments and information described above, EPA concludes there is a reasonable certainty that no harm will result to the general population, or to infants and children, from aggregate exposure to mandestrobin residues. More detailed information on this action can be found in the document “Mandestrobin. Human Health Risk Assessment in support of New Uses and

Establishment of Permanent Tolerances on Lettuce, Head and Leaf and Rapeseed Subgroup 20A” in docket IDs EPA–HQ–OPP–2021–0204 and EPA–HQ–OPP–2021–0432.

#### IV. Other Considerations

##### A. Analytical Enforcement Methodology

For a discussion of the available analytical enforcement method for various crops, see Unit IV.A of the October 11, 2016 rulemaking.

##### B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4).

The U.S. tolerance for residues of mandestrobin on rapeseed subgroup 20A is harmonized with the Codex MRL on rapeseed at 0.2 ppm. There are no Codex MRLs for residues of mandestrobin in or on lettuce.

##### C. Revisions to Petitioned-For Tolerances

The registrant proposed a tolerance on “Rapeseed subgroup 20A, seed”. EPA is establishing the tolerance requested with the nomenclature “Rapeseed subgroup 20A” to conform to EPA's commodity terminology.

#### V. Conclusion

Therefore, tolerances are established for residues of mandestrobin in or on Lettuce, head at 0.08 ppm; Lettuce, leaf at 4 ppm; and Rapeseed subgroup 20A at 0.2 ppm.

#### VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled “Regulatory Planning and Review” (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001), or to Executive Order 13045, entitled “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997).

This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or Tribal Governments, on the relationship between the National Government and the States or Tribal Governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, the Agency has determined that Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

#### VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule 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**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides, and pests, Reporting and recordkeeping requirements.

Dated: April 29, 2022.

**Marietta Echeverria,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

Therefore, for the reasons stated in the preamble, EPA is amending 40 CFR chapter 1 as follows:

**PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD**

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.690, amend the table in paragraph (a) by designating the table as table 1 and adding, in alphabetical order, entries for “Lettuce, head”; “Lettuce, leaf”; and “Rapeseed subgroup 20A”.

The additions read as follows:

**§ 180.690 Mandestrobin; tolerances for residues.**

\* \* \* \* \*

TABLE 1 TO PARAGRAPH (a)

Commodity	Parts per million
* * * * *	*
Lettuce, head .....	0.08
Lettuce, leaf .....	4
Rapeseed subgroup 20A .....	0.2

\* \* \* \* \*

[FR Doc. 2022–10204 Filed 5–11–22; 8:45 am]

BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[EPA–HQ–OPP–2021–0401; FRL–9783–01–OCSPP]

**Streptomyces sp. Strain SYM00257; Exemption From the Requirement of a Tolerance**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an exemption from the requirement of a tolerance for residues of *Streptomyces* sp. strain SYM00257 in or on all food commodities when used in accordance

with label directions and good agricultural practices. Indigo Ag, Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *Streptomyces* sp. strain SYM00257 under FFDCA when used in accordance with this exemption.

**DATES:** This regulation is effective May 12, 2022. Objections and requests for hearings must be received on or before July 11, 2022 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2021–0401, is available at <https://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room and OPP Docket is (202) 566–1744. Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is open to visitors by appointment only. For the latest status information on EPA/DC services and access, visit <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Charles Smith, Biopesticides and Pollution Prevention Division (7511M), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (202) 566–2427; email address: [BPPDFRNotices@epa.gov](mailto:BPPDFRNotices@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this action apply to me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).

- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

*B. How can I get electronic access to other related information?*

You may access a frequently updated electronic version of 40 CFR part 180 through the Office of the Federal Register’s e-CFR site at <https://www.ecfr.gov/current/title-40>.

*C. How can I file an objection or hearing request?*

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2021–0401 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before July 11, 2022. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b), although EPA strongly encourages those interested in submitting objections or a hearing request to submit objections and hearing requests electronically. See Order Urging Electronic Service and Filing (April 10, 2020), [https://www.epa.gov/sites/production/files/2020-05/documents/2020-04-10\\_order\\_urging\\_electronic\\_service\\_and\\_filing.pdf](https://www.epa.gov/sites/production/files/2020-05/documents/2020-04-10_order_urging_electronic_service_and_filing.pdf). At this time, because of the COVID–19 pandemic, the judges and staff of the Office of Administrative Law Judges are working remotely and not able to accept filings or correspondence by courier, personal delivery, or commercial delivery, and the ability to receive filings or correspondence by U.S. Mail is similarly limited. When submitting documents to the U.S. EPA Office of Administrative Law Judges (OALJ), a person should utilize the OALJ e-filing system at [https://yosemite.epa.gov/OA/EAB/EAB-ALJ\\_upload.nsf](https://yosemite.epa.gov/OA/EAB/EAB-ALJ_upload.nsf).

Although EPA’s regulations require submission via U.S. Mail or hand delivery, EPA intends to treat submissions filed via electronic means as properly filed submissions during this time that the Agency continues to maximize telework due to the pandemic; therefore, EPA believes the preference for submission via electronic means will not be prejudicial. If it is

impossible for a person to submit documents electronically or receive service electronically, e.g., the person does not have any access to a computer, the person shall so advise OALJ by contacting the Hearing Clerk at (202) 564-6281. If a person is without access to a computer and must file documents by U.S. Mail, the person shall notify the Hearing Clerk every time it files a document in such a manner. The address for mailing documents is U.S. Environmental Protection Agency, Office of Administrative Law Judges, Mail Code 1900R, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA-HQ-OPP-2021-0401, by one of the following methods:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

- **Mail:** OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.

- **Hand Delivery:** To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <https://www.epa.gov/dockets/where-send-comments-epa-dockets>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets>.

## II. Background

In the **Federal Register** of September 22, 2021 (86 FR 52624) (FRL-8792-03-OCSPP), EPA issued notification pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance exemption petition (PP 0F8886) by Indigo Ag, Inc., 500 Rutherford Ave., Boston, MA 02129. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of *Streptomyces* sp. strain SYM00257 in or on all food commodities. That document referenced a summary of the petition prepared by

the petitioner Indigo Ag, Inc. and available in the docket via <https://www.regulations.gov>. No comments were received on the filing.

## III. Final Rule

### A. EPA's Safety Determination

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement of a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is "safe." Section 408(c)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance or tolerance exemption and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . . ." Additionally, FFDCA section 408(b)(2)(D) requires that EPA consider "available information concerning the cumulative effects of [a particular pesticide's] . . . residues and other substances that have a common mechanism of toxicity."

EPA evaluated the available toxicological and exposure data on *Streptomyces* sp. strain SYM00257 and considered their validity, completeness, and reliability, as well as the relationship of this information to human risk. A full explanation of the data upon which EPA relied and its risk assessment based on those data can be found within the document entitled "Human Health Risk Assessment of *Streptomyces* sp. strain SYM00257, a New Active Ingredient." This document, as well as other relevant information, is available in the docket for this action as described under

### ADDRESSES.

The available data and rationale demonstrated that, with regard to humans, *Streptomyces* sp. strain SYM00257 has no demonstrated infectivity and low acute toxicity based on the toxicity and infectivity study

results and information presented for the active ingredient and its closely related species. It is not toxic, pathogenic, or infective via the oral route of exposure and is not expected to be toxic via dermal or inhalation routes of exposure based on the data presented in those acute toxicity studies. Additionally, in the acute oral toxicity/pathogenicity study, *Streptomyces* sp. strain SYM00257 was not detected in the blood and organs of the test animals. Based on the lack of adverse effects seen in the available toxicity/pathogenicity data, EPA did not identify any points of departure for assessing risk; thus, no quantitative risk assessment was conducted. Significant dietary and non-occupational exposures to residues of *Streptomyces* sp. strain SYM00257 are not anticipated because it will be used only as a pre-planting seed treatment application. Additionally, while *Streptomyces* is present in soil, it is not expected to reach deep well water and therefore, it is not expected to be present in drinking water, which is either obtained from a deep well, or treated and disinfected prior to consumption. Even if dietary and non-occupational exposures to residues of *Streptomyces* sp. strain SYM00257 were to occur, there is no concern due to the lack of potential for adverse effects. Because there are no threshold levels of concern with the toxicity, pathogenicity, or infectivity of *Streptomyces* sp. strain SYM00257, EPA determined that no additional margin of safety is necessary to protect infants and children as part of the qualitative assessment conducted. Based upon its evaluation in the *Streptomyces* sp. strain SYM00257 Human Health Assessment, which concludes that there are no risks of concern from aggregate exposure to *Streptomyces* sp. strain SYM00257, EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of *Streptomyces* sp. strain SYM00257.

### B. Analytical Enforcement Methodology

An analytical method is not required for *Streptomyces* sp. strain SYM00257 because EPA is establishing an exemption from the requirement of a tolerance without any numerical limitation.

### C. Conclusion

Therefore, an exemption from the requirement of a tolerance is established for residues of *Streptomyces* sp. strain SYM00257 in or on all food commodities when used in accordance

with label directions and good agricultural practices.

#### IV. Statutory and Executive Order Reviews

This action establishes an exemption from the requirement of a tolerance under FFDCa section 408(d) in response to a petition submitted to EPA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled “Regulatory Planning and Review” (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001), or Executive Order 13045, entitled “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCa section 408(d), such as the tolerance exemption in this action, do not require the issuance of a proposed rule, the requirements of the

Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes. As a result, this action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCa section 408(n)(4). As such, EPA has determined that this action will not have a substantial direct effect on States or Tribal Governments, on the relationship between the National Government and the States or Tribal Governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, EPA has determined that Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999), and Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000), do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require EPA’s consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (15 U.S.C. 272 note).

#### V. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule 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**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 29, 2022.

**Edward Messina,**

*Director, Office of Pesticide Programs.*

Therefore, for the reasons stated in the preamble, EPA is amending 40 CFR chapter I as follows:

#### PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. Add § 180.1392 to subpart D to read as follows:

#### § 180.1392 *Streptomyces* sp. strain SYM00257; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of *Streptomyces* sp. strain SYM00257 in or on all food commodities when used in accordance with label directions and good agricultural practices.

[FR Doc. 2022–10163 Filed 5–11–22; 8:45 am]

**BILLING CODE 6560–50–P**



# Proposed Rules

Federal Register

Vol. 87, No. 92

Thursday, May 12, 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.

## SECURITIES AND EXCHANGE COMMISSION

17 CFR 210, 229, 232, 239, and 249

[Release Nos. 33–11061; 34–94867; File No. S7–10–22]

RIN 3235–AM87

### The Enhancement and Standardization of Climate-Related Disclosures for Investors

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** The Securities and Exchange Commission (“Commission”) is extending the comment period for a release proposing amendments to its rules under the Securities Act of 1933 (“Securities Act”) and Securities Exchange Act of 1934 (“Exchange Act”) that would require registrants to provide certain climate-related information in their registration statements and annual reports. The comment period for the release was originally scheduled to close on May 20, 2022. The new comment period will end on June 17, 2022. This action will allow interested persons additional time to analyze the issues and prepare their comments, which would benefit the Commission in its consideration of final rules.

**DATES:** The comment period for the proposed rule published April 11, 2022 (87 FR 21334) is extended. Comments should be received on or before June 17, 2022.

**ADDRESSES:** Comments may be submitted by any of the following methods:

#### Electronic Comments

- Use the Commission’s internet comment form (<https://www.sec.gov/rules/submitcomments.htm>).
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number S7–10–22 on the subject line.

#### Paper Comments

- Send paper comments to Vanessa A. Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number S7–10–22. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method of submission. The Commission will post all comments on the Commission’s website (<https://www.sec.gov/rules/proposed.shtml>). Comments are also available for website viewing and printing in the Commission’s Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10 a.m. and 3 p.m. Operating conditions may limit access to the Commission’s Public Reference Room. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

Studies, memoranda, or other substantive items may be added by the Commission or staff to the comment file during this rulemaking. A notification of the inclusion in the comment file of any such materials will be made available on our website. To ensure direct electronic receipt of such notifications, sign up through the “Stay Connected” option at [www.sec.gov](http://www.sec.gov) to receive notifications by email.

**FOR FURTHER INFORMATION CONTACT:** Elliot Staffin, Special Counsel, Office of Rulemaking, at (202) 551–3430, in the Division of Corporation Finance; or Anita H. Chan, Professional Accounting Fellow or Shehzad K. Niazi, Deputy Chief Counsel, in the Office of the Chief Accountant, at (202) 551–5300, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

**SUPPLEMENTARY INFORMATION:** The Commission has requested comment on a release proposing amendments to its rules under the Securities Act and Exchange Act that would require registrants to provide certain climate-related information in their registration statements and annual reports. The proposed rules would require

information about a registrant’s climate-related risks that are reasonably likely to have a material impact on its business, results of operations, or financial condition. The required information about climate-related risks would also include disclosure of a registrant’s greenhouse gas emissions, which have become a commonly used metric to assess a registrant’s exposure to such risks. In addition, under the proposed rules, certain climate-related financial metrics would be required in a registrant’s audited financial statements.

The comment period for the release was originally scheduled to close on May 20, 2022. The Commission believes that providing the public additional time to consider and comment on the matters addressed in the release would benefit the Commission in its consideration of final rules. Therefore, the Commission is extending the comment period for Release Nos. 33–11042; 34–94478, “The Enhancement and Standardization of Climate-Related Disclosures for Investors,” until June 17, 2022.

By the Commission.

Dated: May 9, 2022.

**J. Matthew DeLesDernier,**  
Assistant Secretary.

[FR Doc. 2022–10194 Filed 5–11–22; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 232, 240, 242, 249, and 275

[Release Nos. 34–94868; IA–6018; File Nos. S7–02–22; S7–03–22]

RIN 3235–AN07; 3235–AM45

### Reopening of Comment Periods for “Private Fund Advisers; Documentation of Registered Investment Adviser Compliance Reviews” and “Amendments Regarding the Definition of ‘Exchange’ and Alternative Trading Systems (ATs) That Trade U.S. Treasury and Agency Securities, National Market System (NMS) Stocks, and Other Securities”

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Proposed rules; reopening of comment periods.

**SUMMARY:** The Securities and Exchange Commission (“Commission”) is reopening the comment period for a release proposing new rules and amendments to an existing rule under the Investment Advisers Act of 1940 (“Advisers Act”) that would affect private fund advisers and proposing amendments to the Advisers Act compliance rule, which would affect all registered investment advisers (“Advisers Act Proposing Release”). The Commission is also reopening the comment period for a release proposing amendments to its rules under the Securities Exchange Act of 1934 (“Exchange Act”) that would amend a rule under the Exchange Act, which defines certain terms used in the statutory definition of “exchange” under the Exchange Act, re-propose amendments to Regulation ATS for ATSs that trade government securities as defined under the Exchange Act or repurchase and reverse repurchase agreements on government securities (“Government Securities ATSs”), re-propose amendments to Regulation SCI to apply to ATSs that meet certain volume thresholds in U.S. Treasury Securities or in a debt security issued or guaranteed by a U.S. executive agency or government-sponsored enterprise (“Agency Securities”), amend the fair access rule for ATSs, and amend Form ATS–N, Form ATS–R, and Form ATS (“Exchange Act Proposing Release”). These actions will allow interested persons additional time to analyze the issues and prepare their comments, which would benefit the Commission in its consideration of final rules.

**DATES:** The comment periods for the proposed rules published in the **Federal Register** on March 24, 2022, at 87 FR 16886, and March 18, 2022, at 87 FR 15496 are reopened. Comments should be received on or before June 13, 2022.

**ADDRESSES:** Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission’s internet comment form (<https://www.sec.gov/rules/submitcomments.htm>).
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number S7–03–22 for the Advisers Act Proposing Release and File Number S7–02–22 for the Exchange Act Proposing Release on the subject line.

#### *Paper Comments*

- Send paper comments to Vanessa A. Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to the file number for the specific action being commented upon. 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 of submission. The Commission will post all comments on the Commission’s website (<https://www.sec.gov/rules/proposed.shtml>). Comments are also available for website viewing and printing in the Commission’s Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10 a.m. and 3 p.m. Operating conditions may limit access to the Commission’s Public Reference Room. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

Studies, memoranda, or other substantive items may be added by the Commission or staff to the comment file during this rulemaking. A notification of the inclusion in the comment file of any such materials will be made available on our website. To ensure direct electronic receipt of such notifications, sign up through the “Stay Connected” option at [www.sec.gov](http://www.sec.gov) to receive notifications by email.

**FOR FURTHER INFORMATION CONTACT:** For questions about File Number S7–03–22 (Advisers Act Proposing Release), contact Robert Holowka, Attorney-Adviser; Thomas Strumpf, Senior Counsel; Melissa Roverts Harke, Senior Special Counsel; Christine Schleppegrell, Acting Branch Chief; Michael C. Neus, Private Funds Attorney Fellow, Investment Adviser Regulation Office; or Marc Mehrespand, Branch Chief, Chief Counsel’s Office, at (202) 551–6787 or [IRules@sec.gov](mailto:IRules@sec.gov), Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–8549.

For questions about File Number S7–02–22 (Exchange Act Proposing Release), contact, for Regulation ATS: Tyler Raimo, Assistant Director, at (202) 551–6227; Matthew Cursio, Special Counsel, at (202) 551–5748; David Garcia, Special Counsel, at (202) 551–5681; Megan Mitchell, Special Counsel, at (202) 551–4887; Amir Katz, Special Counsel, at (202) 551–7653; and Joanne Kim, Attorney Advisor, at (202) 551–4393; and for Regulation SCI: David Liu, Special Counsel, at (312) 353–6265 and

Sara Hawkins, Special Counsel, at (202) 551–5523, Office of Market Supervision, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Private Fund Advisers; Documentation of Registered Investment Adviser Compliance Reviews**

The Commission has requested comment on the Advisers Act Proposing Release,<sup>1</sup> which proposes new rules and amendments to existing rules under the Advisers Act. The proposed rules would require registered investment advisers to private funds to provide transparency to their investors regarding the full cost of investing in private funds and the performance of such private funds. The proposed rules also would require a registered private fund adviser to obtain an annual financial statement audit of each private fund it advises and, in connection with an adviser-led secondary transaction, a fairness opinion from an independent opinion provider. In addition, the proposed rules would prohibit all private fund advisers, including those that are not registered with the Commission, from engaging in certain sales practices, conflicts of interest, and compensation schemes that are contrary to the public interest and the protection of investors. All private fund advisers would also be prohibited from providing preferential treatment to certain investors in a private fund, unless the adviser discloses such treatment to other current and prospective investors. The proposed rules include corresponding amendments to the Advisers Act books and records rule to facilitate compliance with these proposed new rules and assist our examination staff. Finally, the proposed rules would amend the Advisers Act compliance rule, which would affect all registered investment advisers, to better enable our staff to conduct examinations. The original comment period for the Advisers Act Proposing Release ended on April 25, 2022.

##### **II. Amendments Regarding the Definition of ‘Exchange’ and Alternative Trading Systems (ATSs) That Trade U.S. Treasury and Agency Securities, National Market System (NMS) Stocks, and Other Securities**

The Commission has requested comment on the Exchange Act

<sup>1</sup> See Advisers Act Release No. 5955 (February 9, 2022), 87 FR 16886 (March 24, 2022).

Proposing Release,<sup>2</sup> which proposes amendments to its rules under the Exchange Act that would amend 17 CFR 240.3b–16 under the Exchange Act, which defines certain terms used in the statutory definition of “exchange” under Section 3(a)(1) of the Exchange Act to include systems that offer the use of non-firm trading interest and communication protocols to bring together buyers and sellers of securities. In addition, the Exchange Act Proposing Release is re-proposing amendments to the Commission’s regulations under the Exchange Act that were initially proposed in September 2020 for ATSS to take into consideration systems that may fall within the definition of exchange because of the proposed amendments in the Exchange Act Proposing Release and operate as an ATS. In the Exchange Act Proposing Release, the Commission is also re-proposing, with certain revisions, amendments to its regulations for Government Securities ATSS. In the Exchange Act Proposing Release, the Commission is proposing to amend Form ATS–N for NMS Stock ATSS, which would require existing NMS Stock ATSS to amend their existing disclosures. In addition, in the Exchange Act Proposing Release the Commission is proposing to amend the fair access rule for ATSS. The Commission is also proposing to require electronic filing of and to modernize Form ATS–R and Form ATS, which would require existing Form ATS filers to amend their existing disclosures. Further, in the Exchange Act Proposing Release the Commission is re-proposing amendments to its regulations regarding systems compliance and integrity to apply to ATSS that meet certain volume thresholds in U.S. Treasury Securities or in Agency Securities. The original comment period for the Exchange Act Proposing Release ended on April 18, 2022.

### III. Reopening of Comment Periods

The Commission believes that providing the public additional time to consider and comment on the matters addressed in the Advisers Act Proposing Release and the Exchange Act Proposing Release would benefit the Commission in its consideration of final rules. Therefore, the Commission is reopening the comment periods for Release No. IA–5955 “Private Fund Advisers; Documentation of Registered Investment Adviser Compliance Reviews” and Release No. 34–94062 “Amendments Regarding the Definition of ‘Exchange’

and Alternative Trading Systems (ATSS) That Trade U.S. Treasury and Agency Securities, National Market System (NMS) Stocks, and Other Securities” until June 13, 2022.

By the Commission.

Dated: May 9, 2022.

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2022–10195 Filed 5–11–22; 8:45 am]

**BILLING CODE 8011–01–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### 36 CFR Part 242

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 100

[Docket No. FWS–R7–SM–2018–0013; FF07J00000 FXFR13350700640 223]

RIN 1018–BC96

### Subsistence Management Regulations for Public Lands in Alaska—Applicability and Scope; Tongass National Forest Submerged Lands

**AGENCY:** Forest Service, Agriculture; Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** To comply with a court order, the Federal Subsistence Board (Board) must initiate regulatory proceedings to identify those submerged lands within the Tongass National Forest that did not pass to the State of Alaska at statehood and, therefore, remain Federal public lands subject to Federal subsistence provisions. This proposed rule would add to the list of submerged parcels in the Federal subsistence regulations that have been identified through agency review. The purpose of this proposed rule is to complete regulatory proceedings addressing submerged public lands within the Tongass National Forest, as directed by the Court, and will result in increased subsistence harvest opportunities for rural Alaskans.

**DATES:**

*Public meeting:* The Federal Subsistence Board will discuss and evaluate proposed regulatory changes during a public meeting in Anchorage, AK, on April 12 through 15, 2022. A teleconference will substitute for an in-person meeting if public health or safety restrictions are in effect. To determine whether the meeting will be held via

teleconference or in-person, visit the Board’s website at <https://www.doi.gov/subsistence/board>. See **SUPPLEMENTARY INFORMATION** for specific information on this public meeting.

*Public comments:* Comments on this proposed rule must be received or postmarked by August 10, 2022.

**ADDRESSES:**

*Public meeting:* Specific information about this meeting and the final agenda can be found on the Federal Subsistence Management Program website at: <https://www.doi.gov/subsistence/board>. See **SUPPLEMENTARY INFORMATION** for Public Review Process regarding this public meeting and proposed rulemaking.

*Public comments:* You may submit comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal: <https://www.regulations.gov>. In the Search box, enter the docket number or RIN for this rulemaking (presented above in the document headings). For best results, do not copy and paste either number; instead, type the docket number or RIN into the Search box using hyphens. 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.”

- *By hard copy:* Submit by U.S. mail or hand delivery: Public Comments Processing, Attn: FWS–R7–SM–2018–0013; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, MS: PRB (JAO/3W); Falls Church VA 22041–3803.

We will not accept comments by email, faxes, or telephone. We will post all comments on <https://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Review Process section below for more information).

**FOR FURTHER INFORMATION CONTACT:** Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Sue Detwiler, Office of Subsistence Management; (907) 786–3888 or [subsistence@fws.gov](mailto:subsistence@fws.gov). For questions specific to National Forest System lands, contact Gregory Risdahl, Regional Subsistence Program Leader, USDA, Forest Service, Alaska Region; (907) 302–7354 or [gregory.risdahl@usda.gov](mailto:gregory.risdahl@usda.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

Under title VIII of the Alaska National Interest Lands Conservation Act

<sup>2</sup> See Securities Exchange Act Release No. 94062 (January 26, 2022), 87 FR 15496 (March 18, 2022).

(ANILCA; 16 U.S.C. 3111–3126), the Secretary of the Interior and the Secretary of Agriculture (Secretaries) jointly implement the Federal Subsistence Management Program. This program provides a preference for take of fish and wildlife resources for subsistence uses on Federal public lands and waters in Alaska. The Secretaries published temporary regulations to carry out this program in the **Federal Register** on June 29, 1990 (55 FR 27114), and published final regulations in the **Federal Register** on May 29, 1992 (57 FR 22940). The program regulations have subsequently been amended a number of times.

Because this program is a joint effort between Interior and Agriculture, these regulations are located in two titles of the Code of Federal Regulations (CFR): Title 36, “Parks, Forests, and Public Property,” and Title 50, “Wildlife and Fisheries,” at 36 CFR 242.1–242.28 and 50 CFR 100.1–100.28, respectively. The regulations contain subparts as follows: Subpart A, General Provisions; Subpart B, Program Structure; Subpart C, Board Determinations; and Subpart D, Subsistence Taking of Fish and Wildlife.

Consistent with subpart B of these regulations, the Secretaries established a Federal Subsistence Board to administer the Federal Subsistence Management Program (Program). The Board comprises:

- A Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture;
- The Alaska Regional Director, U.S. Fish and Wildlife Service;
- The Alaska Regional Director, National Park Service;
- The Alaska State Director, Bureau of Land Management;
- The Alaska Regional Director, Bureau of Indian Affairs;
- The Alaska Regional Forester, U.S. Forest Service; and
- Two public members appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture.

Through the Board, these agencies and public members participate in the development of regulations for subparts C and D, which, among other things, set forth program eligibility and specific harvest seasons and limits.

In administering the program, the Secretaries divided Alaska into 10 subsistence resource regions, each of which is represented by a Regional Advisory Council (Council). The Councils provide a forum for rural residents with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish

and wildlife on Federal public lands and waters in Alaska. The Council members represent varied geographical, cultural, and user interests within each region.

#### **Public Review Process—Comments and Public Meetings**

The Regional Advisory Councils and the public will be briefed on this proposed rule and the methods for submitting comments during their series of meetings for the winter 2022 cycle. For more information on these meetings visit the Councils’ website at <https://www.doi.gov/subsistence/regions>.

The Board will discuss and evaluate submitted comments and public testimony on this proposed rule during a public meeting scheduled for April 12 through 15, 2022, in Anchorage, Alaska. Additional public testimony may be presented to the Board on this proposed rule at that time. At that public meeting, the Board will deliberate and make final recommendations to the Secretaries on this proposed rule. A teleconference will substitute for the in-person meeting if public health or safety restrictions are in effect. A public notice of specific dates, times, call-in number(s), and how to participate and provide public testimony will be published in local and statewide newspapers prior to the meeting.

You may submit written comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. If you submit a comment via <https://www.regulations.gov>, your entire comment, including any personal identifying information, will be posted on the website. If you submit a hardcopy comment 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 comments on <https://www.regulations.gov>.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on <https://www.regulations.gov>, or by appointment, provided no public health or safety restrictions are in effect, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays, at: USFWS, Office of Subsistence Management, 1011 East Tudor Road, Anchorage, AK 99503.

#### **Reasonable Accommodations**

The Federal Subsistence Board is committed to providing access to these meetings for all participants. Please direct all requests for sign language

interpreting services, closed captioning, or other accommodation needs to Robbin La Vine, 907–786–3888, [subsistence@fws.gov](mailto:subsistence@fws.gov), or 800–877–8339 (TTY), 7 business days prior to the meeting you would like to attend.

#### **Tribal Consultation and Comment**

As expressed in Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments,” the Federal officials that have been delegated authority by the Secretaries are committed to honoring the unique government-to-government political relationship that exists between the Federal Government and Federally Recognized Indian Tribes (Tribes) as listed in 82 FR 4915 (January 17, 2017). Consultation with Alaska Native corporations is based on Public Law 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: “The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175.”

ANILCA does not provide specific rights to Tribes for the subsistence taking of wildlife, fish, and shellfish. However, because Tribal members are affected by subsistence fishing, hunting, and trapping regulations, the Secretaries, through the Board, will provide Tribes and Alaska Native corporations an opportunity to consult on this proposed rule.

The Board will engage in outreach efforts for this proposed rule, including a notification letter, to ensure that Tribes and Alaska Native corporations are advised of the mechanisms by which they can participate. The Board provides a variety of opportunities for consultation: Proposing changes to the existing rule; commenting on proposed changes to the existing rule; engaging in dialogue at the Regional Advisory Council meetings; engaging in dialogue at the Board’s meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process. The Board will commit to efficiently and adequately providing an opportunity to Tribes and Alaska Native corporations for consultation in regard to subsistence rulemaking.

The Board will consider Tribes’ and Alaska Native corporations’ information, input, and recommendations, and address their concerns as much as practicable.

## Jurisdictional Background and Perspective

The U.S. District Court for Alaska in its October 17, 2011, order in *Peratrovich et al. v. United States and the State of Alaska*, 3:92-cv-0734-HRH (D. Alaska), enjoined the United States “to promptly initiate regulatory proceedings for the purpose of implementing the subsistence provisions in Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) with respect to submerged public lands within Tongass National Forest” and directed entry of judgment. The *Peratrovich* case dates back to 1992 and has a long and involved procedural history. The plaintiffs in that litigation raised the question of which marine waters in the Tongass National Forest, if any, are subject to the jurisdiction of the Federal Subsistence Management Program. In its May 31, 2011, order, the U.S. District Court for Alaska (Court) stated that “it is the duty of the Secretaries [Agriculture & Interior] to identify any submerged lands (and the marine waters overlying them) within the Tongass National Forest to which the United States holds title.” It also stated that, if such title exists, it “creates an interest in [the overlying] waters sufficient to make those marine waters public lands for purposes of [the subsistence provisions] of ANILCA.”

Most of the marine waters within the Tongass National Forest were not initially identified in the regulations as public lands subject to the subsistence priority based upon a determination that the submerged lands were State lands, and later through reliance upon a disclaimer of interest filed by the United States in *Alaska v. United States*, No. 128 Orig., 546 U.S. 413 (2006). In that case, the State of Alaska had sought to quiet title to all lands underlying marine waters in southeast Alaska, which includes most of the Tongass National Forest. Ultimately, the United States disclaimed ownership to most of the submerged lands in the Tongass National Forest. The Supreme Court accepted the disclaimer by the United States to title to the marine waters within the Tongass National Forest, excepting from that disclaimer several classes of submerged public lands that generally involve small tracts. *Alaska v. United States*, 546 U.S. at 415.

When the United States took over the subsistence program in Alaska in 1990, the Departments of the Interior and Agriculture stated in response to comments on the scope of the program during promulgation of the interim regulations that “the United States

generally does not hold title to navigable waters and thus navigable waters generally are not included within the definition of public lands” (55 FR 27115; June 29, 1990). That position was changed in 1999 when the subsistence priority was extended to inland waters subject to a Federal reserved water right following the *Katie John* litigation. While locating these inland waters, the Board also identified certain submerged marine lands that did not pass to the State and, therefore, where the subsistence priority applied. However, the Board did not attempt to identify each and every small parcel of submerged public lands and thereby marine water possibly subject to the Federal Subsistence Management Program because of the potentially overwhelming administrative burden. Instead the Board invited the public to petition to have submerged marine lands included. Over the years, several small areas of submerged marine lands in the Tongass National Forest have been identified as public lands subject to the subsistence priority.

In its May 31, 2011, order, the Court stated that the petition process was not sufficient and found that “concerns about costs and management problems simply cannot trump the congressional policy that the subsistence lifestyle of rural Alaskans be preserved as to public lands.” The Court acknowledged in its order that inventorying all these lands could be an expensive undertaking, but that it is a burden “necessitated by the ‘complicated regulatory scheme’ which has resulted from the inability of the State of Alaska to implement Title VIII of ANILCA.” The Court then “enjoined” the United States “to promptly initiate regulatory proceedings for the purpose of implementing the subsistence provisions in Title VIII of ANILCA with respect to submerged public lands within Tongass National Forest” and directed entry of judgment.

Following the Court’s decision, the Departments published a notice in the **Federal Register** (77 FR 33391; June 6, 2012) announcing the initiation of reviews of pre-statehood withdrawals and reservation in the Tongass National Forest. The Bureau of Land Management (BLM) and the USDA–Forest Service (USDA–FS) started a review of hundreds of potential pre-statehood (January 3, 1959) withdrawals in the marine waters of the Tongass National Forest. These reviews included dock sites, log transfer sites, and other areas that may not have passed to the State at statehood. On June 8, 2016, the Departments published a proposed rule in the **Federal Register** (81 FR 36836) that listed the initial findings

identifying pre-statehood withdrawals, and on May 23, 2018, the Departments published a final rule (83 FR 23813) to revise the subsistence management regulations to add those submerged parcels. The purpose of this proposed rule is to complete regulatory proceedings addressing submerged public lands within the Tongass National Forest as directed by the Court.

## Developing the Applicability and Scope; Tongass National Forest Submerged Lands Proposed Regulations

This proposed rule will add submerged public lands to the list in the subsistence regulations to ensure compliance with the Court’s order. In addition, this proposed rule would make nonsubstantive changes to 36 CFR 242.3 and 50 CFR 100.3 by transferring the listings into a table to effect a user friendly format.

Because this proposed rule concerns public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text will be incorporated into 36 CFR part 242 and 50 CFR part 100.

This action is taken by the Department of the Interior pursuant to delegated authority.

## Compliance With Statutory and Regulatory Authorities

### *National Environmental Policy Act*

A Draft Environmental Impact Statement that described four alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. The Final Environmental Impact Statement (FEIS) was published on February 28, 1992. The Record of Decision (ROD) on Subsistence Management for Federal Public Lands in Alaska was signed April 6, 1992. The selected alternative in the FEIS (Alternative IV) defined the administrative framework of an annual regulatory cycle for subsistence regulations.

A 1997 environmental assessment dealt with the expansion of Federal jurisdiction over fisheries and is available at the office listed under **FOR FURTHER INFORMATION CONTACT**. The Secretary of the Interior, with concurrence of the Secretary of Agriculture, determined that expansion of Federal jurisdiction does not constitute a major Federal action significantly affecting the human environment and, therefore, signed a Finding of No Significant Impact.

### Section 810 of ANILCA

An ANILCA section 810 analysis was completed as part of the FEIS process on the Federal Subsistence Management Program. The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. The final section 810 analysis determination appeared in the April 6, 1992, ROD and concluded that the Federal Subsistence Management Program, under Alternative IV with an annual process for setting subsistence regulations, may have some local impacts on subsistence uses, but will not likely restrict subsistence uses significantly.

During the subsequent environmental assessment process for extending fisheries jurisdiction, an evaluation of the effects of the subsistence program regulations was conducted in accordance with section 810. This evaluation also supported the Secretaries' determination that the regulations will not reach the "may significantly restrict" threshold that would require notice and hearings under ANILCA section 810(a).

### Paperwork Reduction Act of 1995 (PRA)

This proposed rule does not contain any new collections of information that require Office of Management and Budget (OMB) approval under the PRA (44 U.S.C. 3501 *et seq.*). OMB has reviewed and approved the collections of information associated with the subsistence regulations at 36 CFR part 242 and 50 CFR part 100, and assigned OMB Control Number 1018-0075, with an expiration date of January 31, 2024. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

### Regulatory Planning and Review (Executive Order 12866)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this proposed rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The

executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this proposed rule in a manner consistent with these requirements.

### Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. In general, the resources to be harvested under this proposed rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to the economy. However, we estimate that two million pounds of meat are harvested by subsistence users annually and, if given an estimated dollar value of \$3.00 per pound, this amount would equate to about \$6 million in food value statewide. Based upon the amounts and values cited above, the Departments certify that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

### Small Business Regulatory Enforcement Fairness Act

Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this proposed rule is not a major rule. It will not have an effect on the economy of \$100 million or more, will not cause a major increase in costs or prices for consumers, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

### Executive Order 12630

Title VIII of ANILCA requires the Secretaries to administer a subsistence priority on Federal public lands and waters. The scope of this program is limited by definition to certain public lands. Likewise, these proposed regulations have no potential takings of private property implications as defined by Executive Order 12630.

### Unfunded Mandates Reform Act

The Secretaries have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this proposed rulemaking will not impose a cost of \$100 million or more in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies and there is no cost imposed on any State or local entities or tribal governments.

### Executive Order 12988

The Secretaries have determined that these regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

### Executive Order 13132

In accordance with Executive Order 13132, the proposed rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless it meets certain requirements.

### Executive Order 13175

Title VIII of ANILCA does not provide specific rights to Tribes for the subsistence taking of wildlife, fish, and shellfish. However, as described above under *Tribal Consultation and Comment*, the Secretaries, through the Board, will provide federally recognized Tribes and Alaska Native corporations a variety of opportunities for consultation: Commenting on proposed changes to the existing rule; engaging in dialogue at the Regional Council meetings; engaging in dialogue at the Board's meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process.

### Executive Order 13211

This Executive Order requires agencies to prepare statements of energy effects when undertaking certain actions. However, this proposed rule is not a significant regulatory action under E.O. 13211, affecting energy supply, distribution, or use, and no statement of energy effects is required.

### Drafting Information

Theo Matuskowitz drafted this proposed rule under the guidance of Sue Detwiler of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional assistance was provided by:

- Chris McKee, Alaska State Office, Bureau of Land Management;
- Dr. Joshua Ream, Alaska Regional Office, National Park Service;
- Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;
- Jill Klein, Alaska Regional Office, U.S. Fish and Wildlife Service; and
- Gregory Risdahl, Alaska Regional Office, USDA–Forest Service.

**List of Subjects**

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

*50 CFR Part 100*

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

**Proposed Regulation Promulgation**

For the reasons set out in the preamble, the Secretaries propose to amend 36 CFR 242.3 and 50 CFR 100.3 as set forth below.

**PART —SUBSISTENCE  
MANAGEMENT REGULATIONS FOR  
PUBLIC LANDS IN ALASKA**

■ 1. The authority citation for both 36 CFR part 242 and 50 CFR part 100 continues to read as follows:

**Authority:** 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

**Subpart A—General Provisions**

■ 2. Amend § \_\_.3 by revising paragraph (b)(5)(ii) to read as follows:

**§ \_\_.3 Applicability and scope.**

\* \* \* \* \*

(b) \* \* \*

(5) \* \* \*

(ii) Tongass National Forest:

Name	Chart No. or meridian name	Area description	Longitude/latitude
(A) Beacon Point, Frederick Sound, and Kupreanof Island.	U.S. Coast and Geodetic Survey Chart No. 8210—Sheet No. 16.	The point begins on the low-water line at N 63° W, true and approximately 1,520 feet from Beacon Point beacon; thence due south true 1,520 feet; thence true east 1,800 feet, more or less to an intersection with a low-water line; thence following, is the low-water line round the point to the point of beginning.	Approx. Long. 133°00' W, Lat. 56°56¼' N.
(B) Bushy Island and Snow Passage.	U.S. Coast and Geodetic Survey Chart, labeled No. 8160—Sheet No. 12.	The reference location is marked as 64 south, 80 east, CRM, SEC. 31/32 on the map labeled, USS 1607. The point begins on a low-water line about ¼ nautical mile and southwesterly from the northwest point of the island, from which a left tangent to an island that is 300 yards in diameter and 100 yards offshore, bears the location—N 60° W, true; thence S 60° E, true and more or less 2,000 feet to an intersection with a low-water line on the easterly side of the island; thence forward along the winding of the low-water line northwesterly and southwesterly to the point of beginning, including all adjacent rocks and reefs not covered at low water.	Approx. Long. 132°58' W, Lat. 56°16½' N.
(C) Cape Strait, Frederick Sound, and Kupreanof Island.	U.S. Coast and Geodetic Survey Chart No. 8210—Sheet No. 16.	The reference location is marked as 56 south, 77478 east, CRM, on the map labeled as USS 1011. It begins at a point on a low-water line that is westerly from the lighthouse and distant 1,520 feet in a direct line from the center of the concrete pier upon which the light tower is erected; thence South 45° E, true by 1,520 feet; thence east true by 1,520 feet, more or less to an intersection with the low-water line; thence northwesterly and westerly, following the windings of the low-water line to the point of beginning.	Approx. Long. 133°05' W, Lat. 57°00' N.
(D) Point Colpoys and Sumner Strait.	U.S. Coast and Geodetic Survey Chart No. 8160—Prince of Wales Island—Sheet No. 12.	The reference location is marked as 64 south, 78 east, CRM, SECs. 10, 11, 12 on the map labeled as USS 1634. Location is north of a true east-and-west line running across the point to 1,520 feet true south from the high-water line at the northernmost extremity. Map includes all adjacent rocks and ledges not covered at low water and also includes two rocks awash about ¼ nautical miles East and South and 75° East, respectively, from the aforementioned point.	Approx. Long. 133°12' W, Lat. 56°20' N.
(E) Vank Island and Stikine Strait.	U.S. Coast and Geodetic Survey Chart No. 8160—Sheet No. 18. Located at 62 south, 82 east, CRM, SEC 34, on the map labeled as USS 1648.	This part of the island is lying south of a true east-and-west line that is drawn across the island from low water to low water. Island is 760 feet due north from the center of the concrete pier upon which the structure for the light is erected.	Approx. Long. 132°35' W, Lat. 56°27' N.
(F) High Point, Woronkofski Island.	U.S. Coast and Geodetic Survey Chart No. 8160—Sheet No. 18.	The location begins at a point on low water at the head of the first bight easterly of the point and about ⅓ nautical mile distant therefrom; thence south true 1,520 feet; thence west true 1,100 feet, more or less to an intersection with the low-water line; thence northerly and easterly, following the windings of the low-water line to point of beginning.	Approx. Long. 132°33' W, Lat. 56°24' N.
(G) Key Reef and Clarence Strait.	U.S. Coast and Geodetic Survey Chart No. 8160—Sheet No. 11.	The reference location is marked as 66 south, 81 east, CRM, SEC 11. The reef lies 1¾ miles S 80° E, true, from Bluff Island and becomes awash at extreme high water. Chart includes all adjacent ledges and rocks not covered at low water.	Approx. Long. 132°50' W, Lat. 56°10' N.

Name	Chart No. or meridian name	Area description	Longitude/latitude
(H) Low Point, Zarembo Island.	U.S. Coast and Geodetic Survey Chart No. 8160—Sheet No. 22.	The location begins at a point on a low-water line that is 760 feet in a direct line, easterly, from the center of Low Point Beacon. The position is located on a point of shoreline about 1 mile easterly from Low Point; thence S 35°, W true 760 feet; thence N 800 feet and W 760 feet, more or less, to an intersection with the low-water line to the point of beginning.	Approx. Long. 132°55'½' W, Lat. 56°27'½' N.
(I) McNamara Point and Zarembo Island.	U.S. Coast and Geodetic Survey Chart No. 8160—Sheet No. 25.	Location begins at a point on a low-water line that is 1,520 feet in a direct line, northerly, from McNamara Point Beacon—a slatted tripod structure; thence true east 1,520 feet; thence true south, more or less, 2,500 feet to an intersection with the low-water line; thence northwesterly and northerly following the windings of the low-water line to the point of beginning.	(Approx. Long. 133°04' W, Lat. 56°20' N.
(J) Mountain Point and Wrangell Narrows.	U.S. Coast and Geodetic Survey Chart No. 8170—Sheet No. 27.	The location begins at a point on a low-water line southerly from the center of Mountain Point Beacon and distant there from 1,520 feet in a direct line; thence true west 1,520 feet; thence true north, more or less, 3,480 feet to an intersection with the low-water line; thence southeasterly and southerly following the windings of the low-water line to the point of beginning.	Approx. Long. 132°57'½' W, Lat. 56°44' N.
(K) Angle Point, Revillagigedo Channel, and Bold Island.	U.S. Coast and Geodetic Survey Chart No. 8075—Sheet No. 3.	The reference location is marked as 76 south, 92 east, CRM, USS 1603. The location begins at a point on a low-water line abreast of the lighthouse on Angle Point, the southwestern extremity of Bold Island; thence easterly along the low-water line to a point that is 3,040 feet in a straight line from the beginning point; thence N 30° W True 3,040 feet; thence true west to an intersection with the low-water line, 3,000 feet, more or less; thence southeasterly along the low-water line to the point of beginning.	Approx. Long. 131°26' W, Lat. 55°14' N.
(L) Cape Chacon, Dixon Entrance, and Prince of Wales Island.	U.S. Coast and Geodetic Survey Chart No. 8074—Sheet No. 29.	The reference location is marked as 83 south, 89 and 90 east, CRM, USS 1608. The location begins at a point at the low-water mark on the shoreline of Dixon Entrance from which the southern extremity of Cape Chacon bears south 64° true east and approximately ¾ nautical miles; thence N 45° true east and about 1 nautical mile, more or less, to an intersection with a low-water line on the shore of Clarence Strait; thence southerly, following the meanderings of the low-water line of the shore, to and around Cape Chacon, and continuing to the point of beginning. Reference includes all adjacent islands, islets, rocks, and reefs that are not covered at the low-water line.	Approx. Long 132° W, Lat. 54°42' N.
(M) Lewis Reef and Tongass Narrows.	U.S. Coast and Geodetic Survey Chart No. 8094—Sheet No. 71.	The reference location is marked as 75 south, 90 east, CRM, SEC 9. The area point begins at the reef off Lewis Point and partly bare at low water. This part of the reef is not covered at low water and lies on the northeast side of a true northwest-and-southeast line that is located 300 feet true southwest from the center of the concrete pier of Lewis Reef Light.	Approx. Long. 131°44'½' W, Lat. 55°22'25" N.
(N) Lyman Point and Clarence Strait.	U.S. Coast and Geodetic Survey, Chart No. 8076—Sheet No. 8.	The reference location is marked as 73 south, 86 east, CRM, SEC 13, on a map labeled as USS 2174 TRC. It begins at a point at the low-water mark. The aforementioned point is 300 feet in a direct line easterly from Lyman Point light; thence due south 300 feet; thence due west to a low-water mark 400 feet, more or less; thence following the winding of the low-water mark to the place of beginning.	Approx. Long. 132°18' W, Lat. 35°35' N.
(O) Narrow Point, Clarence Strait, and Prince of Wales Island.	U.S. Coast and Geodetic Survey Chart No. 8100—Sheet No. 9.	The reference location is marked as 70 south, 84 east, CRM, on a map labeled as USS 1628. The point begins at a point on a low-water line about 1 nautical mile southerly from Narrow Point Light, from which point a left tangent to a high-water line of an islet about 500 yards in diameter and about 300 yards offshore, bears south 30° true east; thence north 30° W, true 7,600 feet; thence N 60° E, 3,200 feet, more or less to an intersection with a low-water line; thence southeasterly, southerly, and southwesterly, following the winding of the low-water line to the point of beginning. The map includes all adjacent rocks not covered at low water.	Approx. Long. 132°28' W, Lat. 55°47'½' N.
(P) Niblack Point, Cleveland Peninsula, and Clarence Strait.	U.S. Coast and Geodetic Survey Chart No. 8102—Sheet No. 6.	The location begins at a point on a low-water line from which Niblack Point Beacon, a tripod anchored to three concrete piers, bears southeasterly and is 1,520 feet in a direct line; thence true northeast 1,520 feet; thence true southeast 3,040 feet; thence true southwest at 600 feet, more or less, to an intersection with a low-water line; thence northwesterly following the windings of the low-water line to the point of beginning.	Approx. Long. 132°07' W, Lat. 55°33' N.
(Q) Rosa Reef and Tongass Narrows.	U.S. Coast and Geodetic Survey Chart No. 8094—Sheet No. 71.	The reference location is marked as 74 south, 90 east, CRM, SEC 31. That part of the reef is not covered at low water and lies east of a true north-and-south line, located 600 feet true west from the center of the concrete pier of Rosa Reef Light. The reef is covered at high water.	Approx. Long. 131°48' W, Lat. 55°24'15" N.
(R) Ship Island and Clarence Strait.	U.S. Coast and Geodetic Survey Chart No. 8100—Sheet No. 9.	The reference location is marked as 72 south, 86 east, CRM, SEC 27. The point begins as a small island on the northwesterly side of the Clarence Strait, about 10 nautical miles northwesterly from Caamano Point and ¼ mile off the shore of Cleveland Peninsula. The sheet includes all adjacent islets and rocks not connected to the main shore and not covered at low water.	Approx. Long. 132°12' W, Lat. 55°36' N.



Name	Chart No. or meridian name	Area description	Longitude/latitude
(S) Spire Island Reef and Revillagigedo Channel.	U.S. Coast and Geodetic Survey Chart No. 8075—Sheet No. 3.	The reference location is marked as 76 south, 92 east, CRM, SEC 19. The detached reef, covered at high water and partly bare at low water, is located northeast of Spire Island. Spire Island Light is located on the reef and consists of small houses and lanterns surmounting a concrete pier.	Approx. Long. 131°30' W, Lat. 55°16' N.
(T) Surprise Point and Nakat Inlet.	U.S. Coast and Geodetic Survey Chart No. 8051—Sheet No. 1.	The reference location is marked as 80 south, 89 east, CRM. This point lies north of a true east-and-west line. The true east-and-west line lies 3,040 feet true south from the northernmost extremity of the point together with adjacent rocks and islets.	Approx. Long. 130°44' W, Lat. 54°49' N.
(U) Caamano Point, Cleveland Peninsula, and Clarence Strait.	U.S. Coast and Geodetic Survey Chart No. 8102—Sheet No. 6.	Location consists of everything apart of the extreme south end of the Cleveland Peninsula lying on a south side of a true east-and-west line that is drawn across the point at a distance of 800 feet true north from the southernmost point of the low-water line. This includes off-lying rocks and islets that are not covered at low water.	Approx. Long. 131°59' W, Lat. 55°30' N.
(V) Meyers Chuck and Clarence Strait.	U.S. Coast and Geodetic Survey Chart No. 8124—Sheet No. 26.	The tidelands and the small island is about 150 yards in diameter and located about 200 yards northwest of Meyers Island.	Approx. Long. 132°16' W, Lat. 55°44½' N.
(W) Round Island and Cordova Bay.	U.S. Coast and Geodetic Survey Chart No. 8145—Sheet No. 36.	The tidelands and the southwestern island of the group is about 700 yards long, including off-lying rocks and reefs that are not covered at low water.	Approx. Long. 132°30½' W, Lat. 54°46½' N.
(X) Mary Island .....	U.S. Coast and Geodetic Survey Chart No. 8145—Sheet No. 36.	The reference location begins at a point that is placed at a low-water mark. The aforementioned point is southward 500 feet from a crosscut on the side of a large rock on the second point below Point Winslow and Mary Island; thence due west ¾ mile, statute; thence due north to a low-water mark; thence following the winding of the low water to the place of beginning.	Approx. Long. 131°11'00" W, Lat. 55°05'55" N.
(Y) Tree Point .....	U.S. Coast and Geodetic Survey Chart No. 8145—Sheet No. 36.	The reference location starts at a point of a low-water mark. The aforementioned point is southerly ½ mile from the extreme westerly point of a low-water mark on Tree Point, on the Alaska Mainland; thence due true east, ¾ mile; thence due north 1 mile; thence due west to a low-water mark; thence following the winding of the low-water mark to the place of beginning.	Approx. Long. 130°57'44" W, Lat. 54°48'27" N.
(Z) Warm Springs Bay, Chatham Strait, and Baranof Island.	U.S. Coast and Geodetic Survey Chart No. 8243—Sheet No. 51.	The reference location is marked as 55 south, 67 east, CRM, SECS 20 and 21, U.S. Survey No. 1649. The location begins at a point on the low-water line south side of the entrance to Warm Springs Bay, westerly side of Chatham Strait and distant 400 feet westerly in a direct line from the center of the concrete slab, 4 feet square, upon which the structure of the Warm Springs Bay light is erected; thence south true 400 feet; thence east true 600 feet, more or less, to an intersection with the low-water line; thence northerly and westerly, following the windings of the low-water line to the point of beginning.	Approx. Long. 134°46'48" W, Lat. 57°04¾' N.
(AA) Killisnoo Harbor Southern Entrance and Chatham Strait.	U.S. Coast and Geodetic Survey Chart No. 8285—Sheet No. 53.	The reference location is marked as 50 south, 66 east, CRM. The location is marked at a reef off the southeastern extremity of Killisnoo Island, bare at low water and covered at high water, including all that part of the reef bounded by the low-water line and a northeast-and-southwest true line drawn tangent to the high-water line of the island. Killisnoo Harbor Southern Entrance Light is located upon a concrete pier on the outer part of the reef.	Approx. Long. 134°34' W, Lat. 57°28' N.
(BB) Killisnoo Harbor and Chatham Strait.	U.S. Coast and Geodetic Survey Chart No. 8285—Sheet No. 53.	The reference location is marked as 51 south, 68 east, CRM, SEC 7. The location is marked at a small rock bare at low water and covered at high water. The point is located 80 yards off the shore of Killisnoo Island in Killisnoo Harbor, 300 yards northwesterly from the wharf, and occupied by a concrete pier and superstructure supporting Killisnoo Harbor Light.	Approx. Long. 134°33¾' W, Lat. 57°28' N.
(CC) Point Gardner, Chatham Strait, and Admiralty Island.	U.S. Coast and Geodetic Survey Chart No. 8212—Sheet No. 50.	The reference location is marked as 56 south, 68 east, CRM, SEC 16, U.S. Survey No. 1637. The location begins at a point on the low-water line of Chatham Strait northward of the point and distant 1,000 feet in a straight line from the center of the concrete slab 4 feet square upon which the structure of Point Gardner Light is erected; thence S 80° E true 1,200 feet, more or less, to an intersection with the low-water line on the shore of Surprise Harbor; thence southerly, westerly, and northerly, following the winding of the low-water line to the point of beginning, and including islets and rocks lying within ⅜ mile southward of the Point.	Approx. Long. 134°37' W, Lat. 57°01' N.
(DD) Point Gambier, Stephens Passage, and Entrance to Gambier Bay.	U.S. Coast and Geodetic Survey Chart No. 8200—Sheet No. 18.	The reference location is marked as 51 south, 72 east, CRM, SEC 22, U.S. Survey No. 1638. All that part of Gambier Island lies southeastward of a true northeast-and-southeast line drawn across the island and lies 1,520 feet distant from the high-water mark at the southeastern extremity of the island, including all adjacent rocks and reefs not covered at low water.	Approx. Long. 133°50' W, Lat. 57°26' N.

Name	Chart No. or meridian name	Area description	Longitude/latitude
(EE) Gambier Bay Entrance, Stephens Passage, and Gambier Bay.	U.S. Coast and Geodetic Survey Chart No. 8224—Sheet No. 72.	The reference location is marked as 51 south, 72 east, CRM, SEC 7. The reef is covered at high water and bare at low water, located about $\frac{3}{8}$ nautical mile northeast of northwest point of Gain Island. The proposed reservation includes that part of the reef not covered at low water and lying southeast of a northeast-and-southwest line located at a distance of 600 feet northwest of the Gambier Bay Entrance Light structure, which consists of a small house and skeleton steel tower surmounting a concrete pier.	Approx. Long. 133°55' W, Lat. 57°28' N.
(FF) False Point Pybus, Admiralty Island.	U.S. Coast and Geodetic Survey Chart No. 8224—Sheet No. 11.	The location begins at a point 1,285 feet northwest true from the center of False Point Beacon, a slatted tripod located on the point about 1 nautical mile southerly from False Point Pybus, thence east true 1,170 feet, more or less, to an intersection with the low-water line, thence southerly and westerly following the windings and indentations of the low-water line to a point from which the point of beginning bears north true, thence north true, 1,000 feet, more or less, to a point of beginning.	Approx. Long. 133°52 $\frac{1}{2}$ ' W, Lat. 57°21' N.
(GG) The Brothers Island, Stephens Passage.	U.S. Coast and Geodetic Survey Chart No. 8200—Sheet No. 18.	The reference location is marked as 49 south, 61 east, CRM. The point is located on the westerly side of the southern end of Stephens Passage. All of the eastern group of islands known as The Brothers, being about $\frac{1}{2}$ nautical mile long and $\frac{1}{3}$ nautical mile wide and about 232 feet high, including all adjacent islets and rocks not covered at low water.	Approx. Long. 133°47' W, Lat. 57°17 $\frac{1}{2}$ ' N.
(HH) Cape Fanshaw and Frederick Sound.	U.S. Coast and Geodetic Survey Chart No. 8216—Sheet 17.	The reference location is marked as 54 south, 74 and 75 east, U.S. Survey No. 1610. All of the cape that is west of a true north-and-south line drawn 1,520 feet due east of the westernmost part of the high-water line at the point, including all adjacent rocks and reefs not covered at low water.	Approx. Long. 133°34'21" W, Lat. 57°11'02" N.
(II) West Point, Kupreanof Island, and the Entrance to Portage Bay.	U.S. Coast and Geodetic Survey Chart No. 8210. See sheet for East Point, No. 9.	All of that part of the point lying east of a true north-and-south line drawn across the point at a distance of 600 feet west of the most easterly part of the low-water line at the point.	Approx. Long. 133°20' W, Lat. 57°00' N.
(JJ) East Point, Kupreanof Island, and the Entrance to Portage Bay.	U.S. Coast and Geodetic Survey Chart No. 8210—Sheet No. 9.	All of that part of the point lying on the west side of a true north-and-south line drawn across the point at a distance of 600 feet east true from the most westerly part of the low-water line at the point.	Approx. Long. 133°19' W, Lat. 57°00' N.
(KK) Kingsmill Point, Chatham Strait, Kuiu Island.	U.S. Coast and Geodetic Survey Chart No. 8214—Sheet No. 48.	The reference location is marked as 58 south, 70 east, CRM, SEC 17, U.S. Survey No. 1621. The location begins at a point on a low-water line southward of the point and distant 1,200 feet in a direct line from the center of the concrete slab upon which the structure of Kingsmill Point Light is erected; thence east true 900 feet; thence north true 2,300 feet, more or less, to an intersection with the low-water line northeastward of the point; thence southwesterly and southerly along the windings of a low-water line to the point of beginning.	Approx. Long. 134°25' W, Lat. 56°50 $\frac{1}{2}$ ' N.
(LL) Washington Bay, Chatham Strait, and Kuiu Island.	U.S. Coast and Geodetic Survey Chart No. 8241—Sheet No. 47.	The reference location is marked as 59 south, 70 east, CRM, SEC 33, U.S. Survey No. 1650. All that part of the land on the south side of the entrance to Washington Bay lying on the northwesterly side of the straight line bearing N 55° E and S 55° W true drawn across the land from the low-water line in Chatham Strait to a low-water line in Washington Bay, said line being distant 300 feet S 35° E true from a point on the low-water line between the two headlands, from which a left tangent to the high-water line of a small island lying 130 yards offshore in the bight bears N 35° W true; and including the aforementioned island.	Approx. Long. 134°10' W, Lat. 56°40' N.
(MM) Point Ellis, Chatham Strait, and Bay of Pillars.	U.S. Coast and Geodetic Survey Chart No. 8241—Sheet No. 46.	The reference location is marked as 43 south, 65 east, CRM. The small island N 58° W true $\frac{3}{8}$ mile from Pt. Ellis, including adjacent reefs and rocks not covered at low water.	Approx. Long. 134°19'16" W, Lat. 56°33'28" N.
(NN) Point Crowley, Chatham Strait, and Kuiu Island.	U.S. Coast and Geodetic Survey Chart No. 8152—Sheet No. 45.	The reference location is marked as 66 south, 72 east, CRM, SECS 22 and 27, U.S. Survey No. 2171. All that part of Kuiu Island in the vicinity of Point Crowley lying west of a true north-and-south line drawn across the point at a distance of 3,040 feet east true from the center of the concrete slab 4 feet by 6 feet upon which the structure for Point Crowley Light is erected, and including all adjacent islets and rocks not covered at low water.	Approx. Long. 134°16' W, Lat. 56°07' N.
(OO) Strait Island and Sumner Strait.	U.S. Coast and Geodetic Survey Chart No. 8200—Sheet No. 40.	The reference location is marked as 59 south, 70 east, CRM, SEC 8, U.S. Survey No. 1604. The southeastern island of the group, including adjacent and outlying rocks and reefs not covered at low water.	Approx. Long. 133°42' W, Lat. 56°24' N.
(PP) Povornotni Island and Peril Strait.	U.S. Coast and Geodetic Survey Chart No. 8282—Sheet No. 31.	The island is about 200 yards long, off Pogibshi Point, including adjacent rocks and reefs not covered at low water.	Approx. Long. 135°33' W, Lat. 57°30 $\frac{1}{2}$ ' N.

Name	Chart No. or meridian name	Area description	Longitude/latitude
(QQ) Tenakee Inlet and Chatham Strait.	U.S. Coast and Geodetic Survey Chart No. 8300—Sheet No. 55.	All of the small islands and associated tidelands are located about 300 yards off South Passage Point, including rock awash shown on the chart ½ nautical mile northeasterly from South Passage Point.	Approx. Long. 134°56' W, Lat. 57°46' N.
(RR) Danger Point, Chatham Strait, and Admiralty Island.	U.S. Coast and Geodetic Survey Chart No. 8247—Sheet No. 54.	The reference location is marked as 50 south, 67 east, CRM, SECS 25 and 26, U.S. Survey No. 1613. The location begins at a point on a low-water line southward of Danger Point and distant 700 feet in a direct line from the center of the concrete slab, 4 feet square, upon which the structure of Danger Point Light is erected; thence northeast true 1,000 feet, more or less, to an intersection with the low-water line eastward of Danger Point; thence westerly, etc., following the windings of the low-water line to the point of beginning, including rocks and reefs off the point not covered at low water.	Approx. Long. 134°36' W, Lat. 57°30'30" N.
(SS) Point Hugh, Stephens Passage, Glass Peninsula, and Admiralty Island.	U.S. Coast and Geodetic Survey Chart No. 8200—Sheet No. 18.	The reference location is marked as 49 south, 72 east, CRM, U.S. Survey No. 1641. The location begins at a point on a low-water line on the easterly side of Glass Peninsula about 1½ nautical miles northerly from Point Hugh 1¼ nautical miles in a direct line southerly from the center of a concrete slab 4 feet square, upon which is erected the structure of Point Hugh Light; thence west true, 1,520 feet; thence N 4° W, true 2¼ nautical miles, more or less, to an intersection with the low-water line; thence southeasterly and southerly, following the windings of the low-water line to the point of beginning.	Approx. Long. 133°52' W, Lat. 57°37' N.
(TT) Point Styleman, Stephens Passage, and north side of the entrance to Port Snettisham.	U.S. Coast and Geodetic Survey Chart No. 8227—Sheet No. 30.	All of that part of the point lying south of a true east-and-west line drawn across the point at a distance of 700 feet north true from the southernmost part of the high-water line, including adjacent rocks and reefs not covered at low water.	Approx. Long. 133°53½' W, Lat. 57°58½' N.
(UU) Kakul Narrows and Perils Strait.	U.S. Coast and Geodetic Survey Chart No. 8282—Sheet No. 20.	The two islets are about 150 yards and 100 yards long, respectively, on the east side of Kakul Narrows, and all of the off-lying group of rocks northward named on the Chart Channel Islets, including all adjacent rocks and reefs not covered at low water.	Approx. Long. 135°41' W, Lat. 57°22' N.
(VV) Channel Rock and Sitka Sound.	U.S. Coast and Geodetic Survey Chart No. 8244—Sheet No. 63.	The reference location is marked as 56 south, 63 east, CRM. The location is marked by a rock covered at high water and bare at low water, located ¼ nautical mile north of Japonski Island.	Approx. Long. 135°22' W, Lat. 57°03½' N.
(WW) Harbor Rock and Sitka Harbor.	U.S. Coast and Geodetic Survey Chart No. 8244—Sheet No. 63.	The reference location is marked as 56 south, 63 east, CRM. The location is marked at a small rock covered at high water and bare at low water, located 300 yards north of the naval wharf on Japonski Island.	Approx. Long. 135°20'48" W, Lat. 57°03½' N.
(XX) False Point Retreat, Lynn Canal, and Admiralty Island.	U.S. Coast and Geodetic Survey Chart No. 8302—Sheet No. 12.	The location begins at a point near the west shore of Mansfield Peninsula about 2½ nautical miles southerly from Pt. Retreat, from which the center of False Point Retreat Beacon, a slatted tripod anchored to concrete piers, bears west true, distant 900 feet, thence southwest true 900 feet, more or less, to an intersection with the low-water line, thence northwesterly, northerly, and northeasterly, following the winding of the low-water line, to a point from which the point of the beginning bears southeast true, thence southeast true 600 feet, more or less, to the point of beginning.	Approx. Long. 134°58' W, Lat. 58°22" N.
(YY) Shelter Island, Stephens Passage, and the Southeastern Part of Shelter Island.	U.S. Coast and Geodetic Survey Chart No. 8302—Sheet No. 23.	The reference location is marked as 40 south, 64 east, CRM, SEC 26, U.S. Survey No. 1645. The location begins at a point on a low-water line on the eastern side of the island about 1,000 yards northward of the extreme southeastern point of the island, from which the center of a concrete slab 4 feet square, upon which Shelter Island Light is erected, is distant 1,000 feet in a straight line bearing S 23° E approximately; thence S 65° W true 600 feet; thence S 23° E, true, 2,000 feet, more or less, to an intersection with a low-water line; thence northeasterly, northerly, and northwesterly, following the windings of the low-water line, to the point of beginning.	Approx. Long. 134°48' W, Lat. 58°22½" N.
(ZZ) Clear Point, Lynn Canal, the Entrance to Fronter Bay, and Admiralty Island.	U.S. Coast and Geodetic Survey Chart, No. 8302—Sheets No. 23 & No. 24.	The reference location is marked as 42 south, 64 east, CRM, SEC 10, U.S. Survey No. 1612. The location begins at a point on a low-water line about 700 feet northerly from the southern extremity of Clear Point, from which a right tangent to the high-water line, distant about 500 feet bears east true; thence west true, 800 feet, more or less, to an intersection with a low-water line; thence southerly, etc., following the windings of the low-water line around the Point to the point of beginning.	Approx. Long. 134°55' W, Lat. 58°15' N.

Name	Chart No. or meridian name	Area description	Longitude/latitude
(AAA) Point Augusta, Chatham Strait, and Chicagof Island.	U.S. Coast and Geodetic Survey Chart No. 8300—Sheet No. 55.	The reference location is marked as 44 south, 64 east, CRM, U.S. Survey No. 1633. All of that part of the land in the vicinity of Point Augusta bounded by the low-water line and a straight line bearing N 42° W and S 42° E true, distant 2,280 feet S 48° W true, from the center of the concrete slab 4 feet square upon which the structure of Point Augusta Light is erected, including all adjacent rocks and reefs not covered at low water.	Approx. Long. 134°58' W, Lat. 58°03' N.
(BBB) Middle Point, Stephens Passage, and Douglas Island.	U.S. Coast and Geodetic Survey Chart No. 8235—Sheet No. 22.	The reference location is marked as 42 south, 66 east, CRM, SEC 9, U.S. Survey No. 2170. This area is about 4½ miles northwesterly from Point Hilda. The location begins at a point on a low-water line from which the center of a concrete slab 4 feet square upon which Middle Point Light is erected, is distant 400 feet in a straight line and bearing southerly; thence east true 900 feet; thence south true 500 feet, more or less, to an intersection with the low-water line; thence westerly, following the windings of the low-water line to the point of beginning.	Approx. Long. 134°37' W, Lat. 58°15' N.
(CCC) Point Hilda, Stephens Passage, and Douglas Island.	U.S. Coast and Geodetic Survey Chart No. 8235—Sheet No. 112.	The reference location is marked as 42 south, 67 east, CRM, SECS 19 and 20, U.S. Survey No. 1640. That part of the Point, including tide lands not covered at low water, lying south of a true east-and-west line drawn across the Point at a distance of 600 feet north, true, from the high-water line at the southernmost part of the point.	Approx. Long. 134°30' W, Lat. 58°13' N.
(DDD) Point Arden, Stephens Passage, and Admiralty Island.	U.S. Coast and Geodetic Survey Chart No. 8300—Sheet No. 20.	The reference location is marked as 43 south, 68 and 69 east, CRM, U.S. Survey No. 1632. The location begins at a point on a low-water line southward of Point Arden from which the center of a concrete slab upon which Point Arden Light is erected, is distant 3,040 feet in a straight line; thence N 60° W true, 8,000 feet, more or less, to an intersection with the low-water line; thence northeasterly, southeasterly, easterly, and southerly, following the winding of a low-water line to the point of beginning.	Approx. Long. 134°10' W, Lat. 58°9½' N.
(EEE) Grand Island and Stephens Passage.	U.S. Coast and Geodetic Survey Chart No. 8300—Sheet No. 15.	The location begins at a point on a low-water line, east shore of Grand Island, 1,520 feet in a direct line, southerly, from the center of Grand Island Beacon, a slatted tripod anchored to concrete piers, thence west true 1,520 feet, thence north true 1,824 feet more or less, to an intersection with a low-water line to the point of beginning.	Approx. Long. 134°06' W, Lat. 58°06' N.
(FFF) Grave Point and Stephens Passage.	U.S. Coast and Geodetic Survey Chart No. 8229—Sheet No. 19.	The reference location is marked as 44 south, 70 east, CRM, SEC 7, U.S. Survey No. 1617. The location begins at a point at a low-water line on the northwesterly side of the entrance to Taku Harbor, from which a left tangent to the high-water line at the northern extremity of Stockade Point, distant about 700 yards, bears S 75° E, true; thence N 75° W, true 4,000 feet, more or less to an intersection with a low-water line northward of Grave Point; thence southerly, easterly, and northeasterly, following the windings of a low-water line to the point of beginning.	Approx. Long. 134°03' W, Lat. 58°04' N.
(GGG) Low Point, Chilkoot Inlet.	U.S. Coast and Geodetic Survey Chart No. 8303—Sheet No. 27.	The reference location is marked as 30 south, 60 east, CRM, SECS 18 and 19, U.S. Survey No. 1625. The location begins at a point on the low-water line northeasterly from Low Point Light and 900 feet in a direct line from the center of the slab 4 feet square upon which the structure for the light is erected; thence S 60° E, true, 1,560 feet; thence S 30° W, true, 1,000 feet, more or less, to an intersection with the low-water line; thence northwesterly and northeasterly, following the windings of the low-water line to the point of beginning.	Approx. Long. 135°21' W, Lat. 58°16' N.
(HHH) Point St. Mary, Lynn Canal, North Side of Entrance to Berners Bay.	U.S. Coast and Geodetic Survey Chart No. 8302—Sheet No. 29.	All that part of the point lying south of a true east-and-west line drawn across the same at a distance of 3,040 feet north true from the high-water line at the southernmost part of the point; including off-lying rocks not covered at low water.	Approx. Long. 135°01' W, Lat. 58°44' N.
(III) Little Island, Lynn Canal.	U.S. Coast and Geodetic Survey Chart No.—8302 Sheet No. 25.	The reference location is marked as 38 south, 63 east, CRM, SEC 29. The location begins as a small island ½ mile N 16° W from Ralston Island, including adjacent rocks and ledges not covered at low water.	Approx. Long. 135°02' W, Lat. 36°32½' N.
(JJJ) Lemesurier Island, Icy Strait.	U.S. Coast and Geodetic Survey Chart No. 8304—Sheet No. 59.	The reference location is marked as 41 south, 57 west, CRM, SECS 14 and 15, U.S. Survey No. 1623. All that part of the northeastern extremity of the island lying north of a true east-and-west line drawn across the point at a distance of 1,520 feet south true from the center of the concrete slab 4 feet square upon which the structure of the light is erected, including all adjacent rocks and islets not covered at low water.	Approx. Long. 136°02' W, Lat. 58°19' N.
(KKK) The Sisters, Icy Strait.	U.S. Coast and Geodetic Survey Chart No. 8302—See sheet for Spasskaia Island—No. 42.	The island is about 6½ nautical miles westerly from Point Couverden, about ½ mile long and 150 feet high, including adjacent rocks and islets not covered at low water, and Sisters Reef, located 1 mile to westward.	Approx. Long. 135°15½' W, Lat. 58°11' N.

Name	Chart No. or meridian name	Area description	Longitude/latitude
(LLL) Spasskaia Island, Icy Strait.	U.S. Coast and Geodetic Survey Chart No. 8302—Sheet No. 42.	The location begins as two small islets about 30 feet high located about 7 <sup>3</sup> / <sub>4</sub> nautical miles southwesterly from Point Couverden, including adjacent rocks and reefs not covered at low water.	Approx. Long. 135°10' W, Lat. 58°07 <sup>1</sup> / <sub>2</sub> ' N.
(MMM) Kev Reef, Clarence Strait.	U.S. Coast and Geodetic Survey Chart No. 8160—Sheet No. 11.	The reference location is marked as 66 south, 81 east, CRM, SEC 11. The location begins as a reef lying 1 <sup>3</sup> / <sub>4</sub> miles S 80° true east, from Bluff Island, awash extreme high water, including all adjacent ledges and rocks not covered at low water.	Approx. Long. 132°50' W, Lat. 56°10' N.
(NNN) Lord Rock, Dixon Entrance.	U.S. Coast and Geodetic Survey Chart No. 8051—Sheet No. 1.	The reference location is marked as 82 south, 98 east, CRM, SEC 30. The location is a small bare rock about 10 feet high, lying about <sup>3</sup> / <sub>4</sub> mile SW from the south group of Lord Island.	Approx. Long. 130°49' W, Lat. 54°44' N.
(OOO) Boat Rock, Dixon Entrance.	U.S. Coast and Geodetic Survey Chart No. 8051—Sheet No. 1.	The reference location is marked as 82 south, 98 east, CRM, SEC 8. The point is a small barren rock about 5 feet high, located about 200 yards offshore, about 2 miles northeasterly from Cape Fox, west side of Nakat Bay.	Approx. Long. 130°48' W, Lat. 54°47' N.
(PPP) Black Rock, Revillagigedo Channel.	U.S. Coast and Geodetic Survey Chart No. 8075—Sheet No. 2.	The reference location is marked as 79 south, 95 east, CRM, SEC 14. Barren rock about 26 feet height located 3 <sup>1</sup> / <sub>2</sub> nautical miles southwest true, from Kah Shakes Point.	Approx. Long. 131°04' W, Lat. 55°01' N.
(QQQ) Hog Rocks, Revillagigedo Channel.	U.S. Coast and Geodetic Survey Chart No. 8075—Sheet No. 3.	The reference location is marked as 77 south, 94 east, CRM, SEC 20. The location consists of a group of barren rocks 1.6 nautical miles N 70° true east from Middy Point, Ham Island.	Approx. Long. 131°17' W, Lat. 55°10'30" N.
(RRR) Mountain Point, Revillagigedo Channel.	U.S. Coast and Geodetic Survey Chart No. 8094—Sheet No. 4.	The reference location is marked as 76 south, 91 east, CRM, SEC 11. The location begins at a point on the low-water line 900 feet from the southernmost extremity of Mountain Point, and bearing approximately N 70° true east, therefrom; thence N 45° true west, 2,100 feet; thence west true, 2,400 feet, more or less, to an intersection with the low-water line; thence along a low-water line, southeasterly, easterly, and northeasterly to the beginning point.	Approx. Long. 131°32' W, Lat. 55°17 <sup>1</sup> / <sub>2</sub> ' N.
(SSS) Peninsula Point, Tongass Narrows.	U.S. Coast and Geodetic Survey Chart No. 8094—Sheet No. 5.	The reference location is marked as 75 south, 90 east, CRM, SEC 9. The location consists of a small island about 100 yards southwest of Peninsula Point.	Approx. Long. 131°44' W, Lat. 55°23' N.
(TTT) Channel Island, Tongass Narrows.	U.S. Coast and Geodetic Survey Chart No. 8094—Sheet No. 5.	The reference location is marked as 75 south, 90 east, CRM, SEC 5. The point is a small island in Tongass Narrows about 1 <sup>1</sup> / <sub>4</sub> nautical miles NW from Peninsula Point.	Approx. Long. 131°46' W, Lat. 55°23 <sup>3</sup> / <sub>4</sub> ' N.
(UUU) Bluff Point, Behm Canal, Entrance to Yes Bay.	U.S. Coast and Geodetic Survey Chart No. 8105—Sheet No. 6.	The reference location is marked as 69 south, 89 east, CRM, SEC 15, U.S. Survey No. 1605. Location consists of everything apart of the point lying east of a true north-and-south line 570 feet westerly from a high-water line of the easterly extremity of the Bluff.	Approx. Long. 131°45' W, Lat. 55°53' N.
(VVV) Moira Rock, Clarence Strait.	U.S. Coast and Geodetic Survey Chart No. 8100—Sheet No. 7.	The reference location is marked as 78 south, 89 east, CRM, SEC 33. The location is a small rock in the entrance to Moira Sound about 30 feet high, about 1.6 miles due true south from Adams Point.	Approx. Long. 132°00' W, Lat. 55°04' N.
(WWW) Skin Island, Clarence Straits.	U.S. Coast and Geodetic Survey Chart No. 8100—Sheet No. 7.	The reference location is marked as 76 south, 88 east, CRM, SEC 5/8. The location is a small island in the entrance to Cholmondeley Sound, about 1 mile off the western shore in Clarence Strait.	Approx. Long. 132°04' W, Lat. 55°18' N.
(XXX) Hump Island, Cholmondeley Sound.	U.S. Coast and Geodetic Survey Chart No. 8100—Sheet No. 7.	The reference location is marked as 76 south, 90 east, CRM. The location is a small island in Cholmondeley Sound, about 4 <sup>1</sup> / <sub>2</sub> nautical miles from Chasina Point.	Approx. Long. 132°05' W, Lat. 55°13 <sup>1</sup> / <sub>2</sub> ' N.
(YYY) Lyman Point, Clarence Strait.	U.S. Coast and Geodetic Survey Chart No. 8076—Sheet No. 8.	The reference location is marked as 73 south, 86 east, CRM, SEC 13, USS 2174 TRC. The location begins at a point at a low-water mark. The point is 300 feet in a direct line easterly from Lyman Point light; thence due south 300 feet; thence due west to a low-water mark, 400 feet, more or less; thence following the winding of a low-water mark to place of beginning.	Approx. Long. 132°18' W, Lat. 55°35' N.

Name	Chart No. or meridian name	Area description	Longitude/latitude
(ZZZ) Ship Island, Clarence Strait.	U.S. Coast and Geodetic Survey Chart No. 8100—Sheet No. 9.	The reference location is marked as 72 south, 86 east, CRM, SEC 27. The location is a small island on the northeast side of Clarence Strait, about 10 nautical miles northwesterly from Caamano Point and about 1/4 mile off the shore of Cleveland Peninsula, including all adjacent islets and rocks not connected to the main shore and not covered at low water.	Approx. Long. 132°12' W, Lat. 55°36' N.
(AAAA) Ratz Harbor, Clarence Strait.	U.S. Coast and Geodetic Survey Chart No. 8124—Sheet No. 10.	The reference location is marked as 69 south, 84 east, CRM, SEC 18. The location is the outermost small islet on the northwest side of the entrance to Ratz Harbor.	Long. 132°36' W, Lat. 55°53 1/2' N.
(BBBB) Beck Island, Kashevarof Passage.	U.S. Coast and Geodetic Survey Chart No. 8160—Sheet No. 11.	The reference location is marked as 67 south, 81 east, CRM, SEC 22. The location consists of an island lying 3/4 mile N 36° W, true from Coffman Island.	Approx. Long. 132°52' W, Lat. 56°03' N.
(CCCC) Vichnefski Rock, Sumner Strait.	U.S. Coast and Geodetic Survey Chart No. 8160—Sheet No. 12.	The reference location is marked as 63 south, 79 east, CRM, SEC 1. The location is indicated by a rock awash at extreme high water, located 3/4 mile NW of Point St. John, Zarembo Island.	Approx. Long. 133°01' W, Lat. 56°26' N.
(DDDD) Point Alexander, Wrangell Strait, Mitkof Island.	U.S. Coast and Geodetic Survey Chart No. 8170—Sheet No. 13.	The reference location is marked as 62 south, 80 east, CRM, SEC 8. The point is indicated by a small rocky ledge lying about 75 yards offshore at Point Alexander, Mitkof Island.	Approx. Long. 132°57' W, Lat. 56°30 1/2' N.
(EEEE) Midway Rock, Wrangell Strait.	U.S. Coast and Geodetic Survey Chart No. 8170—Sheet No. 13.	The reference location is marked as 62 south, 80 east, CRM, SEC 5. The location is indicated by a rock 400 yards from easterly shore and about 1 1/4 miles from the southerly entrance to the strait.	Approx. Long. 132°58' W, Lat. 56°31 1/4' N.
(FFFF) Anchor Point, Wrangell Strait.	U.S. Coast and Geodetic Survey Chart No. 8170—Sheet No. 14.	The reference location is marked as 60 south, 79 east, CRM, SEC 26, USS 1601. The location is at the south side of Blind Slough. The location consists of everything apart of the point north of a true east-and-west line lying 300 feet south true from the high-water mark at the northern extremity of the point.	Approx. Long. 132°55 1/2' W, Lat. 56°38 1/4' N.
(GGGG) Mitkof Island, Wrangell Strait.	U.S. Coast and Geodetic Survey Chart No. 8170—Sheet No. 15.	The location consists of everything apart of the northern extremity of Mitkof Island, at the entrance to Wrangell Strait, north of a true east-and-west line lying 200 feet south true from the high-water mark at the northernmost point of the shoreline.	Approx. Long. 132°56' W, Lat. 56°49 1/4' N.
(HHHH) Duck Point, Fanshaw Bay.	U.S. Coast and Geodetic Survey Chart No. 8216—Sheet No. 17.	The reference location is marked as 54 south, 75 east, CRM, SEC 9. The point starts at a small rock close to shore off Duck Point, Whitney Island, and on which a light is being maintained.	Approx. Long. 133°30 1/2' W, Lat. 57°12 1/2' N.
(IIII) Marmion Island, Gastineau Channel.	U.S. Coast and Geodetic Survey Chart No. 8235—Sheet No. 21.	The reference location is marked as 42 south, 68 east, CRM, SEC 26, USS 1740. The location is a small island about 200 yards long by 100 yards wide, near Point Tantallon, and the westerly side of the entrance to Gastineau Channel.	Approx. Long. 134°15' W, Lat. 56°12' N.
(JJJJ) Little Chilkat Island, Chilkoot Inlet.	U.S. Coast and Geodetic Survey Chart No. 8303—Sheet No. 26.	The reference location is marked as 32 south, 60 east, CRM, SECS 22, 23, and 26. This location is the most northerly island of the Chilkat group, the same being about 5/8 nautical mile long and located about 1 nautical mile southeast of Seduction Point.	Approx. Long. 135°15' W, Lat. 59°05' N.
(KKKK) Barren Island, Dixon Entrance.	U.S. Coast and Geodetic Survey Chart No. 8100—Sheet No. 28.	The island is bare rock, about 20 feet high, and lies off the west side entrance to Revillagigedo Channel, approximately 6 1/2 miles south of the southern extremity of Duke Island.	Approx. Long. 131°20' W, Lat. 54°45' N.
(LLLL) Dewey Rocks, Cordova Bay.	U.S. Coast and Geodetic Survey Chart No. 8152—Sheet No. 30.	The reference location is marked as 15 south, 3 west, CRM. The location is marked by a small rock about 12 feet high, about 1 1/2 miles S 5° E, from Round Island in the entrance to Cordova Bay.	Approx. Long. 132°30' W, Lat. 54°45' N.
(MMMM) Mellen Rock, Cordova Bay.	U.S. Coast and Geodetic Survey Chart No. 8152—Sheet No. 30.	The reference location is marked as 79 south, 85 east, CRM, SEC 7. The location is marked by a small rock about 12 feet high, in Cordova Bay, 3/4 mile off the eastern shore of Sukkwan Island.	Approx. Long. 132°40' W, Lat. 55°02' N.

Name	Chart No. or meridian name	Area description	Longitude/latitude
(NNNN) Sukkwan Narrows, Sukkwan Island.	U.S. Coast and Geodetic Survey Chart No. 8153—Sheet No. 31.	The reference location is marked as 77 south, 83 east, CRM, SECS 12 and 13, USS 1647. The location begins at a point of a low-water line on the north end of Sukkwan Island, eastern part of Sukkwan Narrows, from which a rock awash 150 yards offshore bears north true; thence S 60° W, true, 750 feet, more or less, to an intersection with the low-water line; thence northerly, northeasterly, and easterly, following the windings of the low-water line to the point of the beginning. The location includes adjacent rocks not covered at low water.	Approx. Long. 132°50'30" W, Lat. 55°12' N.
(OOOO) Rose Inlet, Tenak Strait.	U.S. Coast and Geodetic Survey Chart No. 8152—Sheet No. 32.	The location consists of all of the outer island located in the entrance to Rose Inlet.	Approx. Long. 132°56' W, Lat. 54°57½' N.
(PPPP) Klawak Reef, San Alberto Bay.	U.S. Coast and Geodetic Survey Chart No. 8155—Sheet No. 33.	The reference location is marked as 73 south, 81 east, CRM, SEC 9. The location is indicated by a rock covered at high water and bare at low water, located 800 yards N 28° W true, from the northern extremity of Fish Egg Island. The structure supporting the light is erected on a concrete pier.	Approx. Long. 133°10½' W, Lat. 55°30½' N.
(QQQQ) Point McCarty, Nichols Passage.	U.S. Coast and Geodetic Survey Chart No. 8075—Sheet No. 34.	The reference location is marked as 78 south, 91 east, CRM, SECS 9 and 16. The location is at the southeasternmost islet in Bronaugh Island Group. Islet is on the west side of the entrance to Nichols Passage, 1½ miles S 54° E from Dall Head.	Approx. Long. 131°43' W, Lat. 55°07' N.
(RRRR) Warburton Island, Nichols Passage.	U.S. Coast and Geodetic Survey Chart No. 8074—Sheet No. 35.	The reference location is marked as 78 south, 91 east, CRM, SEC 1. The location consists of all of the island, which is located about 2 miles west of Metlakatla.	Approx. Long. 131°38' W, Lat. 55°08' N.
(SSSS) Blank Island, Nichols Passage.	U.S. Coast and Geodetic Survey Chart No. 8075—Sheet No. 36.	The reference location is marked as 76 south, 91 east, CRM, SEC 19. The location consists of the southern island of the group in the north end of Nichols Passage, at the entrance of Blank Inlet, Gravina Island.	Approx. Long. 131°38' W, Lat. 55°16' N.
(TTTT) Stikine Strait Island, Stikine Strait.	U.S. Coast and Geodetic Survey Chart No. 8160—Sheet No. 37.	The reference location is marked as 65 south, 82 east, CRM, SEC 22. The location consists of a small island about ½ mile N 16° E, true, from Steamer Point, Elolin Island.	Approx. Long. 132°43' W, Lat. 56°13' N.
(UUUU) Point Craig, Sumner Strait, Zarembo Island.	U.S. Coast and Geodetic Survey Chart No. 8160—Sheet No. 38.	The reference location is marked as 62 south, 81 east, CRM, USS 1635. The location consists of everything apart of Zarembo Island in the vicinity of Point Craig lying on the north side of a true east-and-west line drawn across the point 750 feet due south of the northernmost extremity of the point.	Approx. Long. 132°44' W, Lat. 56°27½' N.
(VVVV) The Eye Opener, Sumner Strait.	U.S. Coast and Geodetic Survey Chart No. 8200—Sheet No. 39.	The reference location is marked as 63 south, 78 east, CRM, SEC 20. The location is indicated by a bare rock in the middle of Sumner Strait, 3 miles due north from Pine Point, Prince of Wales Island.	Approx. Long. 133°16' W, Lat. 56°23' N.
(WWWW) Beauclerc Island, Sumner Strait.	U.S. Coast and Geodetic Survey Chart No. 8200—Sheet No. 40.	The reference location is marked as 65 south, 75 east, CRM, SEC 5. The location starts at a small island in the entrance to Port Beauclerc, located about 4 nautical miles south of Boulder Point.	Approx. Long. 133°50½' W, Lat. 56°15' N.
(XXXX) Shakan Bay, Sumner Strait.	U.S. Coast and Geodetic Survey Chart No. 8176—Sheet No. 41.	The reference location is marked as 66 south, 76 east, CRM, SEC 14. The location consists of all of the island named Station Island, located ¼ mile northwest of Kosciusko Island and ¼ mile east of Shakan Islands, south side of the entrance to Shakan Strait.	Approx. Long. 133°37' W, Lat. 56°09' N.
(YYYY) Spanish Island, Sumner Strait.	U.S. Coast and Geodetic Survey Chart No. 8152—Sheet No. 42.	The reference location is marked as 68 south, 73 east, CRM, SECS 10 and 15. The location consists of the northernmost island in the group, about 1½ miles S 44° E from Cape Decision, Kuiu Island.	Approx. Long. 134°06' W, Lat. 55°59' N.
(ZZZZ) Turnabout Island, Frederick Sound.	U.S. Coast and Geodetic Survey Chart No. 8200—Sheet No. 43.	The reference location is marked as 55 south, 72 east, CRM, SEC 4. The location is a small island about ¼ mile long, located 4½ miles N 22° E from Cape Bendel, Kupreanof Island, being the northwestern island of the group.	Approx. Long. 133°59' W, Lat. 57°07½' N.

Name	Chart No. or meridian name	Area description	Longitude/latitude
(AAAAA) Pybus Bay, Frederick Sound.	U.S. Coast and Geodetic Survey Chart No. 8218—Sheet No. 18.	The reference location is marked as 55 south, 63 east, CRM. The location consists of all of the small island in Pybus Bay, located 3 $\frac{1}{8}$ nautical miles N 77° W true from Point Pybus.	Approx. Long. 134°04 $\frac{1}{2}$ ' W, Lat. 57°19' N.
(BBBBB) Murder Cove, Frederick Sound.	U.S. Coast and Geodetic Survey Chart No. 8242—Sheet No. 43A.	The reference location is marked as 56 south, 68 east, CRM, SEC 11. The location begins as a small rocky islet located on the east side of Murder Cove, $\frac{3}{8}$ nautical mile N 45° W true from Walker Point, Admiralty Island.	Approx. Long. 134°33' W, Lat. 57°01 $\frac{1}{2}$ ' N.
(CCCCC) Cape Ommaney, Chatham Strait.	U.S. Coast and Geodetic Survey Chart No. 8250—Sheet No. 44.	The reference location is marked as 66 south, 69 east, CRM, SEC 12. The location consists of all of Wooden Island, located about $\frac{1}{2}$ mile southeasterly from Cape Ommaney, Baranof Island.	Approx. Long. 134°40' W, Lat. 56°09 $\frac{1}{2}$ ' N.
(DDDDD) Red Bluff Bay, Baranof Island, Chatham Strait.	U.S. Coast and Geodetic Survey Chart No. 8242—Sheet No. 49.	The reference location is marked as 43 south, 65 east, CRM. The location begins at the first and most southeasterly island in the entrance to the Bay.	Approx. Long. 134°42 $\frac{1}{2}$ ' W, Lat. 56°50 $\frac{1}{2}$ ' N.
(EEEEEE) Point Cra-ven, Peril Strait.	U.S. Coast and Geodetic Survey Chart No. 8283—Sheet No. 52.	The reference location is marked as 51 south, 66 east, CRM, SEC 8. The location consists of a small island about 300 yards S 52° E true from the southeastern point of Chichagof Island on the west side of the entrance to Sitkoh Bay.	Approx. Long. 134°51 $\frac{1}{2}$ ' W, Lat. 57°27' N.
(FFFFFF) Tenakee, Tenakee Inlet, Chichago Island.	U.S. Coast and Geodetic Survey Chart No. 8300—Sheet No. 55.	The reference location is marked as 47 south, 63 east, CRM, SEC 22. The location consists of all of a small island located just off the north shore of the inlet, about $\frac{3}{4}$ nautical mile eastward of Tenakee Village.	Approx. Long. 135°12' W, Lat. 57°47' N.
(GGGGG) Hawk Inlet Entrance, Chatham Strait.	U.S. Coast and Geodetic Survey Chart No. 8300—Sheet Nos. 55 and 56.	The reference location is marked as 47 south, 61 east, CRM. The location starts at a small island on the south side of the entrance to Hawk Inlet upon which Hawk Inlet Entrance Light is maintained.	Approx. Long. 134°46' W, Lat. 58°05' N.
(HHHHH) Rocky Island, Icy Strait.	U.S. Coast and Geodetic Survey Chart No. 8302—Sheet No. 57.	The location begins at an island that is about 50 feet high and 600 feet long, located $\frac{3}{4}$ mile S 10° E, true, from Point Couverden.	Approx. Long. 135°02 $\frac{1}{2}$ ' W, Lat. 58°11' N.
(IIIII) Inner Point Sophia, Icy Strait, Chichagof Island.	U.S. Coast and Geodetic Survey Chart No. 8304—Sheet No. 58.	The reference location is marked as 43 south, 61 east, CRM, SEC 20, USS 1620. The location consists of everything apart of the Point bounded by a low-water line, and a true north-and-south line and a true east-and-west line, 200 feet east and 200 feet south, respectively, from the center of the structure supporting the light, consisting of a skeleton tower on four concrete piers.	Approx. Long. 135°28' W, Lat. 58°08' N.
(JJJJJ) North Inian Pass, Icy Strait.	U.S. Coast and Geodetic Survey Chart No. 8304—Sheet No. 60.	The reference location is marked as 41 south, 55 east, CRM, SEC 34, USS 1629. The location consists of everything apart of all the northwestern extremity of North Inian Island lying on the northwestern side of a true north-east-and-southwest line drawn across the island at a distance of 1,520 feet southeast true from the center of the concrete slab 4 feet by 6 feet, upon which the structure of the North Inian Pass Light is erected.	Approx. Long. 136°24' W, Lat. 58°16' N.
(KKKKK) Vitkari Rocks, Sitka Sound.	U.S. Coast and Geodetic Survey Chart No. 8240—Sheet No. 61.	The reference location is marked as 56 south, 62 east, CRM, SEC 22. The location consists of all of a group of rocks located about 3 nautical miles easterly from Point of Shoals.	Approx. Long. 135°32 $\frac{1}{2}$ ' W, Lat. 57°00' N.
(LLLLL) The Eckholms, Sitka Sound.	U.S. Coast and Geodetic Survey Chart No. 8244—Sheet No. 62.	The reference location is marked as 56 south, 63 east, CRM, SEC 14, USS 3926. The location consists of a group of three small islands and including also a fourth islet called Liar Rock on the charts and located 150 yards N 75° W from the Eckholms.	Approx. Long. 135°21 $\frac{1}{2}$ ' W, Lat. 57°00'30" N.
(MMMMM) Old Sitka Rocks, Sitka Sound.	U.S. Coast and Geodetic Survey Chart No. 8281—Sheet No. 64.	The reference location is marked as 55 south, 63 east, CRM, SEC 9. The location starts at a group of rocks about $\frac{3}{4}$ mile (nautical) north of Halibut Point.	Approx. Long. 135°24' W, Lat. 57°07' N.
(NNNNN) Sergius Point, Peril Strait, Chichagof Island.	U.S. Coast and Geodetic Survey Chart No. 8282—Sheet No. 65.	The reference location is marked as 51 south, 61 east, CRM, SEC 33, USS 1644. The location consists of everything apart of Sergius Point lying south of a true east-and-west line drawn across the point at a distance of 300 feet north true from the high-water line at the southern most extremity of the point.	Approx. Long. 135°38' W, Lat. 57°24 $\frac{1}{2}$ ' N.



Name	Chart No. or meridian name	Area description	Longitude/latitude
(OOOOO) Deep Bay Entrance, Peril Strait.	U.S. Coast and Geodetic Survey Chart No. 8282—Sheet No. 66.	The point begins at a small islet in the middle of the entrance to Deep Bay, about midway between Little Island and Big Island.	Approx. Long. 135°35'½" W, Lat. 57°26' N.
(PPPPP) Rose Channel Rock, Rose Channel, Peril Strait.	U.S. Coast and Geodetic Survey Chart No. 8282—Sheet No. 66.	The reference location is marked as 80 south, 83 east, CRM, SEC 5. The location begins at a small rock 250 yards northwest of Little Rose Island.	Approx. Long. 135°33' W, Lat. 57°27'½" N.
(QQQQQ) Otstoia Island, Peril Strait.	U.S. Coast and Geodetic Survey Chart No. 8283—Sheet No. 67.	The location begins at an island about 500 yards long and 200 yards wide, located 1 mile west of Nismeni Point.	Approx. Long. 135°26'34" W, Lat. 57°33' N.
(RRRRR) McClellan Rock, Peril Strait.	U.S. Coast and Geodetic Survey Chart No. 8283—Sheet No. 68.	The reference location is marked as 51 south, 65 east, CRM, SEC 17. The location begins at a rock about 600 feet S 22° W, true off Lindenberg Head.	Approx. Long. 135°01' W, Lat. 57°27' N.
(SSSSS) Klag Bay Entrance, Klag Bay.	U.S. Coast and Geodetic Survey Chart No. 8280—Sheet No. 69.	The reference location is marked as 49 south, 58 east, CRM, SECS 21 and 22. The location is marked by the two islands lying on either side of the narrow entrance to Klag Bay, known as "The Gate," the one on the western side being, about ¾ mile by ¾ mile in extent, and the one on the eastern side being about 200 yards in diameter.	Approx. Long. 136°06'½" W, Lat. 57°36'½" N.
(TTTTT) Cape Edwards, Kukkan Bay.	U.S. Coast and Geodetic Survey Chart No. 8250—Sheet No. 70.	The reference location is marked as 54 south, 63 east, CRM. The location consists of everything apart of the point lying on the west side of a true north-and-south line located 1,520 feet east true from the center of the concrete slab upon which Cape Edward Entrance Light is erected.	Approx. Long. 136°15' W, Lat. 57°40' N.
(UUUUU) Lisianski Strait Entrance, Outside Coast.	U.S. Coast and Geodetic Survey Chart No. 8250—Sheet No. 70.	The reference location is marked as 46 south, 55 east, CRM, SECS 25 and 36. The location is shown as a small island ⅓ nautical mile long located in the southeast entrance to Lisianski Strait about ¾ nautical mile east of Point Theodore.	Approx. Long. 136°26' W, Lat. 57°50' N.
(VVVVV) Ocean Cape, Yakutat Bay.	U.S. Coast and Geodetic Survey Chart No. 8455—Sheet No. 73.	The reference location is marked as 27 south, 33 east, CRM, SECS 32. The location begins at a point on the low-water line southeasterly from the Cape and distant from Ocean Cape Light 1,520 feet in a straight line; thence northeast true 600 feet, more or less, to an intersection with the low-water line in Ankau Creek; thence following the windings of the low-water line of Ankau Creek northerly, etc., to the intersection with an east-and-west line located 3,040 feet north of the light; thence west true 400 feet, more or less, to an intersection with the low-water line; thence along the low-water line to the point of beginning.	Approx. Long. 139°52' W, Lat. 59°32'½" N.
(WWWWW) Point Carrew, Yakutat Bay.	U.S. Coast and Geodetic Survey Chart No. 8455—Sheet No. 73.	The reference location is marked as 27 south, 33 east, CRM, SECS 29. The location consists of everything apart of the Point lying north of a true east-and-west line located 1,000 feet south true from the high-water line at the northernmost extremity of the point.	Approx. Long. 139°50' W, Lat. 59°33'½" N.
(XXXXX) Point Francis, Behm Canal.	U.S. Coast and Geodetic Survey Chart No. 8105—Sheet No. 110.	The reference location is marked as 76 south, 88 east, CRM. The location includes that part of the Point lying east of a true north-and-south line drawn across the Point at a distance of 1,200 feet west true from the high-water line at the easternmost extremity of the Point, including the island lying close to the south side of the Point.	Approx. Long. 131°50' W, Lat. 55°40' N.
(YYYYY) Cape Decision, Chatham Strait, Kuiu Island.	U.S. Coast and Geodetic Survey Chart No. 8152—Sheet No. 111.	The reference location is marked as 67 and 68 south, 73 east, CRM, USS 1609. The location includes that part of the southern extremity of Kuiu Island lying south of a true east-and-west line located at a distance of 4,560 feet north true from the high-water line at the southernmost extremity of the Point.	Approx. Long. 134°08' W, Lat. 56°00' N.
(ZZZZZ) Point Hilda, Stephens Passage, Douglas Island.	U.S. Coast and Geodetic Survey Chart No. 8235—Sheet No. 112.	The reference location is marked as 42 south, 67 east, CRM, SECS 19 and 20, USS 1640. The location is that part of the Point, including tide lands not covered at low water, lying south of a true east-and-west line drawn across the Point at a distance of 600 feet north, true, from the high-water line at the southernmost part of the point.	Approx. Long. 134°30' W, Lat. 58°13' N.
(AAAAA) Point Adolphus, Icy Strait, Chicagof Island.	U.S. Coast and Geodetic Survey Chart No. 8304—Sheet No. 113.	The reference location is marked as 41 south, 59 east, CRM, SECS 28, 29, and 30, USS 1631. The location includes all of that part of the point lying north of a true east-and-west line drawn across the same at a distance of 1,520 feet south true from the high-water line at the northernmost extremity of the Point.	Approx. Long. 135°47'½" W, Lat. 58°13' N.

Name	Chart No. or meridian name	Area description	Longitude/latitude
(BBBBBB) The Twins, Sitka Sound.	U.S. Coast and Geodetic Survey Chart No. 8244—Sheet No. 114.	The reference location is marked as 56 south, 63 east, CRM, SEC 12, USS 3255—TRH and USS 3926—L111A. The location is three small islands about 75 by 150 yards in extent altogether located about $\frac{3}{8}$ nautical mile north-east of Galankin Island, the eastern island of the group.	Approx. Long. 135°18 $\frac{3}{4}$ ' W, Lat. 57°02' N.
(CCCCCC) Althorp Rock, Port Althorp.	U.S. Coast and Geodetic Survey Chart No. 8304—Sheet No. 1.	The location is indicated by a small rock about 15 feet high, near the middle of Port Althorp.	Approx. Long. 136°21 $\frac{1}{2}$ ' W, Lat. 58°10' N.
(DDDDDD) Amelius Island, Sumner Strait.	U.S. Coast and Geodetic Survey Chart No. 8200—Sheet No. 2.	The location is indicated by a small island about 400 yards in diameter 1 $\frac{3}{4}$ nautical miles 147° true from Point Amelius and associated tidelands.	Approx. Long. 133°52' W, Lat. 56°10 $\frac{1}{2}$ ' N.
(EEEEEE) Bluff Island, Clarence Strait.	U.S. Coast and Geodetic Survey Chart No. 8160—Sheet No. 5.	The location is an island about $\frac{3}{4}$ mile long and one of the easterly islands of the Kashevarof group.	Approx. Long. 132°53' W, Lat. 56°10' N.
(FFFFFF) Fannie Island, Port Snettisham.	U.S. Coast and Geodetic Survey Chart No. 8227—Sheet No. 13.	The location is an island off Prospect Point, about $\frac{1}{4}$ nautical mile long by about 150 yards wide and associated tidelands.	Approx. Long. 133°47' W, Lat. 58°02 $\frac{1}{2}$ ' N.
(GGGGGG) Goat Island, Tlevak Strait.	U.S. Coast and Geodetic Survey Chart No. 8151—Sheet No. 14.	The location includes all of that part of the southeastern extremity of Goat Island lying south of a true east-and-west line drawn across the point at a distance of 1,200 feet north of the southernmost extremity of the island and associated tidelands.	Approx. Long. 132°53' W, Lat. 55°10' N.
(HHHHHH) Guide Island, Tlevak Strait.	U.S. Coast and Geodetic Survey Chart No. 8151—Sheet No. 4.	The location is an island in the northerly part of Tlevak Strait, between Prince of Wales Island and Dall Island and associated tidelands.	Approx. Long. 133°04' W, Lat. 55°13' N.
(IIIIII) High Point, Woronkofski Island.	U.S. Coast and Geodetic Survey Chart No. 8160—Sheet No. 18.	The location begins at a point on a low-water line at the head of the first bight easterly of the point and about $\frac{1}{8}$ nautical mile distant therefrom, thence south true 1,520 feet, thence west true 1,100 feet, more or less to an intersection with the low-water line, thence northerly and easterly, following the windings of the low-water line to the point of beginning.	Approx. Long. 132°33' W, Lat. 56°24' N.
(JJJJJJ) Kasaan Bay, Clarence Strait.	U.S. Coast and Geodetic Survey Chart No. 8084—Sheet No. 21.	The location is indicated by an unnamed island about 840 yards long by 340 yards wide located near the head of Kasaan Bay 1 $\frac{3}{8}$ nautical miles 66° true from Mound Point and associated tidelands.	Approx. Long. 132°31 $\frac{1}{4}$ ' W, Lat. 55°35' N.
(KKKKKK) McFarland Island, Tlevak Strait.	U.S. Coast and Geodetic Survey Chart No. 8148—Sheet No. 24.	The location is on the southern part of one of the westerly islands of the group about 2 nautical miles long; all that part of the island lying south of a true east-and-west line drawn across the island at a distance of 3,040 feet north from the southernmost part of the high-water line at the south end of the island, including the small islet near the southeast side and associated tidelands.	Approx. Long. 132°55' W, Lat. 55°03' N.
(LLLLLL) Peep Rock, Karheen Passage.	U.S. Coast and Geodetic Survey Chart No. 8171—Sheet No. 28.	The location consists of a small islet located $\frac{3}{4}$ nautical mile 306° true from the cannery wharf at Karheen and associated tidelands.	Approx. Long. 133°20' W, Lat. 55°49' N.
(MMMMMM) Round Point, South-eastern Shore of Zarembo Island.	U.S. Coast and Geodetic Survey Chart No. 8160—Sheet No. 37.	The location is indicated by a southwestern island of the group about 700 yards long, including off-lying rocks and reefs not covered at low water.	Approx. Long. 132°39 $\frac{1}{2}$ ' W, Lat. 56°16 $\frac{1}{2}$ ' N.
(NNNNNN) Round Rock, Frederick Sound.	U.S. Coast and Geodetic Survey Chart No. 8200—Sheet No. 38.	The location consists of a barren rock about 40 feet high located 3 nautical miles 254° true from the south end of West Brother Island.	Approx. Long. 133°56' W, Lat. 57°15 $\frac{1}{2}$ ' N.
(OOOOOO) Snipe Rock, Ogden Passage.	U.S. Coast and Geodetic Survey Chart No. 8280—Sheet No. 40.	The location consists of a small barren rock occupied by the structure of Snipe Rock Light, located 340 yards 147° true from the south point of Herbert Graves Island.	Approx. Long. 136°10 $\frac{1}{2}$ ' W, Lat. 57°38' N.

Name	Chart No. or meridian name	Area description	Longitude/latitude
(PPPPPP) South Craig Point, Zaremba Island.	U.S. Coast and Geodetic Survey Chart No. 8160—Sheet No. 41.	The location consists of all of that part of the point lying on the easterly side of a true north-and-south line drawn across the point at a distance of 800 feet west true from the most easterly projection of the low-water line.	Approx. Long. 132°37'½' W, Lat. 56°23' N.
(QQQQQQ) Sukoi Islets, Frederick Sound.	U.S. Coast and Geodetic Survey Chart No. 8200—Sheet No. 43.	The location consists of the western group of islands and associated tide-lands.	Approx. Long. 132°56' W, Lat. 56°54' N.
(RRRRRR) Three Hill Island, Cross Sound.	U.S. Coast and Geodetic Survey Chart No. 8304—See sheet for Althorp Rock No. 1.	The location consists of Pinnacle rock about 32 feet high on the north shore of Three Hill Island occupied by Three Hill Island Light.	Approx. Long. 136°24' W, Lat. 58°11' N.
(SSSSSS) Turn Point, Portland Canal.	U.S. Coast and Geodetic Survey Chart No. 8051—Sheet No. 44.	The location begins at a point on the low-water line, west shore of Portland Canal, 3,040 feet in a direct line, southerly from the center of Turn Point Beacon, a tripod anchored to concrete piers, thence west true 1,520 feet, thence north true, 5,050 feet, more or less, to an intersection with the low-water line, thence southeasterly and southerly following the windings of a low-water line to the point of beginning.	Approx. Long. 130°03'½' W, Lat. 55°26'½' N.
(TTTTTT) Turn Rock, Tlevak Strait.	U.S. Coast and Geodetic Survey Chart No. 8151—See sheet for Goat Island No. 14.	The location includes a small rock, awash at the highest tide, located near the south shore Goat Island and occupied by Turn Rock Beacon; a spindle and concrete pier.	Approx. Long. 132°55' W, Lat. 55°10' N.
(UUUUUU) Woronkofski Point, Woronkofski Island.	U.S. Coast and Geodetic Survey Chart No. 8160—See sheet for High Point, No. 18.	The location begins at a point from which Woronkofski Beacon, a white slatted tripod, bears west true, distant 1,520 feet, thence south true 1,100 feet, thence west true 1,824 feet, more or less, to an intersection with a low-water line, thence northeasterly and easterly, following the windings of the low-water line, to a point from which point of beginning bears south true, thence south true, 420 feet, more or less, to point of beginning.	Approx. Long. 132°30' W, Lat. 56°26' N.
(VVVVVV) Old Edna Bay.	Section 28, T. 68 S., R. 76 E., Copper River Meridian.	The location begins in Section 28 at a point described as N 55°56'59.3412" W, 133°39'50.9538", thence easterly to N 55°56'59.5176" W 133°39'49.1904", thence southerly to N 55°56'55.7802" W 133°39'48.0054", thence westerly to N 55°56'55.6044" W 133°39'49.7736", thence northerly to the point of beginning.	Approx. N 55°56'59.3412" W 133°39'50.9538".
(WWWWWW) Flick Cove LTF.	Sections 17 and 18, T. 49 S., R. 61 E., Copper River Meridian.	The location begins in section 17 at a point described as N 57°37'35.5542" W 135°40'22.5588", thence southeasterly to N 57°37'33.3804" W 135°40'15.9198", thence southwesterly to N 57°37'29.0922" W 135°40'20.802", thence northwesterly to N 57°37'31.2666" W 135°40'27.4398", thence northeasterly to the point of beginning.	Approx. N 57°37'35.5542" W 135°40'22.5588".
(XXXXXX) Flick Cove Road.	Section 18, T. 49 S., R. 61 E., Copper River Meridian.	The location begins in Section 18 at a point described as N 57°37'23.1672" W 135°40'40.9182", thence easterly to N 57°37'23.7318" W 135°40'31.6482", thence southerly to N 57°37'22.0332" W 135°40'31.2918", thence westerly to N 57°37'21.468" W 135°40'40.5582", thence northerly to the point of beginning.	Approx. N 57°37'23.1672" W 135°40'40.9182".
(YYYYYY) Fish Bay	Section 17, T. 52 S., R. 62 E., Copper River Meridian.	The location begins in Section 17 at a point described as N 57°21'27.6768" W 135°30'35.949", thence northeasterly to N 57°21'28.9506" W 135°30'29.8548", thence southeasterly to N 57°21'27.7596" W 135°30'29.0016", thence southwesterly to N 57°21'26.4852" W 135°30'35.0958", thence northwesterly to the point of beginning.	Approx. N 57°21'27.6768" W 135°30'35.949".
(ZZZZZZ) Hollis LTF	Section 4, T. 74 S., R. 84 E., Copper River Meridian.	The location begins in Section 4 at a point described as N 55°28'51.2724" W 132°39'13.4532", thence easterly N 55°28'51.4884" W 132°39'06.0660", thence southerly N 55°28'51.4884" W 132°39'05.9580", thence westerly N 55°28'50.0700" W 132°39'13.3452", thence northerly to the point of beginning.	Approx. N 55°28'51.2724" W 132°39'13.4532".
(AAAAAAA) Hollis Road.	Section 4, T. 74 S., R. 84 E., Copper River Meridian.	The location begins in Section 4 at a point described as N 55°28'59.6748" W 132°39'04.9644", thence easterly N 55°28'59.4084" W 132°39'01.1304", thence southerly N 55°28'58.2456" W 132°39'01.3824", thence westerly N 55°28'58.5120" W 132°39'05.2164", thence northerly to the point of beginning.	Approx. N 55°28'59.6748" W 132°39'04.9644".
(BBBBBBB) Klu Bay	Section 33, T. 69 S., R. 91 E., Copper River Meridian.	The location begins in Section 33 at a point described as N 55°50'41.5068" W 131°28'02.4924", thence northeasterly N 55°50'41.6400" W 131°28'01.6788", thence southeasterly N 55°50'40.1172" W 131°28'00.8868", thence southwesterly N 55°50'39.9804" W 131°28'01.7004", thence northwesterly to the point of beginning.	Approx. N 55°50'41.5068" W 131°28'02.4924".

Name	Chart No. or meridian name	Area description	Longitude/latitude
(CCCCCC) Patter-son Bay—Road Location 1.	Section 5, T. 49 S., R. 60 E., Copper River Meridian.	The location begins in Section 5 at a point described as N 57°39'18.2448" W 135°48'42.4836", thence easterly N 57°39'18.3312" W 135°48'39.5748", thence southerly N 57°39'17.6472" W 135°48'39.5028", thence westerly N 57°39'17.5608" W 135°48'42.4116", thence northerly to the point of beginning.	Approx. N 57°39'18.2448" W 135°48'42.4836".
(DDDDDD) Patter-son Bay—Road Location 2.	Section 4, T. 49 S., R. 60 E., Copper River Meridian.	The location begins in Section 4 at a point described as N 57°39'21.5244" W 135°48'20.7036", thence southeasterly N 57°39'21.0564" W 135°48'19.9764", thence southwesterly N 57°39'20.0700" W 135°48'22.1940", thence northwesterly N 57°39'20.5380" W 135°48'22.9212", thence northeasterly to the point of beginning.	Approx. N 57°39'21.5244" W 135°48'20.7036".
(EEEEEE) Patter-son Bay LTF.	Section 36, T. 48 S., R. 59 E., and Section 4, T. 49 S., R. 60 E. Cop-per River Merid-ian.	The location begins in Section 36, T. 48 S., R. 59 E., CRM at a point described as N 57°39'26.6544" W 135°47'42.2844", thence easterly N 57°39'27.2520" W 135°47'30.6852", thence southerly N 57°39'25.5960" W 135°47'30.3900", thence westerly N 57°39'25.0020" W 135°47'41.9892", thence northerly to the point of beginning.	Approx. N 57°39'26.6544" W 135°47'42.2844".
(FFFFFF) Thorne Bay—Davidson Landing.	Section 34, T. 72 S., R. 84 E., Copper River Meridian.	The location begins in Section 34 at a point described as N 55°40'13.1628", W 132°31'26.3388", thence easterly to N 55°40'13.2312", W 132°31'23.8332", thence southerly to N 55°40'10.9056", W 132°31'23.6388", thence westerly to N 55°40'10.8372", W 132°31'26.1444", thence northerly to the point of beginning.	Approx. N 55°40'13.1628", W 132°31'26.3388".

\* \* \* \* \*

**Joan M. Mooney,**  
Principal Deputy Assistant Secretary, Policy,  
Management and Budget.

**David E. Schmid,**  
Regional Forester, Alaska Region, U.S. Forest  
Service.

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**ENVIRONMENTAL PROTECTION  
AGENCY**

**40 CFR Parts 2, 702, 703, 704, 707, 716,  
717, 720, 723, 725, and 790**

[EPA–HQ–OPPT–2021–0419; FRL–8223–01–  
OCSPP]

RIN 2070–AK68

**Confidential Business Information  
Claims Under the Toxic Substances  
Control Act (TSCA)**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing new and amended requirements concerning the assertion and treatment of confidential business information (CBI) claims for information reported to or otherwise obtained by EPA under the Toxic Substances Control Act (TSCA). Amendments to TSCA in 2016 included many new provisions concerning the assertion, Agency review, and treatment of confidentiality claims. This document proposes procedures for submitting such claims in TSCA submissions. It addresses issues such as

substantiation requirements, exemptions, electronic reporting enhancements (including expanding electronic reporting requirements), maintenance or withdrawal of confidentiality claims, and provisions in current rules that are inconsistent with amended TSCA. The proposed rule also addresses EPA procedures for reviewing and communicating with TSCA submitters about confidentiality claims.

**DATES:** Comments must be received on or before July 11, 2022.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2021–0419, using the Federal eRulemaking Portal at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets>.

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and reading room is open by appointment only. For the latest status information on EPA/DC services and in-person docket access, visit <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Jessica Barkas, Project Management and Operations Division (7401), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 250–8880; email address: [barkas.jessica@epa.gov](mailto:barkas.jessica@epa.gov).

For general information contact: The TSCA–Hotline, ABVI–Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: [TSCA-Hotline@epa.gov](mailto:TSCA-Hotline@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Executive Summary**

*A. Does this action apply to me?*

You may be affected by this action if you have submitted or expect to submit information to EPA under TSCA and have made or expect to make any confidentiality claims concerning that information. Persons who seek information on such submissions may also be affected by this action. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Manufacturers, importers, or processors of chemical substances (NAICS codes 325 and 324110), e.g., chemical manufacturing and petroleum refineries.

If you have any questions regarding the applicability of this action to a particular entity, consult the technical contact person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. What is the Agency’s authority for taking this action?*

TSCA section 14, 15 U.S.C. 2613, includes requirements for asserting confidentiality claims and for EPA review of such claims to determine whether the information is entitled to the requested protections. Implementing

rules are explicitly contemplated for some provisions of TSCA section 14 (e.g., TSCA section 14(c)(1)(a) requires persons seeking to protect information from disclosure to assert such a claim concurrent with submission of the information, in accordance with existing or future rules; TSCA section 14(c)(3) generally requires that confidentiality claims be substantiated “in accordance with such rules as the Administrator has promulgated or may promulgate pursuant to this section”). In addition, other TSCA section 14 requirements imply authority to promulgate rules addressing the form and manner in which those requirements should be fulfilled (e.g., manner of submitting confidentiality claims, manner in which EPA will make required notices under TSCA sections 14(g) or 14(e)).

Discussion of authority to require electronic reporting under TSCA may be found in the preamble to the final rule entitled “Electronic Reporting under the Toxic Substances Control Act; Final Rule” (Ref. 1). In addition, the Government Paperwork Elimination Act (GPEA), 44 U.S.C. 3504, provides that, when practicable, Federal organizations use electronic forms, electronic filings, and electronic signatures to conduct official business with the public.

#### *C. What action is the Agency taking?*

EPA is proposing new and amended requirements concerning the assertion and treatment of CBI claims under TSCA, 15 U.S.C. 2601, *et seq.* The Frank R. Lautenberg Chemical Safety for the 21st Century Act of 2016, Public Law 114–182 (referred to in this Notice as “the Lautenberg amendments”), made significant amendments to TSCA, including new provisions governing the assertion and review of CBI claims that EPA is proposing to implement in this action.

In this document, EPA is proposing to specify procedures for submitting and supporting CBI claims under TSCA, including among other things: (1) Substantiation requirements applicable at the time of submission; (2) Electronic reporting requirements; (3) Requirements to provide certification statements and generic names when making confidentiality claims; (4) Treatment of information used for TSCA purposes that EPA could obtain under TSCA but was originally submitted via other means; and (5) Maintenance or withdrawal of confidentiality claims.

EPA is also proposing to specify procedures for reviewing and communicating with TSCA submitters about confidentiality claims, including requirements for submitters to maintain contact information, and procedures for

EPA to provide notices to submitters concerning their claims.

EPA is proposing new provisions, as well as to amend and reorganize existing provisions concerning assertion of confidentiality claims under TSCA. Regulatory provisions concerning TSCA CBI claims are currently spread over a large number of parts in the Code of Federal Regulations (CFR). EPA has general provisions regarding confidentiality claims at 40 CFR part 2, subpart B. Those general provisions are accompanied by sections pertaining to confidentiality for many of the statutes administered by the Agency. The TSCA-specific provisions of the Agency’s general business confidentiality regulations are at 40 CFR 2.306. In addition, many of the specific TSCA regulations in title 40 of the CFR contain their own provisions regarding CBI, such as in parts 711 (Chemical Data Reporting) and 720 (Premanufacture Notification).

In this proposed rule, most procedural requirements for asserting and maintaining confidentiality claims would be organized into a proposed new part of title 40 of the CFR, *i.e.*, in part 703. The provisions in proposed part 703 would apply to any TSCA submission, except as modified elsewhere in part 2 or other TSCA-specific regulations, as spelled out in this proposed rule. Further discussion of the interactions between the various provisions regarding confidentiality can be found in Unit II.B. of this document.

#### *D. What are the incremental costs and benefits of this action?*

EPA has evaluated the potential incremental impacts of this proposed rulemaking, including alternative options. The details are presented in the economic analysis prepared for the proposed rule (Ref. 2), which is available in the docket and is briefly summarized here.

The benefits of the proposed rule include improvements to EPA’s management of CBI, specifically in cases of deficient claims, and improved communication and increased public transparency for chemical information. The proposed rule is expected to decrease the frequency of submitter error and increase efficiency in the processes for asserting and maintaining CBI claims. Lastly, the proposed rule would bring TSCA confidentiality regulations in line with the changes to TSCA section 14 brought about by the Lautenberg amendments.

EPA estimates that the public will incur a one-time burden and cost of approximately 2,945 hours with an associated cost of approximately

\$271,000 in the first year after the rule is finalized and an annual, ongoing burden of approximately 525 hours with an associated cost of approximately \$45,000 in each following year.

#### *E. Are there potentially disproportionate impacts for children health?*

The proposed rule does not involve environmental health or safety risks that the EPA has reason to believe may disproportionately affect children. However, the Agency believes that the information collected under this proposed rule, if finalized, will assist EPA and others in evaluating potential hazards and risks associated with chemicals. Although not directly impacting environmental health or safety risks, this information will enable the Agency to better protect human health and the environment, including the health of children.

#### *F. What are the environmental justice impacts?*

This proposed action does not address human health or environmental risks or otherwise have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples. Although not directly impacting environmental justice-related concerns, the information collected under this proposed rule will enable the Agency to better protect human health and the environment, including in low-income and minority communities.

## **II. Background**

The Lautenberg amendments included several significant changes to TSCA section 14. These include requirements that persons submitting information under TSCA substantiate most confidentiality claims at the time of submission, as well as additional statement, certification, and generic name requirements. Under TSCA section 14(e), in order to maintain most claims beyond a 10-year period, submitters are required to reassert and resubstantiate those claims. Several new requirements also apply to EPA, including requirements at TSCA section 14(g) to review and approve or deny all chemical identity claims asserted since the Lautenberg amendments were enacted concerning substances that are offered for commercial distribution, as well as a subset of all other confidentiality claims, within 90 days of assertion of the claim. Further requirements that EPA review all confidentiality claims for the chemical identity of substances listed as active on the TSCA Inventory, a requirement to

assign and apply unique identifiers (UIDs) to substances with approved confidentiality claims for chemical identity, as well as new provisions providing expanded access to TSCA CBI, have been discussed in previous documents that published in the **Federal Register**, see *e.g.*, Refs. 3 (about the CBI review plan), 4 (about UIDs) and 5 (about expanded access to CBI). Additionally, some TSCA regulations promulgated or amended since the Lautenberg amendments have included confidentiality provisions conforming to the amendments (*e.g.*, Chemical Data Reporting at 40 CFR 711.30 and Active/Inactive Inventory Reporting at 40 CFR 710.37).

#### A. Existing Regulations Governing Confidentiality Under TSCA

As proposed, this rulemaking would implement additional requirements of the Lautenberg amendments concerning confidentiality claims and would apply to all TSCA submissions. The proposal is intended to clarify the TSCA section 14 requirements for submitters of TSCA confidentiality claims. This would reduce the likelihood of claims being denied because of procedural insufficiencies and facilitate the public availability of information for which confidentiality is either not requested or not allowed under TSCA. The proposed procedural rules would aid efficient and timely EPA review of confidentiality claims and reduce the likelihood of inadvertent disclosure of CBI.

Currently, CBI claims are asserted according to TSCA section 14 and existing TSCA rule requirements that are specific to certain reporting requirements (see Unit II.E. of this document). In some cases, further claim assertion procedures are included in EPA's general CBI regulations at 40 CFR part 2.

The procedures currently used by EPA to review TSCA CBI claims are found in 40 CFR part 2, subpart B. These regulations were developed to, among other things, apply Exemption 4 of the Freedom of Information Act (FOIA), 5 U.S.C. 552, relating to business confidentiality, to review CBI claims in response to a FOIA request. Some TSCA-specific provisions in 40 CFR 2.306 add to or modify the general CBI regulations found in 40 CFR 2.201 through 2.215. 40 CFR 2.306 was last modified in 1993. In the absence of revisions to accommodate the changes introduced by the Lautenberg amendments, EPA has continued to use the 40 CFR part 2 regulations to complete the mandatory confidentiality determinations required by the Lautenberg amendments.

The proposed rule would tailor all TSCA CBI claim assertion and review procedures to the requirements of TSCA rules and consolidate them in the TSCA rules—primarily in the proposed new part 703. 40 CFR 2.306 would be reduced in scope. It would clarify that most of the general claim assertion and review rules found in the 40 CFR part 2 CBI rules no longer apply to TSCA CBI claims and to elaborate on special circumstances where CBI may be disclosed based on the provisions of TSCA section 14(d) (disclosure to states, local governments and tribes under TSCA section 14(d)(4); health or environmental professionals under TSCA section 14(d)(5); or to certain emergency responders under TSCA section 14(d)(6) or as relevant to a proceeding under TSCA section 14(d)(7)). EPA is proposing to retain certain notice requirements in 40 CFR part 2 that are not required by TSCA Section 14. Specifically, under TSCA section 14(g)(2)(C)(iii), EPA is not required to provide notice prior to disclosure of information pursuant to TSCA sections 14(d)(1), (2), (7), or (8), *i.e.*, to Federal employees or officers, to contractors, if relevant to a proceeding, or required to be made public under other Federal law. EPA is proposing to retain certain existing notice requirements in 40 CFR part 2 for disclosure to Federal employees at 40 CFR 2.306(d), if relevant to a proceeding at 40 CFR 2.306(e), and for contractors and subcontractors at 40 CFR 2.306(f).

Additionally, the consolidation of TSCA CBI claim review procedures into the proposed new part 703 includes the review procedures relating to FOIA requests (*i.e.*, CBI claim review required by TSCA section 14(f)(2)(A)). CBI claim review procedures in 40 CFR 2.306(d), (e), and (g), and the procedures in 40 CFR 2.204 and 2.205 that are currently cross-referenced in 40 CFR 2.306 are replaced with corresponding provisions in the proposed new part 703.

#### B. Purpose and Applicability

EPA intends for the proposed requirements to apply broadly to any information that is reported to, or otherwise obtained by, the Agency under TSCA. 15 U.S.C. 2613(a)(1). This includes, for example, information that is submitted pursuant to a requirement of TSCA or its implementing regulations (*e.g.*, a TSCA section 5 Premanufacture Notification (PMN) or a TSCA section 8(e) notice of substantial risk), information that is collected in the course of a TSCA inspection or other TSCA enforcement-related activity, and materials that are subpoenaed pursuant to TSCA. The proposed rule would also

cover information which is first obtained by EPA under an authority other than TSCA but which meets the following criteria: (1) EPA has authority to collect the information under TSCA; and (2) the information is either used to satisfy the obligation of a person under TSCA or used by EPA in the course of carrying out its responsibilities under TSCA. EPA is proposing to interpret the phrase “that is reported to, or otherwise obtained by, the Administrator under TSCA” to include information that meets the two criteria identified above. The term “under” is not defined in TSCA section 14; therefore, EPA is proposing to interpret this term as it is commonly used as well as from its statutory context. See *Kucana v. Holder*, 558 U.S. 233, 245 (2010) (quoting *Ardestani v. INS*, 502 U.S. 129, 135 (1991)) (“The word ‘under’ has many dictionary definitions and must draw its meaning from its context.”). Dictionary definitions can provide some insight into how a reasonable or ordinary person would interpret the term. “Under” is defined as “subject to the authority, control, guidance, or instruction of,” *under*, Merriam-Webster Online (2021), and “subject to” is defined as “affected by or possibly affected by (something).” *Subject to*, Merriam-Webster Online (2021). In addition, the broad inclusive language used—“reported to, or otherwise obtained by”—suggests that Congress intended the provision to apply broadly. It applies not only to information reported under TSCA but also to information obtained under TSCA in manners other than reporting.

Language added to TSCA by the Lautenberg amendments also supports the proposed interpretation that any information EPA has the authority to collect under TSCA and is used for TSCA purposes should be considered obtained “under” TSCA. First, TSCA section 4(h)(3)(A) refers to the submission “under this subchapter” of voluntary information, suggesting information need not be required by a rule or order to be submitted “under” TSCA. Section 26(j) further provides that subject to TSCA section 14, the Administrator shall make available to the public “a list of the studies considered by the Administrator in carrying out each such risk evaluation, along with the results of those studies.” 15 U.S.C. 2625(j)(4). Moreover, TSCA section 26(k) requires the Administrator to consider “reasonably available” information when conducting a risk evaluation. This language appears to suggest that TSCA section 14 would govern confidentiality determinations

for *all* studies considered by the Agency under TSCA section 6(b), regardless of where the studies originated or how they were obtained.

However, there may be instances where information covered under proposed new part 703 was originally submitted to EPA pursuant to a statute with provisions regarding confidentiality, disclosure and treatment of information that materially differ from those in TSCA. EPA has addressed conflicts between regulatory provisions in 40 CFR 2.202(d), which states that the “rule which provides greater or wider availability to the public of the information shall govern,” and more specifically in the existing 40 CFR 2.306(b), which provides that under the appropriate circumstances TSCA provisions would apply to certain information originally submitted to EPA for some non-TSCA purpose. But under the Lautenberg amendments to TSCA, EPA will be making use of significant amounts of data originating from a variety of sources, including existing studies submitted under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

An example of a scenario in which such a situation may occur is where a health and safety study is originally submitted to EPA under FIFRA, but is subsequently used for TSCA purposes (e.g., in support of a TSCA section 6 risk evaluation) and where the health and safety study could have been collected under a TSCA authority (e.g., pursuant to TSCA section 8(d)). Under FIFRA section 10(g), the disclosure of such a study is limited to protect against disclosure to foreign or multinational pesticide producers, but if the study were submitted under TSCA, much of the information in the study would not be protected from disclosure under TSCA section 14(b)(2).

The potential for conflict between statutory data protection regimes, and the potential for disclosure of information originally submitted under the expectation of specified information protection requirements, has greatly increased from when the earlier regulations were promulgated. EPA recognizes that there are several options for dealing with these potential conflicts. As noted above, EPA is proposing that in certain circumstances some information obtained under authorities other than TSCA are information obtained under TSCA. EPA also seeks to ensure that when information is submitted to EPA under a statutory provision that provides an assurance of privacy, those privacy protections continue to apply even when the information is used for a

different purpose. *Cf Food Marketing Institute v. Argus Leader Media*, 139 S.Ct. 2356, 2366 (2019) (acknowledging the importance of assurances of privacy to determinations regarding the confidentiality of information). Thus, EPA is proposing that when there is a conflict between statutory data protection regimes, the rules regarding the treatment of information in that statute under which the information was originally collected should continue to apply to the information, regardless of how it is used by the Agency under TSCA. The proposed regulations establishing this approach to potential conflicts appear in proposed section 703.1. In addition, there are procedures in TSCA section 14 that would be appropriate to apply to such data, such as the limited disclosure authority, often under confidentiality agreements, that is provided by TSCA section 14(d).

Other alternatives on which EPA requests comment include the approach embodied in 40 CFR 2.202(d) that the statute which provides for the greatest disclosure of the information governs, or the opposite, that the most disclosure-restrictive statute governs. Either approach could be implemented by applying the most (or least) restrictive statute as a whole or by comparing specific statutory provisions with TSCA section 14 and applying the least (or most) restrictive provision on a provision-by-provision basis. EPA believes that the approach presented in proposed section 703.1 strikes an appropriate balance and provides greater clarity, as well as being consistent with the disclosure requirements applicable when the submitter originally provided the information to EPA.

EPA requests comment broadly on these and any other options for addressing, minimizing, or eliminating conflict between provisions under different statutes regarding confidentiality, disclosure, and treatment of information, including but not limited to alternative statutory interpretations, principles that should govern the resolution of conflicts, and options for resolving specific conflicts. EPA specifically requests comment on whether the proposed approach appropriately balances transparency under TSCA while also ensuring appropriate protections for information obtained initially under another statute consistent with the assurance of privacy implicitly or explicitly provided by the government when such information is obtained. *See Food Marketing Institute v. Argus Leader Media*, 139 S.Ct. 2356, 2366 (2019).

EPA also specifically seeks public comment on the proposed scope of the rulemaking, particularly that information originally obtained without the use of a TSCA authority is nevertheless obtained under TSCA if the Agency has the authority to collect the information and it was used for a TSCA purpose. EPA is also seeking comment on whether EPA needs to exercise its TSCA authority or invoke its TSCA authority in the original information collection in order for information to be covered by TSCA section 14. EPA also seeks public comment on the proposed treatment of information that was originally submitted under another statute, as well as the alternatives identified. EPA is particularly interested in comments on how studies that were originally submitted under FIFRA should be treated under the TSCA regulations.

Finally, EPA is interested in comments on whether and, if so, how the term “TSCA submission” should be defined in proposed section 703.3.

### C. Requirements for Asserting a Confidentiality Claim

TSCA section 14(c) governs assertion of confidentiality claims for TSCA submissions. This provision requires that persons submitting information under TSCA substantiate most confidentiality claims at the time of submission. It also includes additional certification and generic name requirements. These and related requirements are elaborated upon in Unit III.C.

#### 1. Assertion of Confidentiality Claim Upon Submission of Information to EPA

TSCA section 14(c)(1)(a) requires an affected business to assert a claim for protection from disclosure concurrent with submission of the information. Consistent with this provision, proposed section 703.5 would require that confidentiality claims be asserted at the time of submission. If no such claim is made, the information may be made available to the public without prior notice to the person who submitted the information. While similar language appears in some of the existing regulations that implement TSCA (e.g., 40 CFR 711.30(e)), this proposal would clarify that the up-front assertion requirement is applicable to all non-exempt TSCA CBI claims, in accordance with TSCA section 14(c)(1)(A).

Proposed section 703.5 would further clarify and reiterate that where a TSCA submission identifies a chemical substance listed on the confidential portion of the TSCA Inventory but does not assert a confidentiality claim for the

chemical identity as required by TSCA section 14 or in the manner required by the applicable rule (see, e.g., 40 CFR 711.30), the specific chemical identity would no longer be eligible for confidential treatment on the TSCA Inventory. This would not apply where the submission does not pertain to manufacture or processing for commercial purposes, e.g., research and development.

The TSCA Inventory is a list of chemical substances manufactured or processed for a commercial purpose. A substance may be afforded confidential Inventory treatment (e.g., listing by generic name and accession number) so long as the fact that anyone manufactures or processes that substance for commercial purposes in the United States has not been disclosed to the public. By making a non-confidential report of having manufactured or processed a particular substance, the reporter in effect discloses their activities concerning the substance to the public and renders the substance ineligible for continued confidential Inventory treatment. EPA would update the TSCA Inventory to publicly list the specific chemical name and Chemical Abstracts Service Registry Number (CASRN), if available, without further notice (to any person who may have made a CBI claim for this substance). (Updates to individual submissions that contain a prior claim for what appears to be the same information would occur only after that claim is withdrawn or as result of a review and final determination in accordance with TSCA section 14 denying the claim in that submission.) Under some existing rules, once the chemical identity is listed on the public portion of the TSCA Inventory, claims can no longer be asserted for such information (see, e.g., 40 CFR 711.30(a)(2)(i)). This is also intended to clarify that the Agency will not provide notice to submitters with previously approved or pending claims for the same chemical identity prior to such disclosure on the TSCA Inventory. 40 CFR 711.30(a)(2)(i). In addition, other chemical identity CBI claims for the substance would likely be denied upon review. However, claims for information related to the chemical identity, e.g., the identity of the submitter, would not be precluded.

## 2. Substantiation and Exemptions

EPA previously published an interpretation concerning the requirement to substantiate CBI claims in TSCA section 14(c)(3), see (Ref. 6). In that document, EPA stated that the statute requires persons asserting CBI

claims to substantiate those claims at the time the affected business submits the claimed information to EPA. This proposed rule, in proposed section 703.5(b)(1), would make EPA's TSCA confidentiality regulations consistent with TSCA section 14(c)(3).

Subsequent to the interpretation that published in the **Federal Register** of January 19, 2017 (Ref. 6), some TSCA rules were updated to include a set of required substantiation questions and apply the substantiation exemptions in TSCA section 14(c)(2). See, e.g., Chemical Data Reporting at 40 CFR 711.30. This proposed rule includes a standard set of substantiation questions in proposed sections 703.5(b)(3) and (4) that would be applicable to any confidentiality claim in any TSCA submission for which substantiation is required and includes additional substantiation questions specific to chemical identity claims. However, proposed section 703.4(b)(3) would provide that individual TSCA rules may modify the questions (by, for example, not requiring answers to substantiation questions that are not applicable in a particular TSCA submission type).

The substantiation questions in proposed sections 703.5(b)(3) and (4) have been designed to elicit information to allow EPA to determine whether the submitter's claim for confidentiality meets the substantive review criteria set forth in proposed section 703.7(f). EPA is interested in public comment concerning the proposed question set, including whether some questions might be consolidated or revised to minimize burden while also assuring responses are adequate to support a confidentiality determination (i.e., according to the criteria in proposed section 703.7(f)). The questions proposed here are similar to those included in the 2020 amendments to the Chemical Data Reporting (CDR) rule (see 40 CFR part 711) which the Agency believes are adequate to support its review of confidentiality claims in those submissions.

### a. Patents

EPA is proposing a question on patents in proposed section 703.5(b)(3)(iii)(C) and is seeking comment on alternatives to the proposed question language, or whether a standalone patent question is necessary at all. The Agency requests comment on whether a standalone patent question is necessary or if it can be reasonably added to the publications question found in proposed section 703.5(b)(3)(iii)(B). In the Agency's experience, patents related to information claimed as CBI under TSCA

rarely if ever disclose information in the same context or with the same level of detail as in the related TSCA submission. The Agency notes that asking whether information *appears* in a patent is not the same thing as asking whether the information is *covered* by a patent. For the purposes of TSCA confidentiality claims, the Agency is interested in both whether the same information claimed to be confidential in the TSCA submission *appears* in a patent and whether it is *covered* by a patent. More specifically, if the exact same information appears in both a published patent and in the TSCA submission, then the information should not be entitled to confidential treatment. Also, if the information is covered (i.e., legally protected) by a patent in such a way that no substantial harm to the competitive position of the business would result from the release of the information, then the information is not subject to confidential treatment on that ground as well. If the question of whether TSCA information claimed as CBI can both appear in and be covered by a patent without destroying the CBI claim can *always* be answered with a yes or no response with no additional explanation, then a standalone patent question may not be necessary. The Agency seeks comment from submitters explaining why they believe existence of a patent that contains and covers the information claimed CBI should not affect the ability of the submitter to the claim the same information as CBI under TSCA.

Alternatively, the Agency requests comment on whether the standalone patent question used in the 2020 CDR rule (40 CFR 711.30) and proposed section 703.5(b)(3)(iii)(C) is adequate, or whether can be improved to elicit more pertinent responses from submitters regarding the potential public disclosure in a patent of the information claimed confidential in the TSCA submission. The existing question is as follows: Does any of the information claimed as confidential appear in one or more patents or patent applications? If yes, provide the associated patent number or patent application number (or numbers) and explain why the information should be treated as confidential.

Particularly, the Agency would like to know how a company would be reasonably likely to suffer substantial competitive harm if the information is released under TSCA if the company already enjoys legal protections against competitors for patent infringement. Further, should the patent question elicit substantiation to explain why the information claimed to be confidential in the TSCA submission is not actually



revealed in the particular patent? The Agency proposes the following as an alternative substantiation question: Has a patent been published for the chemical identity you claim confidential? What chemical identity information is not revealed by the patent? How is release of that specific information likely to cause substantial competitive harm? Failure to explain this harm may lead to denial of your confidentiality claim.

The Agency requests comment on whether the proposed alternative question is more likely to elicit pertinent responses on the relevance of a patent and invites suggestions that may help improve how the Agency considers patents in its CBI reviews.

#### b. Trade Secrets

EPA has observed that the question concerning trade secrets found in several existing TSCA rules, *e.g.*, at 40 CFR 711.30(b)(4), tends to elicit answers that are either redundant with the answers to other substantiation questions, or otherwise do not tend to include information that is useful for the agency to consider whether the information meets the specific legal standard for trade secrets. This is rooted in confusion about trade secrets and CBI, which are distinct but related concepts.

TSCA section 14(a) invokes FOIA Exemption 4 as a ceiling for protecting business information. Exemption 4 protects “trade secrets and commercial or financial information obtained from a person and privileged or confidential.” 5 U.S.C. 552(b)(4). Trade secrecy has long been held as grounds for Exemption 4 protection distinct from that for “commercial or financial information obtained from a person and privileged or confidential.” See, *e.g.*, *Public Citizen Health Research Group v. FDA*, 704 F.2d 1280, 1286 (D.C. Cir. 1983).

A trade secret has been defined by the D.C. Circuit as “a secret, commercially valuable plan, formula, process, or device that is used for the making, preparing, compounding, or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort.” *Public Citizen at* 1288. This definition also incorporates a requirement that there be a “direct relationship” between the trade secret and the productive process.

CBI is defined by 5 U.S.C. 552(b)(4) as information that is (a) commercial or financial, (b) obtained from a person, and (c) privileged or confidential. The U.S. Supreme Court has addressed the meaning of the word “confidential” in 5 U.S.C. 552(b)(4) stating that

“confidential” must be given its “ordinary” meaning, which is information that is “private” or “secret.” *Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356, 2363 (2019). The Court held that at least where commercial or financial information is both customarily and actually treated as private by its owner and provided to the government under an assurance of privacy, the information is “confidential” within the meaning of FOIA Exemption 4. *Food Marketing at* 2366. In addition, TSCA section 14 requires the submitter to demonstrate that it has a reasonable basis to conclude that disclosure of the information is likely to cause substantial harm to the competitive position of the business.

While the trade secret standard and CBI standard could theoretically provide two avenues to protect information from disclosure, EPA is not aware of any situation where information submitted under TSCA was determined to be entitled to trade secret protection but not CBI protection. EPA does not believe that asking a specific trade secret question for TSCA confidentiality substantiations will generate useful information because of the considerable overlap between the two standards. EPA seeks comment on whether the trade secret question still has value in the context of TSCA confidentiality claims.

#### c. Specificity of Competitive Harm

In order to properly evaluate the various CBI claims in a single submission, EPA needs a separate explanation from the submitter for each type of information claimed as confidential to explain why disclosure of that information would be likely to cause substantial competitive harm. To that end, EPA proposes two versions of the substantiation question concerning substantial competitive harm in this rulemaking. The first version of the question comes directly from the CDR rule, which states: “will disclosure of the information claimed as confidential likely cause substantial harm to your business’s competitive position? If you answered yes, describe the substantial harmful effects that would likely result to your competitive position if the information is disclosed, including but not limited to how a competitor could use such information, and the causal relationship between the disclosure and the harmful effects.” 40 CFR 711.30(b).

The second version for consideration is in proposed section 703.5(b)(3)(i): Please specifically explain what harm to the competitive position of your business would be likely to result from

the release of the information claimed as confidential. How would that harm be substantial? Why is the substantial harm to your competitive position likely (*i.e.*, probable) to be caused by release of the information rather than just possible? If you claimed multiple types of information to be confidential (*e.g.*, site information, exposure information, environmental release information, etc.), explain how disclosure of each type of information would be likely to cause substantial harm to the competitive position of your business.

The version of the question in proposed section 703.5(b)(3)(i) may enable EPA to better determine whether disclosure of the information is likely to cause substantial harm to the competitive position of the submitter. For purposes of this question, the term “substantial” means “of considerable importance.” Oxford English Dictionary (2021). “Likely” means “probable.” Oxford English Dictionary (2021). The last portion of the question is intended to help submitters explain how each type of information claimed confidential could harm the business if released. For instance, the harm to the business that could result from release of a confidential chemical identity may be different from the harm that could result from release of information concerning the number of workers exposed to the chemical during processing.

EPA requests comment from submitters and the public on which of the two proposed versions of the question would be most likely to elicit information from submitters that will best allow EPA to determine that the submitter has demonstrated a reasonable basis to conclude that disclosure of the information is likely to cause substantial harm to the competitive position of its business. EPA is also seeking comment on how “substantial” and “likelihood” should be defined.

#### d. Exemptions

The proposed section 703.5(b)(5) addresses the TSCA section 14(c)(2) exemptions from the substantiation requirement. This proposed provision includes criteria for the exemption in TSCA section 14(c)(2)(G) pertaining to substances that have not been offered for commercial distribution. The other proposed exemptions include:

- Specific information describing the processes used to manufacture or process a chemical (*e.g.*, information reported under 40 CFR 720.45(g)(2));
- Marketing and sales information (note that submitting company identifiers are not generally themselves

considered marketing and sales information);

- Information identifying a supplier or customer (such as the identities of some joint submitters reporting information under 40 CFR 720.40(e) or 711.15);
- Details on mixture composition and percentage (such as might be included in a TSCA section 8(e) notice of substantial risk that concerns a mixture);
- Specific chemical substance use information (such as is required to be reported under 40 CFR 720.45(f) and 725.155(g)); and
- Specific production or import volumes (such as are required to be reported under 40 CFR 711.15 and 720.45(e)).

EPA expects to update the reporting forms and applications for most TSCA submissions to prompt the submitter for substantiation where required, but not to prompt the submitter for types of data the Agency has concluded are always covered by a substantiation exemption.

### 3. Public Copies of Submissions

In proposed section 703.5(c), EPA proposes to require public copies of submissions that include confidentiality claims. The proposed rule would not require preparation of a separate public copy where the reporting form or electronic reporting application contains a specific CBI designation identifying specifically what is claimed as CBI. However, where the submission is made without the use of such a TSCA reporting form (*e.g.*, subpoena responses), or includes attachments or other “non-fielded” data, the submitter would be required to produce and submit a public (sanitized) copy of the submission and/or attachments. Some existing TSCA rules already include such a requirement. See, *e.g.*, 40 CFR 720.40(d)(2) and 716.55(b). This proposed rule would consolidate existing requirements in proposed new part 703 and extend them generally.

The proposed provision would also provide that the sanitized version would have to redact only that information that is claimed as confidential. Any information not included in the sanitized version, or redacted from the sanitized version, must be subject to a confidentiality claim and as such must be substantiated as described in this unit. It further states that a public copy that redacts all or substantially all of the original submission would most likely not meet the requirements of the rule because it is unlikely that all of the information in a form or attachment can be appropriately claimed CBI. Additionally, any information not

included in or redacted from a public copy is subject to the supporting statement in TSCA section 14(c)(1)(B) and the certification requirement in TSCA section 14(c)(5). False statements may give rise to criminal liability under 18 U.S.C. 1001.

### 4. Supporting Statement and Certification

TSCA section 14(c)(1)(B) requires that each claim of confidentiality be accompanied by a standard supporting statement regarding the eligibility of the information for confidential treatment. TSCA section 14(c)(5) also requires a certification that the TSCA section 14(c)(1)(B) statement and information required to substantiate the claim under TSCA section 14(c)(3) are true and correct. (See explanation in Unit III.A.2. of the preamble to the CDR rule (Ref. 7)). This supporting statement and certification language has already been incorporated in most TSCA reporting forms (example available at <https://www.epa.gov/tscabi/making-cbi-claims-tscabi-submissions#howto>). To the extent that the submission is not being made on such a reporting form (*e.g.*, a subpoena response), proposed section 703.5(a) provides language that may be included in a cover letter or other attachment to a submission.

### 5. Generic Names

TSCA section 14(c)(1)(C) requires the submission of a generic name any time a specific chemical identity is claimed as confidential. This provision further requires that the generic name be “structurally descriptive” and that it “describe the chemical structure [ . . . ] as specifically as practicable” while also protecting the features of the chemical substance that are claimed confidential or where disclosure would likely cause substantial harm. 15 U.S.C. 2613(c)(1)(C)(ii). The generic name must also be consistent with the generic name guidance developed in accordance with TSCA section 14(c)(4)(A), 15 U.S.C. 2613(c)(1)(C)(i). See Refs. 8, 9 and 10. The generic name guidance document provides information to assist companies in creating structurally descriptive generic names for chemical substances whose specific chemical identities are claimed confidential, for the purposes of protecting the specific chemical identities from disclosure while describing the chemical substance as specifically as practicable, and for listing substances on the TSCA Chemical Substance Inventory. The proposed rule acknowledges that the TSCA Inventory already includes generic names for confidential substances, and that in most cases, such

generic names are expected to be acceptable for the purposes of compliance with TSCA section 14(c)(1)(C) (possible exceptions may include generic names for some substances added to the TSCA Inventory prior to June 22, 2016, which would be addressed under proposed section 703.5(d)(2)).

For substances that are not on the TSCA Inventory (*e.g.*, new chemical submissions under TSCA sections 5 or 8(e) submissions concerning pre-market chemical substances), the proposed rule includes a few basic criteria, drawn mainly from the TSCA section 14(c)(4)(A) guidance (*e.g.*, the generic name should mask only the confidential portions of the specific chemical name, generally only one structural element of a specific chemical name may be masked to protect a confidential chemical identity), and would require that where the submitter believes those criteria are in some way inappropriate or inapplicable to a particular substance or generic name, the submission must also include an explanation for why more extensive masking of the specific chemical identity is necessary in the particular case.

In proposed section 703.5(d)(3), EPA is also proposing that where a generic name submitted for a substance that is not on the TSCA Inventory is acceptable for the purposes of meeting the requirements of TSCA section 14(c)(1)(C), the generic name might nonetheless be later subject to additional review and potential change when commercial manufacture of the substance is commenced (*e.g.*, when a Notice of Commencement (NOC) is submitted). Further procedures and requirements for review and acceptance of generic names submitted with an NOC are elaborated in proposed revisions to 40 CFR 720.102 and 725.190. As discussed in Unit II.E.5.

Finally, in proposed section 703.5(d)(4), EPA is proposing to provide an opportunity to revise proposed generic names that EPA concludes are not in compliance with 15 U.S.C. 2613(c)(1)(C). EPA would provide an electronic notice of the deficiency to the submitting company, who would then be afforded ten days to propose a revised generic name. If the submitter does not submit a compliant generic name, EPA would reject the underlying submission and may ultimately deny the CBI claim. (See discussion in Unit III.C.4. and proposed section 703.5(e) on deficient submissions.)

### 6. Deficient Submissions

In proposed section 703.5(e), EPA is proposing to specify that confidentiality

claims, identified for review pursuant to proposed section 703.7(a), that are missing the certification, substantiation, or generic name (where applicable) required by TSCA section 14(c) will be considered deficient. Submissions that are missing a public copy or where the public copy does not meet the requirements of proposed section 703.5(b)(6) would also be considered deficient-EPA has observed many instances where the attachments to TSCA submissions appear over-redacted (e.g., public copies of health and safety studies or the Safety Data Sheets (SDSs) that are often provided with TSCA section 5 PMN submissions might be entirely or largely blank). This level of redaction is rarely if ever consistent with the limitations that TSCA section 14(b) places on CBI protections for health and safety information. Submissions that include a generic name that does not meet the requirements of proposed section 703.5(d) or rely on inappropriate substantiation exemption assertions would also be considered deficient.

EPA anticipates that electronic reporting requirements, coupled with modifications to new and existing reporting forms to incorporate the certification statements and prompt for substantiation and generic names, will eliminate most such deficiencies. However, to the extent TSCA submissions are occasionally still made on paper or are not made using a TSCA form for which entries can be automatically validated (e.g., unformatted information in attachments to TSCA forms, such as health and safety study reports or SDSs), such deficiencies may still occur. EPA is proposing that when such deficiencies are identified, EPA would initially place a hold on the submission.

In such an instance, EPA would provide notice of the deficiency to the submitter and provide them with a ten (10) business day opportunity to fix the deficiency. Meanwhile, any applicable review periods for the underlying submission and for the confidentiality claim would be suspended while the hold is in place. For example, if EPA held a PMN for an inadequate public copy, both the CBI review period and the 90-day review period for the PMN would be suspended until either (1) the deficiency in the CBI claim is remedied, or (2) ten (10) business days pass without the deficiency being remedied.

If the deficiency is not remedied within ten (10) business days of EPA providing the notice of deficiency, EPA will resume the review of the submission and will likely deny the CBI claim(s).

EPA is interested in public comment on this approach to claim deficiencies, and on alternative approaches, such as strictly interpreting the requirements of TSCA section 14(c) as necessary to making a valid confidentiality claim (i.e., claims that don't meet the requirements of TSCA section 14(c) would not be recognized, and could thereby be released to the public without prior notice to the submitter). Additionally, EPA is not proposing a time window in which the Agency may identify deficiencies, which potentially leaves open the possibility that a deficiency is identified, for example, on day 45 of the review period for the underlying submission. EPA is particularly interested in public comment on whether a time period for identifying deficiencies, e.g., between 10 to 15 business days from the date of submission, would be appropriate.

#### 7. Electronic Reporting

Most TSCA submissions must now be made electronically, using various reporting tools built into CISS (Chemical Information Submission System, EPA's web-based reporting tool for preparing and submitting TSCA submissions) and submitted via EPA's CDX system (Central Data Exchange, EPA's centralized electronic document reporting portal). The proposed section 703.5(f) would fill most of the current gaps in electronic reporting requirements by requiring that nearly all TSCA confidentiality claims be asserted electronically. For example, while current TSCA section 8(e) notices of substantial risk may be made either on paper or via an optional electronic reporting form, EPA is proposing that all TSCA section 8(e) notices that include a confidentiality claim would be required to be submitted electronically, using an EPA-provided reporting tool. Similarly, electronic reporting applications would be developed or updated for TSCA section 12(b) notices of export and TSCA section 5 polymer exemption notifications. Means of providing information via CDX relating to TSCA section 6 prioritization, risk evaluation, and risk management have already been made available. These new and updated reporting applications would be available by the time the new electronic reporting provisions become effective. This proposal would expand the electronic reporting requirement to all TSCA section 12(b) notices of export and TSCA section 5 polymer exemption notifications (whether or not they include confidentiality claims), thereby closing most remaining gaps in electronic reporting requirements under TSCA. A discussion on the benefits of

electronic reporting under TSCA relevant to the expansion described in this proposed rule was provided in a previous document (Ref. 1). Some exceptions to the general requirement to report CBI-containing materials electronically will remain, such as for materials that EPA has subpoenaed or requested or collected in the course of a TSCA inspection, which may be collected in person, and/or in a format or volume that makes electronic submission impractical.

Closing these gaps in electronic reporting is intended to reduce the likelihood of submitter error when asserting a confidentiality claim, facilitate EPA's ability to review confidentiality claims in a timely manner, reduce resources required to process, handle, and store TSCA submissions, reduce the opportunity for errors related to the handling of CBI, facilitate public access to information not claimed as CBI, and enable or enhance EPA and TSCA submitters' ability to promptly communicate about the status of confidentiality claims in the submission in the future. EPA will enhance its current practice of assigning a document or "case" number to each TSCA submission (e.g., P-20-0XXX or 8EHQ-2020-0XXXX) by assigning and making that submission identifier available to the submitter within the submitter's CDX account.

As stated above, EPA is proposing to require any information or materials not obtained under TSCA section 11 to be submitted through CDX if they contain a TSCA CBI claim. The Agency is requesting public comment broadly on this approach, and on whether there are scenarios the Agency should consider where a person providing TSCA CBI to EPA via an irregular means (e.g., a letter) would not be able to or would face substantial difficulties in using CDX to submit information claimed CBI.

#### 8. Requirement To Report Health and Safety Information Using Harmonized Templates

In proposed section 703.5(g), EPA is proposing a requirement to provide health and safety studies and information from health and safety studies in a templated format, using Organisation for Economic Co-operation and Development (OECD) Harmonized Templates, where an applicable template is available. See <https://www.oecd.org/ehs/templates/harmonised-templates.htm>. EPA is interested in comment on this proposed requirement. Many TSCA submitters may be familiar with and already have created templated versions of health and safety study reports they may be

required to submit under TSCA, owing to reporting requirements in other countries. For these submitters, the burden associated with this requirement to submit templated data is expected to be minimal. EPA anticipates that data that has been put into one of these standardized templates will be more readily used and shared within the Agency, and (where permitted by confidentiality restrictions and other agreements) across jurisdictions. In addition, CBI claims may be more clearly indicated if asserted via a templated format (e.g., CBI claims could be indicated by checking a box for each discrete data element, rather than by redacting sections of text piecemeal from a study report line by line). It should be noted, however, that the proposed requirement to provide data in a templated format does not supersede existing regulatory requirements to also submit a full study report, such as the present requirement for TSCA section 4 test reports.

EPA is soliciting public comment on the proposed requirement that information obtained from a study, in addition to whole study submissions, be provided in templated form to the Agency. EPA is also interested in public comments on the requirement that submitters identify the “appropriate” OECD template for a particular submission.

#### 9. Maintenance of Company Contact Information and Communications Concerning Claims

From time to time, EPA needs to contact a company about CBI claims made in a TSCA submission. These contacts may be made relatively soon after submission, in order to clarify something about a claim or provide an opportunity to correct a deficiency with the claim (see proposed section 703.5(e)), or they may be required notifications made months or years later, such as a notice concerning a denied confidentiality claim, or a notice concerning a pending confidentiality review under TSCA section 14(f). In the future, EPA will also need to contact or notify companies about expiring confidentiality claims, pursuant to TSCA section 14(e). For all of these reasons, it is important for EPA to have current contact information for the submitter of each TSCA submission and an efficient means for satisfying the notice requirements under the statute. EPA is proposing to require companies to maintain current contact information for all individuals associated with a submission (which reinforces and complements existing CDX terms and conditions concerning maintenance of

CDX accounts, particularly the requirement to notify EPA when individual account access is no longer needed so that the account can be deactivated; see <https://cdx.epa.gov/Terms>), enhance the means by which companies update contact information, and require the submission of notices of transfer of ownership via CDX.

In light of the significant resources and document tracking concerns related to continuing to largely rely on paper correspondence for such communication and notifications, the rulemaking proposes that most such correspondence would be electronic, via CDX. See proposed section 703.5(h). “Two-way” communication via CDX provides a secure means for EPA and companies to correspond about a TSCA submission or confidentiality claims. EPA can more readily assure that a communication is available to a company or specific submitter by using CDX to communicate, rather than certified mail or a courier. In CDX, EPA is able to verify that a particular communication is available to the submitter of a particular submission and is able to track the date the communication was sent. EPA believes that these facts satisfy the requirement in TSCA section 14(g)(2)(A) that notification, including for the denial of a confidentiality claim, be sent by means that “allows verification of the fact and date of receipt.” This would be the case even if EPA does not receive a “read receipt” or cannot otherwise verify that the submitter opened the electronic notice, much as EPA cannot verify whether or when a recipient of certified mail opens the envelope and reads the contents.

The proposed rule describes how EPA expects to furnish the required notices concerning expiration of confidentiality claims under TSCA section 14(e). The first expirations will occur in 2026, for claims that were asserted in 2016 and that were not exempt from substantiation and review according to TSCA sections 14(c)(2) and 14(g). As proposed, EPA would periodically publish a list of TSCA case numbers that are approaching claim expiration on the EPA website, or other appropriate platform. In addition, EPA intends to send individual notices of upcoming claim expiration and other individual notices concerning CBI claims to the company via CDX.

The proposed rule includes similar notice and communication provisions for when review of claims is initiated under TSCA section 14(f) (e.g., in response to a FOIA request for information that has been claimed as confidential). EPA would provide any

necessary notice of review and/or opportunity to substantiate or resubstantiate to the Authorized Official or Technical Contact listed on the most recent version of the submission (or as listed in a more recent notice of transfer of ownership relating to that submission), along with instructions for response. Alternatively, if the submission with the relevant CBI claim is not associated with a CDX account, EPA would send the notice via CDX to the company contact provided in the most recent TSCA submission made by that company.

For TSCA submissions that were not originally made via CDX, EPA is proposing to send the notice by certified mail or courier to the address provided in the most recent TSCA submission from that company, or via other means that allows verification of the fact and date of receipt. For example, EPA is also considering further development of two-way CDX communication to permit EPA to also send these notices, likely using the contact information in the most recent CDX submission from the same company.

#### 10. Withdrawing Claims

TSCA confidentiality claims may be voluntarily withdrawn by the submitter at any time. See 15 U.S.C. 2613(e)(1)(A)(i) and (B)(ii)(I). Proposed section 703.5(i) includes instructions for voluntarily withdrawing confidentiality claims prior to automatic expiration or denial. The preferred approach is for the company to amend the submission electronically, via CDX, to withdraw the claims (i.e., “uncheck” the CBI boxes or unredact the submission and resubmit it). When this is not possible (for example, when the submission was not originally submitted via CDX, or because the company does not have access to the electronic submission), claims may be withdrawn by CDX submission as well, using a new correspondence tool that enables efficient linking of the withdrawal letter with the related submission, and permits EPA to communicate with the company about the withdrawal (e.g., if clarification is needed).

#### 11. Amending a Public Copy Following Claim Denial or Expiration

Following the denial or expiration of a confidentiality claim, the public copy of the submission must be revised to provide public access to the newly non-CBI information. For some electronic submissions this may be a more or less straightforward process of un-checking some boxes and generating a new public copy of the submission, but for other TSCA submissions, the denied or

expired claims may be intermingled with still-valid or approved claims, or the claims may have been indicated by numerous redactions throughout a voluminous text. The proposed rule (see proposed section 703.5(j)) would encourage companies to prepare this updated public copy themselves. EPA believes that submitters are in the best position to assert and indicate their remaining claims accurately. However, in the case that the submitter is unavailable or otherwise unable to update the public copy, the proposed rule makes clear that EPA will undertake this function, as needed.

EPA invites comment on the option of requiring TSCA submitters to update their original submission to reflect CBI claims that have been withdrawn or denied.

#### D. EPA Review of Confidentiality Claims

##### 1. Representative Subset

TSCA section 14(g)(1)(A) requires that EPA approve or deny confidentiality claims, except for claims exempt from review under TSCA section 14(c)(2). TSCA section 14(g)(1)(C) further specifies that EPA review all confidentiality claims for chemical identity (except those exempt under TSCA section 14(c)(2)(G)) and a “representative subset” comprising at least 25% of all other claims, with the exception (as provided in TSCA section 14(g)(1)(A)) of information exempted from substantiation under TSCA section 14(c)(2).

Proposed section 703.7 would codify EPA’s current practice of reviewing all claims (except those exempt from substantiation requirements under TSCA section 14(c)(2)) in every fourth submission received via CDX that contains CBI claims besides those pertaining to chemical identity.

Consistent with current practice, submissions with CBI claims not submitted through CDX would be excluded from the representative subset. As explained above, all submissions other than those submitted pursuant to TSCA section 11 will be required to be submitted through CDX (see proposed section 703.5(f)), so the Agency believes that only a small number of infrequent TSCA submissions would not be included in the total number of claims received for purposes of determining the representative subset. Moreover, these materials are not representative of TSCA submissions because they are collected irregularly, from widely spread geographic locations, may be voluminous, provided in multiple batches, be of assorted media type (photos, large maps, etc.) or exist only

on paper or other physical media at the time of collection. EPA is also proposing that amendments to submissions would not be counted as new submissions for purposes of selecting the representative subset—rather, the confidentiality claim review will include amendments available at the time of review. EPA is interested in public comment concerning its selection of the representative subset, including possible alternative representative selection methods.

EPA is proposing that two additional types of submissions not be included in the representative subset as they are not representative of TSCA submissions as a whole. These include: (1) Bona fide inquiries under 40 CFR 720.25, and 721.11 and (2) TSCA section 5 prenotice communications (correspondence submitted prior to a prospective TSCA section 5 submission asking questions or requesting a meeting to discuss whether and how a prospective TSCA submission should be made). These document types are not representative of TSCA submissions as a whole. These submission types help submitters ascertain whether a TSCA submission is required in a particular situation and/or what type or format should be used to make a particular submission. Moreover, in each case in which EPA confirms that a specific TSCA submission is required, these pre-notice or bona fide submissions would be followed by the corresponding TSCA submission, which itself would be subject to selection as part of the representative subset (e.g., a PMN or Significant New Use Notice). Conversely, where no TSCA submission is deemed necessary, the information in these documents does not relate to EPA’s regulation of chemical substances under TSCA.

EPA is interested in public comment concerning the universe of claims that contribute to the representative subset and its identification of, and exclusions from, the representative subset, including possible alternatives.

##### 2. EPA Review of Claims

###### a. Procedures

EPA is proposing to revise EPA’s procedures for reviewing confidentiality claims. As noted in previous EPA statements (e.g., Ref. 6), EPA reviews confidentiality claims in accordance with the requirements in TSCA section 14 and has relied to date on the review procedures set out in 40 CFR part 2 for all TSCA CBI reviews. However, the review procedures described in 40 CFR part 2 (including TSCA-specific provisions at section 2.306), which were

promulgated prior to the Lautenberg amendments, do not fully accommodate or account for the requirements in TSCA section 14, particularly the demands of the TSCA section 14(g)(1) mandatory review program. Rather than extensively update the EPA review procedures for TSCA CBI in 40 CFR part 2 to reflect the amendments to TSCA section 14, this rulemaking proposes to consolidate most of them in the proposed new part 703, consistent with the broader effort to centralize regulations on TSCA CBI.

In many respects, the procedures and substantive review criteria in proposed new part 703 mirror those in 40 CFR part 2 but include adaptations to reflect the requirements of TSCA section 14, and to facilitate the high volume, time-limited review process required to meet the requirements of TSCA sections 14(e) and 14(g). For example, the substantive criteria in 40 CFR 2.208, as referenced and modified by 40 CFR 2.306(g), would be retained, but would be somewhat modified to align with the substantial competitive harm language in TSCA section 14. (The other criteria include that the CBI claim has not expired, been waived, or withdrawn; that the business protects the confidentiality of the information; and that no statute prohibits confidential protection.)

The criteria would also be revised to clarify that whether a substance may be readily reverse engineered is among the factors EPA considers as part of the criterion on whether the CBI-claimed information is legitimately and reasonably obtainable without the business’s consent. Alternatively, the Agency could consider whether a substance may be readily reverse engineered as a stand-alone criterion. The Agency requests comment on how this reverse engineering component should be incorporated into the Agency’s substantive review criteria in proposed section 703.7(f), either as a stand-alone review criterion or as part of the existing criterion. The substantive review criteria in proposed section 703.7(f) will establish the Agency’s standard of review for all TSCA CBI claims. For each claim to be approved, submitters’ substantiations would be required to adequately address all of the criteria set forth in proposed section 703.7(f). Accordingly, the Agency would then be able to deny TSCA CBI claims for failure to address any one of the proposed criteria in the substantiation.

The requirement in 40 CFR 2.306(e)(1) that EPA’s Office of General Counsel (OGC) make most final confidentiality determinations would no longer be required by regulation under the proposed new part 703; rather, final determinations may be made by OGC or

other EPA offices (e.g., the EPA Office of Pollution Prevention and Toxics), as designated by the General Counsel. Regardless of which office within EPA issues a given final determination, EPA expects to continue to publish final CBI determinations on its website.

EPA also proposes, in proposed section 703.7(g), to add a means to request reconsideration by OGC of determinations denying confidential treatment. Reconsideration would be available during the 30-day notice and appeal period prior to disclosure of the information. This mechanism is intended to permit parties to identify any EPA errors in the determination prior to the point that the information is disclosed, and without immediately proceeding to judicial review of the decision. If a request for reconsideration is timely received, EPA will suspend the 30-day notice period described in proposed section 703.7(e) while OGC reconsiders the Agency's determination. OGC will review the submission *de novo* and will only consider the submission record as it existed for the final determination. EPA requests comment on this reconsideration approach and the suspension of the 30-day notice period.

The proposed rule sets forth review procedures to apply to CBI reviews initiated under TSCA section 14(g)(1) (including reviewing requests for extension under TSCA section 14(e)) as well as some additional procedures to implement CBI reviews initiated under TSCA section 14(f). In proposed section 703.7(b)(2), EPA proposes to permit submitters requesting extension of confidentiality protections under TSCA section 14(e) to either submit new substantiation or rely on substantiation that was provided with the initial submission, certifying that the substantiation remains true and correct.

In proposed section 703.8, EPA proposes similar procedures for reviews initiated under TSCA section 14(f) as for those under TSCA section 14(g), though the notice and resubstantiation provisions necessarily vary to reflect the fact that the review of different claims may be triggered by TSCA section 14(f) versus TSCA section 14(g). The proposed rule also clarifies that EPA is not required to review claims as designated in TSCA section 14(f)(1) (claims concerning active or TSCA section 6(b) high-priority substances or where disclosure would assist EPA in conducting a risk evaluation under TSCA section 6); rather, reviews of such claims are discretionary.

The proposed rule also elaborates on the timing and scope of review in proposed section 703.7(c). For the

purposes of TSCA section 14(g), the proposed rule specifies that the 90-day review period begins on the day EPA accepts a new TSCA submission that includes confidentiality claims (TSCA submissions under TSCA section 5 must clear a brief "pre-screen" review for basic completeness to ensure consistency with requirements in 40 CFR part 720, which is usually complete within a few days of submission; following that review, the submission is considered "accepted"), and that amendments to non-chemical identity information in the submission will be considered in the confidentiality review for that submission up to 60 days after the original submission date. (New confidentiality claims concerning chemical identity would be reviewed within 90 days of EPA accepting the submission or amendment including the new chemical identity claim.) The date that the submission is considered "accepted" will be used to calculate the 10-year sunset period for purposes of TSCA section 14(e). "Accepted" is defined in the proposed section 703.3.

EPA notes that some submission types are often amended one or more times after submission (e.g., new chemical-related submissions under TSCA section 5) as new information is developed, or as requested by EPA. In order to meet the 90-day statutory review deadline, EPA believes it is important that submissions be complete, at least procedurally, prior to starting review, and notes that there is a point in the 90-day period past which significant amendments to the submission and related claims would be difficult or impossible to consider while still meeting the statutory review deadline.

EPA has considered some alternatives in developing this proposed rule, including either resetting the 90-day clock every time an amendment is received, or not commencing confidentiality claim review at all until some period of time after initial submission, to allow for a majority of amendments to be made prior to beginning the confidentiality review. In the first case, EPA identified that resetting the 90-day clock with each amendment would likely require a lot of duplicative effort. EPA also anticipates that either of these options would often delay confidentiality determinations considerably, especially for new chemical submissions, in which public interest has been heightened in recent years. EPA invites public comment on the proposed approach described in proposed section 703.7(c), as well as these and other alternatives.

#### b. Substantial Competitive Harm

In the preamble of the 2020 final rule on CDR (Ref. 7), EPA noted that the Agency did not view the Supreme Court's decision in *Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356, 2363 (2019) as necessitating the Agency to remove the "substantial competitive harm" substantiation question for TSCA CBI claims. See also Ref. 11. Congress amended TSCA section 14 in 2016 to, among other things, specifically require any person asserting a CBI claim under TSCA to include a certified statement that the person has "a reasonable basis to conclude that disclosure of the information is likely to cause substantial harm to the competitive position of the person." TSCA section 14(c)(1)(B)(iii) and (c)(5); see also TSCA section 14(c)(1)(C)(ii)(II) (referencing substantial competitive harm). For each claim, the Agency's review will determine whether the business has made a satisfactory showing that it has a reasonable basis to conclude that disclosure of the information is likely to cause substantial harm to the competitive position of the business.

The proposed rule clarifies that the Agency requires the certification statement on substantial competitive harm and considers substantial competitive harm as part of its substantive review criteria for TSCA CBI claims.

#### c. Information From Health and Safety Studies

The proposed rule also elaborates on the limitations on confidentiality protections for health and safety information described in TSCA section 14(b). TSCA section 14(b)(2), which denies confidentiality protection to health and safety studies and information from health and safety studies, excludes from its coverage certain categories of information in health and safety studies, such as formulas. In addition, existing regulations allow withholding of specified information beyond that provided in TSCA section 14(b)(2). See, e.g., 40 CFR 720.90(3) (allowing withholding of "[i]nformation which is not in any way related to the effects of a substance on human health or the environment, such as the name of the submitting company, cost or other financial data, product development or marketing plans, and advertising plans"). However, the applicable regulations are not uniform in this respect; nor has the statutory basis for these provisions (which itself has changed under the Lautenberg

amendments) been previously enunciated by EPA. The Agency is proposing here to systematize these provisions, generally allowing CBI claims for very limited categories of information contained within a health and safety study.

While such ancillary information may be contained in a study document submitted under TSCA, EPA does not consider such information to be part of a “health and safety study” as defined in TSCA section 3(8). That definition states that the term “health and safety study” means any study of any effect of a chemical substance or mixture on health or the environment or on both, including underlying information and epidemiological studies, studies of occupational exposure to a chemical substance or mixture, toxicological, clinical, and ecological studies of a chemical substance or mixture, and any test performed pursuant to this chapter. This definition does not seek to provide an exclusive list of what is or is not “included” in the health and safety study but instead clarifies that all “underlying” information must be considered part of the study. The term “underlying” is an adjective “used to describe something on which something else is based.” Cambridge Dictionary (Online). A study report may contain information beyond that which is the basis for the study. Information such as the names of lab technicians neither form the basis for the study nor are relevant to the study results.

Additionally, TSCA section 14(b)(1) provides that information that is protected from disclosure under this section, and which is mixed with information that is not protected from disclosure under this section, does not lose its protection from disclosure notwithstanding that it is mixed with information that is not protected from disclosure. TSCA section 14(b)(1) is consistent with the interpretation that a study report can contain information not included within the definition of a “health and safety study” under TSCA section 3(8) and adopting such an interpretation gives effect to TSCA section 14(b)(1).

EPA is therefore proposing a definition of “health and safety study” (for purposes of this proposed rule) in proposed section 703.3 that specifies types of information that are not within the scope of TSCA section 3(8):

- Name of the submitting company;
- Name of the laboratory;
- Internal product codes;
- Names of laboratory personnel;
- Names and other private

information included in study data or reports;

- Cost or other financial data; and
- Product development, advertising, or marketing plans.

The Agency is requesting comment on the underlying interpretation and this list.

This proposed rule would clarify these existing provisions and make them uniform for all TSCA submissions. EPA invites comment on the proposed examples of information that might be in a study, but nonetheless permissible to withhold as confidential, should the information otherwise meet the confidentiality criteria in TSCA section 14.

#### *E. Related or Corresponding Revisions to Other TSCA Rules*

In addition to proposing a new confidentiality claim section of the TSCA rules, the proposed rule would revise confidentiality provisions in existing rules. In some cases, the proposed revisions would replace existing provisions with a cross reference to the proposed new part 703. In others, more specific and extensive revision is proposed.

#### 1. Proposed Revisions to 40 CFR Parts 702, 704, 707, 716, 717, 723, and 790

EPA is proposing to revise the following provisions to reference the general CBI provisions in the proposed new part 703:

- 40 CFR 702.37(d), the confidentiality provisions for manufacturer requests for risk evaluations;
- 40 CFR 704.7, the confidentiality provision for TSCA section 8(a) rules;
- 40 CFR 707.75(d), the confidentiality provision of rules concerning TSCA section 12(b) notices of export;
- 40 CFR 716.55, the confidentiality provisions for TSCA section 8(d) reporting rules;
- 40 CFR 717.19, the confidentiality provision for TSCA section 8(c) recordkeeping and reporting rules;
- 40 CFR 723.50(l) and 723.250 (f), the confidentiality provision for certain exemption requests under TSCA section 5 (low volume exemption and low releases and low exposures exemption); and
- 40 CFR part 790, the confidentiality provision of rules concerning TSCA section 4 test rules, orders, and agreements.

#### 2. Further Clarification Proposed for 40 CFR Part 707

EPA is proposing to revise the provision concerning the contents of TSCA section 12(b) notices of export, 40 CFR 707.67(a), by adding a sentence to

provide that in most cases, a confidential specific chemical identity need not be included in the notice (the primary exception would be in the case where the substance to be reported under TSCA section 12(b) is claimed as confidential but does not have a TSCA accession number). Instead, the TSCA section 12(b) notice of export may identify the substance by the generic name and accession number that appeared in the TSCA section 4, 5, 6, or 7 action that triggered the TSCA section 12(b) reporting requirement. EPA anticipates that with this change, TSCA section 12(b) submitters would submit fewer confidentiality claims for specific chemical identity, which in almost all cases is unnecessary to report under the existing TSCA section 12(b) rules.

#### 3. Proposed Revision in 40 CFR 717.17 and 723.250 To Reflect Electronic Reporting

EPA proposes to modify 40 CFR 717.17 and 723.250(f) to reflect the proposed new electronic reporting requirement discussed in Unit II.C.5.

#### 4. Proposed Revisions to Confidentiality Provisions in the PMN Rules

EPA is proposing to simplify and replace many of the confidentiality provisions in 40 CFR part 720, subpart E with a cross reference to the general confidentiality provisions in proposed new part 703. The general provisions on confidentiality in PMNs, 40 CFR 720.80, is proposed to be replaced with this cross reference. Requirements in 40 CFR 720.85 and 720.90 are proposed to be deleted, with portions moved to 40 CFR part 720, subpart F, the provisions concerning NOCs.

The existing provisions concerning chemical identity claims in PMNs and in health and safety studies would be covered in the proposed new part 703. In addition, TSCA section 14(c)(2)(G) created an exemption from the substantiation requirement for confidentiality claims for chemical identity when identity information is submitted before substance is offered for commercial distribution. The CBI claim review provisions of TSCA section 14(g) exclude these exempt claims from routine EPA review requirements, diminishing the need to elaborate on requirements for asserting and maintaining such claims in the PMN rules.

Relatedly, a confidentiality claim review process in existing 40 CFR 720.90, whereby claims that were made in health and safety studies in the PMN are revisited at the NOC stage, is a poor fit with new TSCA section 14(g) requirements that confidentiality claims

be reviewed within 90 days of receipt, or in accordance with the discretionary or mandatory provisions of TSCA section 14(f). In practice, PMNs and NOCs (the latter of which may be submitted many months or years after the corresponding PMN, if at all) are treated by EPA as separate submissions for the purposes of routine CBI review. At the PMN stage, chemical identity claims, including claims made in health and safety studies, are generally exempt from review, per the exemptions from substantiation and review set out in TSCA sections 14(c) and (g). NOCs, on the other hand, do not include health and safety information. With the proposed deletion of 40 CFR 720.90, the review of confidentiality claims in NOC submissions would be limited to the information included in the NOC submission—principally chemical identity and submitting company information. Claims that were made in the PMN submission may be revisited at a later time, in accordance with either mandatory or discretionary review provisions in TSCA section 14(f).

#### 5. PMN NOC Provisions

The proposed rule leaves much of 40 CFR part 720, subpart F, intact, but reorganizes some provisions that concern specific chemical identity claims in or following submission of an NOC. These provisions are presently in subpart E and would move to subpart F. Additionally, the proposed revisions would update and clarify NOC reporting instructions in 40 CFR 720.102(c)(2), concerning the assertion and substantiation of confidentiality claims throughout the NOC reporting form. The existing rule only reflects the substantiation requirements that predated the Lautenberg amendments, which were limited to specific chemical identity confidentiality claims, and do not reflect the newer generic name and certification requirements in TSCA section 14(c).

Revisions include adding a new paragraph (e) in 40 CFR 720.102, the substance of which is currently in 40 CFR 720.85(b)(3), concerning requirements that apply when asserting a confidentiality claim for chemical identity in the period after commencing commercial manufacture. Additionally, there is a cross-reference to the requirements of proposed new part 703, which, among other things, would replace the list of substantiation questions currently in 40 CFR 720.85 (which under existing rules, only apply to chemical identity claims in NOCs).

Finally, the proposed revisions to 40 CFR 720.102 would include a new paragraph (f), concerning generic names.

These provisions are intended to be consistent with generic name provisions in proposed new part 703, but include some additional provisions specific to the submission and review of generic names for the purposes of listing on the TSCA Inventory, including additional procedures intended to aid the prompt negotiation by the submitter and EPA of more difficult generic names (which are themselves based in part on procedures presently in 40 CFR 720.85), and a provision that NOCs will be temporarily held in situations where the submitter has not provided an acceptable generic name despite the negotiation. If the submission is not corrected, EPA would proceed with review of the CBI claim for chemical identity and would likely deny the claim. EPA invites comments on these and other possible approaches to efficiently developing an acceptable generic name for purposes of listing on the TSCA Inventory.

#### 6. Microorganisms

EPA is proposing to replace much of the confidentiality provisions currently in 40 CFR part 725, subpart C, with a new, simplified subpart C, which largely relies on a cross-reference to the proposed new general confidentiality provisions to be placed in proposed new part 703. The proposed amendments would remove current provisions that are inconsistent with the Lautenberg amendments, such as existing requirements to provide upfront substantiation of organism identity confidentiality claims prior to the commencement of commercial manufacture. The proposed rule also proposes some adjustments to the general confidentiality provisions in proposed new part 703 when they are applied to genetically modified microorganisms and other products of biotechnology covered by 40 CFR part 725. These include some adjustments to the substantiation questions to reflect some practical differences between these products and other types of TSCA chemical substances.

The proposed rule also includes proposed revisions to 40 CFR 725.190, concerning NOCs, that are similar to the proposed revisions to the parallel conventional chemical NOC provisions in 40 CFR 720.102, including some elaboration on what must be included in a generic name. As in the case with NOCs relating to PMNs, EPA proposes to update 40 CFR 725.190 to be generally consistent with generic name provisions in proposed new part 703, but with some additional provisions specific to the review of generic names for the purposes of listing on the TSCA Inventory, including additional

procedures intended to aid the prompt negotiation of more difficult generic names, and a provision that NOCs will be held in situations where the submitter has not provided an acceptable generic name despite the negotiation (and that such deficiencies, if not promptly corrected, may result in denial of the claim). EPA invites comments on these and other possible approaches to efficiently developing an acceptable generic name for purposes of listing on the TSCA Inventory.

#### 7. Changes in Proposed Regulations

This action proposes a significant number of new and revised CBI provisions to be included in proposed new part 703 and proposes to revise confidentiality provisions in other existing regulatory provisions to cross reference the proposed new part 703. EPA recognizes that during the pendency of this rulemaking process, EPA is developing other rulemakings that may address confidentiality provisions. For example, EPA is developing a proposed rule regarding asbestos reporting under TSCA section 8(a). Until this CBI rule is finalized, however, additional regulations proposed or finalized need to refer to the existing CBI regulations, rather than to the new and revised CBI provisions addressed in this rulemaking. EPA requests comment on options for harmonizing such provisions. Specifically, EPA requests comment on using this action to make any needed conforming amendments, *e.g.*, adding cross references to the new and revised CBI provisions proposed here to any CBI provisions finalized during the pendency of this action including any CBI provisions finalized in the asbestos TSCA section 8(a) rule.

### III. Request for Comments

EPA is seeking public comment on all aspects of this proposed rule and the Economic Analysis prepared in support of this proposed rule (Ref. 2). In addition to specific requests for comment included throughout this document, EPA is interested in comments pertaining to specific issues discussed in this unit. EPA encourages all interested persons to submit comments on the issues identified in this proposed rule and to identify any other relevant issues as well. This input will assist the Agency in developing a final rule that successfully addresses information needs while minimizing potential reporting burdens associated with the rulemaking. EPA requests that commenters making specific recommendations include supporting



documentation where appropriate. EPA invites specific comment on:

- EPA's interpretation of the coverage of TSCA section 14(a) (proposed section 703.1), and how this may impact submitters of information to the Agency under other statutes, such as FIFRA. EPA is particularly interested in comments on the treatment of FIFRA studies on inert ingredients under TSCA section 14(b)(2).

- The applicability of the proposed new or revised requirements to submissions received before the effective date of the subsequent final rule. Specifically, EPA requests comment on whether each proposed new or revised requirement should apply only to submissions received on or after the effective date of the final rule; to all submissions received on or after the effective date of the Lautenberg amendments; or to all submissions regardless of submission date.

- The proposed substantiation questions (proposed section 703.5(b)), especially the proposal to omit a trade secrets-specific question; on how the patents question might be modified to elicit more pertinent information; and comment on the alternative substantial competitive harm question.

- The proposed list of information that might be included with health and safety information, but that might be permissible to withhold as confidential (proposed section 703.5(b)(6)). EPA is also interested in comment on alternatives to the proposal that might better assure that health and safety information is not inappropriately treated as confidential.

- The proposed approach to CBI claim deficiencies (proposed section 703.5(e)) and on alternative approaches.

- Whether submitting templated data should be required (proposed section 703.5(g)).

- The option of requiring TSCA submitters to update their original submission to reflect CBI claims that have been withdrawn or denied (proposed section 703.5(j)).

- Selection of the representative subset, including possible alternative representative selection methods (proposed section 703.7).

- Whether bona fide or pre-notice inquiries or correspondence should be considered part of a representative subset of TSCA submissions (proposed section 703.7).

- On the proposed approach to determining when a TSCA section 14(g) CBI review period begins and how amendments to the submission are included in the review (proposed section 703.7).

- The proposed and alternative possible approaches to efficiently developing an acceptable generic name for purposes of listing on the TSCA Inventory, as described in proposed sections 720.102 and 725.190.

- On how to incorporate whether a substance may be readily reverse engineered into the Agency's substantive review criteria in proposed section 703.7(f).

#### IV. References

The following is a list of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

1. U.S. EPA. Electronic Reporting under the Toxic Substances Control Act; Final Rule. **Federal Register**. 78 FR 72818, December 4, 2013 (FRL-9394-6).
2. U.S. EPA. Economic Impact Analysis for the Procedures for Submitting Information Subject to Business Confidentiality Claims under the Toxic Substances Control Act (TSCA); Proposed Rule. April 4, 2022.
3. U.S. EPA. Procedures for Review of CBI Claims for the Identity of Chemicals on the TSCA Inventory; Final Rule. **Federal Register**. 85 FR 13062, March 6, 2020 (FRL-10005-48).
4. U.S. EPA. TSCA Chemical Substances; Unique Identifier Assignment and Application Policy; Notice of Availability. **Federal Register**. 83 FR 30168, June 27, 2018 (FRL-9979-59).
5. U.S. EPA. Guidance on Expanded Access to TSCA Confidential Business Information; Notice of Availability. **Federal Register**. 83 FR 30171, June 27, 2018 (FRL-9979-75).
6. U.S. EPA. Statutory Requirements for Substantiation of Confidential Business Information (CBI) Claims Under the Toxic Substances Control Act (TSCA); Notice. **Federal Register**. 82 FR 6522, January 19, 2017 (FRL-9958-34).
7. U.S. EPA. TSCA Chemical Data Reporting Revisions Under TSCA Section 8(a); Final Rule. **Federal Register**. 85 FR 20122, April 9, 2020 (FRL-10005-56).
8. U.S. EPA. Guidance for Creating Generic Names for Confidential Chemical Substance Identity Reporting Under the Toxic Substances Control Act; Notice of Availability. **Federal Register**. 83 FR 30173, June 27, 2018 (FRL-9979-02).
9. U.S. EPA. Guidance for Creating Generic Names for Confidential Chemical Substance Identity Reporting under TSCA. Publication ID No. EPA 743B18001. June 2018. Available at: [https://www.epa.gov/sites/production/files/2018-06/documents/san6814\\_guidance\\_for\\_creating\\_tsc\\_generic\\_names\\_2018-06-13\\_final.pdf](https://www.epa.gov/sites/production/files/2018-06/documents/san6814_guidance_for_creating_tsc_generic_names_2018-06-13_final.pdf).

10. U.S. EPA, Office of Pollution Prevention and Toxics. Points to Consider in the Preparation of TSCA Biotechnology Submissions for Microorganisms. June 2, 1997. Available at: [https://www.epa.gov/sites/production/files/2015-08/documents/biotech\\_points\\_to\\_consider.pdf](https://www.epa.gov/sites/production/files/2015-08/documents/biotech_points_to_consider.pdf).
11. U.S. EPA. Response to Public Comments, TSCA Chemical Data Reporting Revisions for Reporting and Recordkeeping Requirements under TSCA Section 8(a) (RIN 2070-AK33). Document ID No. EPA-HQ-OPPT-2018-0321-0140. March 2020. Available at: <https://www.regulations.gov/document/EPA-HQ-OPPT-2018-0321-0140>.
12. U.S. EPA. Information Collection Request (ICR) entitled: Confidential Business Information Claims under the Toxic Substances Control Act (TSCA)—Proposed Rule (RIN 2070-AK68). EPA ICR No.: 2706.01; OMB Control No.: 2070-NEW. April 4, 2022.

#### V. Statutory and Executive Orders Reviews

Additional information about these statutes and Executive Orders can be found at <http://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

*A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review*

This action is a significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). EPA prepared an analysis of the estimated costs and benefits associated with this action (Ref. 2), which is available in the docket and is summarized in Unit I.D. Any changes made in response to OMB recommendations have been documented in the docket for this action as required by section 6(a)(3)(E) of Executive Order 12866.

*B. Paperwork Reduction Act (PRA)*

The information collection activities in this proposed rule have been submitted for approval to OMB under the PRA, 44 U.S.C. 3501 *et seq.* The Information Collection Request (ICR) document that EPA prepared has been assigned EPA ICR No. 2706.01 (Ref. 12). You can find a copy of the ICR in the docket for this action, and it is briefly summarized here.

The reporting requirements identified in this proposed rule implement statutory requirements in TSCA section 14, including new requirements that persons submitting information under

TSCA must substantiate most confidentiality claims at the time of submission, as well as additional certification and generic name requirements. In order to maintain most claims beyond a 10-year period, submitters will also be required to reassert and substantiate those claims. Several new requirements also apply to EPA, including requirements to review and approve or deny all chemical identity claims asserted concerning substances that are offered for commercial distribution, as well as a subset of all other confidentiality claims, within 90 days of the claim being asserted. Further requirements that EPA review all confidentiality claims concerning substances listed as active on the TSCA Inventory, a requirement to assign and apply unique identifiers (UIDs) to substances with approved confidentiality claims for chemical identity, as well as new provisions providing expanded access to TSCA Confidential Business Information (CBI), have been discussed in previous **Federal Register** documents. Additionally, TSCA rules promulgated since the Lautenberg amendments have included confidentiality provisions conforming to the amendments (*e.g.*, 40 CFR parts 710 and 711).

*Respondents/affected entities:* Firms asserting claims for confidentiality in submissions to EPA under TSCA.

*Respondent's obligation to respond:* Required to obtain or retain a benefit. TSCA section 14; 15 U.S.C. 2613.

*Estimated number of respondents:* 1,100 firms with an estimated additional 55 new firms each year.

*Frequency of response:* On occasion.

*Total estimated burden:* 2,945 hours paperwork burden in the first year and 523 hours in each following year. Burden is defined at 5 CFR 1320.3(b).

*Total estimated cost:* \$ 270,783 in the first year and \$ 44,605 in each following year (2020\$), and an estimated cost of \$ 0 for non-burden hour paperwork costs, *e.g.*, capital investment or maintenance and operational costs.

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 OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and displayed on the information collection instruments (*e.g.*, forms, instructions).

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods

for minimizing respondent burden to EPA using the docket identified at the beginning of this proposed rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs using the interface at <https://www.reginfo.gov/public/do/PRAMain>. Find this particular ICR by selecting "Currently under Review—Open for Public Comments" or by using the search function. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than June 13, 2022. The EPA will respond to ICR-related comments in the final rule.

### C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA, 5 U.S.C. 601 *et seq.* The small entities subject to the requirements of this action are chemical manufacturers (including importers). EPA estimates that 1,096 small firms would be affected by the proposed requirements. Of those small firms, 100% would have cost impacts of less than 1% of annual revenues, which EPA has determined does not qualify as a significant impact. Details of this analysis are presented in the Economic Analysis of the proposed rule (Ref. 2), which is available in the docket.

### D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

### E. Executive Order 13132: Federalism

This action does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 4, 1999). It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

### F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). It does not have substantial direct effects on tribal government because asbestos is not manufactured (including

imported) or processed by tribes and would not impose substantial direct compliance costs on tribal governments.

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

The EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

### H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not a "significant energy action" under Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution or use of energy and has not otherwise been designated by the Administrator of OMB's Office of Information and Regulatory Affairs as a "significant energy action." The action is predicted to reduce energy use and is not expected to reduce energy supply or increase energy prices.

### I. National Technology Transfer and Advancement Act (NTTAA)

This proposed action does not involve any technical standards as specified in NTTAA section 12(d), 15 U.S.C. 272 note.

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

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

### List of Subjects

#### 40 CFR Part 2

Administrative practice and procedure, Confidential business information, Courts, Environmental protection, Freedom of information, Government employees.

**40 CFR Part 702**

Administrative practice and procedure, Chemicals, Environmental protection, Hazardous substances.

**40 CFR Part 703**

Administrative practice and procedure, Chemicals, Confidential business information, Environmental protection, Exports, Hazardous substances, Imports, Reporting and recordkeeping requirements.

**40 CFR Part 704**

Chemicals, Environmental protection, Exports, Hazardous substances, Imports, Reporting and recordkeeping requirements.

**40 CFR Part 707**

Chemicals, Environmental protection, Exports, Hazardous substances, Imports, Reporting and recordkeeping requirements.

**40 CFR Part 716**

Chemicals, Confidential business information, Environmental protection, Hazardous substances, Health, Reporting and recordkeeping requirements, Safety.

**40 CFR Part 717**

Chemicals, Environmental protection, Hazardous substances, Reporting and recordkeeping requirements.

**40 CFR Part 720**

Chemicals, Environmental protection, Hazardous substances, Imports, Reporting and recordkeeping requirements.

**40 CFR Part 723**

Chemicals, Environmental protection, Hazardous substances, Phosphate, Reporting and recordkeeping requirements.

**40 CFR Part 725**

Administrative practice and procedure, Biologics, Chemicals, Environmental protection, Hazardous substances, Imports, Labeling, Microorganisms, Occupational safety and health, Reporting and recordkeeping requirements.

**40 CFR Part 790**

Administrative practice and procedure, Biologics, Chemicals, Environmental protection, Hazardous substances, Imports, Labeling, Microorganisms, Occupational safety and health, Reporting and recordkeeping requirements.

**Authority:** 15 U.S.C. 2603, 2604, 2605, 2607, 2613, 2619, and 2625 *et seq.*

**Michael S. Regan,**  
*Administrator.*

Therefore, for the reasons stated in the preamble, it is proposed that 40 CFR chapter I be amended as follows:

**PART 2—PUBLIC INFORMATION**

- 1. The authority citation for part 2 continues to read as follows:

**Authority:** 5 U.S.C. 552, 552a, 553; 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717.

- 2. Revise § 2.306 to read as follows:

**§ 2.306 Special rules governing certain information obtained under the Toxic Substances Control Act.**

(a) *Definitions.* For the purposes of this section:

(1) *Act* means the Toxic Substances Control Act, 15 U.S.C. 2601 *et seq.*

(2) *Chemical substance* has the meaning given it in section 3(2) of the Act, 15 U.S.C. 2602(2).

(3) *EPA Legal Office* means the EPA Office of General Counsel and any EPA office over which the EPA General Counsel exercises supervisory authority.

(4) *Proceeding* means any rulemaking, adjudication, or licensing conducted by EPA under the Act or under regulations which implement the Act, except for determinations under this subpart.

(b) *Applicability.* This section applies as set forth in 40 CFR 703.1.

(c) *Basic rules that apply without change.* Sections 2.210, 2.211, 2.212, 2.214, and 2.215 apply without change to information to which this section applies. Unless otherwise specified in § 2.306, the provisions in §§ 2.201 through 2.205 and 2.208 do not apply to information subject to this section. Instead, the provisions of 40 CFR part 703 provide the requirements and procedures relevant to confidentiality determinations for information submitted to EPA under the Act.

(d) *Disclosure in special circumstances.* Disclosures of information claimed as confidential under TSCA section 14(d)(4), (5), and (6) may be made in accordance with the provisions of the Act, § 2.306 and any applicable EPA guidance required by section 14(c)(4)(B) of the Act. Section 2.209 applies to information to which this section applies, except that:

(1) The following two additional provisions apply to § 2.209(c):

(i) The official purpose for which the information is needed must be in connection with the agency's duties under any law for protection of health or the environment or for specific law enforcement purposes; and

(ii) EPA notifies the other agency that the information was acquired under authority of the Act and that any knowing disclosure of the information may subject the officers and employees of the other agency to the penalties in section 14(h) of the Act (15 U.S.C. 2613(h)).

(2) The 10 business day period for notification specified in § 2.209(b)(2) is instead 15 business days.

(3) The timeline for notification in § 2.209(d) is replaced by the timeline for notification in 15 U.S.C. 2613(g)(2)(B).

(e) *Disclosure of information relevant in a proceeding.* (1) Under section 14(d)(7) of the Act (15 U.S.C. 2613(d)(7)), any information to which this section applies may be disclosed by EPA when the information is relevant in a proceeding under the Act, notwithstanding the fact that the information otherwise might be entitled to confidential treatment under this subpart. However, any such disclosure shall be made in a manner that preserves the confidentiality of the information to the extent practicable without impairing the proceeding. Disclosure of information to which this section applies because of its relevance in a proceeding shall be made only in accordance with this paragraph (e).

(2) The provisions of § 2.301(g)(2) through (4) apply to disclosures under this paragraph (e).

(f) *Disclosure of information to contractors and subcontractors.* (1) Under section 14(d)(2) of the Act (15 U.S.C. 2613(d)(2)), any information to which this section applies may be disclosed by EPA to a contractor or subcontractor of the United States that is necessary for the satisfactory performance of their work in connection with the Act, notwithstanding the fact that the information otherwise might be entitled to confidential treatment under this subpart. Subject to the limitations in this paragraph (f), information to which this section applies may be disclosed:

(i) To a contractor or subcontractor with EPA, if the EPA program office managing the contract first determines in writing that such disclosure is necessary for the satisfactory performance by the contractor or subcontractor of the contract or subcontract; or

(ii) To a contractor or subcontractor with an agency other than EPA, if the EPA program office which provides the information to that agency, contractor, or subcontractor first determines in writing, in consultation with the General Counsel, that such disclosure is necessary for the satisfactory performance by the contractor or

subcontractor of the contract or subcontract.

(2) The provisions of § 2.301(h)(2)(ii) through (iv) apply to disclosures under this paragraph (f).

(3) At the time any information is furnished to a contractor or subcontractor under this paragraph (f), the EPA office furnishing the information to the contractor or subcontractor shall notify the contractor or subcontractor that the information was acquired under authority of the Act and that any knowing disclosure of the information may subject the contractor or subcontractor and its employees to the penalties in section 14(d) of the Act (15 U.S.C. 2613(d)).

(g) *Disclosure of information when necessary to protect health or the environment against an unreasonable risk of injury.* (1) Under section 14(d)(3) of the Act (15 U.S.C 2613(d)(3)), any information to which this section applies may be disclosed by EPA when disclosure is necessary to protect health or the environment against an unreasonable risk of injury to health or the environment, without consideration of costs, or other non-risk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation as relevant by EPA under conditions of use. However, any disclosure shall be made in a manner that preserves the confidentiality of the information to the extent not inconsistent with protecting health or the environment against the unreasonable risk of injury. Disclosure of information to which this section applies because of the need to protect health or the environment against an unreasonable risk of injury shall be made only in accordance with this paragraph (g).

(2) If any EPA office determines that there is an unreasonable risk of injury to health or the environment and that to protect health or the environment against the unreasonable risk of injury it is necessary to disclose information to which this section applies that otherwise might be entitled to confidential treatment under this subpart, the EPA office shall notify the EPA Legal Office in writing of the nature of the unreasonable risk of injury, the extent of the disclosure proposed, how the proposed disclosure will serve to protect health or the environment against the unreasonable risk of injury, and the proposed date of disclosure. Such notification shall be made as soon as practicable after discovery of the unreasonable risk of injury. If the EPA office determines that the risk of injury is so imminent that it is impracticable to furnish written

notification to the EPA Legal Office, the EPA office shall notify the EPA Legal Office orally.

(3) Upon receipt of notification under paragraph (g)(2) of this section, the EPA Legal Office shall make a determination in writing whether disclosure of information to which this section applies that otherwise might be entitled to confidential treatment is necessary to protect health or the environment against an unreasonable risk of injury. The EPA Legal Office shall also determine the extent of disclosure necessary to protect against the unreasonable risk of injury as well as when the disclosure must be made to protect against the unreasonable risk of injury.

(4) If the EPA Legal Office determines that disclosure of information to which this section applies that otherwise might be entitled to confidential treatment is necessary to protect health or the environment against an unreasonable risk of injury, the EPA Legal Office shall furnish notice to each affected business of the contemplated disclosure and of the Legal Office's determination. Such notice shall be made in writing, via either electronic notice as described in 40 CFR 703.5(h) or by certified mail, return receipt requested, at least 15 business days before the disclosure is to be made. The notice shall state the date upon which disclosure will be made. However, if the EPA Legal Office determines that disclosure of the information is necessary to protect against an imminent and substantial harm to health or the environment, no prior notification is necessary.

## PART 702—GENERAL PRACTICES AND PROCEDURES

■ 3. The authority citation for part 702 continues to read as follows:

**Authority:** 15 U.S.C. 2605 and 2619.

■ 4. Revise § 702.37(d) to read as follows:

### § 702.37 Submission of manufacturer requests for risk evaluations.

\* \* \* \* \*

(d) *Confidential business information.* Claims of confidentiality must be made in accordance with the procedures described in 40 CFR part 703.

\* \* \* \* \*

■ 5. Add part 703 to read as follows:

## PART 703—CONFIDENTIALITY CLAIMS

Sec.

703.1 Purpose and applicability.

703.3 Definitions.

703.5 Requirements for asserting and maintaining confidentiality claims.

703.7 EPA review of confidentiality claims under TSCA Section 14(g).

703.8 EPA review of confidentiality claims under TSCA Section 14(f).

**Authority:** 15 U.S.C. 2613.

### § 703.1 Purpose and applicability.

(a) The purpose of this part is to describe procedures for asserting and maintaining confidentiality claims in accordance with TSCA section 14, and for EPA review of such claims. The procedures described in this part are generally applicable to the submission and EPA review of any TSCA submission, except to the extent that application of the requirements would be inconsistent with TSCA section 14(i). The procedures include requirements concerning the form and manner in which TSCA submissions must be made to meet the requirements in TSCA section 14(b) and (c), to facilitate EPA review of such claims in accordance with TSCA section 14(f) and (g), and to facilitate disclosure of non-confidential information to the public in accordance with TSCA, FOIA, and their implementing regulations.

(b) This part applies to all information that is reported to or otherwise obtained by EPA pursuant to TSCA or its implementing regulations. Unless otherwise specified in 40 CFR 2.306, the provisions of 40 CFR 2.201 through 2.205 and 40 CFR 2.208 do not apply to information subject to this part. This part also applies to information that satisfies all three of the following criteria:

(1) The information was first obtained by EPA other than pursuant to the authority of TSCA or its implementing regulations;

(2) EPA has authority to collect the information under TSCA; and

(3) Either:

(i) Subsequent to its submission the information is being used to satisfy the obligation of a person under TSCA or its implementing regulations; or

(ii) EPA makes use of the information in the course of carrying out its responsibilities under TSCA.

(c)(1) This part applies regardless of:

(i) Whether the information is intended by its submitter to be used by EPA in implementing TSCA;

(ii) Whether TSCA or an implementing regulation was cited as authority for the request or submission of the information; or

(iii) Whether the information was provided directly to EPA or through some third person.

(2) In the event the information satisfies the requirements of § 703.1, and such information was originally submitted to or obtained by EPA under

another statute, and the other statute or its implementing regulations prescribe conflicting rules for the treatment of the information, the statute or rule under which the information was provided to EPA shall govern, except that the provisions in 40 CFR 2.306(d) through (f) apply, where relevant, to how EPA may share such information.

### § 703.3 Definitions.

The definitions in this section and the definitions in TSCA section 3 apply to this part. In addition, the definition in § 720.3(ff) for *test data* also applies in this part.

*Accepted* in the context of asserting a TSCA CBI claim means the date that EPA first approved the submission in CISS, or its successor system.

*CDX or Central Data Exchange* means EPA's centralized electronic document receiving system, or its successor system.

*CISS or Chemical Information Submission System* means EPA's web-based reporting tool for preparing and submitting TSCA submissions, or its successor system.

*Confidentiality claim* means a claim or allegation that business information is entitled to confidential treatment.

*Health and safety study* has the same meaning as that provided in § 720.3(k), except that for purposes of this part 703 the following information is not part of a health and safety study:

- (1) The name of the submitting company;
- (2) The name of the laboratory conducting the study;
- (3) Internal product codes;
- (4) The names of laboratory personnel;
- (5) Names of individual study subjects and other private information included in study data or reports;
- (6) Cost and other financial data; and
- (7) Product development, advertising, and marketing plans.

### § 703.5 Requirements for asserting and maintaining confidentiality claims.

Any person who submits information under TSCA or these implementing regulations may assert a business confidentiality claim to information included in such submission. Such claim must be made concurrent with submission of the information. If no such claim accompanies the submission, EPA will not recognize a confidentiality claim, and the information in or referred to in that submission may be made available to the public (e.g., by publication of specific chemical name and CASRN on the public portion of the TSCA Inventory) without further notice.

(a) *Supporting statement and certification.* A person asserting a confidentiality claim must submit a statement that the person has:

- (1) Taken reasonable measures to protect the confidentiality of the information;
- (2) Determined that the information is not required to be disclosed or otherwise made available to the public under any other Federal law;
- (3) A reasonable basis to conclude that disclosure of the information is likely to cause substantial harm to the competitive position of the person; and
- (4) A reasonable basis to believe that the information is not readily discoverable through reverse engineering.

(5) The person must also certify that these four statements and any information required to substantiate the confidentiality claim in accordance with paragraph (b) of this section are true and correct.

(b) *Substantiation.* (1) *Timing of substantiation.* Confidentiality claims must be substantiated at the time of submission to EPA, unless exempt under paragraph (b)(5) of this section. In the case of information collected by EPA or on behalf of EPA in person at the site of a TSCA inspection under section 11 of the Act, the affected company must assert its confidentiality claim(s) in writing at the time the information is collected, and then must provide substantiation of its confidentiality claims and the supporting statement and certification described in paragraph (a) of this section within ten working days after the inspection ends.

(2) *Confidentiality claims in substantiation.* Information in substantiations may be claimed as confidential. Such claims must be accompanied by the certification described in paragraph (a) of this section, but need not be themselves substantiated.

(3) *Substantiation questions for all claims.* Unless otherwise specified elsewhere in 40 CFR 700 *et seq.* (e.g., 40 CFR part 711), answers to the following questions must be provided for each confidentiality claim in a TSCA submission:

(i) Please specifically explain what harm to the competitive position of your business would be likely to result from the release of the information claimed as confidential. How would that harm be *substantial*? Why is the substantial harm to your competitive position *likely* (i.e., probable) to be caused by release of the information rather than just *possible*? If you claimed multiple types of information to be confidential (e.g., site information, exposure information,

environmental release information, etc.), explain how disclosure of each type of information would be likely to cause substantial harm to the competitive position of your business.

(ii) Has your business taken precautions to protect the confidentiality of the disclosed information? If yes, please explain and identify the specific measures, including but not limited to internal controls, that your business has taken to protect the information claimed as confidential. If the same or similar information was previously reported to EPA as non-confidential (such as in an earlier version of this submission), please explain the circumstances of that prior submission and reasons for believing the information is nonetheless still confidential.

(iii)(A) Is any of the information claimed as confidential required to be publicly disclosed under any other Federal law? If yes, please explain.

(B) Does any of the information claimed as confidential otherwise appear in any public documents, including (but not limited to) safety data sheets; advertising or promotional material; professional or trade publications; state, local, or Federal agency files; or any other media or publications available to the general public? If yes, please explain why the information should be treated as confidential.

(C) Does any of the information claimed as confidential appear in one or more patents or patent applications? If yes, please provide the associated patent number or patent application number (or numbers) and explain why the information should be treated as confidential.

(iv) Is the claim of confidentiality intended to last less than 10 years (see TSCA section 14(e)(1)(B))? If yes, please indicate the number of years (between 1 and 10 years) or the specific date after which the claim is withdrawn.

(v) Has EPA, another Federal agency, or court made any confidentiality determination regarding information associated with this chemical substance? If yes, please provide the circumstances associated with the prior determination, whether the information was found to be entitled to confidential treatment, the entity that made the decision, and the date of the determination.

(4) *Additional substantiation questions for chemical identity-related claims only.* Unless otherwise specified in the relevant electronic reporting form, answers to the following questions must be provided for each chemical

identity-related confidentiality claim in a TSCA submission:

(i) Is this chemical substance publicly known (including by your competitors) to be in U.S. commerce? If yes, please explain why the specific chemical identity should still be afforded confidential status (*e.g.*, the chemical substance is publicly known only as being distributed in commerce for research and development purposes, but no other information about the current commercial distribution of the chemical substance in the United States is publicly available). If no, please complete the certification statement:

I certify that on the date referenced I searched the internet for the chemical substance identity (*i.e.*, by both chemical substance name and CASRN). I did not find a reference to this chemical substance and have no knowledge of public information that would indicate that the chemical is being manufactured or imported by anyone for a commercial purpose in the United States. [provide date].

(ii) Does this specific chemical substance leave the site of manufacture (including import) in any form, *e.g.*, as a product, effluent, emission? If yes, please explain what measures have been taken to guard against the discovery of its identity.

(iii) If the chemical substance leaves the site in a form that is available to the public or your competitors, can the chemical identity be readily discovered by analysis of the substance (*e.g.*, product, effluent, emission), in light of existing technologies and any costs, difficulties, or limitations associated with such technologies? Please explain why or why not.

(iv) Would disclosure of the specific chemical identity release confidential process information? If yes, please explain.

(5) *Exemptions from the substantiation requirement.* Information described in paragraphs (b)(5)(i) and (b)(5)(ii) of this section is exempt from the requirement to substantiate the claim at the time of submission. EPA may identify on a reporting form certain information as exempt from substantiation. Additional assertions of exemption from substantiation may be asserted by the submitter. Each such assertion must include a detailed explanation for why the information falls within the claimed exemption. If the explanation is missing or inadequate, and the claim is not otherwise substantiated, EPA will place a hold on the submission, as described in paragraph (d) of this section.

(i) The following information types are exempt from the substantiation

requirement at the time of information submission:

(A) Specific information describing the processes used in manufacture or processing of a chemical substance, mixture, or article;

(B) Marketing and sales information;

(C) Information identifying a supplier or customer;

(D) Details of the full composition of a mixture and the respective percentages of constituents;

(E) Specific information regarding the use, function, or application of a chemical substance or mixture in a process, mixture, or article; and

(F) Specific production or import volumes.

(ii) Exemption for chemical substances not yet offered for commercial distribution.

(A) A confidentiality claim for specific identity of a chemical substance, where the submission is made prior to the date on which the chemical substance whose identity is claimed as confidential is first offered for commercial distribution, is exempt from the requirement to substantiate confidentiality claims at the time of submission.

(B) A specific chemical identity claim includes specific chemical names, CAS numbers, molecular formulas, reactants (if required to be reported as part of the identification of the chemical, such as for Class 2 substances in § 720.45(a)), and structural diagrams; or in the case of microorganisms, genus and species name and genetic construct.

(C) This exemption applies where the submitter lacks information to reasonably conclude that the chemical substance has been offered for commercial distribution, where both:

(1) The chemical substance is not on the TSCA Inventory, and

(2) The substance is otherwise not publicly known to have been offered for commercial distribution.

(c) *Public copies.* All TSCA submissions and their accompanying attachments that include a confidentiality claim must be accompanied, at the time of submission, by a public version of the submission and any attachments, with all information that is claimed as confidential removed. In the case of documents collected by EPA or on behalf of EPA in person at the site of a TSCA inspection under section 11 of the Act, the affected company must provide such public copies at the same time as it provides substantiation of its confidentiality claims in accordance with paragraph (b)(1) of this section, within ten working days after the inspection ends. Only information that

is claimed as confidential may be redacted or removed. Generally, a public copy that removes all or substantially all of the information would not meet the requirements of this paragraph (c) of this section and the submission may be temporarily put on hold as deficient.

(1) Where the applicable reporting form or electronic reporting tool contains a checkbox or other means of designating with specificity what information is claimed as confidential, no further action by the submitter is required to satisfy this requirement.

(2) For all other information claimed as confidential, including but not limited to information in attachments and in substantiations required under paragraph (b) of this section, the submitter must prepare and attach a public copy. EPA may hold as deficient submissions with public or sanitized copies that are entirely blank or that are substantially reduced in length as compared to the CBI version (see paragraph (e) of this section).

(d) *Generic name.* Each confidentiality claim for specific chemical identity must be accompanied by a structurally descriptive generic name for that substance. This generic name must be consistent with guidance on the determination of structurally descriptive generic names developed in accordance with TSCA section 14(c)(4)(A) (*e.g.*, *Guidance for Creating Generic Names for Confidential Chemical Substance Identity Reporting under TSCA*; available at <https://www.epa.gov/tsca-inventory/guidance-creating-generic-names-confidential-chemical-substance-identity-reporting>), and 15 U.S.C. 2613(c)(1)(C)(ii).

(1) At a minimum, the generic name must either:

(i) Be identical to the generic name for the same substance included on the non-confidential portion of the TSCA Inventory (if the substance is listed on the TSCA Inventory), or

(ii) For substances that are not listed on the TSCA Inventory, mask only the confidential portions of the specific chemical name. In most cases, only one structural element of a specific chemical name may be masked to protect a confidential chemical identity—if the submitter of a proposed generic name wishes to mask more than one such element, the submission must include an explanation of why masking only one element is insufficient to protect the confidential identity.

(2) Notwithstanding paragraph (d)(1) of this section, EPA may conclude that a generic name provided with the submission and listed on the current non-confidential version of the TSCA

Inventory does not comply with 15 U.S.C. 2613(c)(1)(C). In such cases, EPA will notify the submitting company and proceed as described in paragraph (c)(4) of this section.

(3) A generic name that meets the requirements of section 14(c)(1)(C) of the Act prior to the date on which the chemical substance is first offered for commercial distribution for the purposes of a pre-market submission (e.g., a PMN) may not be sufficient for the purposes of subsequent listing on the TSCA Inventory, as identified upon review under section 14(g)(1)(C)(i) of the Act of a confidentiality claim for specific chemical identity made in a Notice of Commencement required under § 720.102 or § 725.190(f). In such cases, EPA will notify the submitting company and proceed as described in § 720.102(f) or § 725.190(f).

(4) If EPA concludes that the proposed generic name does not comply with 15 U.S.C. 2613(c)(1)(C), EPA will notify the submitter, and provide 10 business days for the submitter to provide a revised generic name. If EPA concludes that the revised generic name is still not acceptable, EPA will hold the submission for an additional period of up to 10 business days, and proceed as set out in paragraph (e) of this section.

(e) *Deficient confidentiality claims.* (1) A confidentiality claim under TSCA is deficient if it meets one or more of the following criteria:

(i) The confidentiality claim is not accompanied by the supporting statement and certification required by paragraph (a) of this section.

(ii) The confidentiality claim is not accompanied by the substantiation required by paragraph (b) of this section. If the submitter claims an exemption from substantiation under paragraph (b)(5) of this section and the exemption does not apply or an explanation is not provided for the exemption pursuant to paragraph (b)(5) of this section, the confidentiality claim is deficient.

(iii) The confidentiality claim is not accompanied by a public copy that meets the requirements of paragraph (c) of this section.

(iv) The confidentiality claim is for a specific chemical identity and is not accompanied by a generic name that meets the requirements of paragraph (d) of this section.

(2) A submission that is identified as deficient under paragraph (e)(1) of this section will be held for a period of up to 10 business days, and the submitter will be notified via CDX as described in paragraph (h) of this section. During the hold, which commences on the day the CDX notice is sent, any applicable review period for the underlying

submission will be suspended until either the deficiency is corrected or the 10 business days elapse without such correction. Upon the occurrence of the first of either of these events, the applicable review period for the underlying submission commences or comes out of suspension. If the deficiency is not remedied during the suspension, EPA will proceed with review of the submission and may deny the CBI claim(s).

(f) *Electronic reporting required.* (1) Except in the case of information subpoenaed under TSCA section 11(c) or materials collected or requested by EPA as part of an inspection under TSCA section 11(a), TSCA submissions bearing confidentiality claims must be submitted via CDX.

(2) You must use CISS to complete and submit TSCA submissions via CDX. To access CISS go to <https://cdx.epa.gov/> and follow the appropriate links.

(3) On receipt by EPA, each electronic TSCA submission will be assigned a case number or document identifier, which will be available to the submitter in their CDX account. This identifier may be used as a reference in future communications that concern the substance, and may be used by EPA in public communications (e.g., **Federal Register** notices) that concern the submission, such as notices of receipt, final confidentiality determination, pending confidentiality claim expiration, or in other regulatory actions that concern the TSCA submission.

(g) *Requirement to report health and safety studies using templates.* Submitters of health and safety studies or information from such studies must provide such data in templated form, using an appropriate OECD harmonized template, if such template is available for the data type (<https://www.oecd.org/ehs/templates/>). Individual test or data submission rules or orders may specify an appropriate template or templates. Submission of templated data is not a substitute for submitting a full study report where a specific TSCA rule or order requires submission of the full study report (e.g., § 720.50(a), or according to the terms of a specific order under TSCA section 5(e)).

(h) *Requirement to maintain company contact information; electronic notices concerning confidentiality claims.* (1) To facilitate ongoing or future communication concerning TSCA submissions, current contact information for all of the individuals associated with a particular TSCA submission must be maintained. Contact information for all the individuals associated with a particular TSCA

submission must be updated by amending the submission via CDX, except that submissions that are either no longer accessible to the submitting company or that were not submitted via CDX (e.g., submissions that were originally provided on paper or other physical media), updated company contact must be provided via CDX using the appropriate EPA-provided electronic reporting application in CISS. In circumstances where ownership of the company or unit of a company has changed, such that contact information for one or more prior TSCA submissions that include confidentiality claims is affected, a notice of transfer of ownership must be directed to EPA via CDX. Instructions for providing this notice and for requesting access to copies of a prior TSCA submission are available at <https://cdx.epa.gov/>.

(2) When EPA contacts a TSCA submitter concerning confidentiality claims (e.g., related to a pending or concluded confidentiality claim review, a deficient submission, or in relation to the 10-year expiration of a confidentiality claim (described in TSCA section 14(e)), EPA may provide notices and other correspondence to the submitter via CDX, using the contact information provided in the most recent version of the submission, or using the contact information provided in a more recent notice of transfer of ownership relating to that submission. The fact and date of delivery of such notice is verified automatically by CDX.

(3) In addition to individual notice described in paragraph (h)(2) of this section, EPA will publish on its website, or other appropriate platform, a list of TSCA submissions with confidentiality claims that are approaching the end of the ten-year period of protection described in TSCA section 14(e). Such TSCA submissions will be referred to by the TSCA case or document identifier (as described in paragraph (f)(3) of this section) that was assigned to the submission by EPA when it was originally submitted. TSCA submissions will be added to this list at least 60 days prior to the end of the ten-year period of protection, along with instructions for reasserting and substantiating expiring claims.

(4) When a confidentiality claim is being reviewed pursuant to TSCA section 14(f), EPA will provide, when necessary, notice of such review and an opportunity to substantiate or resubstantiate the affected confidentiality claim to the submitter using the contact information for the authorized official or technical contact provided in the most recent version of the submission or in a more recent

notice of transfer of ownership relating to that submission.

(5) Where the submission with the relevant CBI claim was not originally made via CDX, EPA will send the notice via courier or US Mail to the company address provided in the most recent TSCA submission made by that company, or via other means that allows verification of the fact and date of receipt. The notice will provide instructions for substantiating claims that were exempt from substantiation when the confidentiality claim was asserted or for which the submitter was otherwise not required to provide substantiation at the time of initial submission, and for updating or re-substantiating as necessary any claims that were previously substantiated.

(i) *Withdrawing confidentiality claims.* TSCA confidentiality claims may be voluntarily withdrawn by the submitter at any time.

(1) Confidentiality claims in TSCA submissions that were originally made via electronic submission may be withdrawn by reopening the submission in CDX, removing confidentiality markings (e.g., confidential checkmarks or bracketing), revising sanitized attachments or copies as appropriate, and then resubmitting the submission.

(2) For submissions that were not originally made via CDX, or that are no longer accessible to the submitting company via CDX, confidentiality claims may also be withdrawn via CDX using the "TSCA Communications" application or successor system. The withdrawal correspondence must indicate the case or document number (or other applicable document identifier or document identifying details) from which CBI claims are being withdrawn, identify the submitting company, and include a list or description of the information for which CBI claims are being withdrawn, including page numbers where relevant. Current contact information for the person withdrawing the claim must also be provided, in the event EPA needs clarification concerning which claim or claims are being withdrawn.

(j) *Amending public copy following confidentiality claim denial or expiration.* (1) Following the expiration or EPA's denial of a TSCA confidentiality claim, the person who asserted the denied or expired claim should prepare and submit a revised public copy of the submission to EPA, following the procedures for voluntarily withdrawing claims described in § 703.5(i).

(2) If the person who asserted the denied or expired claim declines or fails to provide within 30 days a revised

public copy of the submission that includes the information for which the confidentiality claim(s) were denied or expired, EPA may prepare an addendum to the original public copy, as needed, in order to provide the newly available information to the public.

**§ 703.7 EPA review of confidentiality claims under TSCA Section 14(g)**

(a) *Representative subset.* (1) *Definition.* A representative subset consists of at least 25% of confidentiality claims asserted under TSCA, not including claims for specific chemical identity or for the categories of information listed in section 14(c)(2) of TSCA. Excluded from the representative subset are

(i) Inquiries with respect to potential submission to EPA of a notification under 40 CFR part 720, 721, 723 or 725 by a person who has not submitted the notification at the time of the inquiry, including inquiries under § 720.25(b) or 721.11;

(ii) Submissions or other communication not submitted to EPA via CDX; and

(iii) Amendments to previous TSCA submissions.

(2) *Selection of submissions for review.* To satisfy its confidentiality claim review obligations under section 14(g)(1)(C)(ii) of TSCA, EPA may review all claims (except those exempt from substantiation under TSCA section 14(c)(2)) in every fourth TSCA submission submitted via CDX that is part of the representative subset, in chronological order of receipt by EPA. For each submission selected for review as part of the representative subset, EPA reviews and approves or denies every individual confidentiality claim in that submission (except claims that are exempt under TSCA sections 14(c)(2) and 14(g)), including claims made in attachments and amendments available to EPA at the time of the review.

(b) *Review of new and expiring confidentiality claims under TSCA Section 14(g).* (1) Under TSCA Section 14(g), EPA will review:

(i) All chemical identity claims asserted in TSCA submissions except those that are exempt from substantiation according to TSCA Section 14(c)(2)(G), and

(ii) A representative subset of other confidentiality claims as provided in paragraph (a) of this section.

(2) EPA will review all timely requests for extension of claims under section 14(e) of TSCA within 30 days of receipt.

(3) EPA will also review or re-review confidentiality claims under certain other circumstances, as set out in TSCA

section 14(f). TSCA section 14(f) reviews are conducted in accordance with procedures set out in § 703.8.

(c) *Commencement of the review period and effect of amendments.* Subject to § 703.5(e), the 90-day review period described in TSCA section 14(g) begins on the day that EPA accepts a new TSCA submission that includes confidentiality claims. For new information, other than specific chemical identity, added to a submission after EPA first accepts the submission, the review will take into account such amendments to that submission that are made either up to 60 days from the original submission date, or until the Agency issues a final confidentiality determination for the submission, whichever comes first. If a submission is amended to report an additional or different chemical substance that includes a new specific chemical identity claim, the TSCA section 14(g) review period for the added chemical identity begins on the day EPA accepts the amendment including the new claim.

(d) *Publication of final determinations.* Final confidentiality determinations will be published on EPA's website, or other platform, periodically, in accordance with the requirements of TSCA section 26(j).

(e) *Claim denials and notice period.* Final determinations will be issued by the General Counsel or their designee, which may include personnel outside of the Office of General Counsel. In the case that EPA determines that a claim or part of a claim is not entitled to confidential treatment, EPA will provide notice of the denial to the person who made the claim and provide reasons for the denial or denial in part. The notice will be provided electronically, as described in § 703.5(h)(2). The 30-day notice period described in TSCA section 14(g)(2)(B) begins on the next business day following the date the notice is made available to the submitter in their CDX account.

(f) *Substantive criteria for use in confidentiality determinations.*

Information claimed as confidential under TSCA section 14 will be approved if:

(1) The business has asserted a business confidentiality claim which has not expired by its terms, nor been waived nor withdrawn;

(2) The business has satisfactorily shown that it has taken reasonable measures to protect the confidentiality of the information, and that it intends to continue to take such measures for as long as the claim is maintained;



(3) The information is not, and has not been, reasonably obtainable without the business's consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding; e.g., the business has demonstrated a reasonable basis to believe the information is not readily discoverable through reverse engineering);

(4) The business has demonstrated a reasonable basis to conclude that disclosure of the information is likely to cause substantial harm to the competitive position of the business; and

(5) No statute denies confidential protection to the information. Information from health and safety studies is not entitled to confidential treatment, except that the following information may be entitled to confidential treatment if it otherwise meets the remainder of criteria in this paragraph (f):

(i) Any information, including formulas (including molecular structures) of a chemical substance or mixture, that discloses processes used in the manufacturing or processing of a chemical substance or mixture; or

(ii) In the case of a mixture, the portion of the mixture comprised by any of the chemical substances in the mixture.

(g) *Request for Reconsideration.* Persons who received a denial or partial denial notification under paragraph (e) of this section may request reconsideration by the Office of General Counsel prior to the end of the 30-day period specified in the notice and described under paragraph (e) of this section. The business must make its request for reconsideration electronically via CDX, following the instructions in the notice. If a request for reconsideration is timely received, EPA will suspend the 30-day notice period described in paragraph (e) of this section while the Office of General Counsel reconsiders the Agency's determination. Once the Office of General Counsel's reconsideration is complete, the Agency will provide notification, pursuant to § 703.5(h), to the person of EPA's decision on the request for reconsideration. If upon reconsideration the Agency upholds the confidentiality determination, the 30-day notice period will resume. The Office of General Counsel will perform its review de novo and will only reconsider determinations based on the information included with the original submission and amendments made up

until the time the final determination was issued.

(h) *Criteria to use in consideration of requests for extension under TSCA section 14(e).* Requests to extend the period of confidentiality protection under TSCA section 14(e) use the same criteria as described under § 703.7(f). Requests for extension may rely on a substantiation previously provided to EPA, but the submitter must recertify that the substantiation is still true and correct.

#### **§ 703.8 EPA Review of Confidentiality Claims Under TSCA Section 14(f).**

(a) *Review of confidentiality claims initiated under TSCA Section 14(f).* In accordance with the procedures described in this section, EPA may review confidentiality claims that are subject to TSCA section 14(f)(1), and will review confidentiality claims subject to TSCA section 14(f)(2) in the following situations:

(1) In response to a request under the Freedom of Information Act (5 U.S.C. 552) for TSCA information claimed confidential;

(2) If EPA has reason to believe that information claimed confidential does not qualify for protection from disclosure; or

(3) For any chemical substance EPA determines under TSCA section 6(b)(4)(A) presents an unreasonable risk of injury to health or the environment.

(b) *Substantiation exemptions not applicable.* All confidentiality claims asserted in submissions described by paragraph (a) of this section are subject to the substantiation requirements, including those that were initially exempt from substantiation according to section 14(c)(2) of TSCA.

(c) *Additional substantiation.* If necessary, such as in the case that substantiation has not previously been provided for confidentiality claims under review, or in the case that EPA has reason to believe the substantiation is incomplete or out of date, EPA will request additional substantiation from the person(s) that claimed the information as confidential.

(d) *Additional substantiation notice.* If additional substantiation is necessary, EPA will provide notice to the person that claimed the information as confidential in the manner specified in § 703.5(h)(4). The notice will provide the time allowed for additional substantiation from the business and the method for requesting a time extension if necessary. If the person does not make a timely response or extension request, EPA will consider any existing substantiations in its review of the claims or, in the case of any

unsubstantiated claim, EPA will construe this as a waiver of the claim and may make the information public without any further notice to the submitter.

(e) *Substantive criteria for use in confidentiality determinations.* The criteria in § 703.7(f) apply to confidentiality determinations initiated under TSCA section 14(f). For determinations required to respond to a FOIA request, the criteria in § 703.7(f) are supplemented with one additional criterion that must be satisfied: The business adequately demonstrates that the information is commercial or financial information obtained from a person and is confidential within the meaning of FOIA Exemption 4 (5 U.S.C. 552(b)(4)).

(f) *Adverse determinations and notice period.* Final determinations will be issued by the General Counsel or their designee, including personnel outside of the Office of General Counsel. Except for instances where claims were waived, if EPA determines that information claimed confidential does not qualify for protection from disclosure, EPA will provide written notice to the person who asserted the claim. The notice will be provided electronically, as described in § 703.5(h)(2). The 30-day notice period described in TSCA section 14(g)(2)(B) begins on the next business day following the date the notice is made available to the submitter in their CDX account.

(g) *Disclosure of Information.* After a final determination has been made by EPA to release some or all of the information claimed as confidential, the Agency shall make the information available to the public (in the absence of a court order prohibiting disclosure) whenever:

(1) The period provided for commencement by a business of an action to obtain judicial review of the determination has expired without notice to EPA of commencement of such an action; or

(2) The court, in a timely-commenced action, has denied the person's motion for a preliminary injunction, or has otherwise upheld the EPA determination.

(h) *Notice relating to public requests for records.* Any person whose request for release of the information under 5 U.S.C. 552 is pending at the time notice is given under paragraph (f) of this section shall be furnished notice under 5 U.S.C. 552 either stating the circumstances under which the some or all of the information will be released or denying the request if all requested information was found to be entitled to confidential treatment.

**PART 704—REPORTING AND RECORDKEEPING REQUIREMENTS**

■ 6. The authority citation for part 704 continues to read as follows:

**Authority:** 15 U.S.C 2607(a).

■ 7. Revise § 704.7 to read as follows:

**§ 704.7 Confidential business information claims.**

Claims of confidentiality must be made in accordance with the procedures described in 40 CFR part 703.

**PART 707—CHEMICAL IMPORTS AND EXPORTS**

■ 8. The authority citation for part 707 continues to read as follows:

**Authority:** 15 U.S.C 2611(b) and 2612.

■ 9. Amend § 707.63 by redesignating paragraphs (a) through (d) as paragraphs (b) through (e) and adding a new paragraph (a) to read as follows:

**§ 707.63 Definitions.**

(a) *CDX or Central Data Exchange* means EPA’s centralized electronic document receiving system, or its successor system.

■ 10. Amend § 707.65 by revising paragraphs (a)(1) and (2), removing paragraph (a)(3), and revising paragraph (c) to read as follows:

**§ 707.65 Submission to the Agency.**

(a) \* \* \*

(1)(i) The notice must be for the first export or intended export by an exporter to a particular country in a calendar year when the chemical substance or mixture is the subject of an order issued, an action that is pending, or relief that has been granted under TSCA section 5(f), a rule that has been proposed or promulgated under TSCA section 6, or an action that is pending or relief that has been granted under TSCA section 7.

(ii) The notice must only be for the first export or intended export by an exporter to a particular country when the chemical substance or mixture is the subject of an order issued, an action that is pending, or relief that has been granted under TSCA section 5(e), a rule that has been proposed or promulgated under TSCA section 5(a)(2), or when the submission of data is required under TSCA section 4 or 5(b). Under this paragraph (a)(1)(ii), notice of export to a particular country is not required if an exporter previously submitted to EPA a notice of export to that country prior to January 16, 2007.

(2) The notice must be submitted to EPA within seven days of forming the intent to export or on the date of export, whichever is earlier. A notice of intent to export must be based on a definite

contractual obligation, or an equivalent intra-company agreement, to export the regulated chemical.

\* \* \* \* \*

(c) Notices must be submitted via CDX, using the TSCA section 12(b) Export Notification Application or its successor.

■ 11. Amend § 707.67 by revising paragraph (a) to read as follows:

**§ 707.67 Contents of notice.**

\* \* \* \* \*

(a) The name of the regulated chemical as it appears in the TSCA section 4, 5, 6, and/or 7 action. For substances on the confidential portion of the TSCA Inventory, this means that the substance must be identified by generic name and accession number, or by any other non-confidential identifier under which it is listed on the TSCA section 12(b) reporting list maintained by EPA and available in the TSCA section 12(b) Export Notification Application described in § 707.65(c). If a category is regulated, the name of the individual regulated chemical within that category, as well as the category, must be given. The name must be that which appears in the TSCA Inventory, if the chemical appears there.

\* \* \* \* \*

■ 12. Amend § 707.75 by revising paragraph (d) to read as follows:

**§ 707.75 Confidentiality**

\* \* \* \* \*

(d) Claims of confidentiality must be made in accordance with the procedures described in 40 CFR part 703.

**PART 716—HEALTH AND SAFETY DATA REPORTING**

■ 12. The authority citation for part 716 continues to read as follows:

**Authority:** 15 U.S.C 2607(d).

■ 13. Revise § 716.55 to read as follows:

**§ 716.55 Confidentiality claims.**

Claims of confidentiality must be made in accordance with the procedures described in 40 CFR part 703.

**PART 717—RECORDS AND REPORTS OF ALLEGATIONS THAT CHEMICAL SUBSTANCES CAUSE SIGNIFICANT ADVERSE REACTIONS TO HEALTH OR THE ENVIRONMENT**

■ 14. The authority citation for part 717 continues to read as follows:

**Authority:** 15 U.S.C 2607(c).

■ 15. Amend § 717.17 by revising paragraph (c) to read as follows:

**§ 717.17 Inspection and reporting requirements.**

\* \* \* \* \*

(c) *How to Report.* When required to report, firms must submit copies of records via CDX <https://cdx.epa.gov/> using the EPA provided electronic reporting application.

■ 16. Revise § 717.19 to read as follows:

**§ 717.19 Confidentiality.**

Claims of confidentiality must be made in accordance with the procedures described in 40 CFR part 703.

**PART 720—PREMANUFACTURE NOTIFICATION**

■ 17. The authority citation for part 720 continues to read as follows:

**Authority:** 15 U.S.C. 2604, 2607, and 2613.

■ 18. Revise § 720.80 to read as follows:

**§ 720.80 General provisions.**

Claims of confidentiality must be made in accordance with the procedures described in 40 CFR part 703.

\* \* \* \* \*

**§ 720.85 [Removed]**

■ 19. Remove § 720.85.

**§ 720.90 [Removed]**

■ 20. Remove § 720.90.

■ 21. Revise § 720.95 to read as follows:

**§ 720.95 Public file.**

All information submitted with a notice, including any health and safety study and other supporting documentation, will become part of the public file for that notice, unless such materials are claimed confidential in accordance with procedures in 40 CFR 703.5. In addition, EPA may add materials to the public file, subject to subpart E of this part. Publicly available materials are available at the docket addresses in § 700.17(b)(1) and (2) of this chapter and on EPA’s website.

■ 22. Amend § 720.102 by revising paragraph (c)(2) and adding paragraphs (e) and (f) to read as follows:

**§ 720.102 Notice of commencement of manufacture or import.**

\* \* \* \* \*

(c) \* \* \*

(2) If the submitter claims any information on the form as confidential, the claim must be asserted and substantiated in accordance with the requirements described in 40 CFR part 703 and must be submitted via EPA Form 7710–56. If the submitter wants the chemical identity to be listed on the confidential portion of the TSCA Inventory, the chemical identity must be claimed as confidential and the submitter must also follow the

certification, substantiation, and generic name requirements described part 703 and paragraphs (e) and (f) of this section. Otherwise, EPA will list the specific chemical identity on the public TSCA Inventory. Submitters who did not claim the chemical identity, submitter identity, or other information to be confidential in the PMN cannot claim this information as confidential in the notice of commencement.

\* \* \* \* \*

(e) *Confidentiality*. (1) Any person who asserts a confidentiality claim for chemical identity in a Notice of Commencement submitted under § 720.102 must:

(i) Comply with generic name requirements described in part 703 and as specified in paragraph (f) of this section.

(ii) Agree that EPA may disclose to a person with a bona fide intent to manufacture or import the chemical substance the fact that the particular chemical substance is included on the confidential TSCA Inventory for purposes of notification under section 5(a)(1)(A) of the Act.

(iii) Have available for the particular chemical substance, and agree to furnish to EPA upon request:

(A) An elemental analysis.

(B) Either an X-ray diffraction pattern (for inorganic substances), a mass spectrum (for most other substances), or an infrared spectrum of the particular chemical substance, or if such data do not resolve uncertainties with respect to the identity of the chemical substance, additional or alternative spectra or other data to identify the chemical substance.

(2) Claims of confidentiality must be made in accordance with the procedures described in 40 CFR part 703.

(f) *Generic Name*. If a submitter asserts a claim of confidentiality for chemical identity in a notice of commencement, they must provide a structurally descriptive generic name.

(1) Generic names must:

(i) Be structurally descriptive (e.g., not a trade name);

(ii) Describe the chemical structure of the chemical substance as specifically as practicable while protecting only those features of the chemical structure that are claimed as confidential and disclosure of which would likely cause substantial harm to the competitive position of the person—the generic name should generally only obscure one structural feature, but in any case, should conceal only the feature(s) necessary to avoid a likelihood of substantial competitive harm to the submitter; and

(iii) Be consistent with guidance on the determination of structurally

descriptive generic names, developed in accordance with TSCA section 14(c)(4)(A) (e.g., *Guidance for Creating Generic Names for Confidential Chemical Substance Identity Reporting under TSCA*; available at <https://www.epa.gov/tscainventory/guidance-creating-generic-names-confidential-chemical-substance-identity-reporting>).

(2) Generic names will be reviewed by EPA at the time of submission. (i) If EPA concludes that a proposed generic name meets the criteria in paragraph (f)(1) of this section, EPA will include that generic name in the public TSCA Inventory listing for that substance.

(ii) If the proposed generic name does not meet the criteria in paragraph (f)(1) of this section, EPA will notify the submitter concerning the deficiency via CDX, as described in 40 CFR 703.5(f). EPA will provide 10 business days to correct the deficiency and provide an alternative generic name that would be acceptable to EPA. If the alternative generic name proposed by EPA is acceptable to the submitter (or if the submitter does not respond within the 10-day period), EPA will place that alternative generic name on the public TSCA Inventory. If the alternative generic name proposed by EPA is not acceptable to the submitter, the submitter must submit a revised generic name that meets the criteria in paragraph (f)(1) of this section and an explanation of how EPA's proposed generic name reveals confidential information. If EPA concludes that the submitter's revised generic name also does not meet the criteria in paragraph (f)(1) of this section, EPA will hold the notice of commencement for a period of up to 10 business days. Reporting requirements will not be considered to have been met and the substance will not be added to the TSCA Inventory during this period. If the submission remains deficient after this 10-day period, EPA will proceed with CBI review of the chemical identity claim and will likely deny the claim.

#### **PART 723—PREMANUFACTURE NOTICE EXEMPTIONS**

■ 23. The authority citation for part 723 continues to read as follows:

**Authority:** 15 U.S.C. 2604.

■ 24. Amend § 723.50, by revising paragraph (l) to read as follows:

**§ 723.50 Chemical substances manufactured in quantities of 10,000 kilograms or less per year, and chemical substances with low environmental releases and human exposures.**

\* \* \* \* \*

(l) *Confidentiality*. Claims of confidentiality must be made in accordance with the procedures described in 40 CFR part 703.

\* \* \* \* \*

■ 25. In § 723.250, revise the introductory text of paragraphs (f) and (n) to read as follows:

#### **§ 723.250 Polymers.**

\* \* \* \* \*

(f) *Exemption report for polymers manufactured under the terms of this section*. For substances exempt under paragraphs (e)(1), (e)(2), and (e)(3) of this section a report of manufacture or import must be submitted by January 31 of the year subsequent to initial manufacture. The report and accompanying claims must be submitted via CDX (<https://cdx.epa.gov/>), using the TSCA Section 5 Notices and Supports—ePMN application. See § 720.40(a)(2)(ii) for information on how to access e-PMN software. The notice must include:

\* \* \* \* \*

(n) *Confidentiality*. Claims of confidentiality must be made in accordance with the procedures described in 40 CFR part 703.

#### **PART 725—REPORTING REQUIREMENTS AND REVIEW PROCESSES FOR MICROORGANISMS**

■ 26. The authority citation for part 725 continues to read as follows:

**Authority:** 15 U.S.C. 2604, 2607, 2613, and 2625.

■ 27. Revise § 725.80 to read as follows:

#### **§ 725.80 General provisions.**

Claims of confidentiality must be made in accordance with the procedures described in 40 CFR part 703, except as modified in this paragraph. In general, references to “chemical” or “chemical identity” in part 703 are equivalent to “microorganism” or “microorganism identity” for the purposes of this part.

(a) In place of § 703.5(b)(3)(v), the following question applies: Has EPA, another Federal agency, or court made any confidentiality determination regarding information associated with this microorganism? If yes, please provide the circumstances associated with the prior determination, whether the information was found to be entitled to confidential treatment, the entity that made the decision, and the date of the determination.

(b) In place of § 703.5(b)(4), the following questions apply:

(1) Has the identity of the microorganism been kept confidential to the extent that competitors do not know it is being manufactured or imported

into US commerce? If not, explain why the microorganism identity should still be afforded confidential status (e.g., the microorganism is publicly known only as being distributed in commerce for research and development purposes, but no other information about the current commercial distribution of the microorganism in the United States is publicly available).

(2) Does the microorganism leave the site of production or testing in a form which is accessible to the public or to competitors? If yes, please explain what measures have been taken to guard against the discovery of its identity. Further, what is the cost to a competitor, in time and money, to develop appropriate use conditions? What factors facilitate or impede product analysis?

**§ 725.85 [Removed]**

- 28. Remove § 725.85.

**§ 725.92 [Removed]**

- 29. Remove § 725.92.

**§ 725.94 [Removed]**

- 30. Remove § 725.94.
- 31. Revise § 725.95 to read as follows:

**§ 725.95 Public file.**

All information submitted, including any health and safety study of a microorganism and other supporting documentation, will become part of the public file for that submission, unless such materials are claimed as confidential in accordance with this section. In addition, EPA may add materials to the public file, subject to subpart C of this part. Publicly available materials are available at the docket addresses in § 700.17(b)(1) and (2) of this chapter and on EPA's website.

- 32. Amend § 725.190 by revising paragraph (c) and adding paragraphs (e) and (f) to read as follows:

**§ 725.190 Notice of Commencement of manufacture or import.**

\* \* \* \* \*

(c) *Information to be reported.* The NOC must contain the following information: Specific microorganism identity, MCAN number, and the date when manufacture or import commences. If the person claims any information on the form as confidential, the claim must be asserted and substantiated in accordance with the requirements described in part 703 and § 725.80, as indicated in EPA Form 7710-56. If the submitter wants the microorganism identity to be listed on the confidential portion of the TSCA Inventory, the microorganism identity must be claimed as confidential and also follow the certification,

substantiation, and generic name requirements described in part 703 and paragraph (e) and (f) of this section.

\* \* \* \* \*

(e) *Requirements for assertion.* Any person who asserts a confidentiality claim for microorganism identity must:

- (i) Comply with the requirements of paragraph (f) of this section regarding submission of a generic name.
- (ii) Agree that EPA may disclose to a person with a bona fide intent to manufacture or import the microorganism the fact that the particular microorganism is included on the confidential TSCA Inventory for purposes of notification under section 5(a)(1)(A) of the Act.
- (iii) Have available and agree to furnish to EPA upon request the taxonomic designations and supplemental information required by § 725.12.

(iv) Make claims of confidentiality in accordance with the procedures described in 40 CFR part 703.

(f) *Generic Name.* If a submitter asserts a claim of confidentiality for microorganism identity in a notice of commencement, they must provide a generic name.

(1) Generic names must:

- (i) Be structurally descriptive (e.g., not a trade name); and
- (ii) Be consistent with guidance on the determination of structurally descriptive generic names, developed in accordance with TSCA section 14(c)(4)(A) (e.g., *Guidance for Creating Generic Names for Confidential Chemical Substance Identity Reporting under TSCA*). Generic names for microorganisms may only mask the portion of microorganism identity that the submitter believes is proprietary (considering that the identity of a microorganism to be listed on the TSCA Inventory must include taxonomic designations (genus, species, and strain), key phenotypic traits, key genotypic traits and modifications, genetic material that has been introduced or modified, any vector constructs used, cellular location of introduced or modified genes, number and type of genes introduced or modified, and method of construction or modification). Taxonomic designation (in most cases down to strain) must be included in the generic name except where the submitter claims the taxonomic designation confidential, in which case the person making such claim must provide an explanation of why such masking is necessary to protect proprietary information. Additionally, the generic microorganism identity must include a statement

regarding the function and stability of the genetic construct. This includes an indication of whether the introduced or modified genes are present on the chromosome or extrachromosomal.

(2) Generic names will be reviewed by EPA at the time of submission.

(i) If EPA concludes that a proposed generic name meets the criteria in paragraph (f)(1) of this section, EPA will include that generic name in the public TSCA Inventory listing for that substance.

(ii) If the proposed generic name does not meet the criteria in paragraph (f)(1) of this section, EPA will notify the submitter concerning the deficiency via CDX, as described in § 703.5(h). EPA will provide ten business days to correct the deficiency and provide an alternative generic name that would be acceptable to EPA. If the alternative generic name proposed by EPA is acceptable to the submitter (or if the submitter does not respond within the ten-day period), EPA will place that alternative generic name on the public TSCA Inventory. If the alternative generic name proposed by EPA is not acceptable to the submitter, the submitter must submit a revised generic name that meets the criteria in paragraph (f)(1) of this section and an explanation of how EPA's proposed generic name reveals confidential information. If EPA concludes that the revised generic name also does not meet the criteria in paragraph (f)(1) of this section, EPA will hold the notice of commencement for a period of up to 10 business days. Reporting requirements will not be considered to have been met and the microorganism will not be added to the TSCA Inventory during this period. If the submission remains deficient after this 10-day period, EPA will proceed with CBI review of the microorganism identity claim and will likely deny the claim.

**PART 790—PROCEDURES GOVERNING TESTING CONSENT AGREEMENTS AND TEST RULES**

- 33. The authority citation for part 790 continues to read as follows:

**Authority:** 15 U.S.C. 2603.

- 32. Revise § 790.7 to read as follows:

**§ 790.7 Confidentiality.**

Claims of confidentiality must be made in accordance with the procedures described in 40 CFR part 703.

[FR Doc. 2022-09629 Filed 5-11-22; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R09–OAR–2022–0416; FRL–9820–01–R9]

**Limited Approval, Limited Disapproval of California Air Plan Revisions; California Air Resources Board**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing a limited approval and limited disapproval of California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 10 Climate Change, Article 4, Subarticle 13: Greenhouse Gas Emission Standards for Crude Oil and Natural Gas Facilities (Oil and Gas Methane Rule) into the California State Implementation Plan (SIP). These revisions concern emissions of volatile organic compounds (VOCs) from crude oil and natural gas facilities. We are proposing action on a state rule to regulate these emission sources under the Clean Air Act (CAA or the Act). We are also proposing to disapprove the reasonably available control technology demonstrations for the 2008 and 2015 ozone National Ambient Air Quality Standards (NAAQS) for sources covered by the EPA’s 2016 Control Techniques Guidelines for the Oil and Natural Gas Industry (Oil and Gas CTG) for the Sacramento Metropolitan Air Quality Management District (SMAQMD), San Joaquin Valley Air Pollution Control District (SJVAPCD), South Coast Air Quality Management District

(SCAQMD), Ventura County Air Pollution Control District (VCAPCD), and the Yolo-Solano Air Quality Management District (YSAQMD). We are taking comments on this proposal and plan to follow with a final action. **DATES:** Comments must be received on or before June 13, 2022. **ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R09–OAR–2022–0416 at <https://www.regulations.gov>. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with

disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Nicole Law, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947–4126 or by email at [law.nicole@epa.gov](mailto:law.nicole@epa.gov). Donnique Sherman, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947–4129 or by email at [sherman.donnique@epa.gov](mailto:sherman.donnique@epa.gov). Sina Schwenk-Mueller, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947–4100 or by email at [SchwenkMueller.Sina@epa.gov](mailto:SchwenkMueller.Sina@epa.gov).

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

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**I. The State’s Submittal**

*A. What did the State submit?*

Table 1 lists the rule addressed by this proposal with the dates that it was adopted and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULE

Agency	Rule title	Adopted	Submitted
CARB .....	California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 10 Climate Change, Article 4 Subarticle 13: Greenhouse Gas Emission Standards for Crude Oil and Natural Gas Facilities (Oil and Gas Methane Rule).	03/23/2017	12/11/2018

The submission also contains a staff report evaluating the Oil and Gas Methane Rule against the Federal RACT standard, and concluding that the Oil and Gas Methane Rule, in combination with applicable SIP-approved local air district rules, meets the RACT requirement for 2008 and 2015 ozone National Ambient Air Quality Standards (NAAQS) for sources covered by the EPA’s 2016 Control Techniques Guidelines for the Oil and Natural Gas Industry for SMAQMD, SJVAPCD,

SCAQMD,<sup>1</sup> VCAPCD, and YSAQMD. On June 11, 2019, the submittal for the Oil and Gas Methane Rule was deemed by operation of law to meet the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

<sup>1</sup>The SCAQMD regulates both the South Coast Air Basin, and the Riverside County (Coachella Valley) ozone nonattainment areas.

*B. Are there other versions of this rule?*

There are no previous versions of the Oil and Gas Methane Rule in the California SIP.

*C. What is the purpose of the submitted rule?*

Emissions of VOCs contribute to the production of ground-level ozone, smog and particulate matter (PM), which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. The Oil and Gas

Methane Rule establishes methane emission standards for crude oil and natural gas facilities in furtherance of the California Global Warming Solutions Act (AB 32, as codified in sections 38500–38599 of the Health and Safety Code). Because many of the methane controls in the Oil and Gas Methane Rule also reduce VOC emissions, the Oil and Gas Methane Rule was submitted into the California SIP as a rule that controls VOC emissions. The EPA’s technical support document (TSD) has more information about this rule.

## II. The EPA’s Evaluation and Action

### A. How is the EPA evaluating the rule?

Rules in the SIP must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Generally, SIP rules must require reasonably available control technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source of VOCs in ozone nonattainment areas classified as Moderate or above (see CAA section 182(b)(2)). Five California air districts contain nonattainment areas classified as Moderate or above for the 2008 or 2015 ozone NAAQS, and contain operations covered by the Oil and Gas CTG: SMAQMD, SJVAPCD, SCAQMD, VCAPCD, and YSAQMD.<sup>2</sup> We refer to these districts collectively as “applicable local air districts.” The Oil and Gas Methane Rule applies statewide, including within the applicable local air districts. Therefore, this rule must implement RACT.

Guidance and policy documents that we used to evaluate enforceability, revision/relaxation, and rule stringency requirements for the applicable criteria pollutants include the following:

1. “State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,” 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).

2. “Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,” EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).

3. “Guidance Document for Correcting Common VOC & Other Rule Deficiencies,”

EPA Region 9, August 21, 2001 (the Little Bluebook).

4. EPA 453/B–16–001, Control Techniques Guidelines for the Oil and Natural Gas Industry, October 2016.

### B. Does the rule meet the evaluation criteria?

The Oil and Gas Methane Rule improves the SIP by establishing emission limits and by clarifying monitoring, recording and recordkeeping provisions. The rule is largely consistent with CAA requirements and relevant guidance regarding enforceability, RACT and SIP revisions. However, the Oil and Gas Methane Rule contains a number of deficiencies that preclude full approval. The rule provisions that do not meet the evaluation criteria are summarized below and discussed further in the TSD.

### C. What are the rule deficiencies?

The Oil and Gas Methane Rule contains several provisions that do not meet the enforceability or stringency criteria. These provisions do not satisfy the requirements of section 110 and part D of title I of the Act and prevent full approval of the SIP revision. Key issues include insufficiently bounded director’s discretion, lack of clearly specified test methods for some categories of emission sources, undefined terms, references to undefined district rules, insufficient reporting and recordkeeping, and a lack of initial and continuous compliance requirements for some categories of emission sources. Additionally, the rule may not capture all storage tanks in the oil and gas sector in the applicable local air districts that are required to meet RACT; the rule allows delay of leak repairs in several sections; and there are several exemptions in the rule that may reduce the rule’s stringency. The TSD includes in-depth descriptions of the rule deficiencies.

In addition, the RACT demonstration for the applicable local air districts relies on both the Oil and Gas Methane Rule, and the SIP-approved local rules regulating sources covered by the Oil and Gas CTG. Some of these rules contain deficiencies that would preclude approval of the RACT demonstration for these districts, even if the deficiencies in the Oil and Gas Methane Rule were rectified. These deficiencies are identified and discussed in the TSD.

### D. The EPA’s Recommendations To Further Improve the Rule

The TSD includes recommendations for the next time CARB modifies the rule.

### E. Public Comment and Proposed Action

As authorized in section 110(k)(3) of the Act, the EPA is proposing a limited approval and limited disapproval of the submitted rule. Even though the rule has deficiencies, the EPA concludes that the Oil and Gas Methane Rule would substantially strengthen the SIP. The limited disapproval for the Oil and Gas Methane Rule is based on the enforceability and stringency issues identified in section II.C. of this notice and described in detail in the TSD.

In addition, as authorized in section 110(k)(3) of the Act, the EPA is proposing a disapproval of the RACT demonstrations for the 2008 and 2015 ozone National Ambient Air Quality Standards (NAAQS) for sources covered by the Oil and Gas CTG for SMAQMD, SJVAPCD, SCAQMD, VCAPCD, and YSAQMD.

We will accept comments from the public on this proposal until June 13, 2022. If finalized, this action would incorporate the submitted rule into the SIP, including those provisions identified as deficient. If we finalize this disapproval, CAA section 110(c) would require the EPA to promulgate a Federal implementation plan within 24 months unless we approve subsequent SIP revisions that correct the deficiencies identified in the final disapproval.

In addition, final disapproval would trigger the offset sanction in CAA section 179(b)(2) 18 months after the effective date of a final disapproval, and the highway funding sanction in CAA section 179(b)(1) six months after the offset sanction is imposed. A sanction will not be imposed if the EPA determines that a subsequent SIP submission corrects the deficiencies identified in our final action before the applicable deadline. The EPA intends to work with the CARB and the applicable local air districts to correct the deficiencies in a timely manner.

Note that the submitted rule has been adopted by CARB, and the EPA’s final limited disapproval would not prevent the State from enforcing it. The limited disapproval also would not prevent any portion of the rule from being incorporated by reference into the federally enforceable SIP as discussed in a July 9, 1992 EPA memo found at: <https://www.epa.gov/sites/production/files/2015-07/documents/procsip.pdf>.

## III. Incorporation by Reference

In this rulemaking, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR

<sup>2</sup> 40 CFR 81.305. See also Staff Report at pp. 1–2.

51.5, the EPA is proposing to incorporate by reference the CARB rule listed in Table 1 and discussed in Section I of this preamble. The EPA has made, and will continue to make, these materials available through <https://www.regulations.gov> and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

#### IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

##### A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

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

##### B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA because this action does not impose additional requirements beyond those imposed by state law.

##### C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities beyond those imposed by state law.

##### D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, will result from this action.

##### E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

##### F. Executive Order 13175: Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175, because the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive order. This action is not subject to Executive Order 13045 because it does not impose additional requirements beyond those imposed by state law.

##### H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

##### I. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

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

The EPA lacks the discretionary authority to address environmental justice in this rulemaking.

#### List of Subjects in 40 CFR Part 52

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

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

Dated: May 4, 2022.

**Martha Guzman Aceves,**

*Regional Administrator, Region IX.*

[FR Doc. 2022–10063 Filed 5–11–22; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R09–OAR–2022–0306; FRL–9713–01–R9]

#### Air Quality State Implementation Plans; Approvals and Promulgations: California; San Diego County Air Pollution Control District; Permits

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve four permitting rules submitted as a revision to the San Diego County Air Pollution Control District (SDAPCD or “District”) portion of the California State Implementation Plan (SIP). These revisions concern the District’s New Source Review (NSR) permitting program for new and modified sources of air pollution under section 110(a)(2)(C) and part D of title I of the Clean Air Act (CAA or “Act”). This action will update the District’s applicable SIP with rules revised to address a deficiency identified in a previous limited disapproval action. We are taking comments on this proposal and plan to follow with a final action. Elsewhere in this issue of the **Federal Register**, we are making an interim final determination that will defer the imposition of CAA sanctions associated with our previous limited disapproval action. This action also proposes to revise regulatory text to clarify that San Diego County is not subject to the Federal Implementation Plan related to protection of visibility.

**DATES:** Comments must be received on or before June 13, 2022.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R09–OAR–2022–0306 at <https://www.regulations.gov>. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Multimedia

submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please

contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. **FOR FURTHER INFORMATION CONTACT:** Laura Yannayon, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972-3534 or by email at [yannayon.laura@epa.gov](mailto:yannayon.laura@epa.gov). **SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us,” and “our” refer to the EPA.

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**I. The State’s Submittal**

*A. What rules did the State submit?*

Table 1 lists the rules addressed by this proposal with the dates when they were amended by the District and submitted by the California Air Resources Board (CARB). These rules constitute part of the District’s current program for preconstruction review and permitting of new or modified stationary sources under its jurisdiction. The rule revisions that are the subject of this action represent an update to the SDAPCD’s preconstruction review and permitting program and are intended to satisfy the requirements under part D of title I of the Act (“Nonattainment NSR” or “NNSR”) as well as the general preconstruction review requirements under section 110(a)(2)(C) of the Act (“Minor NSR”).

**TABLE 1—SUBMITTED RULES**

Rule No.	Rule title	Amended date	Submitted date
11 .....	Exemptions From Rule 10 Permit Requirements .....	7/8/2020	9/21/2020
20.1 .....	New Source Review—General Provisions .....	10/14/2021	2/2/2022
20.3 * .....	New Source Review—Major Stationary Sources and PSD Stationary Sources .....	10/14/2021	2/2/2022
20.4 * .....	New Source Review—Portable Emission Units .....	10/14/2021	2/2/2022

\* The following subsections of the Rules 20.3 and 20.4 were not submitted to the EPA for inclusion in the San Diego SIP: Rule 20.3 Subsections (d)(1)(vi), (d)(2)(i)(B), (d)(2)(v), (d)(2)(vi)(B) and (d)(3); and Rule 20.4 Subsections (b)(2), (b)(3), (d)(1)(iii), (d)(2)(i)(B), (d)(2)(iv), (d)(2)(v)(B), (d)(3) and (d)(5).

On March 21, 2021, the submittal of Rule 11 became complete by operation of law. On March 28, 2022, the EPA determined that the February 2, 2022 submittal of revised Rules 20.1, 20.3,

and 20.4 met the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

*B. Are there other versions of these rules?*

The SIP-approved versions of the submitted rules are identified below in Table 2.

**TABLE 2—SIP APPROVED RULES**

Rule No.	Rule title	SIP approval date	Federal Register citation
11 .....	Exemptions .....	10/4/18	83 FR 50007
20.1 .....	New Source Review—General Provisions .....	9/16/20	85 FR 57727
20.3 .....	New Source Review—Major Stationary Sources and PSD Stationary Sources .....	9/16/20	85 FR 57727
20.4 .....	New Source Review—Portable Emission Units .....	9/16/20	85 FR 57727

If the EPA finalizes the action proposed herein, these rules will be replaced in the SIP by the submitted set of rules listed in Table 1. Additionally, as described below, the EPA’s final approval of Rule 20.1 will address our previous limited disapproval.

*C. What is the purpose of the submitted rule revisions?*

As described in further detail below, the submitted rules are intended to resolve the NSR program deficiency we identified in our September 16, 2020

final action (“2020 NSR Action”),<sup>1</sup> which included a limited disapproval of a prior version of Rule 20.1. In addition, the submitted rules are intended to demonstrate that the District’s NNSR program meets the requirements applicable to San Diego County following the EPA’s June 2, 2021 reclassification of San Diego County as a Severe nonattainment area for the 2008 and 2015 ozone national ambient air quality standards (NAAQS).<sup>2</sup> Other minor revisions in the rules revise some

permit exemptions, provide minor edits, and address recent changes to regulatory requirements related to interpollutant trading (IPT) of offsets.

**II. The EPA’s Evaluation and Action**

*A. How is the EPA evaluating the rules?*

The EPA has evaluated the submitted rules to determine whether they address the deficiency identified in our 2020 NSR Action. We have also evaluated the rules for compliance with applicable regulations at 40 CFR 51.160 through 51.165, consistent with the District’s current classification as a Severe

<sup>1</sup> 85 FR 57727.  
<sup>2</sup> 86 FR 29522.



nonattainment area for both the 2008 and 2015 ozone standards, and including the recent removal of provisions related to IPT of offsets made in response to the D.C. Circuit Court of Appeals decision in *Sierra Club v. EPA*, 21 F.4th 815 (2021).<sup>3</sup> We have also reviewed the rules for consistency with other CAA general requirements for SIP submittals, including requirements at section 110(a)(2)(A) regarding rule enforceability, and requirements at sections 110(l) and 193 for SIP revisions.

The implementing regulations at 40 CFR 51.165 contain the NNSR program requirements for major stationary sources and major modifications at facilities that are located in a nonattainment area and that are major sources for the pollutants for which the area has been designated nonattainment. Section 110(a)(2)(A) of the Act requires that regulations submitted to the EPA for SIP approval must be clear and legally enforceable. Section 110(l) of the Act prohibits the EPA from approving SIP revisions that would interfere with any applicable requirement concerning attainment and reasonable further progress (RFP) or any other applicable requirement of the CAA. Section 193 of the Act prohibits the modification of a SIP-approved control requirement in effect before November 15, 1990, in a nonattainment area, unless the modification ensures equivalent or greater emission reductions of the relevant pollutant(s). With respect to procedures, CAA sections 110(a) and 110(l) require that a state conduct reasonable notice and hearing before adopting a SIP revision.

#### *B. Do the rules meet the evaluation criteria?*

The EPA finds that the submitted rules satisfy the applicable CAA and regulatory requirements. Below, we discuss generally our evaluation of the submitted rules. The technical support document (TSD) for this proposed rulemaking contains a more detailed analysis and is included in the docket for this action.

We find that the revision to Rule 20.1 Section (a) to remove the sentence that was the basis for the deficiency identified in our 2020 NSR Action corrects this deficiency. We find that the submitted rules satisfy the applicable NNSR requirements for both the 2008 and 2015 ozone NAAQS, in that the rules contain the proper major source and major modification thresholds and

offset ratio for a Severe ozone nonattainment area. We find that the revisions to Rule 11, “Exemptions,” are approvable as the emissions from new and revised permit exemptions are inconsequential to attainment or maintenance of the NAAQS, considering local air quality concerns, and as the changes to the rule are otherwise acceptable. We find that the removal of IPT provisions from Rules 20.3 and 20.4 is consistent with the EPA’s recent changes to 40 CFR 51.165(a)(11) addressing the *Sierra Club* decision and are therefore approvable. Finally, we find that the other minor non-substantive edits to the rules are approvable.

The submitted rules comply with the substantive and procedural requirements of CAA section 110(l). With respect to the procedural requirements, based on our review of the public process documentation included with the submitted rules, we find that the SDAPCD has provided sufficient evidence of public notice and opportunity for comment and public hearings prior to submittal of this SIP revision and has satisfied these procedural requirements under CAA section 110(l).

With respect to the substantive requirements of CAA section 110(l), we have determined that our approval of the submitted rules would not interfere with the area’s ability to attain or maintain the NAAQS or with any other applicable requirements of the CAA. Similarly, we find that the submitted rules are approvable under section 193 of the Act because they do not modify any control requirement in effect before November 15, 1990, without ensuring equivalent or greater emission reductions. The submitted rules are otherwise consistent with criteria for the EPA’s approval of regulations submitted for inclusion in the SIP, including the requirement at CAA section 110(c)(2)(A) that submitted regulations be clear and legally enforceable.

For the reasons stated above and explained further in our TSD, we find that the submitted NSR rules satisfy the applicable CAA and regulatory requirements for NNSR permit programs under CAA section 110(a)(2)(A) and part D of title I of the Act and other applicable requirements. This submittal also corrects the deficiency described in our 2020 NSR Action. If we finalize this action as proposed, our action will resolve the limited disapproval of Rule 20.1 and will be codified through revisions to 40 CFR 52.220 (Identification of plan—in part). Elsewhere in this issue of the **Federal Register**, we are making an interim final

determination that will defer the imposition of sanctions triggered by that limited disapproval.

#### *C. Proposed Action and Public Comment*

As authorized in section 110(k)(3) of the Act, the EPA is proposing approval of Rules 11, 20.1, 20.3, and 20.4. We are proposing this action based on our determination that the submitted rules satisfy the applicable statutory and regulatory provisions governing regulation of stationary sources under part D of title I of the Act and accompanying regulations at 40 CFR 51.160 through 51.165. In support of our proposed action, we have concluded that our approval would comply with sections 110(l) and 193 of the Act because the amended rules will not interfere with continued attainment of the NAAQS in San Diego County and do not relax control technology and offset requirements.

This action would also revise the regulatory provisions at 40 CFR 52.281(d) concerning the applicability of the visibility Federal implementation plan (FIP) at 40 CFR 52.28 as it pertains to California, to provide that this FIP does not apply to sources subject to review under the District’s SIP-approved NNSR program. As described in more detail in the TSD for this action, the EPA has previously found Subsection (e)(3) of District Rule 20.3 acceptable to meet the visibility provisions for sources subject to the NNSR program at 40 CFR 51.307.<sup>4</sup>

We will accept comments from the public on this proposal until June 13, 2022. If finalized, this action would incorporate the submitted rules into the SIP and our action would be codified through revisions to 40 CFR 52.220, “Identification of plan—in part.”

### **III. Incorporation by Reference**

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the SDAPCD rules described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through <https://www.regulations.gov> and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

<sup>3</sup> See 86 FR 37918 (July 19, 2021). This decision and the regulatory changes made in response are discussed in the TSD for this action.

<sup>4</sup> See TSD for 2018 NSR Action at 28.

#### IV. Statutory and Executive Order Reviews

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, 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 rules do not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

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

Dated: April 29, 2022.

**Martha Guzman Aceves,**

*Regional Administrator, Region IX.*

[FR Doc. 2022-09741 Filed 5-11-22; 8:45 am]

**BILLING CODE 6560-50-P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 52, 75, 78, and 97

[EPA-HQ-OAR-2021-0668; FRL-8670-03-OAR]

#### Federal Implementation Plan Addressing Regional Ozone Transport for the 2015 Ozone National Ambient Air Quality Standard

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

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** On April 6, 2022, the Environmental Protection Agency (EPA) proposed a rule titled, "Federal Implementation Plan Addressing Regional Ozone Transport for the 2015 Ozone National Ambient Air Quality Standard." The EPA is extending the comment period on proposed rule that was scheduled to close on June 6, 2022. The EPA has received several requests for additional time to review and comment on the proposed rule revisions.

**DATES:** The public comment period for the proposed rule published in the **Federal Register** on April 6, 2022 (87 FR 20036), is being extended. Written comments must be received on or before June 21, 2022.

**ADDRESSES:** The EPA has established docket number EPA-HQ-OAR-2021-0668 for this action. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** For additional information on this action, contact Ms. Elizabeth Selbst, Air Quality Policy Division, Office of Air Quality Planning and Standards (C539-01), Environmental Protection Agency, 109 TW Alexander Drive, Research Triangle Park, NC 27711; telephone number: (919) 541-3918; email address: [Selbst.elizabeth@epa.gov](mailto:Selbst.elizabeth@epa.gov).

**SUPPLEMENTARY INFORMATION:** After considering the requests to extend the public comment period received from various parties, the EPA has decided to extend the public comment period until June 21, 2022. This extension will ensure that the public has additional time to review the proposed rule.

**Scott Mathias,**

*Director, Air Quality Policy Division, Office of Air Quality Planning and Standards.*

[FR Doc. 2022-10124 Filed 5-11-22; 8:45 am]

**BILLING CODE 6560-50-P**

# Notices

Federal Register

Vol. 87, No. 92

Thursday, May 12, 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.

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meetings of the Missouri 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 Missouri Advisory Committee (Committee) will hold a meeting on Tuesday, May 24, 2022 at 12:00 p.m. Central time. The Committee will continue orientation and begin identifying potential civil rights topics for their first study of the 2022–2026 term.

**DATES:** The meeting will take place on Tuesday, May 24, 2022 at 12:00 p.m. Central Time.

**ADDRESSES:**

**Public Call Information:** Dial: 800–360–9505, Confirmation Code: 2760 487 4761#

**Web Access:** Join from the meeting link <https://civilrights.webex.com/civilrights/j.php?MTID=m15979a67d565560093063fb41ca14cbe>.

**FOR FURTHER INFORMATION CONTACT:** David Barreras, DFO, at [dbarreras@usccr.gov](mailto:dbarreras@usccr.gov) or (312) 353–8311.

**SUPPLEMENTARY INFORMATION:** Members of the public may listen to this discussion through the above call in number. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. 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. An individual who is deaf, deafblind and hard of hear hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and confirmation code.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Regional Programs Unit, U.S. Commission on Civil Rights, 230 S Dearborn, Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324, or emailed to Corrine Sanders at [csanders@usccr.gov](mailto:csanders@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](http://www.facadatabase.gov) under the Commission on Civil Rights, Mississippi 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. Introductions
- III. Discuss Civil Rights Topics
- IV. Public comment
- V. Next steps
- VI. Adjournment

Dated: May 6, 2022

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2022–10155 Filed 5–11–22; 8:45 am]

**BILLING CODE 6335–01–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–533–867, C–533–868]

### Welded Stainless Pressure Pipe From India: Continuation of Antidumping and Countervailing Duty Orders

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC) have determined that revocation of the antidumping duty (AD) and countervailing duty (CVD) orders on welded stainless pressure pipe from India would likely lead to continuation or recurrence of dumping, net countervailable subsidies, and material injury to an industry in the United States. Therefore, Commerce is publishing a notice of continuation of these AD and CVD orders.

**DATES:** Applicable May 12, 2022.

**FOR FURTHER INFORMATION CONTACT:** John Conniff, 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) 482–1009.

### SUPPLEMENTARY INFORMATION:

#### Background

On November 17, 2016, Commerce published in the **Federal Register** the AD and CVD orders on welded stainless pressure pipe from India.<sup>1</sup> On October 1, 2021, Commerce published the notice of initiation of the sunset reviews of the *Orders*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).<sup>2</sup> As a result of its reviews, Commerce determined that revocation of the AD order would likely lead to continuation or recurrence of dumping and that revocation of the CVD order would likely lead to the continuation or recurrence of countervailable subsidies. Therefore, Commerce notified the ITC of the magnitude of the dumping margins and net countervailable subsidy rates likely to prevail should the *Orders* be revoked, pursuant to sections 751(c)(1)

<sup>1</sup> See *Welded Stainless Pressure Pipe from India: Antidumping and Countervailing Duty Order*, 81 FR 81062 (November 17, 2016) (*Orders*).

<sup>2</sup> See *Initiation of Five-Year (Sunset) Review*, 86 FR 54423 (October 1, 2021).

and 752(b) and (c) of the Act.<sup>3</sup> On May 5, 2022, the ITC published its determinations, pursuant to sections 751(c) and 752(a) of the Act, that revocation of the *Orders* would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>4</sup>

### Scope of the Orders

The merchandise covered by these *Orders* is circular welded austenitic stainless pressure pipe not greater than 14 inches in outside diameter. For purposes of this scope, references to size are in nominal inches and include all products within tolerances allowed by pipe specifications. This merchandise includes, but is not limited to, the American Society for Testing and Materials (ASTM) A-312 or ASTM A-778 specifications, or comparable domestic or foreign specifications. ASTM A-358 products are only included when they are produced to meet ASTM A-312 or ASTM A-778 specifications, or comparable domestic or foreign specifications.

Excluded from the scope are: (1) Welded stainless mechanical tubing meeting ASTM A-554 or comparable domestic or foreign specifications; (2) boiler, heat exchanger, superheater, refining furnace, feedwater heater, and condenser tubing, meeting ASTM A-249, ASTM A-688 or comparable domestic or foreign specifications; and (3) specialized tubing, meeting ASTM A-269, ASTM A-270 or comparable domestic or foreign specifications.

The subject imports are normally classified in subheadings 7306.40.5005, 7306.40.5040, 7306.40.5062, 7306.40.5064, and 7306.40.5085 of the Harmonized Tariff Schedule of the United States (HTSUS). They may also enter under HTSUS subheadings 7306.40.1010, 7306.40.1015, 7306.40.5042, 7306.40.5044, 7306.40.5080, and 7306.40.5090. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the scope of these *Orders* is dispositive.

### Continuation of the Orders

As a result of the determinations by Commerce and the ITC that revocation

<sup>3</sup> See *Welded Stainless Pressure Pipe from India: Final Results of Expedited Sunset Review of the Antidumping Duty Order*, 87 FR 5466 (February 1, 2022), and accompanying Issues and Decision Memorandum (IDM); see also *Welded Stainless Pressure Pipe from India: Final Results of the Expedited First Sunset Review of the Countervailing Duty Order*, 87 FR 5460 (February 1, 2022), and accompanying IDM.

<sup>4</sup> See *Welded Stainless Steel Pressure Pipe from India*, 87 FR 26782 (May 5, 2022).

of the *Orders* would likely lead to continuation or recurrence of dumping, countervailable subsidies, and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act and 19 CFR 351.218(a), Commerce hereby orders the continuation of the *Orders*. U.S. Customs and Border Protection will continue to collect AD and CVD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of continuation of these *Orders* will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, Commerce intends to initiate the next five-year reviews of the *Orders* not later than 30 days prior to the fifth anniversary of the effective date of continuation.

### Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return/destruction or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO which may be subject to sanctions.

### Notification to Interested Parties

These five-year (sunset) reviews and this notice are in accordance with sections 751(c) and 751(d)(2) of the Act and published in accordance with section 777(i) of the Act, and 19 CFR 351.218(f)(4).

Dated: May 6, 2022.

**Lisa W. Wang,**

*Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2022-10153 Filed 5-11-22; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-967; C-570-968]

### Aluminum Extrusions From the People's Republic of China: Initiation of Changed Circumstances Reviews

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The U.S. Department of Commerce (Commerce) is initiating changed circumstances reviews (CCR) of the antidumping duty (AD) and countervailing duty (CVD) orders on aluminum extrusions from the People's Republic of China (China).

**DATES:** Applicable May 12, 2022.

**FOR FURTHER INFORMATION CONTACT:** Mark Flessner or Erin Kearney, 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) 482-6312 or (202) 482-0167, respectively.

### SUPPLEMENTARY INFORMATION:

#### Background

On May 26, 2011, Commerce published the AD and CVD orders on aluminum extrusions from China.<sup>1</sup> On March 23, 2022, 3M Company (3M) requested that Commerce initiate CCRs to revoke, in part, the *Orders* with respect to certain rectangular wire, pursuant to section 751(b)(l) of the Tariff Act of 1930, as amended (the Act).<sup>2</sup> 3M requested that Commerce exercise its discretion to extend the effective date back by one additional day, setting an effective date of the revocation of the *Orders* to entries entered on or after April 30, 2021. Additionally, 3M requested that Commerce expedite the reviews by combining the notice of initiation of the CCRs and the preliminary results of the reviews pursuant to 19 CFR 351.221(c)(3)(ii). 3M stated that it is a U.S. importer of certain rectangular wire and, as such, is an interested party pursuant to Section 771(9)(A) of the Act.

On April 13, 2022, the Aluminum Extrusions Fair Trade Committee (the petitioner) submitted comments in support of partially revoking the *Orders* with regard to the certain rectangular wire defined in the CCR Request.<sup>3</sup> The petitioner submitted data demonstrating that it represents "substantially all" of the production of the domestic like product.<sup>4</sup> The petitioner also supported 3M's request that the partial revocation of the *Orders* with respect to the certain rectangular wire defined in the CCR Request include unliquidated entries of the certain rectangular wire that was entered on or after April 30, 2021.<sup>5</sup> Additionally, the petitioner supported

<sup>1</sup> See *Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order*, 76 FR 30650 (May 26, 2011); and *Aluminum Extrusions from the People's Republic of China: Countervailing Duty Order*, 76 FR 30653 (May 26, 2011) (collectively, *Orders*).

<sup>2</sup> See 3M's Letter, "Aluminum Extrusions from the People's Republic of China: Changed Circumstances Review Request," dated March 23, 2022 (CCR Request).

<sup>3</sup> See Petitioner's Letter, "Aluminum Extrusions from the People's Republic of China: Letter in Support of 3M Changed Circumstances Review Request," dated April 13, 2022.

<sup>4</sup> *Id.* at 2-3.

<sup>5</sup> *Id.* at 3.

3M's request that Commerce expedite these reviews by combining the notice of initiation of the CCRs and the preliminary results of the reviews.<sup>6</sup>

### Scope of the Orders

The merchandise covered by these *Orders* is aluminum extrusions from China. For a complete description of the scope of the *Orders*, see the appendix to this notice.

### Proposed Revocation of the Orders, in Part

3M requested that the *Orders* be revoked, in part, with respect to certain rectangular wire. 3M proposed that Commerce amend the scope language by adding the following language: "Also excluded from the scope of the orders is certain extruded rectangular wire, with or without rounded edges, imported in bulk rolls or precut strips. The product is made from aluminum alloy grade 1070 or 1370. The dimensions of the wire are 3 mm (+/- 0.05 mm) to 6 mm (+/- 0.05 mm) in width and 0.7 mm (+/- 0.05 mm) to 1.2 mm (+/- 0.05 mm) in thickness. Imports of rectangular wire are provided for under HTSUS category 7604.29.1090 or 7616.99.5190."<sup>7</sup>

### Initiation of CCR

Pursuant to section 751(b)(1) of the Act, and 19 CFR 351.216(d), Commerce will conduct a CCR of an AD or CVD order when it receives information which shows changed circumstances sufficient to warrant such a review. Section 782(h)(2) of the Act and 19 CFR 351.222(g)(1)(i) provide that Commerce may revoke an order (in whole or in part) if it determines that producers accounting for substantially all of the production of the domestic like product have no further interest in the order, in whole or in part. In the event Commerce determines that expedited action is warranted, 19 CFR 351.221(c)(3)(ii) permits Commerce to combine the notices of initiation and preliminary results.

We have determined that it is not appropriate to combine this notice of initiation with notice of preliminary results. Specifically, prior to issuing our preliminary results, we are providing interested parties an opportunity to address the language of the proposed partial revocation of the *Orders*. On January 6, 2014, Commerce revoked the *Orders*, in part, with regard to a similar product, and added the following language to the scope of the *Orders*:

"Also excluded from the scope of the order is certain rectangular wire produced from continuously cast rolled aluminum wire rod, which is subsequently extruded to dimension to form rectangular wire. The product is made from aluminum alloy grade 1070 or 1370, with no recycled metal content allowed. The dimensions of the wire are 5 mm (+/- 0.05 mm) in width and 1.0 mm (+/- 0.02 mm) in thickness. Imports of rectangular wire are provided for under HTSUS category 7605.19.000."<sup>8</sup> This partial revocation was also based on a request from 3M. While there is a certain overlap of the language of the 2014 Revocation in Part and the certain rectangular wire defined in the current CCR Request, there are also certain inconsistencies between the language of the 2014 Revocation in Part and the certain rectangular wire defined in the current CCR Request. Because of these two factors, we find that there exists a high likelihood of difficulty in enforcing the scope of the *Orders*, along with the burden of potential scope inquiries, without a synthesis of the two sets of language. Consequently, we find that expedited action is not warranted in this instance, and we issue this notice of initiation without issuing concurrent preliminary results.

Based on the petitioner's affirmative statement of no interest in the *Orders* with respect to certain rectangular wire, and because more than 24 months have passed since the publication of the *Final Determinations*,<sup>9</sup> we find that the conditions warrant initiation of these CCRs.<sup>10</sup>

### Public Comment

Interested parties are invited to provide comments and/or factual information regarding these CCRs, including comments on the synthesis of

the language of the of the 2014 Revocation in Part with the certain rectangular wire defined in the current CCR Request, and the setting of an effective date of the revocation of the *Orders* to entries entered on or after April 30, 2021. Comments and factual information may be submitted to Commerce no later than ten days after the date of publication of this notice. Rebuttal comments and rebuttal factual information may be filed with Commerce no later than seven days after the comments and/or factual information are filed.<sup>11</sup> Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information until further notice.<sup>12</sup> All submissions must be filed electronically using the Enforcement and Compliance's AD and CVD Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. An electronically-filed document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time on the due date set forth in this notice.

### Preliminary and Final Results of the Reviews

Commerce intends to publish in the **Federal Register** a notice of the preliminary results of these AD and CVD CCRs in accordance with 19 CFR 351.221(b)(4) and (c)(3)(i), which will set forth Commerce's preliminary factual and legal conclusions. Commerce will issue its final results of these CCRs in accordance with the time limits set forth in 19 CFR 351.216(e).

### Notification to Interested Parties

This notice is published in accordance with section 751(b)(1) of the Act, and 19 CFR 351.221(b)(1).

Dated: May 6, 2022.

**Lisa W. Wang,**

*Assistant Secretary for Enforcement and Compliance.*

### Appendix

#### Scope of the Orders

The merchandise covered by the *Orders* is aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by the Aluminum Association commencing with the numbers

<sup>11</sup> Submissions of rebuttal factual information must comply with 19 CFR 351.301(b)(2). See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

<sup>12</sup> See *Temporary Rule*.

<sup>6</sup> *Id.*

<sup>7</sup> See CCR Request at 6.

<sup>8</sup> See *Aluminum Extrusions from the People's Republic of China: Final Results of Changed Circumstances Reviews; Partial Revocation of Antidumping and Countervailing Duty Orders*, 79 FR 634 (January 6, 2014) (2014 Revocation in Part).

<sup>9</sup> See 19 CFR 351.216(c); see also *Certain Hardwood Plywood Products from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, and Final Affirmative Determination of Critical Circumstances, in Part*, 82 FR 53460 (November 16, 2017); and *Countervailing Duty Investigation of Certain Hardwood Plywood Products from the People's Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 82 FR 53473 (November 16, 2017) (collectively, *Final Determinations*).

<sup>10</sup> See, e.g., *Certain Cold-Rolled Steel Flat Products from Japan: Initiation and Preliminary Results of Changed Circumstances Review, and Intent to Revoke Order in Part*, 82 FR 821 (January 4, 2017) (finding that the "[p]etitioners' affirmative statement of no interest in the order . . . constitutes good cause for the conduct of this review").

1, 3, and 6 (or proprietary equivalents or other certifying body equivalents). Specifically, the subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 1 contains not less than 99 percent aluminum by weight. The subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 3 contains manganese as the major alloying element, with manganese accounting for not more than 3.0 percent of total materials by weight. The subject merchandise is made from an aluminum alloy with an Aluminum Association series designation commencing with the number 6 contains magnesium and silicon as the major alloying elements, with magnesium accounting for at least 0.1 percent but not more than 2.0 percent of total materials by weight, and silicon accounting for at least 0.1 percent but not more than 3.0 percent of total materials by weight. The subject aluminum extrusions are properly identified by a four-digit alloy series without either a decimal point or leading letter. Illustrative examples from among the approximately 160 registered alloys that may characterize the subject merchandise are as follows: 1350, 3003, and 6060.

Aluminum extrusions are produced and imported in a wide variety of shapes and forms, including, but not limited to, hollow profiles, other solid profiles, pipes, tubes, bars, and rods. Aluminum extrusions that are drawn subsequent to extrusion (drawn aluminum) are also included in the scope.

Aluminum extrusions are produced and imported with a variety of finishes (both coatings and surface treatments), and types of fabrication. The types of coatings and treatments applied to subject aluminum extrusions include, but are not limited to, extrusions that are mill finished (*i.e.*, without any coating or further finishing), brushed, buffed, polished, anodized (including brightdip anodized), liquid painted, or powder coated. Aluminum extrusions may also be fabricated, *i.e.*, prepared for assembly. Such operations would include, but are not limited to, extrusions that are cut-to-length, machined, drilled, punched, notched, bent, stretched, knurled, swedged, mitered, chamfered, threaded, and spun. The subject merchandise includes aluminum extrusions that are finished (coated, painted, *etc.*), fabricated, or any combination thereof.

Subject aluminum extrusions may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, window frames, door frames, solar panels, curtain walls, or furniture. Such parts that otherwise meet the definition of aluminum extrusions are included in the scope. The scope includes the aluminum extrusion components that are attached (*e.g.*, by welding or fasteners) to form subassemblies, *i.e.*, partially assembled merchandise unless imported as part of the finished goods 'kit' defined further below. The scope does not include the non-aluminum extrusion components of subassemblies or subject kits.

Subject extrusions may be identified with reference to their end use, such as fence posts, electrical conduits, door thresholds,

carpet trim, or heat sinks (that do not meet the finished heat sink exclusionary language below). Such goods are subject merchandise if they otherwise meet the scope definition, regardless of whether they are ready for use at the time of importation. The following aluminum extrusion products are excluded: aluminum extrusions made from aluminum alloy with an Aluminum Association series designations commencing with the number 2 and containing in excess of 1.5 percent copper by weight; aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 5 and containing in excess of 1.0 percent magnesium by weight; and aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 7 and containing in excess of 2.0 percent zinc by weight.

The scope also excludes finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry, such as finished windows with glass, doors with glass or vinyl, picture frames with glass pane and backing material, and solar panels. The scope also excludes finished goods containing aluminum extrusions that are entered unassembled in a "finished goods kit." A finished goods kit is understood to mean a packaged combination of parts that contains, at the time of importation, all of the necessary parts to fully assemble a final finished good and requires no further finishing or fabrication, such as cutting or punching, and is assembled "as is" into a finished product. An imported product will not be considered a "finished goods kit" and therefore excluded from the scope of the *Orders* merely by including fasteners such as screws, bolts, *etc.* in the packaging with an aluminum extrusion product.

The scope also excludes aluminum alloy sheet or plates produced by other than the extrusion process, such as aluminum products produced by a method of casting. Cast aluminum products are properly identified by four digits with a decimal point between the third and fourth digit. A letter may also precede the four digits. The following Aluminum Association designations are representative of aluminum alloys for casting: 208.0, 295.0, 308.0, 355.0, C355.0, 356.0, A356.0, A357.0, 360.0, 366.0, 380.0, A380.0, 413.0, 443.0, 514.0, 518.1, and 712.0. The scope also excludes pure, unwrought aluminum in any form.

The scope also excludes collapsible tubular containers composed of metallic elements corresponding to alloy code 1080A as designated by the Aluminum Association where the tubular container (excluding the nozzle) meets each of the following dimensional characteristics: (1) Length of 37 millimeters ("mm") or 62 mm, (2) outer diameter of 11.0 mm or 12.7 mm, and (3) wall thickness not exceeding 0.13 mm.

Also excluded from the scope of these *Orders* are finished heat sinks. Finished heat sinks are fabricated heat sinks made from aluminum extrusions the design and production of which are organized around meeting certain specified thermal

performance requirements and which have been fully, albeit not necessarily individually, tested to comply with such requirements.

Also excluded from the scope of the *Orders* is certain rectangular wire produced from continuously cast rolled aluminum wire rod, which is subsequently extruded to dimension to form rectangular wire. The product is made from aluminum alloy grade 1070 or 1370, with no recycled metal content allowed. The dimensions of the wire are 5 mm (+/- 0.05 mm) in width and 1.0 mm (+/- 0.02 mm) in thickness. Imports of rectangular wire are provided for under HTSUS category 7605.19.000.

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (HTSUS): 6603.90.81.00, 7604.21.00.00, 7604.21.00.10, 7604.21.00.90, 7604.29.10.00, 7604.29.10.10, 7604.29.10.90, 7604.29.30.10, 7604.29.30.50, 7604.29.30.60, 7604.29.30.90, 7604.29.50.30, 7604.29.50.60, 7604.29.50.50, 7604.29.50.90, 7606.12.30.91, 7606.12.30.96, 7608.20.00.30, 7608.20.00.90, 7609.00.00, 7610.10.00, 7610.90.00, 7615.10.20.15, 7615.10.20.25, 7615.10.30, 7615.10.30.15, 7615.10.30.25, 7615.10.50.20, 7615.10.50.40, 7615.10.71, 7615.10.71.25, 7615.10.71.30, 7615.10.71.55, 7615.10.71.80, 7615.10.91, 7615.10.91.00, 7615.19.10, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7615.20.00, 7615.20.00.00, 7616.10.90.90, 7616.99.10, 7616.99.50, 7616.99.51, 8302.10.30.00, 8302.10.60.30, 8302.10.60.60, 8302.10.60.90, 8302.20.00.00, 8302.30.30.10, 8302.30.30.60, 8302.41.30.00, 8302.41.60.15, 8302.41.60.45, 8302.41.60.50, 8302.41.60.80, 8302.42.30.10, 8302.42.30.15, 8302.42.30.65, 8302.49.60.35, 8302.49.60.45, 8302.49.60.55, 8302.49.60.85, 8302.50.00.00, 8302.60.90.00, 8305.10.00.50, 8306.30.00.00, 8414.59.60.90, 8415.90.80.45, 8418.99.80.05, 8418.99.80.50, 8418.99.80.60, 8419.90.10.00, 8422.90.06.40, 8424.90.00.60, 8473.30.20.00, 8473.30.51.00, 8479.89.94, 8479.89.98, 8479.90.85.00, 8479.90.94, 8481.90.90.60, 8481.90.90.85, 8486.90.00.00, 8487.90.00.80, 8503.00.95.20, 8508.70.00.00, 8513.90.20, 8515.90.20.00, 8516.90.50.00, 8516.90.80.50, 8517.70.00.00, 8529.90.73.00, 8529.90.97.60, 8536.90.80.85, 8538.10.00.00, 8541.90.00.00, 8543.90.88.80, 8543.90.88.85, 8708.10.30.50, 8708.29.50.60, 8708.29.51.60, 8708.80.65.90, 8708.99.68.90, 8803.30.00.60, 9013.90.50.00, 9013.90.90.00, 9031.90.90.95, 9031.90.91.95, 9401.90.50.81, 9401.99.90.81, 9403.10.00, 9403.20.00, 9403.90.10.40, 9403.90.10.50, 9403.90.10.85, 9403.90.25.40, 9403.90.25.80, 9403.90.40.05, 9403.90.40.10, 9403.90.40.60, 9403.90.50.05, 9403.90.50.10, 9403.90.50.80, 9403.90.60.05, 9403.90.60.10, 9403.90.60.80, 9403.90.70.05, 9403.90.70.10, 9403.90.70.80, 9403.90.80.10, 9403.90.80.15, 9403.90.80.20, 9403.90.80.41, 9403.90.80.51, 9403.90.80.61, 9403.99.10.40, 9403.99.90.10, 9403.99.90.15, 9403.99.90.20, 9403.99.90.41, 9405.99.40.20, 9506.11.40.80, 9506.51.40.00, 9506.51.60.00, 9506.59.40.40, 9506.70.20.90, 9506.91.00.10, 9506.91.00.20, 9506.91.00.30, 9506.99.05.10, 9506.99.05.20, 9506.99.05.30, 9506.99.15.00, 9506.99.20.00, 9506.99.25.80, 9506.99.28.00, 9506.99.55.00, 9506.99.60.80, 9507.30.20.00, 9507.30.40.00, 9507.30.60.00, 9507.30.80.00, 9507.90.60.00, and 9603.90.80.50.

The subject merchandise entered as parts of other aluminum products may be classifiable under the following additional Chapter 76 subheadings: 7610.10, 7610.90, 7615.19, 7615.20, and 7616.99, as well as under other HTSUS chapters. In addition, fin evaporator coils may be classifiable under HTSUS numbers: 8418.99.80.50 and 8418.99.80.60. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these *Orders* is dispositive.

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BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-552-801]

#### Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Determination of No Shipments, and Partial Rescission of Antidumping Duty Administrative Review; 2020-2021

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) preliminarily determines that 15 companies had no shipments of certain frozen fish fillets from the Socialist Republic of Vietnam (Vietnam) during the period of review (POR), August 1, 2020, through July 31, 2021. Commerce also preliminarily determines that one company subject to this review is part of the Vietnam-wide entity because it did not demonstrate eligibility for a separate rate. Finally, Commerce is rescinding this review with respect to 66 companies and the Vietnam entity. We invite interested parties to comment on these preliminary results.

**DATES:** Applicable May 12, 2022.

**FOR FURTHER INFORMATION CONTACT:** Javier Barrientos, 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) 482-2243.

#### SUPPLEMENTARY INFORMATION:

##### Background

On October 7, 2021, Commerce initiated this administrative review with respect to 82 companies and the Vietnam-wide entity.<sup>1</sup>

<sup>1</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 86 FR 55811 (October 7, 2021) (*Initiation Notice*). We note that the notice lists 83 companies; however, “Hung

On October 19, 2021, we provided U.S. Customs and Border Protection (CBP) entry data under administrative protective order (APO) to all interested parties having APO access.<sup>2</sup> On October 26, 2021, we received comments from the petitioners<sup>3</sup> on the CBP data.<sup>4</sup>

In October and November 2021, 15 companies filed no-shipment certifications.<sup>5</sup> In January 2022, all parties withdrew their requests for review for 66 companies and the Vietnam-wide entity.

For a complete description of the events that followed the initiation of this administrative review, see the Preliminary Decision Memorandum.<sup>6</sup> A list of topics included in the Preliminary Decision Memorandum is provided in Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be found at <https://access.trade.gov/public/FRNoticesListLayout.aspx>. The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

##### Scope of the Order

The product covered by the order is certain frozen fish fillets from Vietnam. A full description of the scope of the order is contained in the Preliminary Decision Memorandum.<sup>7</sup>

Vuong Joint Stock Company” is an AKA name for Hung Vuong Corporation, and was inadvertently listed separately in the *Initiation Notice*.

<sup>2</sup> See Memorandum, “U.S. Customs and Border Protection Data Query,” dated October 19, 2021 (CBP Data Query).

<sup>3</sup> The petitioners are: The Catfish Farmers of America and individual U.S. catfish processors America’s Catch, Alabama Catfish, LLC d/b/a Harvest Select Catfish, Inc., Consolidated Catfish Companies, LLC d/b/a Country Select Catfish, Delta Pride Catfish, Inc., Guidry’s Catfish, Inc., Heartland Catfish Company, Magnolia Processing, Inc. d/b/a Pride of the Pond, and Simmons Farm Raised Catfish, Inc. (collectively, the petitioners).

<sup>4</sup> See Petitioners’ Letter, “Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Comments on Respondent Selection and CBP Data,” dated October 26, 2021.

<sup>5</sup> For a list of these companies, see Appendix III.

<sup>6</sup> See Memorandum, “Decision Memorandum for the Preliminary Results of the 2020-2021 Antidumping Duty Administrative Review: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

<sup>7</sup> *Id.*

##### Partial Rescission of Administrative Review

This administrative review covers 82 companies and the Vietnam-wide entity.<sup>8</sup> Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party that requested a review withdraws the request within 90 days of the date of publication of the notice of initiation. As noted above, all interested parties timely withdrew their requests for review of 66 of the companies requested and the Vietnam-wide entity. Accordingly, Commerce is rescinding this review with respect to these 66 companies and the Vietnam-wide entity, in accordance with 19 CFR 351.213(d)(1).<sup>9</sup> The review will continue with respect to the other firms for which a review was requested and initiated. For additional information, see the Preliminary Decision Memorandum.

##### Preliminary Determination of No Shipments

Based upon the no-shipment certifications received by Commerce, and our review of the CBP data, we preliminarily find that 15 companies had no shipments during the POR. Commerce requested that CBP confirm whether any shipments of subject merchandise entered the United States during the POR with respect to the 15 companies that submitted no-shipment claims, and CBP responded that it has no record of any subject entries for these 15 exporters.<sup>10</sup> Based on the record evidence submitted, we preliminarily determine that these 15 companies had no shipments during the POR. For additional information regarding this determination, see the Preliminary Decision Memorandum. Consistent with our practice in non-market economy (NME) administrative reviews,<sup>11</sup> Commerce is not rescinding this review for these 15 companies.<sup>12</sup> Commerce intends to complete this review and issue appropriate instructions to CBP based on the final results of this review.

<sup>8</sup> See *Initiation Notice*.

<sup>9</sup> See Appendix II for a list of companies for which we are rescinding this review.

<sup>10</sup> See Memorandum, “No Shipment Inquiries for various companies during the period 08/01/2020 through 07/31/2021,” dated March 23, 2022.

<sup>11</sup> See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694-95 (October 24, 2011); see also “Assessment Rate” section below.

<sup>12</sup> See Appendix III.

### Separate Rates

Hoa Phat Seafood Import-Export and Processing J.S.C. (Hoa Phat)<sup>13</sup> did not file a separate rate application, separate rate certification, or a no-shipments certification. Accordingly, Commerce preliminarily determines that Hoa Phat has not established eligibility for a separate rate and is, therefore, part of the Vietnam-wide entity. For additional information, see the Preliminary Decision Memorandum.

### Vietnam-Wide Entity

Commerce's policy regarding conditional review of the Vietnam-wide entity applies to this administrative review.<sup>14</sup> Under this policy, the Vietnam-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the Vietnam-wide entity.<sup>15</sup> Because the sole review request for the Vietnam-wide entity has been withdrawn, the Vietnam-wide entity is not under review and the Vietnam-wide entity's rate (*i.e.*, \$2.39 per kilogram) is not subject to change.<sup>16</sup> For additional information, see the Preliminary Decision Memorandum.

### Public Comment

Interested parties are invited to comment on the preliminary results and may submit case briefs and/or written comments, filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), no later than 30 days after the date of publication of this notice.<sup>17</sup> Rebuttal briefs, limited to issues raised in the case briefs, must be filed within seven days after the time limit for filing case briefs.<sup>18</sup> Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument a statement of the issue, a brief summary of the argument, and a table of authorities.<sup>19</sup> Note that

<sup>13</sup> As noted in the *Initiation Notice*, this company is also known as: HOPAFISH; Hoa Phat Seafood Import-Export and Processing Joint Stock Company; and Hoa Phat Seafood Import-Export and Processing JSC.

<sup>14</sup> See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> See 19 CFR 351.309(c)(1)(ii).

<sup>18</sup> See 19 CFR 351.309(d)(1) and (2); see also *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

<sup>19</sup> See 19 CFR 351.309(c) and (d); see also 19 CFR 351.303 (for general filing requirements).

Commerce has temporarily modified certain portions of its requirements for serving documents containing business proprietary information, until further notice.<sup>20</sup>

Interested parties who wish to request a hearing must submit a written request to Commerce within 30 days of the date of publication of this notice.<sup>21</sup> Requests should contain: (1) The party's name, address, the telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held.<sup>22</sup>

Commerce intends to issue the final results of this administrative review, which will include the results of our analysis of all issues raised in the case briefs, no later than 120 days after publication of these preliminary results in the **Federal Register**, unless extended, pursuant to section 751(a)(3)(A) of the Act.

### Assessment Rates

Upon issuance of the final results of this review, Commerce will determine, and CBP will assess, antidumping duties on all appropriate entries covered by this review.<sup>23</sup> Pursuant to Commerce's practice in NME cases, if we continue to determine in the final results that the 15 companies listed in Appendix III had no shipments of subject merchandise, any suspended entries of subject merchandise during the POR from these companies will be liquidated at the Vietnam-wide rate.<sup>24</sup> For the remaining company subject to this review, Hoa Phat, which is part of the Vietnam-wide entity, we will instruct CBP to liquidate its entries at the current rate for the Vietnam-wide entity (*i.e.*, \$2.39 per kilogram).

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).

<sup>20</sup> See *Temporary Rule*.

<sup>21</sup> See 19 CFR 351.310(c).

<sup>22</sup> See 19 CFR 310(d).

<sup>23</sup> See 19 CFR 351.212(b)(1).

<sup>24</sup> For a full discussion of this practice, see *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of review, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for the 15 companies in Appendix III will remain unchanged from the rates assigned to them in the most recently-completed segment for each company, as applicable; (2) for previously investigated or reviewed Vietnamese and non-Vietnamese exporters who are not under review in this segment of the proceeding but have separate rates, their cash deposit rate will continue to be the exporter-specific rate published for the most recently-completed segment of this proceeding; (3) for all Vietnamese exporters of subject merchandise that have not been found to be entitled to a separate rate (including Hoa Phat), the cash deposit rate will be Vietnam-wide rate of \$2.39 per kilogram; and (4) for all non-Vietnamese exporters of subject merchandise that have not received their own rate, the cash deposit rate will be the rate applicable to Vietnamese exporter(s) that supplied that non-Vietnamese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

### Notification to Importers

This notice also serves as a 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 to Interested Parties

These preliminary results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: May 3, 2022.

**Lisa W. Wang,**

*Assistant Secretary for Enforcement and Compliance.*

### Appendix I—List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Discussion of the Methodology



## V. Recommendation

**Appendix II—Companies for Which We Are Rescinding the Review**

1. An Chau Co., Ltd.
2. An Giang Agriculture and Food Import-Export Joint Stock Company (also known as Afifex or An Giang Agriculture and Foods Import-Export Joint Stock Company)
3. An My Fish Joint Stock Company (also known as Anmyfish or Anmyfishco)
4. An Phat Import-Export Seafood Co., Ltd. (also known as An Phat Seafood Co. Ltd. or An Phat Seafood, Co., Ltd.)
5. An Phu Seafood Corp. (also known as ASEAFOD or An Phu Seafood Corp.)
6. Anchor Seafood Corp.
7. Anvifish Joint Stock Company (also known as Anvifish, Anvifish JSC, or Anvifish Co., Ltd.)
8. Asia Commerce Fisheries Joint Stock Company (also known as Acomfish JSC or Acomfish)
9. Basa Joint Stock Company (also known as BASACO)
10. Ben Tre Aquaproduct Import and Export Joint Stock Company (Bentre Aquaproduct)
11. Bentre Forestry and Aquaproduct Import Export Joint Stock Company (Bentre Forestry and Aquaproduct Import and Export Joint Stock Company)
12. Bien Dong Hau Giang Seafood Joint Stock Company (also known as Bien Dong HG or Bien Dong Hau Giang Seafood Joint Stock Co.)
13. Bien Dong Seafood Company Ltd. (also known as Bien Dong, Bien Dong Seafood, Bien Dong Seafood Co., Ltd., Biendong Seafood Co., Ltd., or Bien Dong Seafood Limited Liability Company)
14. Binh An Seafood Joint Stock Company (also known as Binh An or Binh An Seafood Joint Stock Co.)
15. Binh Dinh Import Export Company (also known as Binh Dinh Import Export Joint Stock Company, or Binh Dinh)
16. Cadovimex II Seafood Import-Export and Processing Joint Stock Company (also known as Cadovimex II, Cadovimex II Seafood Import Export and Processing Joint Stock Company, or Cadovimex II Seafood Import-Export)
17. Can Tho Animal Fishery Products Processing Export Enterprise
18. Cantho Import-Export Seafood Joint Stock Company (also known as CASEAMEX, Cantho Import Export Seafood Joint Stock Company, Cantho Import-Export Joint Stock Company, Can Tho Import Export Seafood Joint Stock Company, Can Tho Import-Export Seafood Joint Stock Company, or Can Tho Import-Export Joint Stock Company)
19. Cavina Seafood Joint Stock Company (also known as Cavina Fish)
20. Colorado Boxed Beef Company (also known as CBBC)
21. Coral Triangle Processors (dba Mowi Vietnam Co., Limited (Dong Nai))
22. Cuu Long Fish Import-Export Corporation (also known as CL Panga Fish)
23. Cuu Long Fish Joint Stock Company (also known as CL-Fish, CL-FISH CORP, or Cuu Long Fish Joint Stock Company)
24. Da Nang Seaproducts Import-Export Corporation (also known as SEADANANG, Da Nang or Da Nang Seaproducts Import/Export Corp.)
25. East Sea Seafoods LLC (also known as East Sea Seafoods Limited Liability Company, ESS LLC, ESS, ESS JVC, or East Sea Seafoods Joint Venture Co., Ltd.)
26. GF Seafood Corp.
27. Go Dang An Hiep One Member Limited Company
28. Go Dang Ben Tre One Member Limited Liability Company
29. GreenFeed Vietnam Corporation
30. Hai Thuan Nam Co Ltd.
31. Hiep Thanh Seafood Joint Stock Company (also known as Hiep Thanh or Hiep Thanh Seafood Joint Stock Co.)
32. Hoang Long Seafood Processing Company Limited (also known as HLS, Hoang Long, Hoang Long Seafood, HoangLong Seafood, or Hoang Long Seafood Processing Co., Ltd.)
33. Hung Vuong Seafood Joint Stock Company
34. Hung Vuong-Mien Tay Aquaculture Corporation (HVMT or Hung Vuong Mien Tay Aquaculture Joint Stock Company)
35. Indian Ocean One Member Company Limited (also known as Indian Ocean Co., Ltd.)
36. International Development & Investment Corporation (also known as IDI or International Development and Investment Corporation, International Development & Investment Corporation or IDI International Development & Investment Corporation)
37. Lian Heng Investment Co. Ltd. (also known as Lian Heng or Lian Heng Investment)
38. Lian Heng Trading Co. Ltd. (also known as Lian Heng or Lian Heng Trading)
39. Nam Phuong Seafood Co., Ltd. (also known as Nam Phuong, NAFISHCO, Nam Phuong Seafood, or Nam PhuongSeafood Company Ltd.)
40. New Food Import, Inc.
41. Ngoc Ha Co. Ltd. Food Processing and Trading (also known as Ngoc Ha or Ngoc Ha Co., Ltd. Foods Processing and Trading)
42. Nguyen Tran Seafood Company (also known as Nguyen Tran J-S Co)
43. Nha Trang Seafoods, Inc. (also known as Nha Trang Seafoods, Nha Trang Seafoods-F89, or Nha Trang Seaproduct Company)
44. NTACO Corporation (also known as NTACO or NTACO Corp.)
45. NTSF Seafoods Joint Stock Company (also known as NTSF or NTSF Seafoods)
46. Phu Thanh Hai Co. Ltd. (also known as PTH Seafood)
47. PREFCO Distribution, LLC
48. QMC Foods, Inc.
49. Quang Minh Seafood Company Limited (also known as Quang Minh, Quang Minh Seafood Co., Ltd., or Quang Minh Seafood Co.)
50. Quirch Foods, LLC
51. Riptide Foods
52. Saigon-Mekong Fishery Co., Ltd. (also known as SAMEFICO or Saigon Mekong Fishery Co., Ltd.)
53. Seafood Joint Stock Company No. 4 (also known as SEAPRIEXCO No. 4)
54. Seafood Joint Stock Company No. 4 Branch Dongtam Fisheries Processing Company (also known as DOTASEAFODCO or Seafood Joint Stock Company No. 4—Branch Dong Tam Fisheries Processing Company)
55. Seavina Joint Stock Company (also known as Seavina)
56. Sunrise Corporation
57. TG Fishery Holdings Corporation (also known as TG)
58. Thanh Hung Co., Ltd. (also known as Thanh Hung Frozen Seafood Processing Import Export Co., Ltd. or Thanh Hung)
59. The Great Fish Company, LLC
60. Thien Ma Seafood Co., Ltd. (also known as THIMACO, Thien Ma, Thien Ma Seafood Company, Ltd., or Thien Ma Seafoods Co., Ltd.)
61. Thuan An Production Trading and Service Co., Ltd. (also known as TAFISHCO, Thuan An Production Trading and Services Co., Ltd., or Thuan An Production Trading & Service Co., Ltd.)
62. Thuan Phuoc Seafoods and Trading Corporation
63. Viet Phu Foods & Fish Co., Ltd.
64. Viet Phu Foods and Fish Corporation (also known as Vietphu, Viet Phu, Viet Phu Food and Fish Corporation, or Viet Phu Food & Fish Corporation)
65. Vietnam Seaproducts Joint Stock Company (also known as Seaprodex or Vietnam Seafood Corporation—Joint Stock Company)
66. Vinh Long Import-Export Company (also known as Vinh Long, Imex Cuu Long, Vinh Long Import/Export Company)
67. Vietnam-Wide Entity

**Appendix III—Companies With No Shipments During the POR**

1. C.P. Vietnam Corporation
2. CAFATEX Corporation (also known as Cafatex)
3. Dai Thanh Seafoods Company Limited (also known as DATHACO, Dai Thanh Seafoods or Dai Thanh Seafoods Co., Ltd.)
4. Fatifish Company Limited (also known as FATIFISH or FATIFISHCO)
5. GODACO Seafood Joint Stock Company (also known as GODACO, GODACO Seafood, GODACO SEAFOOD, GODACO SEAFOOD, or GODACO Seafood J.S.C.)
6. Golden Quality Seafood Corporation (also known as Golden Quality, GoldenQuality, GOLDENQUALITY, or GoldenQuality Seafood Corporation)
7. Green Farms Seafood Joint Stock Company (also known as Green Farms, Green Farms Seafood JSC, GreenFarm SeaFoods Joint Stock Company, or Green Farms Seafoods Joint Stock Company)
8. Hai Huong Seafood Joint Stock Company (also known as HHFish, HH Fish, or Hai Huong Seafood)
9. Hung Vuong Group <sup>25</sup>

<sup>25</sup> Hung Vuong Group is a single entity comprised of the following individual companies: (1) An Giang

10. Nam Viet Corporation (also known as NAVICO)
11. QVD Food Company Ltd. (aka QVD, QVD Food Co., Ltd., or QVD Aquaculture)<sup>26</sup>
12. Southern Fishery Industries Company, Ltd. (also known as South Vina, South Vina Co., Ltd., Southern Fishery Industries Co., Ltd., Southern Fisheries Industries Company, Ltd., or Southern Fisheries Industries Company Limited)
13. To Chau Joint Stock Company (also known as TOCHAU, TOCHAU JSC, or TOCHAU Joint Stock Company)
14. Viet Hai Seafood Company Limited (also known as Viet Hai, Viet Hai Seafood Co., Ltd., Viet Hai Seafood Co., Vietnam Fish-One Co., Ltd., or Fish One)
15. Vinh Quang Fisheries Corporation (also known as Vinh Quang, Vinh Quang Fisheries Corp., Vinh Quang Fisheries Joint Stock Company, or Vinh Quang Fisheries Co., Ltd.)

[FR Doc. 2022–10154 Filed 5–11–22; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648–XB998]

#### Marine Mammals; File No. 26537

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

**ACTION:** Notice; receipt of application.

**SUMMARY:** Notice is hereby given that BBC Studio's Natural History Unit, Broadcasting House, 31–33 Whiteladies

Fisheries Import and Export Joint Stock Company (also known as Agifish, AnGiang Fisheries Import and Export, An Giang Fisheries Import & Export Joint Stock Company); (2) Asia Pangasius Company Limited (also known as ASIA); (3) Hung Vuong Ben Tre Seafood Processing Company Limited (also known as Ben Tre, H also known as Ben Tre, HVBT, or HVBT Seafood Processing VBT, or HVBT Seafood Processing); (4) Europe Joint Stock Company (also known as Europe JSC or EJS CO.); (5) Hung Vuong Corporation (also known as HVC, HV Corp. or Hung Vuong Joint Stock Company); (6) Hung Vuong-Sa Dec Co., Ltd. (also known as Hung Vuong-Sa Dec Co., Ltd. or Hung Vuong Sa Dec Company Limited); (7) Hung Vuong-Vinh Long Co. Ltd. (also known as Hung Vuong-Vinh Long Co., Ltd. or Hung Vuong Vinh Long Company Limited); and (8) Hung Vuong Mascato Company Limited. Hung Vuong Joint Stock Company was listed separately in the *Initiation Notice*. However, this company is an AKA name for Hung Vuong Corporation.

<sup>26</sup> QVD is a single entity that also includes QVD Dong Thap Food Co., Ltd. (also known as Dong Thap or QVD DT) and Thuan Hung Co., Ltd. (also known as THUFICO).

Rd, Bristol, BS8 2LR, United Kingdom, (Responsible Party: Matt Allen), has applied in due form for a permit to conduct commercial and educational photography on marine mammals.

**DATES:** Written, telefaxed, or email comments must be received on or before June 13, 2022.

**ADDRESSES:** These documents are available upon written request via email to [NMFS.Pr1Comments@noaa.gov](mailto:NMFS.Pr1Comments@noaa.gov).

Written comments on this application should be submitted via email to [NMFS.Pr1Comments@noaa.gov](mailto:NMFS.Pr1Comments@noaa.gov). Please include File No. 26537 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to [NMFS.Pr1Comments@noaa.gov](mailto:NMFS.Pr1Comments@noaa.gov). The request should set forth the specific reasons why a hearing on this application would be appropriate.

**FOR FURTHER INFORMATION CONTACT:** Sara Young or Shasta McClenahan, Ph.D., (301) 427–8401.

**SUPPLEMENTARY INFORMATION:** The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The applicant proposes to film California sea lions (*Zalophus californianus*) and other marine mammal species opportunistically encountered in central and southern California to produce a documentary that showcases iconic west coast animal species. Filmmakers may harass up to 4,035 California sea lions, 100 northern elephant seals (*Mirounga angustirostris*), 250 northern fur seals (*Callorhinus ursinus*), 20 Risso's dolphins (*Grampus griseus*), 4,000 short-beaked common dolphins (*Delphinus delphis*), and 100 bottlenose dolphins (*Tursiops truncatus*) for photography/videography using a ground crew, vessels, underwater divers, and an unmanned aircraft system. Filming is expected to occur over a seven-week period in July to December. The permit would be valid for one year.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to

prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: May 9, 2022.

**Amy Sloan,**

*Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2022–10209 Filed 5–11–22; 8:45 am]

BILLING CODE 3510–22–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648–XC022]

#### Marine Mammals and Endangered Species

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

**ACTION:** Notice; issuance of permits, and permit amendments.

**SUMMARY:** Notice is hereby given that permits and permit amendments have been issued to the following entities under the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA), as applicable.

**ADDRESSES:** The permits and related documents are available for review upon written request via email to [NMFS.Pr1Comments@noaa.gov](mailto:NMFS.Pr1Comments@noaa.gov).

**FOR FURTHER INFORMATION CONTACT:** Sara Young (Permit Nos. 22187–03, 22260, and 26345), Shasta McClenahan, Ph.D., (Permit Nos. 25843, 26245, and 26285), Jennifer Skidmore (Permit No. 26269), and Courtney Smith, Ph.D., (Permit No. 26288); at (301) 427–8401.

**SUPPLEMENTARY INFORMATION:** Notices were published in the **Federal Register** on the dates listed below that requests for a permit or permit amendment had been submitted by the below-named applicants. To locate the **Federal Register** notice that announced our receipt of the application and a complete description of the activities, go to [www.federalregister.gov](http://www.federalregister.gov) and search on the permit number provided in Table 1 below.

TABLE 1—ISSUED PERMITS AND PERMIT AMENDMENTS

Permit No.	RTID	Applicant	Previous Federal Register notice	Issuance date
22187-03 .....	0648-XB778	Heather E. Liwanag, Ph.D., 1 Grand Avenue, San Luis Obispo, CA 93407.	87 FR 6511; February 4, 2022.	April 1, 2022.
22260 .....	0648-XB731	Allyson Hindle, Ph.D., University of Nevada Las Vegas, 4505 S Maryland Parkway, Las Vegas, NV 89154.	87 FR 3976; January 26, 2022.	April 29, 2022.
25843 .....	0648-XB837	Peggy Stap, Marine Life Studies, 6 Carlton Drive, Del Rey Oaks, CA 93940.	87 FR 10337; February 24, 2022.	April 21, 2022.
26245 .....	0648-XB780	Zoological Society of San Diego, d/b/a San Diego Zoo Wildlife Alliance, P.O. Box 120551, San Diego, CA 92112 (Responsible Party: Paul Baribault).	87 FR 7159; February 8, 2022.	April 4, 2022.
26269 .....	0648-XB824	Changqun Zhang, Texas A&M University at Galveston, 200 Seawolf Parkway, Galveston, TX 77553.	87 FR 10337; February 24, 2022.	April 11, 2022.
26285 .....	0648-XB740	The Whale Museum, P.O. Box 924, Friday Harbor, WA 98250 (Responsible Party: Jenny Atkinson).	87 FR 4226; January 27, 2022.	April 21, 2022.
26288 .....	0648-XB864	Deborah Giles, Ph.D., Wild Orca, 6523 California Avenue SW #172 Seattle, WA 98136.	87 FR 13270; March 9, 2022	April 29, 2022.
26345 .....	0648-XB786	Sealight Pictures, 51A Seaview Street, Balgowlah, Sydney NSW 2093 Australia (Responsible Party: Adam Geiger).	87 FR 7155; February 8, 2022.	April 21, 2022.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activities proposed are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

As required by the ESA, as applicable, issuance of these permit was based on a finding that such permits: (1) Were applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) are consistent with the purposes and policies set forth in Section 2 of the ESA.

**Authority:** The requested permits have been issued under the MMPA of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the ESA of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), as applicable.

Dated: May 9, 2022.

**Amy Sloan,**

*Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2022–10210 Filed 5–11–22; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648–XC005]

#### Pacific Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The Pacific Fishery Management Council's (Pacific Council) Highly Migratory Species Advisory Subpanel (HMSAS) will hold a meeting, which is open to the public.

**DATES:** The online meeting will be held Thursday, June 2, 2022, from 1 p.m. to 4:30 p.m., Pacific Daylight Time or until business is completed.

**ADDRESSES:** This meeting will be held online. Specific meeting information, including directions on how to join the meeting and system requirements will be provided in the meeting announcement on the Pacific Council's website (see [www.pcouncil.org](http://www.pcouncil.org)). You may send an email to Mr. Kris Kleinschmidt ([kris.kleinschmidt@noaa.gov](mailto:kris.kleinschmidt@noaa.gov)) or contact him at (503) 820–2412 for technical assistance.

**Council address:** Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

**FOR FURTHER INFORMATION CONTACT:** Kit Dahl, Staff Officer, Pacific Council; telephone: (503) 820–2422.

**SUPPLEMENTARY INFORMATION:** The purpose of this meeting is for the HMSAS to familiarize its members with relevant topics to be taken up at the

June 2022 Pacific Council meeting and begin considering the contents of reports the HMSAS may wish to submit to the Council. An agenda for the HMSAS meeting will be posted on the Council's website one week prior to the meeting.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

#### Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt ([kris.kleinschmidt@noaa.gov](mailto:kris.kleinschmidt@noaa.gov); (503) 820–2412) at least 10 days prior to the meeting date.

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

Dated: May 9, 2022.

**Tracey L. Thompson,**

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

[FR Doc. 2022–10167 Filed 5–11–22; 8:45 am]

**BILLING CODE 3510–22–P**

## BUREAU OF CONSUMER FINANCIAL PROTECTION

### Fair Lending Report of the Consumer Financial Protection Bureau, May 2022

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

**ACTION:** Fair Lending Report of the Consumer Financial Protection Bureau.

**SUMMARY:** The Consumer Financial Protection Bureau (Bureau or CFPB) is issuing its tenth Fair Lending Report of the Consumer Financial Protection Bureau (Fair Lending Report) to Congress. The Bureau is committed to ensuring fair, equitable, and nondiscriminatory access to credit for both individuals and communities. This report describes our fair lending activities in supervision and enforcement; guidance and rulemaking; interagency coordination; and outreach and education for calendar year 2021.

**DATES:** The Bureau released the 2021 Fair Lending Report on its website on May 6, 2022.

**FOR FURTHER INFORMATION CONTACT:** Susan Grutza, Policy Counsel, Fair Lending, at 1-855-411-2372. If you require this document in an alternative electronic format, please contact *CFPB\_Accessibility@cfpb.gov*.

**SUPPLEMENTARY INFORMATION:**

**1. Fair Lending Report of the Bureau of Consumer Financial Protection, May 2022**

*Message From the Fair Lending Director*

Starting and owning a small business is the foundation of dreams and aspirations. There is a certain dignity in knowing the security and love of a stable, safe home in community anchored by individuals and businesses invested in the community's success. Both starting a successful small business and owning one's home are key building blocks of individual and generational wealth. Yet, individuals and communities of color generally face barriers to financing their small businesses and homes that their white counterparts do not experience. These families and communities also own their homes at much lower rates than non-Hispanic whites, and people of color who do own their homes are more likely to be at risk of foreclosure. This is due, in part, to a legacy of structural discrimination which extends to mortgage, auto, student, and other credit markets. The mission of fair lending is to break these discriminatory patterns and practices and to promote access to credit to create fairer markets for all.

This report covers the Consumer Financial Protection Bureau's (CFPB's) fair lending activities during 2021. Much of the CFPB's 2021 work centered on Acting Director Uejio's call for the CFPB to take bold and swift action to address issues of pervasive racial injustice and long-term economic impacts of the COVID-19 pandemic on

individuals and communities. In addition, Director Chopra has prioritized the CFPB's foundations of financial inclusion, racial and economic equity, and fair competition. As a result, we focused our fair lending work on issues especially pertinent to people and communities of color and those at risk of losing their housing or unable to access credit for their small businesses. This work took various forms, utilizing all of the CFPB's available tools, and touched nearly every market within our purview.

Notably, this year we brought an enforcement action against Trustmark National Bank (Trustmark) for redlining in the Memphis Metropolitan Statistical Area (MSA). Trustmark discouraged prospective applicants in Black and Hispanic neighborhoods, avoided locating branches or assigning loan officers to these communities, and failed to monitor its fair lending compliance. We continue to examine and investigate entities who are engaged in redlining, as well as mortgage pricing discrimination. Additionally, public reports of racist practices in the home appraisal industry led us to prioritize resources to ensure that the appraisals used to make lending decisions are accurate and free from bias. Redlining, pricing discrimination, and appraisal bias are significant barriers to fair competition in the mortgage market, impeding the ability of an individual borrower to get credit on fair terms, thus stifling growth in communities across the country.

Home is not only the walls and beams of a house, but also the community that supports it. From the small businesses that anchor our neighborhoods, to the family farms that dot the countryside, these businesses are the drivers of opportunity in a community. In 2021, the CFPB took the significant step of issuing a notice of proposed rulemaking (NPRM) for section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), to collect certain data on applications for credit for women-owned, minority-owned, and small businesses. The need for this data was highlighted in 2020 and in 2021, as small businesses were hit especially hard by the COVID-19 pandemic, and as Black and Hispanic entrepreneurs faced headwinds in accessing small business credit compared to their white counterparts. The data collection intended with this proposed rule will allow the CFPB, advocates, industry, and other stakeholders to better monitor small business markets and community development needs to foster an inclusive and competitive small business lending market.

Some bad actors target and exploit at-risk communities. In 2021, the CFPB sued Libre by Nexus (Libre) and JPay for engaging in unfair, deceptive, or abusive acts and practices. Libre targeted immigrants held in detention centers for a services scam that traps victims into paying expensive, long-term fees. JPay provided financial services to prisons and jails nationwide, charging unfair fees to their customers. In the United States, incarcerated individuals and individuals reentering society are overwhelmingly men of color. The CFPB will continue to fight discrimination that manifests as unfair, deceptive, or abusive acts and practices.

I am encouraged by the possibility of utilizing vehicles like special purpose credit programs to expand access to credit, but skeptical of claims that advanced algorithms are the cure-all for bias in credit underwriting and pricing. Home is a place, home is a feeling, home shapes the people our children become. I am proud of what the CFPB achieved in 2021, our tenth year of existence, and I look forward to the future of fair lending and the next ten years, as we continue our work so that entrepreneurs have the pride of owning a successful small business and *all* individuals have the opportunity to know the comfort of a place worth calling home.

Sincerely,  
Patrice Alexander Ficklin

**1. Fair Lending Supervision and Enforcement**

*1.1 Risk-Based Prioritization*

Because Congress charged the CFPB with the responsibility of overseeing many lenders and products, the CFPB has long-used a risk-based approach to prioritizing supervisory examinations and enforcement activity. This approach helps ensure that the CFPB focuses on areas that present substantial risk of credit discrimination for consumers.<sup>1</sup>

As part of the prioritization process, the CFPB identifies emerging developments and trends by monitoring key consumer financial markets. If this field and market intelligence identifies fair lending risks in a particular market, that information is used to determine the type and extent of attention required to address those risks.

The prioritization process incorporates a number of additional

<sup>1</sup> For additional information regarding the CFPB's risk-based approach in prioritizing supervisory examinations, see Section 2.2.3, Risk-Based Approach to Examinations, *Supervisory Highlights Summer 2013*, available at [https://files.consumerfinance.gov/f/201308\\_cfpb\\_supervisory-highlights\\_august.pdf](https://files.consumerfinance.gov/f/201308_cfpb_supervisory-highlights_august.pdf).

factors, including tips and leads from industry whistleblowers, advocacy groups, and government agencies; supervisory and enforcement history; consumer complaints; and results from analysis of Home Mortgage Disclosure Act (HMDA) and other data.

As a result of its annual risk-based prioritization process for 2021, in 2021, the CFPB focused much of its fair lending enforcement and supervision efforts on advancing the CFPB's priorities surrounding racial and economic equity and promoting economic recovery related to the COVID-19 pandemic.

Additionally, the CFPB focused its fair lending supervision efforts on mortgage origination and pricing, small business lending, student loan origination work, policies and procedures regarding geographic and other exclusions in underwriting, and on the use of artificial intelligence (AI) and machine learning models.

As in previous years, the CFPB's 2021 mortgage origination work continued to focus on redlining (and whether lenders intentionally discouraged prospective applicants living in, or seeking credit in minority neighborhoods from applying for credit); assessing whether there is discrimination in underwriting and pricing processes such as steering; and HMDA data integrity and validation reviews (both as standalone exams and in preparation for Equal Credit Opportunity Act (ECOA) exams that will follow).

The CFPB's small business lending work looked to assess whether there are disparities in application, underwriting, and pricing processes, redlining, and whether there are weaknesses in fair lending-related compliance management systems (CMS).

Across multiple markets, the CFPB evaluated whether lenders maintain policies and procedures that exclude certain types of income or exclude property on the basis of geography in underwriting decisions.

The CFPB's student loan origination work included a focus on lenders' policies and practices in underwriting or pricing for fair lending compliance. The CFPB also is expanding its evaluation of AI and machine learning models as used by institutions, including in evaluating applicants for credit.

### 1.2 Fair Lending Enforcement

Congress authorized the CFPB to bring actions to enforce the requirements of eighteen enumerated statutes, including ECOA, HMDA, and Unfair, Deceptive, or Abusive Acts or Practices (UDAAP). The CFPB engages

in research, conducts investigations, files administrative complaints, holds hearings, and adjudicates claims through the CFPB's administrative enforcement process. The CFPB also uses its independent litigation authority to file cases in Federal court alleging violations of fair lending laws under the CFPB's jurisdiction. Like other Federal regulators, the CFPB is required to refer matters to the Department of Justice (DOJ) when it has reason to believe that a creditor has engaged in a pattern or practice of lending discrimination.<sup>2</sup>

#### 1.2.1 Public Enforcement Actions

In 2021, the CFPB announced four fair lending-related enforcement actions. These actions were brought under ECOA as well as other Federal consumer financial laws that protect consumers and ensure fair access to credit, including the Consumer Financial Protection Act of 2010 (CFPA) and the Electronic Fund Transfer Act (EFTA). These actions included Trustmark National Bank (Trustmark); LendUp Loans, LLC (LendUp); JPay, LLC (JPay); and Nexus Services, Inc. (Libre by Nexus).

##### Trustmark

On October 22, 2021, the CFPB, together with DOJ, filed a complaint and proposed consent order in the Federal district court for the Western District of Tennessee in settlement of claims against Trustmark, which is headquartered in Jackson, Mississippi.<sup>3</sup> The joint complaint alleged that Trustmark engaged in unlawful discrimination against applicants and prospective applicants, including by redlining majority Black and Hispanic communities in the Memphis MSA and engaged in acts and practices that would discourage prospective applicants from applying for credit in violation of ECOA, Regulation B, and the CFPA. In the joint complaint, DOJ also alleged that Trustmark's conduct violated the Fair Housing Act (FHA).

The consent order, as entered by the court on October 27, 2021, requires Trustmark to invest \$3.85 million in a loan subsidy program that will offer qualified applicants for credit secured by properties in majority Black and Hispanic neighborhoods in Memphis loans on a more affordable basis than otherwise available from Trustmark; open a new loan production office in a majority Black and Hispanic neighborhood in the Memphis MSA;

<sup>2</sup> See 15 U.S.C. 1691e(h).

<sup>3</sup> Consumer Fin. Prot. Bureau, *Trustmark National Bank*, (<https://www.consumerfinance.gov/enforcement/actions/trustmark-national-bank/>).

fund targeted advertising to generate applications for credit from qualified consumers in majority Black and Hispanic neighborhoods in Memphis; and take other remedial steps to improve its fair lending compliance and serve the credit needs of majority Black and Hispanic neighborhoods in the Memphis MSA. The order also requires Trustmark to pay a civil money penalty of \$5 million, \$4 million of which would be remitted as a penalty paid to the Office of the Comptroller of the Currency (OCC) for FHA violations arising from the same conduct alleged in the complaint.

##### LendUp Loans

On September 8, 2021, the CFPB filed a lawsuit in the United States District Court for the Northern District of California against LendUp Loans, LLC. LendUp is an online lender offering single-payment and installment loans to consumers.<sup>4</sup> In addition to other violations of consumer protection laws, the CFPB alleged that LendUp failed to timely issue required adverse-action notices and failed to provide accurate denial reasons on its adverse-action notices to thousands of loan applicants, in violation of ECOA and Regulation B, and that these violations also constitute violations of the CFPA.

On December 21, 2021, the CFPB filed a proposed stipulated final judgment and order to settle the lawsuit, which the court entered on December 30, 2021. The order imposes an injunction, prohibiting LendUp from offering or providing consumer credit, or assisting others that are offering or providing consumer credit; from collecting on, selling, or assigning outstanding subject loans, or assisting others in doing so; from selling consumer information; and from making misrepresentations in the sale or collection of consumer debt, or assisting others in doing so. The order also imposes a \$100,000 civil money penalty and requires the payment of \$40.5 million in consumer redress, to be suspended upon payment of the civil money penalty based on LendUp's demonstrated inability to pay.

##### JPay

On October 19, 2021, the CFPB ordered JPay to pay \$4 million for consumer redress, prohibited JPay from engaging in the illegal conduct found by the CFPB, and required JPay to pay a \$2

<sup>4</sup> Consumer Fin. Prot. Bureau, *LendUp Loans, LLC*, (<https://www.consumerfinance.gov/enforcement/actions/lendup-loans-llc-2/>).

million civil money penalty.<sup>5</sup> JPay, headquartered in Miramar, Florida, contracts with Federal, State and local Departments of Corrections around the country to provide financial products and services to incarcerated and formerly incarcerated individuals. JPay provided prepaid cards to formerly incarcerated individuals upon their release from prison or jail (JPay debit release card). The debit release cards contained the balance of funds owed to former inmates upon their release, including their commissary money, as well as any “gate money,” which are entitlements provided pursuant to State or local law, policy, or regulation to ease transition to society after release from prison or jail. The CFPB found that JPay violated EFTA and its implementing Regulation E by requiring consumers to establish an account with the particular financial institution that issued the JPay debit release card as a condition of receiving a government benefit, namely their gate money. JPay’s violations of EFTA and Regulation E also constituted violations of CFPA. The CFPB also found that JPay engaged in unfair and abusive acts and practices by causing fees to be imposed through its JPay debit release card on consumers who were required to get a JPay debit release card to access the money owed to them at the time of their release from prison or jail. In addition, the CFPB found that JPay violated the CFPA’s prohibition against unfair acts and practices by causing some consumers to be charged fees on their JPay debit release card that were not authorized by their cardholder agreements, and the CFPA’s prohibition against deceptive acts and practices by misrepresenting fees of some JPay debit release cards.

#### Libre by Nexus

On February 22, 2021, the CFPB filed a lawsuit against Libre by Nexus (Libre).<sup>6</sup> The CFPB alleges that Libre and its owners operated a scheme through which Libre offers to pay the immigration bonds to secure the release of consumers held in Federal detention centers in exchange for large upfront fees and hefty monthly payments, while concealing or misrepresenting the true costs of its services. Specifically, the CFPB alleges that Libre and its owners engaged in deceptive and abusive acts or practices in violation of the CFPA. The CFPB filed its complaint jointly with the Attorneys General of Virginia,

Massachusetts, and New York. The CFPB seeks an injunction, damages or restitution to consumers, disgorgement of ill-gotten gains, and the imposition of civil money penalties.

#### 1.2.2 ECOA Referrals to the Department of Justice

The CFPB must refer to DOJ a matter when it has reason to believe that a creditor has engaged in a pattern or practice of lending discrimination in violation of ECOA.<sup>7</sup> The CFPB may refer other potential ECOA violations to DOJ as well.<sup>8</sup> In 2021, the CFPB referred two matters to DOJ about discrimination pursuant to section 706(g) of ECOA. The referrals involved discrimination in mortgage origination policies and mortgage origination pricing based on race and national origin.

#### 1.2.3 Implementing Enforcement Orders

When an enforcement action is resolved through a public enforcement order, the CFPB (together with other government entities, when relevant) takes steps to ensure that the respondent or defendant complies with the requirements of the order. Depending on the specific requirements of individual public enforcement orders, the CFPB may take steps to ensure that borrowers who are eligible for compensation receive remuneration and that the defendant has complied with the injunctive provisions of the order, including implementing a comprehensive fair lending CMS.

#### 1.2.4 Pending Fair Lending Investigations

In 2021, the CFPB had a number of ongoing and newly opened fair lending investigations of institutions. The CFPB investigated or is actively investigating potential discrimination in several markets, including student lending, payday lending, credit cards, small business lending, mortgage lending, including the unlawful practice of redlining, and discrimination in mortgage pricing exceptions. In 2021, the CFPB also investigated issues with HMDA reporting. The Bureau is looking into potential discriminatory conduct, including under ECOA and unfairness, as well as unlawful conduct targeted at vulnerable populations.

### 1.3 Fair Lending Supervision

The CFPB’s Supervision program assesses compliance with Federal fair lending consumer financial laws and regulations at banks and nonbanks over

which the CFPB has supervisory authority. As a result of the CFPB’s efforts to fulfill its fair lending mission during 2021, the CFPB initiated 31 fair lending examinations or targeted reviews.

For supervisory communications issued by Supervision during 2021, the most frequently identified issues related to the CFPB’s Prioritized Assessments. Through Prioritized Assessments, the CFPB continued to expand its supervisory approach to cover a greater number of institutions than its typical examination schedule allows, gain a greater understanding of industry responses to pandemic-related challenges, and help ensure that entities are attentive to practices that may result in consumer harm. Certain Prioritized Assessments evaluated fair lending risks in the small business lending market.

In 2021, the CFPB issued several fair lending-related Matters Requiring Attention, directing entities to take corrective actions that will be monitored by the CFPB through follow-up supervisory events. Regarding Prioritized Assessment observations, examiners encouraged small business lenders to consider the fair lending risks associated with participation in the Paycheck Protection Program (PPP), further implementation of the PPP, and in any new lending program, and to evaluate and address any risks.

During 2021, informed by the Director’s priority to advance equity using all the tools Congress gave the CFPB, Supervision continued to develop and dedicate resources to those priorities. As a result of this prioritization process, the CFPB focused additional fair lending supervision efforts on various product lines, especially mortgage origination and small business lending.

## 2. Rulemaking and Guidance

### 2.1 Rulemaking

As the CFPB focused on racial and economic equity and responding to the COVID–19 pandemic, the CFPB was active in rulemaking activities which are particularly critical for communities and individuals of color, women, and those who struggled to pay their mortgages or access small business loans as a result of the impacts of the COVID–19 pandemic. In 2021, the CFPB also issued an NPRM on section 1071 of the Dodd-Frank Act (section 1071) to collect small business lending data; participated in interagency rulemaking to improve quality control standards for automated valuation models (AVM); and issued a final rule to establish safeguards for mortgage borrowers

<sup>5</sup> Consumer Fin. Prot. Bureau, *JPay, LLC*, (<https://www.consumerfinance.gov/enforcement/actions/jpay-llc/>).

<sup>6</sup> Consumer Fin. Prot. Bureau, *Nexus Services Inc., et al.*, (<https://www.consumerfinance.gov/enforcement/actions/nexus-services-inc-et-al/>).

<sup>7</sup> 15 U.S.C. 1691e(g).

<sup>8</sup> *Id.*

coming out of COVID-19 related forbearances.

The CFPB publishes an agenda of its planned rulemaking activity biannually, which is available at: <https://www.consumerfinance.gov/rules-policy/regulatory-agenda>.

### 2.1.1 Small Business Lending and Data Collection Rulemaking

In the Dodd-Frank Act, Congress directed the CFPB to adopt regulations governing the collection of small business lending data. Section 1071 amended ECOA to require financial institutions to compile, maintain, and submit to the CFPB certain data on applications for credit for women-owned, minority-owned, and small businesses.

Congress enacted section 1071 for the purpose of facilitating enforcement of fair lending laws and enabling communities, governmental entities, and creditors to identify business and community development needs and opportunities for women-owned, minority-owned, and small businesses.

On September 1, 2021, the CFPB issued a proposed rule amending Regulation B to implement changes to ECOA made by section 1071.<sup>9</sup> Consistent with section 1071, the CFPB proposed to require covered financial institutions to collect and to report to the CFPB data on applications for credit for small businesses, including those that are owned by women or minorities. The proposal also addresses the CFPB's approach to privacy interests and the publication of section 1071 data; shielding certain demographic data from underwriters and other persons; recordkeeping requirements; enforcement provisions; and the proposed rule's effective and compliance dates.<sup>10</sup>

More information is available at: <https://www.consumerfinance.gov/1071-rule/>, a page compiling key materials related to the section 1071 rulemaking.

### 2.1.1 Automated Valuation Models Rulemaking

The CFPB is participating in interagency rulemaking processes with the Federal Reserve Board (FRB), OCC, Federal Deposit Insurance Corporation (FDIC), National Credit Union Administration (NCUA), and Federal Housing Finance Agency (FHFA) (collectively, the Agencies) to develop regulations to implement the

amendments made by the Dodd-Frank Act to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) concerning automated valuation models. The FIRREA amendments require implementing regulations for quality control standards for AVMs. These standards are designed to ensure a high level of confidence in the estimates produced by the valuation models, protect against the manipulation of data, seek to avoid conflicts of interest, require random sample testing and reviews, and account for any other such factor that the Agencies determine to be appropriate. In 2021, under the process established by Congress in the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), the CFPB began preparing the SBREFA process to consult with representatives of small entities likely to be affected directly by the regulations the CFPB is considering proposing. To address potential fair lending risk in models, the CFPB is considering proposing a requirement that covered institutions establish policies, practices, procedures, and control systems to ensure that their AVMs comply with applicable nondiscrimination laws. The Agencies will continue to work to develop a proposed rule to implement the Dodd-Frank Act's AVM amendments to FIRREA.<sup>11</sup>

### 2.1.3 2021 Mortgage Servicing COVID-19 Rule

On June 28, 2021, the CFPB issued a final rule amending certain provisions in Regulation X to reinforce equitable economic recovery as the Federal foreclosure moratoria were phased out, to help protect borrowers from unwelcome surprises as they exited forbearance, to prevent unnecessary foreclosures, and to support the housing market's smooth and orderly transition to post-pandemic operation.<sup>12</sup> The rule established temporary special safeguards (which expired on January 1, 2022) to help ensure that borrowers were evaluated for all options, including loan modifications and selling their

<sup>11</sup> Additional activity has occurred regarding this issue since the end of this reporting period: On February 23, 2022, the CFPB published the *Outline of Proposals and Alternatives Under Consideration for the Small Business Advisory Review Panel for Automated Valuation Model Rulemaking*. More information is available at: <https://www.consumerfinance.gov/about-us/newsroom/cfpb-outlines-options-to-prevent-algorithmic-bias-in-home-valuations/>.

<sup>12</sup> Consumer Fin. Prot. Bureau, *Protections for Borrowers Affected by the COVID-19 Emergency Under the Real Estate Settlement Procedures Act (RESPA), Regulation X* (June 28, 2021), [https://files.consumerfinance.gov/f/documents/cfpb\\_covid-mortgage-servicing\\_final-rule\\_2021-06.pdf](https://files.consumerfinance.gov/f/documents/cfpb_covid-mortgage-servicing_final-rule_2021-06.pdf).

homes. Other temporary protections in the rule, such as a provision permitting mortgage servicers to offer certain COVID-19-related streamlined loan modifications based on the evaluation of an incomplete application, remain in effect. The rule covers loans on principal residences and generally excludes small servicers. The rule took effect on August 31, 2021.

### 2.2 Guidance

The CFPB issues guidance to its various stakeholders in many forms, including interpretive rules, advisory opinions, statements, bulletins, publications such as *Supervisory Highlights*, and other resources to aid in compliance.

In 2021, the CFPB released an interpretive rule confirming that ECOA's prohibitions on sex discrimination extend to sexual orientation and gender identity; a statement on how to best serve those who are limited English proficient; and a bulletin pertaining to supervision and enforcement priorities related to housing insecurity. The CFPB also published three issues of *Supervisory Highlights* and a suite of resources pertaining to HMDA reporting and filing.

#### 2.2.1 Interpretive Rule Regarding Sexual Orientation and Gender Identity

On March 9, 2021, the CFPB issued an interpretive rule stating that the prohibition against sex discrimination under ECOA and Regulation B includes sexual orientation discrimination and gender identity discrimination.<sup>13</sup> This prohibition also covers discrimination based on actual or perceived nonconformity with traditional sex- or gender-based stereotypes, and discrimination based on an applicant's associations. This interpretive rule explains that lenders cannot discriminate based on sexual orientation or gender identity, and is consistent with the Supreme Court's 2020 decision in *Bostock v. Clayton County, Georgia*, where the Court ruled that the prohibition against sex discrimination in Title VII of the Civil Rights Act of 1964 (Title VII) encompasses sexual orientation discrimination and gender identity discrimination.

<sup>13</sup> Consumer Fin. Prot. Bureau, *Equal Credit Opportunity (Regulation B), Discrimination on the Bases of Sexual Orientation and Gender Identity* (Mar. 9, 2021), [https://files.consumerfinance.gov/f/documents/cfpb\\_ecoa-interpretive-rule\\_2021-03.pdf](https://files.consumerfinance.gov/f/documents/cfpb_ecoa-interpretive-rule_2021-03.pdf).

<sup>9</sup> The proposal was published in the **Federal Register** on Oct. 8, 2021. See 86 FR 56356.

<sup>10</sup> Additional activity has occurred regarding this issue since the end of this reporting period: The comment period for this proposed rule closed on January 6, 2022.

### 2.2.2 Statement Regarding the Provision of Financial Products and Services to Consumers With Limited English Proficiency

On January 13, 2021, the CFPB issued the *Statement Regarding the Provision of Financial Products and Services to Consumers with Limited English Proficiency* (the Statement).<sup>14</sup> In recognition of the unique challenges faced by consumers with limited English proficiency (LEP) in consumer financial markets, the Statement encourages financial institutions to better serve all consumers, regardless of LEP status. The Statement provides principles and guidelines to assist financial institutions in complying with the Dodd-Frank Act, ECOA, and other applicable laws.

### 2.2.3 Bulletin on Supervision and Enforcement Priorities Regarding Housing Insecurity

On April 1, 2021, the CFPB issued a compliance bulletin warning mortgage servicers to take all necessary steps to prevent a wave of avoidable foreclosures.<sup>15</sup> The Coronavirus Aid, Relief, and Economic Security (CARES) Act provided borrowers with federally-backed mortgages with access to forbearance, and private lenders have also provided similar assistance. Much of this aid expired in the fall. In light of these heightened risks to consumers in need of loss mitigation assistance, the CFPB focused on how mortgage servicers respond to borrower requests for loss mitigation assistance and process loss mitigation applications. The CFPB urged servicers to dedicate sufficient resources and staff to ensure they can communicate clearly with borrowers (including LEP and other vulnerable borrowers), effectively manage borrower requests for assistance, promote loss mitigation, and ultimately reduce avoidable foreclosures and foreclosure-related costs.

### 2.2.4 Supervisory Highlights

The CFPB's *Supervisory Highlights* reports provide guidance and general information about the CFPB's supervisory activities at banks and nonbanks without identifying specific entities. These reports communicate the

<sup>14</sup> Consumer Fin. Prot. Bureau, *Statement Regarding the Provision of Financial Products and Services to Consumers with Limited English Proficiency* (Jan. 13, 2021), [https://files.consumerfinance.gov/f/documents/cfpb\\_lep-statement\\_2021-01.pdf](https://files.consumerfinance.gov/f/documents/cfpb_lep-statement_2021-01.pdf).

<sup>15</sup> Consumer Fin. Prot. Bureau, *Bulletin 2021-02: Supervision and Enforcement Priorities Regarding Housing Insecurity* (Apr. 1, 2021), [https://files.consumerfinance.gov/f/documents/cfpb\\_bulletin-2021-02\\_supervision-and-enforcement-priorities-regarding-housing\\_WHca8E.pdf](https://files.consumerfinance.gov/f/documents/cfpb_bulletin-2021-02_supervision-and-enforcement-priorities-regarding-housing_WHca8E.pdf).

CFPB's key examination findings and operational changes to the CFPB's supervision program. *Supervisory Highlights* is also a convenient and easily accessible resource for information on the CFPB's recent guidance documents. In 2021, the CFPB published three issues of *Supervisory Highlights*.<sup>16</sup>

Issue 23, *COVID-19 Prioritized Assessments Special Edition* was released on January 19, 2021.<sup>17</sup> This special edition sought to inform the public of observations in the CFPB's Prioritized Assessment supervisory work conducted in 2020 after the sudden onset of the COVID-19 pandemic. The Prioritized Assessments focused on evaluating risks to consumers resulting from the pandemic. Examiners identified several issues in small business lending that may pose fair lending risk. These findings included policies that limited eligibility for PPP loans to existing customers of the institution, and thereby restricted access to PPP loans beyond the eligibility requirements of the CARES Act and orders issued by the Small Business Administration (SBA). Examiners found that these additional requirements or limitations, commonly known as "overlays," may have had a disproportionate impact on a prohibited basis and presented heightened fair lending risk.<sup>18</sup>

On June 29, 2021, the CFPB released the 24th edition of *Supervisory Highlights*.<sup>19</sup> The findings included in this report cover examinations completed between January 1, 2020 to December 31, 2020. In one or more institutions, examiners uncovered errors in reporting of HMDA data, often tied to deficient CMS. Offending institutions were required to review, correct, and resubmit their data, as well as enhance their monitoring practices and make improvements to their CMS. Examiners also uncovered an institution engaging

<sup>16</sup> Issue 23, *COVID-19 Prioritized Assessments Special Edition*; Issue 24, *Summer 2021*; Issue 25, *Fall 2021*.

<sup>17</sup> Consumer Fin. Prot. Bureau, *Issue 23, COVID-19 Prioritized Assessments Special Edition* (Jan. 2021), [https://files.consumerfinance.gov/f/documents/cfpb\\_supervisory-highlights\\_issue-23\\_2021-01.pdf](https://files.consumerfinance.gov/f/documents/cfpb_supervisory-highlights_issue-23_2021-01.pdf).

<sup>18</sup> Examiners did not, however, conduct a full analysis of any institution's overlay, and did not make any determination about whether an institution's use of the overlay complies with ECOA or Regulation B. Examiners encouraged the small business lenders to consider the fair lending risks associated with participation in the PPP, in further implementation of the PPP, and in any new lending program and to evaluate and address any risks.

<sup>19</sup> Consumer Fin. Prot. Bureau, *Issue 25, Fall 2021* (Dec. 8, 2021), <https://www.consumerfinance.gov/data-research/research-reports/supervisory-highlights-issue-24-summer-2021/>.

in the unlawful practice of redlining. The CFPB referred the matter to DOJ and is considering additional actions. The lender plans to undertake remedial and corrective actions regarding this violation, which are under review by the CFPB.

The CFPB released the 25th edition of *Supervisory Highlights* on December 8, 2021, covering examinations completed between January 2021 and June 2021.<sup>20</sup> The findings included observations that mortgage lenders violated ECOA and Regulation B by discriminating against African American and female borrowers in the granting of pricing exceptions. In response to these findings, lenders plan to undertake remedial and corrective actions regarding these violations, which are under review by the CFPB. Examiners also found that lenders violated ECOA and Regulation B by improperly inquiring about small business applicants' religion and by considering an applicant's religion in the credit decision. For religious institutions applying for small business loans, lenders utilized a questionnaire which contained explicit inquiries about the applicant's religion. Examiners determined that lenders also denied credit to an applicant identified as a religious institution because the applicant did not respond to the questionnaire. In response to these findings, lenders updated the questionnaire to ensure compliance with ECOA and Regulation B. In addition, lenders also identified affected applicants and provided an offer for each identified applicant to reapply for a small business loan.

All issues of *Supervisory Highlights* are available at: <https://www.consumerfinance.gov/compliance/supervisory-highlights/>.

### 2.2.5 HMDA Guidance and Resources

Given the importance of accurately reported HMDA data to the CFPB's fair lending mission, the CFPB maintains a comprehensive suite of resources on its public website to help filers fulfill their reporting requirements under HMDA and Regulation C and to allow others to evaluate and study mortgage lending. These resources include: An Executive Summary of HMDA rule changes;<sup>21</sup> Small Entity Compliance Guide;<sup>22</sup> Key

<sup>20</sup> Consumer Fin. Prot. Bureau, *Issue 25, Fall 2021* (Dec. 8, 2021), [https://www.consumerfinance.gov/documents/10279/cfpb\\_supervisory-highlights\\_issue-25\\_2021-12.pdf](https://www.consumerfinance.gov/documents/10279/cfpb_supervisory-highlights_issue-25_2021-12.pdf).

<sup>21</sup> Consumer Fin. Prot. Bureau, *Executive Summary of the 2020 Home Mortgage Disclosure Act (Regulation C) Final Rule* (Apr. 16, 2020), [https://files.consumerfinance.gov/f/documents/cfpb\\_hmda\\_executive-summary\\_2020-04.pdf](https://files.consumerfinance.gov/f/documents/cfpb_hmda_executive-summary_2020-04.pdf).

<sup>22</sup> Consumer Fin. Prot. Bureau, *Home Mortgage Disclosure (Regulation C) Small Entity Compliance*



Dates Timeline;<sup>23</sup> Institutional and Transactional Coverage Charts;<sup>24</sup> Reportable HMDA Data Chart;<sup>25</sup> sample data collection form;<sup>26</sup> FAQs;<sup>27</sup> and downloadable webinars,<sup>28</sup> which provide an overview of the HMDA rule. The CFPB also provides on its website an interactive version of Regulation C that is easier to access and navigate than the printed version of Regulation C.<sup>29</sup>

Together with the Federal Financial Institutions Examination Council (FFIEC),<sup>30</sup> the CFPB also routinely updates its HMDA resources throughout the year to ensure HMDA reporters have the most up-to-date information. For example, in October 2021, the CFPB released the 2022 Filing Instructions Guide<sup>31</sup> and the 2021 Supplemental Guide for Quarterly Filers.<sup>32</sup> Together with the FFIEC, in March 2021, the CFPB also published the 2021 edition of

Guide (May 2020), [https://files.consumerfinance.gov/f/documents/cfpb\\_hmda\\_small-entity-compliance-guide.pdf](https://files.consumerfinance.gov/f/documents/cfpb_hmda_small-entity-compliance-guide.pdf).

<sup>23</sup> Consumer Fin. Prot. Bureau, *HMDA Rule Key Dates Timeline, January 1, 2020 to December 31, 2022*, [https://files.consumerfinance.gov/f/documents/cfpb\\_hmda-key-dates-timeline-2020-2022.pdf](https://files.consumerfinance.gov/f/documents/cfpb_hmda-key-dates-timeline-2020-2022.pdf).

<sup>24</sup> Consumer Fin. Prot. Bureau, *HMDA Institutional Coverage Chart*, [https://www.consumerfinance.gov/documents/9568/cfpb\\_2020-hmda-institutional-coverage\\_03-2021.pdf](https://www.consumerfinance.gov/documents/9568/cfpb_2020-hmda-institutional-coverage_03-2021.pdf); Consumer Fin. Prot. Bureau, *HMDA Transactional Coverage Chart*, [https://www.consumerfinance.gov/documents/8724/cfpb\\_2020-hmda-transactional-coverage.pdf](https://www.consumerfinance.gov/documents/8724/cfpb_2020-hmda-transactional-coverage.pdf).

<sup>25</sup> Consumer Fin. Prot. Bureau, *Reportable HMDA Data: A Regulatory and Reporting Overview Reference Chart for HMDA Data Collected in 2021*, [https://files.consumerfinance.gov/f/documents/cfpb\\_2021-reportable-hmda-data.pdf](https://files.consumerfinance.gov/f/documents/cfpb_2021-reportable-hmda-data.pdf).

<sup>26</sup> Consumer Fin. Prot. Bureau, *Sample Data Collection Form*, [https://files.consumerfinance.gov/f/documents/201708\\_cfpb\\_hmda-sample-data-collection-form.pdf](https://files.consumerfinance.gov/f/documents/201708_cfpb_hmda-sample-data-collection-form.pdf).

<sup>27</sup> Consumer Fin. Prot. Bureau, *Home Mortgage Disclosure Act FAQs*, <https://www.consumerfinance.gov/compliance/compliance-resources/mortgage-resources/hmda-reporting-requirements/home-mortgage-disclosure-act-faqs/>.

<sup>28</sup> Consumer Fin. Prot. Bureau, *HMDA Webinars*, <https://www.consumerfinance.gov/compliance/compliance-resources/mortgage-resources/hmda-reporting-requirements/webinars/>.

<sup>29</sup> See, *Interactive Bureau Regulations, Regulation C*, <https://www.consumerfinance.gov/rules-policy/regulations/1003/>.

<sup>30</sup> Collectively, the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), the Office of the Comptroller of the Currency (OCC), and the CFPB comprise the Federal Financial Institutions Examination Council (FFIEC). The State Liaison Committee was added to FFIEC in 2006 as a voting member. Federal Fin. Instit. Examination Council, <http://www.ffiec.gov> (last visited Mar. 11, 2022).

<sup>31</sup> Consumer Fin. Prot. Bureau, *Filing instructions guide for HMDA data collected in 2022* (Oct. 2021), <https://s3.amazonaws.com/cfpb-hmda-public/prod/help/2022-hmda-fig.pdf>.

<sup>32</sup> Consumer Fin. Prot. Bureau, *Supplemental Guide for Quarterly Filers for 2022* (Sep. 2021), <https://s3.amazonaws.com/cfpb-hmda-public/prod/help/supplemental-guide-for-quarterly-filers-for-2022.pdf>.

the HMDA Getting it Right Guide.<sup>33</sup> The CFPB also works with the FFIEC to publish data submission resources for HMDA filers and vendors on its Resources for HMDA Filers website, <https://ffiec.cfpb.gov>.

In addition, HMDA reporters can ask questions about HMDA and Regulation C, including how to submit HMDA data, by emailing the CFPB's HMDA Help at [HMDAHelp@cfpb.gov](mailto:HMDAHelp@cfpb.gov). The CFPB also offers financial institutions, service providers, and others, informal staff guidance on specific questions about the statutes and rules the CFPB implements, including ECOA and Regulation B and HMDA and Regulation C, through its Regulation Inquiries platform at [www.reginquiries.consumerfinance.gov](http://www.reginquiries.consumerfinance.gov).

### 3. Stakeholder Engagement

The CFPB robustly engages with external stakeholders including consumer advocates, civil rights organizations, industry, academia, and other government agencies. This engagement comes in varied forms, including broadcasting the CFPB's work and policy priorities through CFPB channels like blogs, videos, press releases, or speeches; reaching out directly to advocates and consumers through website updates, issuing Requests for Information (RFIs), hosting tech sprints, and ordering entities to engage with the CFPB. The CFPB also regularly issues numerous reports analyzing data and market conditions. To further an all-of-government approach to fair lending enforcement, the CFPB also participates in interagency groups. All of these engagements are critical to informing the CFPB's work and broadcasting the CFPB's priorities and recent work to its stakeholders.

#### 3.1 Promoting and Broadcasting the Fair Lending and Access to Credit Mission

##### 3.1.1 CFPB Blog Posts, Press Releases, Videos, and Other Communications

The CFPB regularly uses blog posts, statements, press releases, videos, guides, brochures, social media, and other tools to timely and effectively communicate with stakeholders. These tools are targeted to individuals, advocates, civil rights organizations, government agencies, small business owners, financial institutions, and other stakeholders to promote and broadcast news and information about emerging

fair lending issues, areas of concern, CFPB initiatives, and more.

In 2021, the CFPB published 10 blog posts related to fair lending topics including: The publication of the LEP statement;<sup>34</sup> team presentations from the CFPB's tech sprints;<sup>35</sup> the publication of the 2020 Fair Lending Annual Report;<sup>36</sup> the CFPB's commitment to racial and economic equity;<sup>37</sup> a report analyzing differences in lending patterns for lenders below and above the 100-loan closed-end threshold set by the 2020 HMDA rule;<sup>38</sup> a report on Asian American and Pacific Islanders in the Mortgage Market;<sup>39</sup> the CFPB's prioritization of resources to focus on the role of racial bias in home appraisals;<sup>40</sup> mortgage servicers' communication capabilities and outreach efforts for borrowers;<sup>41</sup> updates to the whistleblower page;<sup>42</sup> and the CFPB's *Amicus* brief in *Fralish v. Bank of America*.<sup>43</sup>

<sup>34</sup> Kathleen L. Kraninger, *Bureau takes additional steps to foster an inclusive financial system* (Jan. 13, 2021), <https://www.consumerfinance.gov/about-us/blog/bureau-takes-additional-steps-to-foster-an-inclusive-financial-system/>.

<sup>35</sup> Dave Uejio, *Innovation and collaboration: Tech sprints support improvements in consumer notifications and data collection and processing* (Apr. 26, 2021), <https://www.consumerfinance.gov/about-us/blog/innovation-and-collaboration-tech-sprints-support-improvements-consumer-notifications-data-collection-processing/>.

<sup>36</sup> Patrice Alexander Ficklin, Frank Vespa-Papaleo, *Protecting consumers through a pandemic: 2020 Fair Lending Report to Congress* (Apr. 14, 2021), <https://www.consumerfinance.gov/about-us/blog/2020-fair-lending-report-to-congress/>.

<sup>37</sup> Dave Uejio, *Addressing racial inequities in consumer finance markets* (June 2, 2021), <https://www.consumerfinance.gov/about-us/blog/addressing-racial-inequities-consumer-finance-markets/>.

<sup>38</sup> Feng Liu and Alex Rodrigue, *HMDA Threshold Report Blog* (June 14, 2021), <https://www.consumerfinance.gov/about-us/blog/hmda-threshold-report-blog/>.

<sup>39</sup> Alexandra Dobre and Young Jo, *Challenging the Model Minority Myth: A closer look at Asian American and Pacific Islanders in the mortgage market* (July 1, 2021), <https://www.consumerfinance.gov/about-us/blog/challenging-model-minority-myth-asian-american-pacific-islanders-mortgage-market/>.

<sup>40</sup> Patrice Alexander Ficklin, *CFPB Prioritizing Resources Against Racial Bias in Home Appraisals* (July 2, 2021), <https://www.consumerfinance.gov/about-us/blog/cfpb-prioritizing-resources-against-racial-bias-home-appraisals/>.

<sup>41</sup> Consumer Fin. Prot. Bureau, *New rule ensures mortgage servicers provide options to potentially vulnerable borrowers exiting forbearance* (Sep. 30, 2021), <https://www.consumerfinance.gov/about-us/blog/new-rule-ensures-mortgage-servicers-provide-options-potentially-vulnerable-borrowers-exiting-forbearance/>.

<sup>42</sup> Erie Meyer, *CFPB calls tech workers to action* (Dec. 15, 2021), CFPB calls tech workers to action | Consumer Financial Protection Bureau ([consumerfinance.gov](https://www.consumerfinance.gov)).

<sup>43</sup> Seth Frotman, *CFPB is standing up for civil rights protections* (Dec. 17, 2021), <https://www.consumerfinance.gov/about-us/blog/cfpb-standing-up-civil-rights-protections/>.

<sup>33</sup> Federal Fin. Instit. Examination Council, *A Guide to HMDA Reporting, Getting it Right!* (Mar. 22, 2021), <https://www.ffiec.gov/hmda/pdf/2021Guide.pdf>.

In 2021, the CFPB also issued 12 press releases related to fair lending and access to credit issues, including: The Libre by Nexus enforcement action;<sup>44</sup> the sexual orientation and gender identity interpretive rule;<sup>45</sup> the Interagency RFI on Artificial Intelligence (AI);<sup>46</sup> the availability of the 2020 HMDA Data;<sup>47</sup> the extension of the comment period for the AI RFI;<sup>48</sup> the proposed small business lending rule;<sup>49</sup> two press releases related to the LendUp enforcement action;<sup>50</sup> the JPay enforcement action;<sup>51</sup> the CFPB's orders to tech giants to turn over information on their payment system plans;<sup>52</sup> the

<sup>44</sup> Consumer Fin. Prot. Bureau, *Consumer Financial Protection Bureau and Virginia, Massachusetts, and New York Attorneys General Sue Libre for Predatory Immigrant-Services Scam* (Feb. 22, 2021), <https://www.consumerfinance.gov/about-us/newsroom/consumer-financial-protection-bureau-and-virginia-massachusetts-and-new-york-attorneys-general-sue-libre-for-predatory-immigrant-services-scam/>.

<sup>45</sup> Consumer Fin. Prot. Bureau, *CFPB Clarifies That Discrimination by Lenders on the Basis of Sexual Orientation and Gender Identity Is Illegal* (Mar. 9, 2021), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-clarifies-discrimination-by-lenders-on-basis-of-sexual-orientation-and-gender-identity-is-illegal/>.

<sup>46</sup> Consumer Fin. Prot. Bureau, *Agencies Seek Wide Range of Views on Financial Institutions' Use of Artificial Intelligence* (Mar. 29, 2021), <https://www.consumerfinance.gov/about-us/newsroom/agencies-seek-wide-range-of-views-on-financial-institutions-use-of-artificial-intelligence/>.

<sup>47</sup> Consumer Fin. Prot. Bureau, *2020 HMDA Data on Mortgage Lending Now Available* (Mar. 31, 2021), <https://www.consumerfinance.gov/about-us/newsroom/2020-hmda-data-on-mortgage-lending-now-available/>.

<sup>48</sup> Consumer Fin. Prot. Bureau, *Agencies Extend Comment Period on Request for Information on Artificial Intelligence* (May 17, 2021), <https://www.consumerfinance.gov/about-us/newsroom/agencies-extend-comment-period-on-request-for-information-on-artificial-intelligence/>.

<sup>49</sup> Consumer Fin. Prot. Bureau, *CFPB Proposes Rule to Shine New Light on Small Businesses' Access to Credit* (Sep. 1, 2021), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-proposes-rule-to-shine-new-light-on-small-businesses-access-to-credit/>.

<sup>50</sup> Consumer Fin. Prot. Bureau, *CFPB Sues LendUp Loans for Violating 2016 Consent Order and Deceiving Borrowers* (Sep. 8, 2021), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-sues-lendup-loans-for-violating-2016-consent-order-and-deceiving-borrowers/>; Consumer Fin. Prot. Bureau, *CFPB Shuttles Lending by VC-Backed Fintech for Violating Agency Order* (Dec. 21, 2021), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-shuttles-lending-by-vc-backed-fintech-for-violating-agency-order/>.

<sup>51</sup> Consumer Fin. Prot. Bureau, *CFPB Penalizes JPay for Siphoning Taxpayer-Funded Benefits Intended to Help People Re-enter Society After Incarceration* (Oct. 19, 2021), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-penalizes-jpay-for-siphoning-taxpayer-funded-benefits-intended-to-help-people-re-enter-society-after-incarceration/>.

<sup>52</sup> Consumer Fin. Prot. Bureau, *CFPB Orders Tech Giants to Turn Over Information on their Payment System Plans* (Oct. 21, 2021), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-orders-tech-giants-to-turn-over-information-on-their-payment-system-plans/>.

Trustmark enforcement matter;<sup>53</sup> and the RFI to seek input on detecting discrimination in mortgage lending.<sup>54</sup>

In addition, the CFPB produced two fair lending-related videos in 2021, one by Acting Director Uejio on racial inequities in consumer finance markets,<sup>55</sup> and one by Fair Lending Director Patrice Ficklin promoting the small business tell your story portal.<sup>56</sup>

On August 17, 2021, the CFPB published a revised Focus on Reentry: Criminal Justice Guide as a part of the CFPB's Your Money, Your Goals financial empowerment resources.<sup>57</sup> The Guide is designed to help frontline staff address the unique challenges of individuals involved in the criminal justice system.

Also, in 2021, the CFPB updated two brochures<sup>58</sup> on credit discrimination, titled Know Your Rights, Credit Discrimination is Illegal and Helping Consumers Spot Credit Discrimination. The brochures target consumers as well as those who work with consumers. The brochures are available in English, Spanish, Chinese, Vietnamese, Korean, Tagalog, Russian, Haitian Creole, and Arabic.

### 3.1.2 CFPB Engagements With Stakeholders

The CFPB often engages directly with stakeholders to inform the CFPB's policy decisions and message the CFPB's priorities and recent work. In 2021, CFPB staff participated in 236 stakeholder engagements related to fair lending and access to credit issues. Through speeches, presentations, podcasts, roundtables, webinars, and other smaller discussions on fair lending topics, the CFPB strives to keep

<sup>53</sup> Consumer Fin. Prot. Bureau, *CFPB, DOJ and OCC Take Action Against Trustmark National Bank for Deliberate Discrimination Against Black and Hispanic Families* (Oct. 22, 2021), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-doj-and-occ-take-action-against-trustmark-national-bank-for-deliberate-discrimination-against-black-and-hispanic-families/>.

<sup>54</sup> Consumer Fin. Prot. Bureau, *CFPB Seeks Input on Detecting Discrimination in Mortgage Lending* (Nov. 16, 2021), <https://www.consumerfinance.gov/about-us/newsroom/cfpb-seeks-input-on-detecting-discrimination-in-mortgage-lending/>.

<sup>55</sup> Consumer Fin. Prot. Bureau, *Director's Message: Addressing financial discrimination & racial equity* (June 3, 2021), <https://www.youtube.com/watch?v=desktop&v=tFVyyvqVCr1A&feature=youtu.be>.

<sup>56</sup> Consumer Fin. Prot. Bureau, *Share your small business story* (Sep. 1, 2021), <https://www.youtube.com/watch?v=rVti779N8wE&feature=youtu.be>.

<sup>57</sup> Consumer Fin. Prot. Bureau, *Focus on Reentry: Criminal Justice Guide* (July 2021), [https://files.consumerfinance.gov/f/documents/cfpb\\_ymyg\\_reentry\\_supplement.pdf](https://files.consumerfinance.gov/f/documents/cfpb_ymyg_reentry_supplement.pdf).

<sup>58</sup> Consumer Fin. Prot. Bureau, *What protections do I have against credit discrimination?* <https://www.consumerfinance.gov/fair-lending/>.

abreast of economic and market realities that impact the lives of individuals and communities the CFPB is charged with protecting.

For example, on June 15, 2021, the CFPB hosted a public roundtable to look closer at the role of racial bias in home appraisals.<sup>59</sup> At the roundtable, the CFPB heard from civil rights activists, consumer advocates, and local leaders who see the impacts of these biases in their communities. The roundtable also included partner agencies, including the NCUA, the OCC, and the Department of Housing and Urban Development (HUD). Additionally, Director Chopra hosted other roundtables in 2021 with consumer groups that pertained to fair lending-related issues.

Throughout 2021, numerous other engagements centered around racial and economic equity issues; COVID-19 impacts on consumers; traditional and digital redlining, to include algorithmic bias issues; special purpose credit programs; the section 1071 rulemaking governing small business lending data collection and reporting; HMDA; agricultural and rural lending; student lending; and credit reporting.

### 3.1.3 Website Updates

On September 1, 2021, the CFPB launched a new landing page for small business owners and entrepreneurs. Titled, "Shining a light on small business lending," the landing page highlights statistics about small businesses and provides numerous resources on how to start and grow a small business for small business owners and entrepreneurs. The landing page also has information about lending discrimination and how ECOA protects small businesses, including minority-owned and women-owned businesses, against discrimination. The page also provides a way for small business owners and entrepreneurs to communicate directly with the CFPB with a "Share your small business story" portal. This portal allows small business owners to share their experiences with trying to get a small business loan. In conjunction with broader small business lending data collection rulemaking efforts (see section 2.1.1), this information will help inform the CFPB's work to protect small business owners and create a fairer marketplace. The web page is available at: [consumerfinance.gov/about-us/small-business-lending](https://www.consumerfinance.gov/about-us/small-business-lending).

In a call to action targeted at tech workers such as engineers, data

<sup>59</sup> A recording of the event can be accessed at: <https://www.consumerfinance.gov/about-us/events/archive-past-events/virtual-home-appraisal-bias-event/>.

scientists, and others having detailed knowledge of algorithms and technologies used by industry, on December 15, 2021, the CFPB announced that the whistleblower web page was redesigned. This redesign better supports the CFPB's mission in a rapidly evolving consumer financial market, which ensures that all credible tips, including those that involve technology or implicate fair lending, receive appropriate analysis and investigation. The web page is available at: <https://www.consumerfinance.gov/enforcement/information-industry-whistleblowers/>.

In May of 2021, the CFPB launched a new racial equity landing page as a resource and repository of racial equity content. The page includes information about the pandemic's effects on underserved communities, housing insecurity issues, as well as the CFPB's responsive work in these areas. This web page is a resource for individuals, advocates, and others. The web page is available at: <https://www.consumerfinance.gov/about-us/racial-equity>.

Throughout 2021, the CFPB continued to manage an interagency housing portal which serves as a repository of resources for homeowners, renters, and landlords, available in seven languages. The portal includes a rental assistance finder, which helps renters locate and contact organizations that may be able to provide support for COVID-19 related rent shortfalls, past due utility bills, and moving expenses. The portal also provides resources for those who may have lost their housing. The web page is available at: <https://www.consumerfinance.gov/coronavirus/mortgage-and-housing-assistance/>.

### 3.2 Seeking Information

#### 3.2.1 Requests for Information

On March 29, 2021, the CFPB, the OCC, the FRB, the FDIC, and the NCUA published an RFI seeking information from the public on how financial institutions use AI in their activities, including fraud prevention, personalization of customer services, credit underwriting, and other operations. More specifically, the RFI sought comments to better understand the use of AI, including machine learning, by financial institutions; appropriate governance, risk management, and controls over AI; and challenges in developing, adopting, and managing AI. On May 17, 2021, the agencies announced that they extended the comment period on the RFI.<sup>60</sup> The comment period closed on July 1, 2021.

<sup>60</sup> Consumer Fin. Prot. Bureau, *Request for Information and Comment on Financial*

On November 16, 2021, the CFPB issued an RFI seeking input on rules implementing HMDA in order to conduct an assessment of the 2015 HMDA Rule and related amendments.<sup>61</sup> The CFPB requested public comment on its plans for the assessment as well as certain recommendations and information that may be useful in conducting the planned assessment. The RFI specifically sought information on institutional and transactional coverage; data points; benefits of the new data and disclosure requirements; and operational and compliance costs.

#### 3.2.2 HMDA Tech Sprint: Improving HMDA Data Submissions and Publishing

On March 22–26, 2021, the CFPB held its second tech sprint which focused on improvements to submitting and publishing HMDA data. Participants in this tech sprint were invited to help create additional tools for users on the HMDA Platform and to develop and document HMDA Platform Applicant Programming Interfaces, known as the “Publications Track.” Alternatively, participants were able to develop additional enhancements to HMDA data products and services, or new ways to interact with existing products, data analysis capabilities, or interfaces to other datasets, known as the “Submissions Track.” Seventeen teams participated during the tech sprint, which concluded with a demonstration day where each team presented their resulting innovations to a panel of experts who reviewed them on creativity and innovation; effectiveness and impact; and market readiness.

Recordings of the team presentations are available at: <https://www.consumerfinance.gov/rules-policy/innovation/cfpb-tech-sprints/home-mortgage-disclosure-act-tech-sprint/>.

#### 3.2.3 Big Tech Orders

On October 21, 2021, the CFPB issued a series of orders pursuant to section 1022(c)(4) of the CFPA to large technology companies (Big Tech) operating payments systems to collect information on their business practices.<sup>62</sup> This information will help

*Institutions' Use of Artificial Intelligence, including Machine Learning* (May 17, 2021), [https://files.consumerfinance.gov/f/documents/cfpb\\_ai-rfi\\_fm\\_2021-03.pdf](https://files.consumerfinance.gov/f/documents/cfpb_ai-rfi_fm_2021-03.pdf).

<sup>61</sup> Consumer Fin. Prot. Bureau, *Request for Information Regarding the HMDA Rule Assessment* (Nov. 16, 2021), [https://files.consumerfinance.gov/f/documents/cfpb\\_hmda-rule-assessment\\_rfi\\_2021-11.pdf](https://files.consumerfinance.gov/f/documents/cfpb_hmda-rule-assessment_rfi_2021-11.pdf).

<sup>62</sup> Consumer Fin. Prot. Bureau, *Order To File Information On Payments Products* (Oct. 21, 2021), <https://www.consumerfinance.gov/about-us/>

the CFPB better understand how these firms use personal payments data and manage data access to users so the CFPB can ensure adequate consumer protection. Specifically, the orders sought information on data harvesting and monetization, access restriction and user choice, and other consumer protections.

### 3.3 Data and Reports

#### 3.3.1 Availability of 2020 HMDA Data

The HMDA data are the most comprehensive publicly available information on mortgage market activity. The data are used by consumer groups, regulators, industry, and others to assess potential fair lending risks and for other purposes.

On March 31, 2021, the CFPB announced the availability of the 2020 HMDA modified loan application register data on the FFIEC's HMDA Platform for approximately 4,400 HMDA filers.<sup>63</sup> These published data contain loan-level information filed by financial institutions, modified to protect privacy.

On June 17, 2021, the FFIEC announced the availability of additional data on 2020 mortgage lending transactions at 4,475 financial institutions reported under HMDA.<sup>64</sup> This data included a total of 48 data points providing information about the applicants, the property securing the loan or proposed to secure the loan in the case of non-originated applications, the transaction, and identifiers.

#### 3.3.2 A Brief Note on General Lending Patterns of Small to Medium Size Closed-End HMDA Reporters

The CFPB released a report analyzing differences in lending patterns for lenders below and above the 100-loan closed-end threshold set by the 2020 HMDA rule.<sup>65</sup> Released on June 14, 2021, the report, though preliminary,<sup>66</sup>

[newsroom/cfpb-orders-tech-giants-to-turn-over-information-on-their-payment-system-plans/](https://www.consumerfinance.gov/newsroom/cfpb-orders-tech-giants-to-turn-over-information-on-their-payment-system-plans/).

<sup>63</sup> Consumer Fin. Prot. Bureau, *2020 HMDA Data on Mortgage Lending Now Available* (Mar. 31, 2021), <https://www.consumerfinance.gov/about-us/newsroom/2020-hmda-data-on-mortgage-lending-now-available/>.

<sup>64</sup> Consumer Fin. Prot. Bureau, *FFIEC Announces Availability of 2020 Data on Mortgage Lending* (June 17, 2021), <https://www.consumerfinance.gov/about-us/newsroom/ffiec-announces-availability-of-2020-data-on-mortgage-lending/>.

<sup>65</sup> Consumer Fin. Prot. Bureau, *A Brief Note on General Lending Patterns of Small to Medium Size Closed-end HMDA Reporters* (June 14, 2021), [https://files.consumerfinance.gov/f/documents/cfpb\\_general-lending-patterns-hmda-reporters\\_report\\_2021-06.pdf](https://files.consumerfinance.gov/f/documents/cfpb_general-lending-patterns-hmda-reporters_report_2021-06.pdf).

<sup>66</sup> The analysis in this report is necessarily limited and preliminary and is not an assessment by the CFPB as to the effectiveness of the thresholds

found some differences in lending patterns for lenders above and below the threshold. In general, those lenders newly exempted under the 2020 HMDA Rule (*i.e.*, with annual origination volumes that exceed the 25-loan threshold but fall below the 100-loan threshold) do not appear to be more or less likely to lend to Black and non-white Hispanic borrowers than larger volume lenders. There is some evidence that these lenders might be more likely to lend to non-natural persons, *i.e.*, trusts, corporations or partnerships. The analysis also suggests that a higher percentage of their loans are secured by properties in low-to-moderate income census tracts, properties in rural areas, second liens, and investment properties. Their borrowers also appear to have higher incomes than larger lenders' borrowers as well.

#### Data Point: Asian Americans and Pacific Islanders in the Market

On July 1, 2021, the CFPB released a report examining the differences in mortgage characteristics within the Asian American and Pacific Islanders (AAPI) population.<sup>67</sup> The "Model Minority myth" characterizes this expansive demographic group as a monolithic group, with uniform high achievement and high income, relatively untouched by racial and ethnic discrimination. Using the 2020 HMDA data, the report found that borrowers who identified their AAPI subgroup as Asian Indian or Chinese paid lower interest rates than non-Hispanic white borrowers. In contrast, Hawaiian or Pacific Islanders (HoPIs), as a group, paid higher interest rates and loan costs when compared to other Asian borrowers, with considerable variation within subgroups of HoPIs. Denial rates varied across AAPI subgroups, with some subgroups and HoPIs being denied at rates similar to denial rates for Black and Hispanic white borrowers, further challenging the myth that the AAPI population does not experience racial and ethnic discrimination in the mortgage market. Even though AAPIs, on average, had lower interest rates, homeownership rates generally lag those of non-Hispanic whites. This lag in homeownership, as well as the variability in denial rates and loan costs, could have implications

change in meeting HMDA's objectives. Additional analysis is needed to better understand these findings and to explore the impact of the threshold changes on data available for specific markets.

<sup>67</sup> Consumer Fin. Prot. Bureau, *Data Point: Asian American and Pacific Islanders in the Mortgage Market* (July 1, 2021), [https://www.consumerfinance.gov/documents/9852/cfpb\\_aapi-mortgage-market\\_report\\_2021-07.pdf](https://www.consumerfinance.gov/documents/9852/cfpb_aapi-mortgage-market_report_2021-07.pdf).

for the ability of AAPI communities to build wealth and stability.

#### Data Point: 2020 Mortgage Market Activity and Trends

On August 19, 2021, the CFPB released a report on residential mortgage lending trends.<sup>68</sup> The report found that the total number of closed-end originations as well as applications increased substantially between 2019 and 2020. Most of the increase was driven by the refinance boom observed in 2020. The report also notes that, while the number of financial institutions reporting 2020 HMDA data declined compared to 2019, the number of closed-end records in 2020 increased compared to the previous year. While mortgage activity generally increased, year over year, significant differences between demographic groups persisted, including higher interest rates and denials among Black and Hispanic consumers in the mortgage market.

#### Manufactured Housing Finance: New Insights From HMDA Data Report

On May 27, 2021, the CFPB released a report examining the differences between mortgage loans for site-built homes, mortgage loans for manufactured homes (referred to as "MH mortgages"), and chattel loans for manufactured homes.<sup>69</sup> Comparison of these three financing types finds that borrowers with chattel loans face higher denial rates when applying for financing than manufactured housing mortgage and site-built borrowers. When they do get a loan, these borrowers pay higher interest rates than their MH mortgage and site-built counterparts and are also less likely to refinance. Analysis shows that Black, Hispanic, and American Indian and Alaska Native borrowers are more likely to get chattel loans than their non-Hispanic white counterparts, even when controlling for land ownership. Additionally, the market for MH lending—and chattel in particular—is more concentrated among relatively few lenders than the market for mortgages on site-built homes.

#### Updated Data From National Survey of Mortgage Originations

On July 29, 2021, the CFPB and the FHFA published updated loan-level

<sup>68</sup> Consumer Fin. Prot. Bureau, *Data Point: 2020 Mortgage Market Activity and Trends* (Aug. 19, 2021), [https://www.consumerfinance.gov/documents/10009/cfpb\\_2020-mortgage-market-activity-trends\\_report\\_2021-08.pdf](https://www.consumerfinance.gov/documents/10009/cfpb_2020-mortgage-market-activity-trends_report_2021-08.pdf).

<sup>69</sup> Consumer Fin. Prot. Bureau, *Manufactured Housing Finance: New Insights from the Home Mortgage Disclosure Act Data* (Aug. 19, 2021), [https://www.consumerfinance.gov/documents/9806/cfpb\\_manufactured-housing-finance-new-insights-hmda\\_report\\_2021-05.pdf](https://www.consumerfinance.gov/documents/9806/cfpb_manufactured-housing-finance-new-insights-hmda_report_2021-05.pdf).

data for public use collected through the National Survey of Mortgage Originations. The data provide insights into borrowers' experiences obtaining residential mortgages.

#### COVID-19 Special Issue Briefs

As a result of the COVID-19 pandemic's uneven impacts among individuals and markets, the CFPB released numerous COVID-19 Special Issue Briefs analyzing different consumer and market segments. Two such reports explored and summarized the impacts on the renters and homeowners: *Housing insecurity and the COVID-19 pandemic and Characteristics of Mortgage Borrowers During the COVID-19 Pandemic*. Issued March 1, 2021, *Housing insecurity and the COVID-19 pandemic* summarized some of the relevant data and research on the impact of the pandemic on the rental and mortgage market, and particularly its impact on low income and minority households.<sup>70</sup> This report found that as of December 2020, 11 million renter and homeowner households were significantly overdue on their regular housing payments, placing them at heightened risk of losing their homes to foreclosure or eviction. Black and Hispanic households were more than twice as likely to report being behind on their payments than white households.

Another Special Issue Brief, *Characteristics of Mortgage Borrowers During the COVID-19 Pandemic*, was released on May 4, 2021.<sup>71</sup> This report explored the characteristics, including demographics, of mortgage borrowers in forbearance or delinquent during the COVID-19 pandemic. The report used data from the National Mortgage Database, which is a random 1-in-20 sample of closed-end first-lien mortgages in the United States, as reported through March 2021. The data showed that a significant share of these borrowers were minorities, lived in majority-minority tracts, and lived in relatively lower-income areas. Many of these borrowers also may be single-income households, making it more difficult for them to recover from income shocks. A significant share of

<sup>70</sup> Consumer Fin. Prot. Bureau, *Housing insecurity and the COVID-19 pandemic* (Mar. 1, 2021), [https://www.consumerfinance.gov/documents/9512/cfpb\\_Housing\\_insecurity\\_and\\_the\\_COVID-19\\_pandemic.pdf](https://www.consumerfinance.gov/documents/9512/cfpb_Housing_insecurity_and_the_COVID-19_pandemic.pdf).

<sup>71</sup> Consumer Fin. Prot. Bureau, *Characteristics of Mortgage Borrowers During the COVID-19 Pandemic* (May 4, 2021), [https://www.consumerfinance.gov/documents/9695/cfpb\\_characteristics-mortgage-borrowers-during-covid-19-pandemic\\_report\\_2021-05.pdf](https://www.consumerfinance.gov/documents/9695/cfpb_characteristics-mortgage-borrowers-during-covid-19-pandemic_report_2021-05.pdf).

borrowers also showed distress in terms of non-mortgage products.

### 3.4 Interagency Engagement

Seeking to address current and emerging fair lending risks, the CFPB regularly coordinates with other Federal, State, tribal, county, municipal, and international government entities, policymakers, and the organizations that represent them. Through numerous interagency organizations and taskforces, the CFPB coordinated its 2021 fair lending regulatory, supervisory, and enforcement activities to promote consistent, efficient, and effective enforcement of Federal fair lending laws.

The CFPB, along with the Federal Trade Commission (FTC), HUD, FDIC, FRB, NCUA, OCC, DOJ, and FHFA, constitute the Interagency Task Force on Fair Lending. This Task Force meets regularly to discuss fair lending enforcement efforts, share current methods of conducting supervisory and enforcement fair lending activities, and coordinate fair lending policies. The FDIC is currently the Chair of this Task Force.

Through the FFIEC the CFPB has robust engagements with other partner agencies that focus on fair lending issues. For example, throughout the reporting period, the CFPB has chaired the HMDA/Community Reinvestment Act (CRA) Data Collection Subcommittee, a subcommittee of the FFIEC Task Force on Consumer Compliance. This subcommittee oversees FFIEC projects and programs involving HMDA data collection and dissemination, the preparation of the annual FFIEC budget for processing services, and the development and implementation of other related HMDA processing projects as directed by this Task Force.

The CFPB also participates in the Interagency Working Group on Fair Lending Enforcement, a standing working group of Federal agencies—with the DOJ, HUD, and FTC—that meets regularly to discuss issues relating to fair lending enforcement. The agencies use these meetings to also discuss fair lending developments and trends, methodologies for evaluating fair lending risks and violations, and coordination of fair lending enforcement efforts.

The CFPB is also a member of the FFIEC's Appraisal Subcommittee (ASC) that provides Federal oversight of State appraiser and appraisal management company regulatory programs, and a monitoring framework for The Appraisal Foundation and the Federal Financial Institutions Regulatory

Agencies in their roles to protect Federal financial and public policy interests in real estate appraisals utilized in federally related transactions.<sup>72</sup> The ASC responsibilities include promoting fairness and equity in valuations.<sup>73</sup>

The CFPB engaged with other agencies on issues of bias in home appraisals through the Property Appraisal and Valuation Equity (PAVE) Taskforce.<sup>74</sup> The PAVE Task Force is chaired by HUD Secretary Marcia Fudge and Assistant to the President for Domestic Policy and Director of the Domestic Policy Council, Ambassador Susan Rice. This Task Force also includes cabinet-level leaders from executive departments and additional members from independent agencies, including the CFPB.

In addition to these established interagency organizations, CFPB personnel meet regularly with agency personnel, including with DOJ, HUD, FTC, FHFA, State Attorneys General, and the prudential regulators to coordinate and discuss the CFPB's fair lending work.

### 4. Amicus Program and Other Litigation

The CFPB files *amicus*, or “friend-of-the-court,” briefs in significant court cases concerning Federal consumer financial protection laws, including cases involving ECOA. These briefs provide courts with the CFPB's views and help ensure that consumer financial protection statutes are correctly and consistently interpreted.

In 2021, the CFPB and the DOJ, FRB, and FTC filed an *amicus* brief in *Fralish v. Bank of America*, a case in which an individual consumer sued his bank for closing his credit card account without providing an explanation mandated by ECOA. In its defense, Bank of America argued that ECOA only applies when people are applying for credit. The CFPB's jointly filed brief explains that Bank of America's argument is wrong, contradicted by the language and history of the law. ECOA's crucial protections against credit discrimination do not disappear the moment that credit is extended. Instead, ECOA shields existing borrowers from discrimination in all aspects of a credit arrangement

<sup>72</sup> During the reporting period, the Bureau served as vice chair of the ASC.

<sup>73</sup> The Appraisal Subcommittee includes the FFIEC agencies, HUD, and the FHFA.

<sup>74</sup> Additional activity has occurred regarding this issue since the end of this reporting period: On March 23, 2022, the PAVE taskforce released its final report. The report is available at: <https://pave.hud.gov/sites/pave.hud.gov/files/documents/PAVEActionPlan.pdf>.

and gives consumers the right to an explanation when their application for credit is denied, or when an existing account is terminated, or its terms are unfavorably changed. These “adverse action notices” discourage discrimination and help educate consumers about the reasons for a creditor's decision. Like ECOA's core ban on discrimination, this requirement applies to current borrowers as well as those seeking credit. Information regarding the CFPB's *amicus* program, including a description of previously filed *amicus* briefs, is available on the CFPB's website, at [www.consumerfinance.gov/policy-compliance/amicus/](http://www.consumerfinance.gov/policy-compliance/amicus/).

In August 2020, the CFPB was sued in the U.S. District Court for the District of Columbia by the National Community Reinvestment Coalition, *et al.*, over the CFPB's final rule amending Regulation C to raise the loan-volume coverage thresholds for financial institutions reporting data under HMDA (the 2020 HMDA rule). The Plaintiffs argue that the 2020 HMDA rule violates the Administrative Procedure Act. This litigation is ongoing.

In 2019, the CFPB was sued in the U.S. District Court for the Northern District of California by the California Reinvestment Coalition, *et al.*, regarding the CFPB's obligation to issue rules implementing section 1071. In February 2020, the court approved a stipulated settlement agreement. Among other things, the settlement agreement also provides a process for setting appropriate deadlines for the issuance of a proposed and final rule implementing section 1071. The CFPB has made significant progress with this rulemaking, including timely issuing a notice of proposed rulemaking. For a comprehensive update on 1071 activity, see section 2.1.1 of this report.

### 5. Interagency Reporting on ECOA and HMDA

The CFPB is statutorily required to file a report to Congress annually describing the administration of its functions under ECOA, summarizing public enforcement actions taken by other agencies with administrative enforcement responsibilities under ECOA, and providing an assessment of the extent to which compliance with ECOA has been achieved.<sup>75</sup> In addition, the CFPB's annual HMDA reporting requirement calls for the CFPB, in consultation with HUD, to report annually on the utility of HMDA's

<sup>75</sup> 15 U.S.C. 1691f.

requirement that covered lenders itemize certain mortgage loan data.<sup>76</sup>

5.1 Reporting on ECOA Enforcement  
The enforcement and compliance efforts and assessments made by the eleven agencies assigned enforcement

authority under section 704 of ECOA are discussed in this section, as reported by the agencies.

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TABLE 1: FFIEC AGENCIES WITH ADMINISTRATIVE ENFORCEMENT OF ECOA<sup>77</sup>









FFIEC AGENCIES					
	Bureau of Consumer Financial Protection (CFPB)	Federal Deposit Insurance Corporation (FDIC)	Federal Reserve Board (FRB)	National Credit Union Administration (NCUA)	Office of the Comptroller of the Currency (OCC)

TABLE 2: NON-FFIEC AGENCIES WITH ADMINISTRATIVE ENFORCEMENT OF ECOA

NON-FFIEC AGENCIES			
	Agricultural Marketing Service (AMS) of the U.S. Department of Agriculture (USDA) <sup>78</sup>	Department of Transportation (DOT)	Farm Credit Administration (FCA)
			
Federal Trade Commission (FTC)	Securities and Exchange Commission (SEC)	Small Business Administration (SBA) <sup>79</sup>	

<sup>76</sup> 12 U.S.C. 2807.

<sup>77</sup> Collectively, the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), the Office of the Comptroller of the Currency (OCC), and the Bureau of Consumer Financial Protection (Bureau) comprise the Federal Financial Institutions

Examination Council (FFIEC). The State Liaison Committee was added to FFIEC in 2006 as a voting member. Federal Financial Institutions Examination Council, <http://www.ffiec.gov> (last visited Mar. 30, 2021).

<sup>78</sup> The Grain Inspection, Packers and Stockyards Administration (GIPSA) was eliminated as a stand-alone agency within USDA in 2017. The functions

previously performed by GIPSA have been incorporated into the Agricultural Marketing Service (AMS), and ECOA reporting comes from the Packers and Stockyards Division, Fair Trade Practices Program, AMS.

<sup>79</sup> 15 U.S.C. 1691c.

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**5.1.1 Public Enforcement Actions**

In 2021, of the Federal agencies with ECOA enforcement authority, only the CFPB, together with DOJ, brought public enforcement actions for violations of ECOA.

In October of 2021, the CFPB, together with DOJ, brought a public enforcement action in Federal district court in the Western District of Tennessee against Trustmark, headquartered in Jackson, Mississippi. The joint complaint alleged that Trustmark engaged in unlawful discrimination against applicants and prospective applicants, including by redlining majority Black and Hispanic

communities, and engaged in acts and practices directed at prospective applicants that would discourage prospective applicants from applying for credit in violation of ECOA and Regulation B.<sup>80</sup>

Additionally, on September 8, 2021, the CFPB brought a public enforcement action in Northern District of California against LendUp Loans, LLC. In addition to other violations of consumer protection laws, the CFPB alleged that LendUp failed to timely issue required adverse-action notices and failed to provide accurate denial reasons on its adverse-action notices to thousands of loan applicants, in violation of ECOA and Regulation B.

Both the Trustmark and LendUp actions are described further in section 1.2.1 of this report.

**5.1.2 Number of Institutions Cited for ECOA/Reg B Violations**

In 2021, the FFIEC agencies reported citing 198 institutions with violations of ECOA and/or Regulation B.

**5.1.3 Violations Cited During ECOA Examinations**

Among institutions examined for compliance with ECOA and Regulation B, the FFIEC agencies reported that the most frequently cited violations were as follows:

**TABLE 3—REGULATION B VIOLATIONS CITED BY FFIEC AGENCIES, 2021**

Regulation B violations: 2021	FFIEC agencies reporting
<i>12 CFR 1002.4(a), 1002.7(d)(1): Discrimination</i> ..... Discrimination on a prohibited basis in a credit transaction; improperly requiring the signature of the applicant's spouse or other person.	NCUA, <sup>81</sup> FRB, <sup>82</sup> OCC, <sup>83</sup> CFPB. <sup>84</sup>
<i>12 CFR 1002.5(b), 12 CFR 1002.5(c), 12 CFR 1002.5(d): Inquiring about protected class</i> ..... Inquiring about the race, color, religion, national origin, or sex of an applicant or any other person in connection with a credit transaction, except as permitted in §§ 1002.5(b)(1) and (b)(2), or 1002.8 in the case of a special purpose credit program; requesting any information concerning an applicant's spouse or former spouse, except as permitted in § 1002.5(c)(2); requesting the marital status of a person applying for individual, unsecured credit, except as permitted in § 1002.5(d)(1) (for credit other than individual, unsecured, a creditor may inquire about the applicant's marital status, but must only use the terms "married," "unmarried," and "separated"); inquiring as to whether income stated in an application is derived from alimony, child support, or separate maintenance payments, except as permitted in § 1002.5(d)(2); or requesting information about birth control practices, intentions concerning the bearing or rearing of children, or capability to bear children, except as permitted in § 1002.5(d)(3).	FDIC, <sup>85</sup> CFPB. <sup>86</sup>
<i>12 CFR 1002.6(b)(8), (b)(9): Specific rules concerning use of information</i> ..... Failure to evaluate married and unmarried applicants by the same standards; in evaluating joint applicants, a creditor shall not treat applicants differently based on the existence, absence, or likelihood of a marital relationship between the parties; a creditor shall not consider race, color, religion, national origin, sex (or an applicant's or other person's decision not to provide the information) in any aspect of a credit transaction.	NCUA, <sup>87</sup> CFPB. <sup>88</sup>
<i>12 CFR 1002.9(a)(1)(i), (a)(2), (b)(1); (b)(2); (c): Adverse Action</i> ..... Failure to provide notice to the applicant 30 days after receiving a completed application concerning the creditor's approval of, counteroffer to, or adverse action on the application; failure to provide appropriate notice to the applicant 30 days after taking adverse action on an incomplete application; failure to provide sufficient information in an adverse action notification, including the specific reasons for the action taken.	FDIC, <sup>89</sup> NCUA, <sup>90</sup> OCC, <sup>91</sup> FRB, <sup>92</sup> CFPB. <sup>93</sup>
<i>12 CFR 1002.13(a)(1): Information for Monitoring Purposes</i> ..... Failure to request as part of an application for credit for purchase or refinancing of a dwelling occupied or to be occupied by the applicant as a principal residence, where the extension of credit will be secured by the dwelling the following information regarding the applicant(s): Ethnicity and race; sex; marital status; and age.	CFPB.
<i>12 CFR 1002.14 (a)(1), (a)(2), (a)(3), (a)(4): Appraisals and Valuations</i> ..... Failure to provide appraisals and other valuations.	OCC, <sup>94</sup> FDIC. <sup>95</sup>

Among institutions examined for compliance with ECOA and Regulation B, the Non-FFIEC agencies reported that

the most frequently cited violations were as follows:

<sup>80</sup> At the same time, pursuant to the FHA, the OCC issued a consent order with Trustmark, which imposed a \$4 million civil money penalty for failing to provide equal access to residents seeking mortgage loans in majority minority census tracts and high minority census tracts in the Memphis MSA during the period 2014–2016.

<sup>81</sup> 12 CFR 1002.4(a).

<sup>82</sup> 12 CFR 1002.7 (d)(1).

<sup>83</sup> 12 CFR 1002.7 (d)(1).

<sup>84</sup> 12 CFR 1002.4(a).

<sup>85</sup> 12 CFR 1002.5(b)–(d).

<sup>86</sup> 12 CFR 1002.5(b).

<sup>87</sup> 12CFR 1002.6(b)(8).

<sup>88</sup> 12 CFR 1002.6(b)(9).

<sup>89</sup> 12 CFR 1002.9(a)(2); 1002.9(b)(2).

<sup>90</sup> 12 CFR 1002.9(a)(2); 1002.9(b)(2); 1002.9(c).

<sup>91</sup> 12 CFR 1002.9(a)(1)(i); 1002.9(b)(1); 1002.9(b)(2).

<sup>92</sup> 12 CFR 1002.9(a)(1)(i); (a)(2).

<sup>93</sup> 12 CFR 1002.9(a)(1);1002.9(b).

TABLE 4—REGULATION B VIOLATIONS CITED BY NON—FFIEC AGENCIES ENFORCING ECOA, 2021

Regulation B violations: 2021	Non-FFIEC agencies reporting
12 CFR 1002.9(a)(1)(i): Adverse Action ..... Failure to provide notice to the applicant 30 days after receiving a completed application concerning the creditor's approval of, counteroffer or adverse action on the application; failure to provide sufficient information in an adverse action notification, including the specific reasons for the action taken; failure to provide ECOA notice.	FCA.
12 CFR 1002.13: Information for monitoring purposes ..... Failure to obtain information for monitoring purposes.	FCA.

The AMS and the SBA reported that they received no complaints based on ECOA or Regulation B in 2021. The SEC had nothing to report. The FTC is an enforcement agency and does not conduct compliance examinations.

5.1.4 Referrals to the Department of Justice

The agencies assigned enforcement authority under section 704 of ECOA must refer a matter to DOJ when there is reason to believe that a creditor has engaged in a pattern or practice of lending discrimination in violation of ECOA.<sup>96</sup> They also may refer other potential ECOA violations to DOJ.<sup>97</sup> In 2021, 3 agencies (FDIC, NCUA, and CFPB) made 6 such referrals to DOJ involving discrimination in violation of ECOA. A brief description of those matters follows.

In 2021, the FDIC referred two fair lending matters to DOJ. The first matter involved illegal credit discrimination in the underwriting of private student loans on the prohibited basis of the applicant's race. The second matter involved illegal credit discrimination on the prohibited basis of race by redlining majority Black communities in the origination of residential mortgage loans.

NCUA referred two ECOA matters to DOJ, both involving discrimination on the basis of age. DOJ declined to open an independent investigation and deferred to NCUA for administrative enforcement on both referrals.

As reported in section 1.2.2 above, in 2021, the CFPB referred two matters to DOJ. The referrals involved discrimination in mortgage origination policies and mortgage origination pricing based on race and national origin.

5.2 Reporting on HMDA

The CFPB's annual HMDA reporting requirement calls for the CFPB, in consultation with HUD, to report annually on the utility of HMDA's requirement that covered lenders itemize loan data in order to disclose the number and dollar amount of certain mortgage loans and applications, grouped according to various characteristics.<sup>98</sup> The CFPB, in consultation with HUD, finds that itemization and tabulation of these data furthers the purposes of HMDA.

6. Conclusion

Throughout 2021, the CFPB worked to ensure that individuals and communities had fair, equitable, and

nondiscriminatory access to credit, in accordance with its Congressional mandate through supervision and enforcement actions, research and market monitoring activities, rulemaking and guidance, amicus activity, and consumer education.

The CFPB is looking ahead to the future of financial services markets, which will be increasingly shaped by predictive analytics, algorithms, and machine learning. While technology holds great promise, it can also reinforce historical biases that have excluded too many Americans from opportunities.

In particular, the CFPB will be sharpening its focus on digital redlining and algorithmic bias. As more technology platforms, including Big Tech firms, influence the financial services marketplace, the CFPB will be working to identify emerging risks and to develop appropriate policy responses.

The CFPB is committed to protecting individuals, small businesses, and communities from discrimination, holding institutional and individual bad actors accountable, and ensuring robust and comprehensive ameliorative remedies for violations of the laws under our jurisdiction.

APPENDIX A—DEFINED TERMS

AAPI .....	Asian American and Pacific Islanders.
AMS .....	Agricultural Marketing Service of the U.S. Department of Agriculture.
AI .....	Artificial Intelligence.
ASC .....	FFIEC's Appraisal Subcommittee.
AVM .....	Automated Valuation Models.
CARES Act .....	Coronavirus Aid, Relief, and Economic Security Act.
CFPA .....	Consumer Financial Protection Act of 2010.
CFPB .....	Consumer Financial Protection Bureau.
CMS .....	Compliance Management System.
COVID-19 .....	Coronavirus Disease/Pandemic 2019.
CRA .....	Community Reinvestment Act.
Dodd-Frank Act .....	Dodd-Frank Wall Street Reform and Consumer Protection Act.
DOJ .....	U.S. Department of Justice.
DOT .....	U.S. Department of Transportation.
ECOA .....	Equal Credit Opportunity Act.
EFTA .....	Electronic Fund Transfer Act.
FCA .....	Farm Credit Administration.
FDIC .....	Federal Deposit Insurance Corporation.
FHA .....	Fair Housing Act.
FHFA .....	Federal Housing Finance Agency.

<sup>94</sup> 12 CFR 1002.14(a)(1); 1002.14(a)(2).

<sup>95</sup> 12 CFR 1002.14(a)(1–4).

<sup>96</sup> 15 U.S.C. 1691e(g).

<sup>97</sup> *Id.*

<sup>98</sup> 12 U.S.C. 2807.



APPENDIX A—DEFINED TERMS—Continued

Federal Reserve Board or FRB .....	Board of Governors of the Federal Reserve System.
FFIEC .....	Federal Financial Institutions Examination Council—the FFIEC member agencies are the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), the Office of the Comptroller of the Currency (OCC), and the Consumer Financial Protection Bureau (CFPB). The State Liaison Committee was added to FFIEC in 2006 as a voting member.
FIRREA .....	Financial Institutions Reform, Recovery, and Enforcement Act of 1989.
FTC .....	Federal Trade Commission.
GIPSA .....	Grain Inspection, Packers and Stockyards Administration of the U.S. Department of Agriculture.
HMDA .....	Home Mortgage Disclosure Act.
HoPI .....	Hawaiian or Pacific Islander.
HUD .....	U.S. Department of Housing and Urban Development.
LEP .....	Limited English Proficient.
MH .....	Manufactured Home.
MSA .....	Metropolitan Statistical Area.
NCUA .....	National Credit Union Administration.
NPRM .....	Notice of Proposed Rulemaking.
OCC .....	Office of the Comptroller of the Currency.
PAVE .....	Property Appraisal and Valuation Equity.
PPP .....	Paycheck Protection Program (CARES Act).
RFI .....	Request for Information.
SBA .....	Small Business Administration.
SBREFA .....	Small Business Regulatory Enforcement Fairness Act of 1996.
SEC .....	Securities and Exchange Commission.
UDAAP .....	Unfair, Deceptive, or Abusive Acts or Practices.
USDA .....	U.S. Department of Agriculture.

**Signing Authority**

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

**Laura Galban,**

*Federal Register Liaison, Consumer Financial Protection Bureau.*

[FR Doc. 2022–10133 Filed 5–11–22; 8:45 am]

**BILLING CODE 4810–AM–P**

U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814, 301–504–7479 (Office) or 240–863–8938 (Cell).

Dated: May 4, 2022.

**Alberta E. Mills,**

*Commission Secretary.*

[FR Doc. 2022–09968 Filed 5–5–22; 11:15 am]

**BILLING CODE 6355–01–P**

**DATES:** Comments must be received by May 17, 2022.

**ADDRESSES:** The Department has requested emergency processing from OMB for this information collection request by 5 days after publication of this notice. Interested parties can access the supporting materials and collection instrument as well as submit comments and recommendations to OMB at [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting “Currently under 5-day Review—Open for Public Comments” or by using the search function. Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

**FOR FURTHER INFORMATION CONTACT:** Angela Duncan, 571–372–7574, or [whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil](mailto:whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil).

**SUPPLEMENTARY INFORMATION:** This study supports the Sexual Assault Prevention and Response Office’s (SAPRO) mission (and that of the larger U.S. Air Force) to work toward an Air Force culture that is free of sexual violence. This effort will also support completion of USAFA SAPRO’s DoD Junior Leader Working Groups plan of action and milestones. Ultimately, the implementation of the adapted curriculum may result in a reduced number of sexual assaults and enhanced psychological health and well-being among Airmen, allowing them to remain fit for duty.

**CONSUMER PRODUCT SAFETY COMMISSION**

**Sunshine Act Meeting Notice**

**TIME AND DATE:** Wednesday, May 11, 2022, 10:00–11:00 a.m.

**PLACE:** This meeting will be held remotely.

**STATUS:** Commission Meeting—Open to the Public.

**MATTERS TO BE CONSIDERED:** Briefing Matter: FY 2022 Mid-Year Review.

All attendees should pre-register for the Commission meeting using the following link and password: <https://cpsc.webex.com/cpsc/onstage/g.php?MTID=e6ebbcd99bd6215929ac3e5eb1ca20240>.

Password: 0511.

After registering you will receive a confirmation email containing information about joining the meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Alberta E. Mills, Office of the Secretary,

**DEPARTMENT OF DEFENSE**

**Department of the Air Force**

[Docket ID: USAF–2022–HQ–0003]

**Submission for OMB Review; Comment Request**

**AGENCY:** Department of the Air Force, Department of Defense (DoD).

**ACTION:** Emergency 5-day information collection notice.

**SUMMARY:** Consistent with the Paperwork Reduction Act of 1995 and its implementing regulations, this document provides notice that DoD is submitting an Information Collection Request to the Office of Management and Budget (OMB) to develop a leadership curriculum that will help U.S. Air Force Academy (USAFA) produce leaders of character who will contribute to a culture of civility as they become officers in the USAF. DoD requests emergency processing and OMB authorization to collect the information after publication of this notice for a period of six months.

This study will collect formative research data through focus groups and interviews to inform recommendations to enhance the current USAFA sexual assault leadership training curriculum. Research partners at the University of Florida and Research Triangle Institute International will collect feedback from trainees in the Squadron Officer School at Maxwell Air Force Base, concerning perceived readiness for duty, perceptions of the leadership training received at USAFA, and opportunities for enhancement across the four-year USAFA curriculum.

*Title; Associated Form; and OMB Number:* Formative Research for Sexual Assault Leadership Training at the U.S. Air Force Academy; OMB Control Number 0701-FRSA.

*Type of Request:* Emergency.

*Number of Respondents:* 330.

*Responses per Respondent:* 1.

*Annual Responses:* 330.

*Average Burden per Response:* 10.8 minutes.

*Annual Burden Hours:* 59.4.

*Affected Public:* Individuals or households.

*Frequency:* Once.

*Respondent's Obligation:* Voluntary.

#### Request for Comments

*Comments are invited on:* (1) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information collected has practical utility; (2) the accuracy of DoD's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Dated: May 9, 2022.

**Aaron T. Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2022-10184 Filed 5-11-22; 8:45 am]

**BILLING CODE 5001-06-P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Department of Defense Wage Committee (DoDWC); Notice of Federal Advisory Committee Meetings

**AGENCY:** Under Secretary of Defense for Personnel and Readiness, Department of Defense (DoD).

**ACTION:** Notice of closed Federal Advisory Committee meetings.

**SUMMARY:** The DoD is publishing this notice to announce that the following Federal Advisory Committee meetings of the DoDWC will take place.

#### DATES:

Tuesday, May 3, 2022 from 10:00 a.m. to 11:30 a.m. and will be closed to the public.

Tuesday, May 17, 2022 from 10:00 a.m. to 12:30 p.m. and will be closed to the public.

Tuesday, May 31, 2022 from 10:00 a.m. to 10:30 a.m. and will be closed to the public.

Tuesday, June 14, 2022 from 10:00 a.m. to 12:00 p.m. and will be closed to the public.

Tuesday, June 28, 2022 from 10:00 a.m. to 12:00 p.m. and will be closed to the public.

Tuesday, July 12, 2022 from 10:00 a.m. to 11:30 a.m. and will be closed to the public.

Tuesday, July 26, 2022 from 10:00 a.m. to 12:00 p.m. and will be closed to the public.

**ADDRESSES:** The closed meetings will be held by teleconference.

**FOR FURTHER INFORMATION CONTACT:** Mr. Karl Fendt, (571) 372-1618 (voice), [karl.h.fendt.civ@mail.mil](mailto:karl.h.fendt.civ@mail.mil) (email), 4800 Mark Center Drive, Suite 05G21, Alexandria, Virginia 22350 (mailing address). Any agenda updates can be found at the DoDWC's official website: <https://wageandsalary.dcpas.osd.mil/BWN/DODWC/>.

**SUPPLEMENTARY INFORMATION:** Due to circumstances beyond the control of the Department of Defense and the Designated Federal Officer, the Department of Defense Wage Committee was unable to provide public notification required by 41 CFR 102-3.150(a) concerning its May 3, 2022 and May 17, 2022 meetings. Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102-3.150(b), waives the 15-calendar day notification requirement. These meetings are being held under the provisions of the Federal Advisory Committee Act (FACA) (5 U.S.C., Appendix), the Government in the Sunshine Act (5 U.S.C. 552b), and 41 CFR 102-3.140 and 102-3.150.

*Purpose of the Meeting:* The purpose of these meetings is to provide independent advice and recommendations on matters relating to the conduct of wage surveys and the establishment of wage schedules for all appropriated fund and non-appropriated fund areas of blue-collar employees within the Department of Defense.

## Agendas

*May 3, 2022*

Opening Remarks by Chairperson.  
*Reviewing survey results and/or survey specifications for the following Nonappropriated Fund areas:*

1. Any items needing further clarification or action from the previous agenda.
2. Survey Specifications for the Los Angeles, California wage area (AC-130).
3. Survey Specifications for the Orange, California wage area (AC-131).
4. Survey Specifications for the Ventura, California wage area (AC-132).
5. Survey Specifications for the Riverside, California wage area (AC-133).
6. Survey Specifications for the San Bernardino, California wage area (AC-134).
7. Survey Specifications for the Santa Barbara, California wage area (AC-135).
8. Survey Specifications for the Guam wage area (AC-150).

*Reviewing survey results and/or survey specifications for the following Appropriated Fund areas:*

9. Wage Schedule (Full Scale) for the Reno, Nevada wage area (AC-086).
10. Wage Schedule (Full Scale) for the Houston-Galveston-Texas City, Texas wage area (AC-133).
11. Wage Schedule (Wage Change) for the Phoenix, Arizona wage area (AC-009).
12. Wage Schedule (Wage Change) for the Tucson, Arizona wage area (AC-010).
13. Wage Schedule (Wage Change) for the Minneapolis-St. Paul, Minnesota wage area (AC-075).
14. Survey Specifications for the Cedar Rapids-Iowa City, Iowa wage area (AC-052).
15. Survey Specifications for the Madison, Wisconsin wage area (AC-147).
16. Any items needing further clarification from this agenda may be discussed during future scheduled meetings.

Closing Remarks by Chairperson.

*May 17, 2022*

Opening Remarks by Chairperson.  
*Reviewing survey results and/or survey specifications for the following Nonappropriated Fund areas:*

1. Any items needing further clarification or action from the previous agenda.
2. Wage Schedule (Full Scale) for the Calhoun, Alabama wage area (AC-104).
3. Wage Schedule (Full Scale) for the Madison, Alabama wage area (AC-105).
4. Wage Schedule (Full Scale) for the Lake, Illinois wage area (AC-145).

5. Wage Schedule (Full Scale) for the Douglas-Sarpy, Nevada wage area (AC-149).

6. Wage Schedule (Full Scale) for the Leavenworth, Kansas/Jackson-Johnson, Missouri wage area (AC-151).

7. Wage Schedule (Full Scale) for the St. Clair, Illinois wage area (AC-157).

8. Wage Schedule (Wage Change) for the Richmond, Georgia wage area (AC-035).

9. Wage Schedule (Wage Change) for the Houston, Georgia wage area (AC-036).

10. Wage Schedule (Wage Change) for the Pulaski, Arkansas wage area (AC-045).

11. Wage Schedule (Wage Change) for the Montgomery, Alabama wage area (AC-048).

12. Wage Schedule (Wage Change) for the Sedgwick, Kansas wage area (AC-078).

13. Wage Schedule (Wage Change) for the Montgomery-Greene, Ohio wage area (AC-166).

*Reviewing survey results and/or survey specifications for the following Appropriated Fund areas:*

14. Wage Schedule (Full Scale) for the Syracuse-Utica-Rome, New York wage area (AC-097).

15. Wage Schedule (Full Scale) for the North Dakota wage area (AC-103).

16. Wage Schedule (Wage Change) for the Northeastern Arizona wage area (AC-008).

17. Wage Schedule (Wage Change) for the Albany-Schenectady-Troy, New York wage area (AC-091).

18. Wage Schedule (Wage Change) for the Northern New York wage area (AC-095).

19. Wage Schedule (Wage Change) for the West Virginia wage area (AC-146).

20. Survey Specifications for the Little Rock, Arkansas wage area (AC-011).

21. Survey Specifications for the Boston, Massachusetts wage area (AC-068).

22. Survey Specifications for the Portland, Oregon wage area (AC-112).

23. Survey Specifications for the Wichita Falls, Texas-Southwestern Oregon wage area (AC-138).

24. Special Pay—Pacific Northwest Power Rate (AC-A801).

25. Any items needing further clarification from this agenda may be discussed during future scheduled meetings.

Closing Remarks by Chairperson.

May 31, 2022

Opening Remarks by Chairperson.  
*Reviewing survey results and/or survey specifications for the following Nonappropriated Fund areas:*

1. Any items needing further clarification or action from the previous agenda.

2. Survey Specifications for the Maricopa, Arizona wage area (AC-012).

3. Any items needing further clarification from this agenda may be discussed during future scheduled meetings.

Closing Remarks by Chairperson.

June 14, 2022

Opening Remarks by Chairperson.  
*Reviewing survey results and/or survey specifications for the following Nonappropriated Fund areas:*

1. Any items needing further clarification or action from the previous agenda.

2. Survey Specifications for the Pima, Arizona wage area (AC-013).

3. Survey Specifications for the Yuma, Arizona wage area (AC-055).

4. Survey Specifications for the Kings-Queens, New York wage area (AC-091).

*Reviewing survey results and/or survey specifications for the following Appropriated Fund areas:*

5. Wage Schedule (Full Scale) for the Anniston-Gadsden, Alabama wage area (AC-001).

6. Wage Schedule (Full Scale) for the Huntsville, Alabama wage area (AC-004).

7. Wage Schedule (Full Scale) for the Tampa-St. Petersburg, Florida wage area (AC-035).

8. Wage Schedule (Full Scale) for the Lake Charles-Alexandria, Louisiana wage area (AC-060).

9. Wage Schedule (Full Scale) for the El Paso, Texas wage area (AC-132).

10. Wage Schedule (Wage Change) for the New Haven-Hartford, Connecticut wage area (AC-024).

11. Wage Schedule (Wage Change) for the Albuquerque, New Mexico wage area (AC-089).

12. Wage Schedule (Wage Change) for the Cleveland, Ohio wage area (AC-105).

13. Survey Specifications for the Los Angeles, California wage area (AC-013).

14. Survey Specifications for the Santa Barbara, California wage area (AC-019).

15. Survey Specifications for the New London, Connecticut wage area (AC-025).

16. Survey Specifications for the Panama City, Florida wage area (AC-033).

17. Survey Specifications for the Las Vegas, Nevada wage area (AC-085).

18. Any items needing further clarification from this agenda may be discussed during future scheduled meetings.

Closing Remarks by Chairperson.

June 28, 2022

Opening Remarks by Chairperson.  
*Reviewing survey results and/or survey specifications for the following Nonappropriated Fund areas:*

1. Any items needing further clarification or action from the previous agenda.

2. Wage Schedule (Full Scale) for the Cumberland, Pennsylvania wage area (AC-092).

3. Wage Schedule (Full Scale) for the York, Pennsylvania wage area (AC-093).

4. Wage Schedule (Full Scale) for the Honolulu, Hawaii wage area (AC-106).

5. Wage Schedule (Full Scale) for the Norfolk-Portsmouth-Virginia Beach, Virginia wage area (AC-111).

6. Wage Schedule (Full Scale) for the Hampton-Newport News, Virginia wage area (AC-112).

7. Wage Schedule (Full Scale) for the Harford, Maryland wage area (AC-148).

8. Wage Schedule (Wage Change) for the McLennan, Texas wage area (AC-022).

9. Wage Schedule (Wage Change) for the Allegheny, Pennsylvania wage area (AC-066).

10. Wage Schedule (Wage Change) for the Jefferson, New York wage area (AC-101).

11. Wage Schedule (Wage Change) for the Orange, New York wage area (AC-103).

12. Wage Schedule (Wage Change) for the Macomb, Michigan wage area (AC-162).

13. Wage Schedule (Wage Change) for the Niagara, New York wage area (AC-163).

*Reviewing survey results and/or survey specifications for the following Appropriated Fund areas:*

14. Wage Schedule (Wage Change) for the Texarkana, Texas wage area (AC-136).

15. Survey Specifications for the San Bernardino-Riverside-Ontario, California wage area (AC-016).

16. Survey Specifications for the Chicago, Illinois wage area (AC-047).

17. Survey Specifications for the Portsmouth, New Hampshire wage area (AC-087).

18. Survey Specifications for the Seattle-Everett-Tacoma, Washington wage area (AC-143).

19. Special Pay—Washington, District of Columbia TV Systems (AC-B027).

20. Special Pay—Washington, District of Columbia Electronic Equipment Maker (AC-A027).

21. Any items needing further clarification from this agenda may be discussed during future scheduled meetings.

Closing Remarks by Chairperson.

July 12, 2022

Opening Remarks by Chairperson.

*Reviewing survey results and/or survey specifications for the following Appropriated Fund areas:*

1. Any items needing further clarification or action from the previous agenda.

2. Wage Schedule (Full Scale) for the Shreveport, Louisiana wage area (AC-062).

3. Wage Schedule (Full Scale) for the Augusta, Maine wage area (AC-063).

4. Wage Schedule (Full Scale) for the Central North Carolina wage area (AC-099).

5. Wage Schedule (Full Scale) for the Norfolk-Portsmouth-Newport News-Hampton, Virginia wage area (AC-140).

6. Wage Schedule (Wage Change) for the Atlanta, Georgia wage area (AC-037).

7. Wage Schedule (Wage Change) for the Western Texas wage area (AC-127).

8. Wage Schedule (Wage Change) for the Waco, Texas wage area (AC-137).

9. Survey Specifications for the Fort Wayne-Marion, Indiana wage area (AC-049).

10. Survey Specifications for the St. Louis, Missouri wage area (AC-081).

11. Survey Specifications for the Omaha, Nebraska wage area (AC-084).

12. Survey Specifications for the Dallas-Fort Worth, Texas wage area (AC-131).

13. Special Pay—Western Texas Special Rate (AC-A127).

14. Any items needing further clarification from this agenda may be discussed during future scheduled meetings.

Closing Remarks by Chairperson.

July 26, 2022

Opening Remarks by Chairperson.

*Reviewing survey results and/or survey specifications for the following Nonappropriated Fund areas:*

1. Any items needing further clarification or action from the previous agenda.

2. Wage Schedule (Full Scale) for the Pennington, South Dakota wage area (AC-086).

3. Wage Schedule (Full Scale) for the Nueces, Texas wage area (AC-115).

4. Wage Schedule (Full Scale) for the Bexar, Texas wage area (AC-117).

5. Wage Schedule (Full Scale) for the Anchorage, Alaska wage area (AC-118).

6. Wage Schedule (Full Scale) for the Kitsap, Washington wage area (AC-142).

7. Wage Schedule (Full Scale) for the Dallas, Texas wage area (AC-152).

8. Wage Schedule (Full Scale) for the Tarrant, Texas wage area (AC-156).

9. Wage Schedule (Wage Change) for the Orleans, Louisiana wage area (AC-006).

10. Wage Schedule (Wage Change) for the Bell, Texas wage area (AC-028).

11. Wage Schedule (Wage Change) for the Curry, New Mexico wage area (AC-030).

12. Wage Schedule (Wage Change) for the Tom Green, Texas wage area (AC-032).

13. Wage Schedule (Wage Change) for the Cobb, Georgia wage area (AC-034).

14. Wage Schedule (Wage Change) for the Columbus, Georgia wage area (AC-067).

*Reviewing survey results and/or survey specifications for the following Appropriated Fund areas:*

15. Wage Schedule (Full Scale) for the Columbia, South Carolina wage area (AC-120).

16. Wage Schedule (Wage Change) for the Savannah, Georgia wage area (AC-042).

17. Survey Specifications for the Bloomington-Bedford-Washington, Indiana wage area (AC-048).

18. Survey Specifications for the Indianapolis, Indiana wage area (AC-050).

19. Survey Specifications for the Kansas City, Missouri wage area (AC-080).

20. Survey Specifications for the Southern Missouri wage area (AC-082).

21. Any items needing further clarification from this agenda may be discussed during future scheduled meetings.

Closing Remarks by Chairperson.

*Meeting Accessibility:* Pursuant to 5 U.S.C. 552b(c)(4), the Department of Defense has determined that the meetings shall be closed to the public. The Under Secretary of Defense for Personnel and Readiness, in consultation with the Department of Defense Office of General Counsel, has determined in writing that each of these meetings is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential.

*Written Statements:* Pursuant to section 10(a)(3) of the Federal Advisory Committee Act and 41 CFR 102-3.140, interested persons may submit written statements to the Designated Federal Officer for the DoDWC at any time. Written statements should be submitted to the Designated Federal Officer at the email or mailing address listed in the **FOR FURTHER INFORMATION CONTACT** section. If statements pertain to a specific topic being discussed at a planned meeting, then these statements must be submitted no later than five (5) business days prior to the meeting in question. Written statements received after this date may not be provided to or considered by the DoDWC until its

next meeting. The Designated Federal Officer will review all timely submitted written statements and provide copies to all the committee members before the meeting that is the subject of this notice.

Dated: May 5, 2022.

Aaron T. Siegel,

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2022-10132 Filed 5-11-22; 8:45 am]

BILLING CODE 5001-06-P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Department of Defense Science and Technology Reinvention Laboratory Personnel Demonstration Project

**AGENCY:** Office of the Under Secretary of Defense for Research and Engineering (OUSD(R&E)), Department of Defense (DoD).

**ACTION:** This notice provides a new authority to all Science and Technology Reinvention Laboratory (STRL) Personnel Demonstration Projects.

**SUMMARY:** STRLs with published demonstration project plans may implement the flexibility of a supplemental pay provision based on criteria as defined by the STRL director.

**DATES:** This proposal may not be implemented until a 30-day comment period is provided, comments addressed, and a final **Federal Register** Notice (FRN) is published. To be considered, written comments must be submitted on or before June 13, 2022.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

*Mail:* Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Attn: Mailbox 24, Suite 08D09, Alexandria, VA 22350-1700.

*Instructions:* All submissions received must include the agency name, docket number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <http://www.regulations.gov> as they are received, without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:**

*Department of Defense:*

- Office of the Under Secretary of Defense (Research and Engineering), Laboratories and Personnel Office: Dr. Jagadeesh Pamulapati, 571-372-6372, *Jagadeesh.pamulapati.civ@mail.mil*.

*Department of the Air Force:*

- Air Force Research Laboratory: Ms. Rosalyn Jones-Byrd, 937-656-9747, *Rosalyn.Jones-Byrd@us.af.mil*.
- Joint Warfare Analysis Center: Ms. Amy Balmaz, 540-653-8598, *Amy.T.Balmaz.civ@mail.mil*.

*Department of the Army:*

- Army Futures Command: Ms. Marlowe Richmond, 830-469-2057, *Marlowe.Richmond.civ@army.mil*.
- Army Research Institute for the Behavioral and Social Sciences: Dr. Scott Shadrick, 254-288-3800, *Scottie.B.Shadrick.civ@army.mil*.
- Combat Capabilities Development Command Armaments Center: Mr. Mike Nicotra, 973-724-7764, *Michael.J.Nicotra.civ@mail.mil*.
- Combat Capabilities Development Command Army Research Laboratory: Mr. Christopher Tahaney, 410-278-9069, *Christopher.S.Tahaney.civ@army.mil*.

- Combat Capabilities Development Command Aviation and Missile Center: Ms. Nancy Salmon, 256-876-9647, *Nancy.C.Salmon2.civ@army.mil*.

- Combat Capabilities Development Command Chemical Biological Center: Ms. Patricia Milwicz, 410-417-2343, *Patricia.L.Milwicz.civ@army.mil*.

- Combat Capabilities Development Command's Command, Control, Communications, Computers, Cyber, Intelligence, Surveillance, and Reconnaissance Center: Ms. Angela Clybourn, 443-395-2110, *Angela.M.Clybourn.civ@army.mil*.

- Combat Capabilities Development Command's Ground Vehicle Systems Center: Ms. Jennifer Davis, 586-306-4166, *Jennifer.L.Davis1.civ@army.mil*.

- Combat Capabilities Development Command's Soldier Center: Ms. Joelle Montecalvo, 508-206-3421, *Joelle.K.Montecalvo.civ@army.mil*.

- Engineer Research and Development Center: Ms. Patricia Sullivan, 601-634-3065, *Patricia.M.Sullivan@usace.army.mil*.

- Medical Research and Development Command: Ms. Linda Krout, 301-619-7276, *Linda.J.Krout.civ@mail.mil*.

- Technical Center, Space and Missile Defense Command: Dr. Chad Marshall, 256-955-5697, *Chad.J.Marshall.civ@army.mil*.

*Department of the Navy:*

- Naval Air Warfare Center, Weapons Division and Aircraft Division: Mr. Richard Cracraft, 760-939-8115, *Richard.A.Cracraft2.civ@us.navy.mil*.

- Naval Facilities Engineering Command Engineering and Expeditionary Warfare Center: Ms. Lori Leigh, 805-901-5917, *Lori.A.Leigh@us.navy.mil*.

- Naval Information Warfare Centers:
  - Naval Information Warfare Center Atlantic: Mr. Michael Gagnon, 843-218-3871, *Michael.L.Gagnon2.civ@us.navy.mil*.

- Naval Information Warfare Center Pacific: Ms. Angela Hanson, 619-553-0833, *Angela.Y.Hanson.civ@us.navy.mil*.

- Naval Medical Research Center: Dr. Jill Phan, 301-319-7645, *Jill.C.Phan.civ@mail.mil*.

- Naval Research Laboratory: Ms. Ginger Kisamore, 202-767-3792, *Ginger.Kisamore@nrl.navy.mil*.

- Naval Sea Systems Command Warfare Centers: Ms. Diane Brown, 215-897-1619, *Diane.J.Brown.civ@us.navy.mil*.

- Office of Naval Research: Ms. Margaret J. Mitchell, 703-588-2364, *Margaret.J.Mitchell@navy.mil*.

**SUPPLEMENTARY INFORMATION:****1. Background**

Title 10 United States Code (U.S.C.) 4121 authorizes the Secretary of Defense, through OUSD(R&E), to exercise the authorities granted to the Office of Personnel Management (OPM) under 5 U.S.C. 4703 to conduct personnel demonstration projects at DoD laboratories designated as STRLs. All STRLs authorized pursuant to 10 U.S.C. 4121 may use the provisions described in this FRN. STRLs implementing these flexibilities must have an approved personnel demonstration project plan published in an FRN and must fulfill any collective bargaining obligations. Each STRL will establish internal operating procedures as appropriate.

The 21 current STRLs are:

- Air Force Research Laboratory
- Joint Warfare Analysis Center
- Army Futures Command
- Army Research Institute for the Behavioral and Social Sciences
- U.S. Army Combat Capabilities Development Command's Armaments Center
- U.S. Army Combat Capabilities Development Command's Army Research Laboratory
- U.S. Army Combat Capabilities Development Command's Aviation and Missile Center
- U.S. Army Combat Capabilities Development Command's Chemical Biological Center
- U.S. Army Combat Capabilities Development Command's Command,

Control, Communications, Computers, Cyber, Intelligence, Surveillance, and Reconnaissance Center

- U.S. Army Combat Capabilities Development Command's Ground Vehicle Systems Center
- U.S. Army Combat Capabilities Development Command's Soldier Center
- U.S. Army Engineer Research and Development Center
- U.S. Army Medical Research and Development Command
- U.S. Army Space and Missile Defense Command's Technical Center
- Naval Air Systems Command Warfare Centers
- Naval Facilities Engineering Command Systems Engineering and Expeditionary Warfare Center
- Naval Information Warfare Centers, Atlantic and Pacific
- Naval Medical Research Center
- Naval Research Laboratory
- Naval Sea Systems Command Warfare Centers
- Office of Naval Research

**2. Overview****I. Introduction***A. Purpose*

Some STRLs have adopted supplemental pay flexibilities that are based on the OPM special salary rate tables that provide for higher salaries than the General Schedule (GS) tables. This supplemental pay flexibility permits STRLs to independently establish supplemental pay rates based on market conditions to help STRLs attract, recruit, and retain a high caliber workforce. Competing with private sector compensation is particularly challenging, especially in emerging mission areas such as hypersonics, autonomy, cybersecurity, and data science. This flexibility may not be used in conjunction with any statutory enhanced pay authority, such as the pay authority for Senior Scientific Technical Managers in 10 U.S.C. 4091, or the pay authority for Experts in Science and Engineering in 10 U.S.C. 4092.

*B. Required Waivers to Law and Regulation*

Waivers and adaptations of certain title 5 U.S.C. and title 5 Code of Federal Regulations (CFR) provisions are required only to the extent that these statutory and regulatory provisions limit or are inconsistent with the actions authorized under these demonstration projects. Title 10 U.S.C. 4121(a)(5) states that the limitations on pay fixed by administrative action in 5 U.S.C. 5373 do not apply to the STRL demonstration project authority to prescribe salary

schedules and other related benefits. Appendix A lists waivers needed to enact authorities described in this FRN. Nothing in this plan is intended to preclude the STRLs from adopting or incorporating any law or regulation enacted, adopted, or amended after the effective date of this FRN.

*C. Participating Organizations and Employees*

All DoD laboratories designated as STRLs pursuant to 10 U.S.C. 4121 with approved personnel demonstration project plans published in FRNs may use the provisions described in this FRN.

**II. Personnel System Changes**

*A. Description and Implementation*

STRL directors may establish supplemental pay rates to be paid bi-weekly, as other pay, for those positions which warrant higher compensation than that provided by the established broadband salary ranges, STRL staffing supplements or differentials, or other recruitment or retention authorities. The STRL director may establish supplemental pay rates by occupational series, specialty, competency, broadband level, and/or geographical area. In establishing such rates, the STRL director may consider: Rates of pay offered by non-Federal or other alternative pay system employers that are considerably higher than rates payable by the STRL; the remoteness of the area or location involved; the undesirability of the working conditions

or nature of the work involved; evidence that the position is of such a specialized nature that very few candidates exist; numbers of existing vacant positions and the length of time vacant; numbers of employees who have voluntarily left positions; evidence to support a conclusion that recruitment or retention problems likely will develop (if such problems do not already exist) or will worsen; consideration of use of other pay flexibilities as well as the use of non-pay solutions; or any other circumstances the STRL director considers appropriate. Documentation of the determination will be maintained by the STRL.

This supplemental pay is in addition to any other pay, such as locality-based comparability payments authorized under 5 U.S.C. 5304 and may result in compensation above Level IV of the Executive Schedule but may not exceed Level I of the Executive Schedule.

An established total salary including supplemental pay is considered basic pay for the same purposes as a locality rate under 5 CFR 531.606(b) (i.e., for purposes of retirement, life insurance, premium pay, severance pay and advances in pay). It will also be used to compute worker's compensation payments and lump-sum payments for accrued and accumulated annual leave.

The STRL director has an ongoing responsibility to evaluate the need for continuing payment of the supplemental pay and shall terminate or reduce the amount if conditions warrant. Conditions to be considered are: Changes in labor-market factors; the

need for the services or skills of the employee has reduced to a level that makes it unnecessary to continue payment at the current level; or budgetary considerations make it difficult to continue payment at the current level. The reduction or termination of the payment is not considered an adverse action and may not be appealed or grieved. The applicant or employee will sign a statement of understanding outlining that the supplement may be reduced or terminated at any time based on conditions as determined by the STRL director. The documentation of the determination will be maintained by the STRL.

*B. Evaluation*

Procedures for evaluating this authority will be incorporated into the STRL demonstration project evaluation processes conducted by the STRLs, OUSD(R&E), or Component headquarters, as appropriate.

*C. Reports*

STRLs will track and provide information and data on the use of this authority when requested by the Component headquarters or OUSD(R&E).

Dated: May 4, 2022.

**Aaron T. Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

**III. Required Waivers to Law and Regulations**

**APPENDIX A—WAIVERS TO TITLE 5, U.S.C.**

Title 5, United States Code	Title 5, Code of Federal Regulations
5 U.S.C. 5303(f)—Annual Adjustments to pay schedules. Waived to allow pay (disregarding comparability pay) to exceed level V of the Executive Schedule.	5 CFR Part 530, subpart B—Aggregate Limitation on Pay. Waived in its entirety to allow STRL director to authorize supplemental pay as defined in this FRN.
5 U.S.C. 5304(g)(1)—Locality-based comparability payments. Waived to allow pay in excess of level IV of the Executive Schedule.	5 CFR Part 530.203—Administration of aggregate limitation on pay. Waived to allow pay and allowances, differentials, bonuses, awards, or other similar cash payments, including supplemental pay in excess of level I of the Executive Schedule.
5 U.S.C. 5304(h)(1)(D)—Locality-based comparability payments. Waived to allow pay in excess of level IV of the Executive Schedule.	5 CFR Part 531.606(a)—Maximum limits on locality rates. Waived to allow pay in excess of level IV of the Executive Schedule.
5 U.S.C. 5305—Special Pay Authority. Waived in its entirety as to allow the STRL director to establish supplemental pay and to allow pay in excess of level IV of the Executive Schedule.	5 CFR Part 531.606(b)(3)—Maximum limits on locality rates. Waived to allow pay in excess of level IV of the Executive Schedule.
5 U.S.C. 5307—Limitation on certain payments. Waived to allow pay and allowances, differentials, bonuses, awards, or other similar cash payments, including supplemental pay in excess of Level I of the Executive Schedule.	5 CFR Part 531.608—Relationship of locality rates to other pay rates. Waived to apply the provisions of this FRN.
5 U.S.C. 5373—Limitation on pay fixed by administrative action. Waived to the extent necessary to allow basic pay and supplemental pay to exceed level IV of the Executive Schedule.	5 CFR Part 531.610(a), (b), (c), (d), (e)—Treatment of locality rate as basic pay. Waived to the extent to allow other pay to be considered as basic pay for purposes of the provisions of this FRN.
5 U.S.C. 5547—Limitation on premium pay. Waived to the extent necessary to allow basic pay and supplemental pay to exceed level IV of the Executive Schedule.	5 CFR Part 550.105—Premium Pay Biweekly maximum earnings limitation. Waived to the extent necessary to allow basic pay and supplemental pay to exceed level IV of the Executive Schedule.

APPENDIX B—AUTHORIZED STRLS AND FEDERAL REGISTER NOTICES

STRL	Federal Register Notice
Air Force Research Laboratory .....	61 FR 60400 amended by 75 FR 53076.
Joint Warfare Analysis Center .....	85 FR 29414.
Army Futures Command .....	Not yet published.
Army Research Institute for Behavioral and Social Sciences .....	85 FR 76038.
U.S. Army Combat Capabilities Development Command's Armaments Center.	76 FR 3744.
U.S. Army Combat Capabilities Development Command's Army Research Laboratory.	63 FR 10680.
U.S. Army Combat Capabilities Development Command's Aviation and Missile Center.	62 FR 34906 and 62 FR 34876 amended by 65 FR 53142 (AVRDEC and AMRDEC merged).
U.S. Army Combat Capabilities Development Command's Chemical Biological Center.	74 FR 68936.
U.S. Army Combat Capabilities Development Command's Command, Control, Communications, Cyber, Intelligence, Surveillance, and Reconnaissance Center.	66 FR 54872.
U.S. Army Combat Capabilities Development Command's Ground Vehicle Systems Center.	76 FR 12508.
U.S. Army Combat Capabilities Development Command's Soldier Center.	74 FR 68448.
U.S. Army Engineer Research and Development Center .....	63 FR 14580 amended by 65 FR 32135.
U.S. Army Medical Research and Development Command .....	63 FR 10440.
U.S. Army Space and Missile Defense Command's Technical Center ...	85 FR 3339.
Naval Air Systems Command Warfare Centers .....	76 FR 8530.
Naval Facilities Engineering Command Systems Engineering and Expeditionary Warfare Center.	86 FR 14084.
Naval Information Warfare Centers, Atlantic and Pacific .....	76 FR 1924.
Naval Medical Research Center .....	Not yet published.
Naval Research Laboratory .....	64 FR 33970.
Naval Sea Systems Command Warfare Centers .....	62 FR 64050.
Office of Naval Research .....	75 FR 77380.

[FR Doc. 2022-10141 Filed 5-11-22; 8:45 am]  
 BILLING CODE 5001-06-P

**DEPARTMENT OF DEFENSE**

**Office of the Secretary**

[Docket ID DoD-2022-OS-0051]

**Privacy Act of 1974; System of Records**

**AGENCY:** Department of Defense (DoD).  
**ACTION:** Notice of a new system of records.

**SUMMARY:** In accordance with the Privacy Act of 1974, the DoD is establishing a new Department-wide system of records titled, "Defense Advisory Committees," DoD-0011. This system of records covers DoD's maintenance of records about proposed, appointed, and prior members of the DoD's Federal Advisory Committees, to include subcommittees, which are or not subject to the Federal Advisory Committee Act (FACA). Individuals may be appointed to serve on an advisory committee as a regular government employee, as a special government employee, or as a representative member when directed by statute. These records include information on individuals who applied to be on a committee/subcommittee,

were considered for, are currently serving on, and/or had previously served on a committee/subcommittee.

**DATES:** This system of records is effective upon publication; however, comments on the Routine Uses will be accepted on or before June 13, 2022. The Routine Uses are effective at the close of the comment period.

**ADDRESSES:** You may submit comments, identified by docket number and title, by any of the following methods:

\* *Federal Rulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments.

\* *Mail:* Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Attn: Mailbox 24, Suite 08D09, Alexandria, VA 22350-1700.

*Instructions:* All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <https://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Ms. Rahwa Keleta, Privacy and Civil Liberties Division, Directorate for Privacy, Civil Liberties and Freedom of Information, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Department of Defense, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350-1700; [OSD.DPCLTD@mail.mil](mailto:OSD.DPCLTD@mail.mil); (703) 571-0070.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

DoD is establishing the Defense Advisory Committees, DoD-0011, as a DoD-wide Privacy Act system of records. A DoD-wide system of records notice (SORN) supports multiple DoD paper or electronic recordkeeping systems operated by more than one DoD component that maintain the same kind of information about individuals for the same purpose. Establishment of DoD-wide SORNs helps DoD standardize the rules governing the collection, maintenance, use, and sharing of personal information in key areas across the enterprise. DoD-wide SORNs also reduce duplicative and overlapping SORNs published by separate DoD components. The creation of DoD-wide SORNs is expected to make locating relevant SORNs easier for DoD

personnel and the public, and create efficiencies in the operation of the DoD privacy program.

The FACA is a Federal law that governs the establishment, operation, and termination of advisory committees. The FACA ensures the public's knowledge of and an opportunity to participate in meetings between Federal agencies and groups the agency either established or manages and controls for the purpose of obtaining group advice and recommendations regarding the agency's operations or activities. The FACA requires the charter of such groups, meetings announced in advance and open to the public, and the availability of work products to the public.

This system of records will support relevant and appropriate offices and personnel, to include the DoD Advisory Committee Management Officer/who collects and preserves the required personally identifiable information necessary for proposed, appointed, and prior DoD advisory committee/subcommittee members. The system of records will consist of both electronic and paper records and will be used DoD-wide, for approved personnel, to maintain records of Federal government employees and other persons who participate in DoD-sponsored Federal advisory committees/subcommittees. The collection and maintenance of this information will enable DoD to maintain a list of members of its various Federal advisory committees/subcommittees subject to the FACA. This system of records will provide DoD with information on committee/subcommittee membership balance, qualifications, functions, and required reporting. This information is especially pertinent to selection of who will serve as an advisory committee/subcommittee member.

DoD SORNs have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy, Civil Liberties, and Freedom of Information Directorate website at <https://dpcl.d.defense.gov>.

## II. Privacy Act

Under the Privacy Act, a "system of records" is a group of records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined as a U.S. citizen or lawful permanent resident.

In accordance with 5 U.S.C. 552a(r) and Office of Management and Budget

(OMB) Circular No. A-108, DoD has provided a report of this system of records to the OMB and to Congress.

Dated: May 6, 2022.

**Aaron T. Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

### SYSTEM NAME AND NUMBER:

Defense Advisory Committees, DoD-0011.

### SECURITY CLASSIFICATION:

Unclassified.

### SYSTEM LOCATION:

Department of Defense (Department or DoD), located at Defense Pentagon, Washington, DC 20301-1950, and other Department installations, offices, or mission locations. Information may also be stored within a government-certified cloud, implemented and overseen by the Department's Chief Information Officer (CIO), 6000 Defense Pentagon, Washington, DC 20301-6000.

### SYSTEM MANAGER(S):

The system managers are as follows:

A. Advisory Committee Management Officer, Office of the Director of Administration and Management, 1950 Defense Pentagon, Washington, DC 20301-1950.

B. The Designated Federal Officer (DFO), serves as the system manager for individual DoD federal advisory committees. The contact information for the current DFO for each DoD committee can be found on <https://www.facadatabase.gov/>.

### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 113, Secretary of Defense; 5 U.S.C., Appendix, as amended, Federal Advisory Committee Act (FACA); 14 U.S.C. 632, Functions and powers vested in the Commandant; 19 U.S.C. 2071 note, Establishment of Service; Commissioner; Appointment; 41 CFR 102.3.5 through 102.3.185, Federal Advisory Committee Management; DoD Instruction 5105.04, Department of Defense Federal Advisory Committee Management Program; and E.O. 9397, Numbering System For Federal Accounts Relating To Individual Persons as amended.

### PURPOSE(S) OF THE SYSTEM:

A. To collect and maintain information on DoD past, present, and proposed advisory committee/subcommittee members subject to the FACA.

B. To identify the most qualified applicant and ensure a balanced advisory committee/subcommittee.

C. To support studies, findings, and recommendations to the Secretary of

Defense and the Deputy Secretary of Defense, through the advisory committee's sponsor, as identified in the committee's Charter.

D. To conduct required oversight and compliance over DoD advisory committee/subcommittee appointments and actions.

### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual who:

A. Applied to be on a committee/subcommittee and was considered for a committee/subcommittee appointment.

B. Currently serves on a committee/subcommittee.

C. Previously served on a committee/subcommittee.

*Note:* Individuals may be appointed to serve on an advisory committee pursuant to 41 CFR 102-3.130(a) as a regular government employee, pursuant to 5 U.S.C. 3109 as a special government employee, or as a representative member when directed by statute.

### CATEGORIES OF RECORDS IN THE SYSTEM:

The following categories of records may be collected:

A. *Personal information to include:* Name; DoD ID numbers; place and date of birth; gender; ethnicity; biographical information; addresses; email address; telephone number(s); marital status; military service; education/degrees/certifications; and registration in professional societies.

B. *Employment information to include:* Employer; title; work experience; professional awards; performance records; publications authored; DoD advisory committee/subcommittee membership and other board and committee memberships such as contractors or private organizations.

C. Any other information collected to determine if an individual is qualified to serve on a committee/subcommittee.

### RECORD SOURCE CATEGORIES:

Records and information stored in this system of records are obtained from the individuals listed in Categories of Individuals, above.

### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, all or a portion of the records or information contained herein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To contractors, grantees, experts, consultants, students, and others performing or working on a contract,



service, grant, cooperative agreement, or other assignment for the Federal Government when necessary to accomplish an agency function related to this system of records.

B. To the appropriate Federal, State, local, territorial, tribal, foreign, or international law enforcement authority or other appropriate entity where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether criminal, civil, or regulatory in nature.

C. To any component of the Department of Justice for the purpose of representing the DoD, or its components, officers, employees, or members in pending or potential litigation to which the record is pertinent.

D. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body or official, when the DoD or other Agency representing the DoD determines the records are relevant and necessary to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

E. To the National Archives and Records Administration (NARA) for the purpose of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

F. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

G. To appropriate agencies, entities, and persons when (1) the DoD suspects or confirms a breach of the system of records; (2) the DoD determined as a result of the suspected or confirmed breach there is a risk of harm to individuals, the DoD (including its information systems, programs, and operations), the Federal government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the DoD's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

H. To another Federal agency or Federal entity, when the DoD determines information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its

information systems, programs and operations), the Federal government, or national security, resulting from a suspected or confirmed breach.

I. To another Federal, State or local agency for the purpose of comparing to the agency's system of records or to non-Federal records, in coordination with an Office of Inspector General in conducting an audit, investigation, inspection, evaluation, or some other review as authorized by the Inspector General Act.

J. To such recipients and under such circumstances and procedures as are mandated by Federal statute or treaty.

K. To the General Services Administration for the purpose of keeping Congress and the public informed about the existence, membership, and activities of advisory committees as authorized by the Federal Advisory Committee Act.

L. To the Executive Office of the President, the Office of Management and Budget, or other agencies for coordination on advisory committee member selection.

#### **POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Records may be stored electronically or on paper in secure facilities in a locked drawer behind a locked door. Electronic records may be stored locally on digital media; in agency-owned cloud environments; or in vendor Cloud Service Offerings certified under the Federal Risk and Authorization Management Program (FedRAMP).

#### **POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Records may be retrieved by individual's name or other personal identifier.

#### **POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

The records of DoD Committees/Subcommittees are managed in accordance with General Record Schedule 6.2, Federal Advisory Committee Records, or other approved agency records disposition schedule.

#### **ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

DoD safeguards records in this system of records according to applicable rules, policies, and procedures, including all applicable DoD automated systems security and access policies. DoD policies require the use of controls to minimize the risk of compromise of personally identifiable information (PII) in paper and electronic form and to enforce access by those with a need to know and with appropriate clearances. Additionally, DoD has established

security audit and accountability policies and procedures which support the safeguarding of PII and detection of potential PII incidents. DoD routinely employs safeguards such as the following to information systems and paper recordkeeping systems: Multifactor log-in authentication including Common Access Card (CAC) authentication and password; physical token as required; physical and technological access controls governing access to data; network encryption to protect data transmitted over the network; disk encryption securing disks storing data; key management services to safeguard encryption keys; masking of sensitive data as practicable; mandatory information assurance and privacy training for individuals who will have access; identification, marking, and safeguarding of PII; physical access safeguards including multifactor identification physical access controls, detection and electronic alert systems for access to servers and other network infrastructure; and electronic intrusion detection systems in DoD facilities.

#### **RECORD ACCESS PROCEDURES:**

Individuals seeking access to their records should follow the procedures in 32 CFR part 310. Individuals should address written inquiries to the DoD component with oversight of the records, as the component has Privacy Act responsibilities concerning access, amendment, and disclosure of the records within this system of records. The public may identify the contact information for the appropriate DoD office through the following website: [www.FOIA.gov](http://www.FOIA.gov). Signed written requests should contain the name and number of this system of records notice along with the full name, current address, and email address of the individual. In addition, the requester must provide either a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the appropriate format:

If executed outside the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)."

If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)."

#### **CONTESTING RECORD PROCEDURES:**

Individuals seeking to amend or correct the content of records about

them should follow the procedures in 32 CFR part 310.

#### NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system of records should follow the instructions for Record Access Procedures above.

#### EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

#### HISTORY:

None.

[FR Doc. 2022-10174 Filed 5-11-22; 8:45 am]

BILLING CODE 5001-06-P

## DEPARTMENT OF ENERGY

[Docket Nos. 10-160-LNG, 10-161-LNG, 11-161-LNG, 12-06 LNG, 16-108-LNG, 18-26-LNG, 21-98-LNG]

### Change in Control; Freeport LNG Development, L.P.

**AGENCY:** Office of Fossil Energy and Carbon Management, Department of Energy.

**ACTION:** Notice of change in control.

**SUMMARY:** The Office of Fossil Energy and Carbon Management (FECM) (formerly the Office of Fossil Energy) of the Department of Energy (DOE) gives notice of receipt of a Statement of Change in Control (Statement) filed by Freeport LNG Development, L.P. (FLNG) on January 13, 2022 (as supplemented on January 27 and March 3, 2022) in the referenced dockets. The Statement, as supplemented, describes a change in FLNG's upstream ownership. The Statement was filed under the Natural Gas Act (NGA).

**DATES:** Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed electronically as detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, May 27, 2022.

#### ADDRESSES:

*Electronic Filing by email: fergas@hq.doe.gov.*

Although DOE has routinely accepted public comment submissions through a variety of mechanisms, including postal mail and hand delivery/courier, DOE has found it necessary to make temporary modifications to the comment submission process in light of the ongoing Covid-19 pandemic. DOE is currently accepting only electronic submissions at this time. If a commenter finds that this change poses an undue

hardship, please contact Office of Resource Sustainability staff at (202) 586-4749 or (202) 586-7893 to discuss the need for alternative arrangements. Once the Covid-19 pandemic health emergency is resolved, DOE anticipates resuming all of its regular options for public comment submission, including postal mail and hand delivery/courier.

#### FOR FURTHER INFORMATION CONTACT:

Jennifer Wade or Peri Ulrey, U.S. Department of Energy (FE-34), Office of Regulation, Analysis, and Engagement, Office of Resource Sustainability, Office of Fossil Energy and Carbon Management, Forrestal Building, Room 3E-042, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586-4749 or (202) 586-7893, [jennifer.wade@hq.doe.gov](mailto:jennifer.wade@hq.doe.gov) or [peri.ulrey@hq.doe.gov](mailto:peri.ulrey@hq.doe.gov).

Cassandra Bernstein, U.S. Department of Energy (GC-76), Office of the Assistant General Counsel for Energy Delivery and Resilience, Forrestal Building, Room 6D-033, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586-9793, [cassandra.bernstein@hq.doe.gov](mailto:cassandra.bernstein@hq.doe.gov).

#### SUPPLEMENTARY INFORMATION:

##### Summary of Change in Control

In the Statement, FLNG states that, on November 14, 2021, JERA entered into a Securities Purchase Agreement whereby JERA Americas Inc. (JERA) agreed to acquire a 25.7% equity interest in FLNG through a wholly-owned subsidiary created for the purposes of this transaction (Transaction). FLNG states that JERA is wholly-owned by JERA Co., Inc., which in turn is an equal joint venture of TEPCO Fuel & Power, Incorporated (TEPCO) and Chubu Electric Power Company (Chubu). FLNG states that the Government of Japan indirectly owns a 27.37% interest in TEPCO.<sup>1</sup>

FLNG further states that, following consummation of the Transaction, (i) JERA will own 25.7% of FLNG's equity interest, (ii) Freeport LNG Investment, LLLP will retain its 63.5% indirect ownership interest in FLNG, and (iii) Osaka Gas will retain its 10.8% indirect ownership interest in FLNG. Freeport LNG-GP, LLC will continue to be the sole general partner of FLNG, with no change in ownership.

<sup>1</sup> In the Statement, FLNG states that the Transaction received approval from the Committee on Foreign Investment in the United States (CFIUS) on January 12, 2022. Although DOE expresses no opinion on CFIUS review, additional information may be obtained at: <https://home.treasury.gov/policy-issues/international/the-committee-on-foreign-investment-in-the-united-states-cfius>.

In its email supplement submitted on January 27, 2022, FLNG notified DOE that the Transaction closed on January 24, 2022.

Additional details can be found in the Statement and supplements, posted on the DOE website at: [https://www.energy.gov/sites/default/files/2022-04/DOE%20CIC%20Statement%20-%20Freeport\\_Jera.pdf](https://www.energy.gov/sites/default/files/2022-04/DOE%20CIC%20Statement%20-%20Freeport_Jera.pdf); <https://www.energy.gov/sites/default/files/2022-04/Email%20Correspondence%20with%20FLEX.pdf>; [https://www.energy.gov/sites/default/files/2022-03/DOE%20CIC%20Supplement%20to%20Jan%202013%202022%20Statement%20-%20Freeport\\_Jera.pdf](https://www.energy.gov/sites/default/files/2022-03/DOE%20CIC%20Supplement%20to%20Jan%202013%202022%20Statement%20-%20Freeport_Jera.pdf).

#### DOE Evaluation

DOE will review the Statement, as supplemented, in accordance with its Procedures for Changes in Control Affecting Applications and Authorizations to Import or Export Natural Gas (CIC Procedures).<sup>2</sup> Consistent with the CIC Procedures, this notice addresses FLNG's various authorizations to export liquefied natural gas (LNG) to non-free trade agreement (non-FTA) countries, as identified in the Statement, as supplemented.<sup>3</sup> If no interested person protests the change in control and DOE takes no action on its own motion, the change in control will be deemed granted 30 days after publication in the **Federal Register**. If one or more protests are submitted, DOE will review any motions to intervene, protests, and answers, and will issue a determination as to whether the change in control has been demonstrated to render the underlying authorizations inconsistent with the public interest.

#### Public Comment Procedures

Interested persons will be provided 15 days from the date of publication of this notice in the **Federal Register** to move to intervene, protest, and answer FLNG's Statement, as supplemented.<sup>4</sup> Protests, motions to intervene, notices of intervention, and written comments are invited in response to this notice only as to the change in control described in the Statement (as supplemented). All protests, comments, motions to intervene, or notices of intervention

<sup>2</sup> 79 FR 65541 (Nov. 5, 2014).

<sup>3</sup> FLNG's Statement also applies to its existing authorizations to export LNG to FTA countries, and its pending application to export LNG to non-FTA countries, both as identified in the Statement, as supplemented. DOE will respond to those portions of the Statement separately pursuant to the CIC Procedures, 79 FR 65542.

<sup>4</sup> Intervention, if granted, would constitute intervention only in the change in control portion of these proceedings, as described herein.

must meet the requirements specified by DOE's regulations in 10 CFR part 590, including the service requirements.

As noted, DOE is only accepting electronic submissions at this time. Please email the filing to [fergas@hq.doe.gov](mailto:fergas@hq.doe.gov). All filings must include a reference to "Docket Nos. 10–160–LNG, *et al.*" or "Freeport LNG Development, L.P. Change in Control" in the title line.

*Please Note:* Please include all related documents and attachments (*e.g.*, exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

The Statement, as supplemented thereto, and any filed protests, motions to intervene, notices of intervention, and comments will be available electronically by going to the following DOE Web address: <https://www.energy.gov/fecm/division-natural-gas-regulation>.

Signed in Washington, DC, on May 6, 2022.

**Amy Sweeney,**

*Director, Office of Regulation, Analysis, and Engagement, Office of Resource Sustainability.*

[FR Doc. 2022–10171 Filed 5–11–22; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

[Docket No. 22–22–LNG]

### **Cove Point LNG, LP; Application for Blanket Authorization To Export Previously Imported Liquefied Natural Gas to Non-Free Trade Agreement Countries on a Short-Term Basis**

**AGENCY:** Office of Fossil Energy and Carbon Management, Department of Energy.

**ACTION:** Notice of application.

**SUMMARY:** The Office of Fossil Energy and Carbon Management (FECM) (formerly the Office of Fossil Energy) of the Department of Energy (DOE) gives notice (Notice) of receipt of an application (Application), filed on March 22, 2022, by Cove Point LNG, LP (Cove Point). Cove Point requests blanket authorization to export liquefied natural gas (LNG) previously imported into the United States by vessel from foreign sources in a volume equivalent

to 70 billion cubic feet (Bcf) of natural gas on a cumulative basis over a two-year period. Cove Point filed the Application under the Natural Gas Act (NGA).

**DATES:** Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed electronically as detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, June 13, 2022.

**ADDRESSES:**

*Electronic Filing by email:* [fergas@hq.doe.gov](mailto:fergas@hq.doe.gov).

Although DOE has routinely accepted public comment submissions through a variety of mechanisms, including postal mail and hand delivery/courier, DOE has found it necessary to make temporary modifications to the comment submission process in light of the ongoing Covid–19 pandemic. DOE is currently accepting only electronic submissions at this time. If a commenter finds that this change poses an undue hardship, please contact Office of Resource Sustainability staff at (202) 586–4749 or (202) 586–7893 to discuss the need for alternative arrangements. Once the Covid–19 pandemic health emergency is resolved, DOE anticipates resuming all of its regular options for public comment submission, including postal mail and hand delivery/courier.

**FOR FURTHER INFORMATION CONTACT:**

Jennifer Wade or Peri Ulrey, U.S. Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Resource Sustainability, Office of Fossil Energy and Carbon Management, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–4749 or (202) 586–7893, [jennifer.wade@hq.doe.gov](mailto:jennifer.wade@hq.doe.gov) or [peri.ulrey@hq.doe.gov](mailto:peri.ulrey@hq.doe.gov).

Cassandra Bernstein, U.S. Department of Energy (GC–76), Office of the Assistant General Counsel for Energy Delivery and Resilience, Forrestal Building, Room 6D–033, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–9793, [cassandra.bernstein@hq.doe.gov](mailto:cassandra.bernstein@hq.doe.gov).

**SUPPLEMENTARY INFORMATION:** Cove Point requests a short-term blanket authorization to export LNG that has been previously imported into the United States from foreign sources for a two-year period. Cove Point states that it will export the LNG from the Cove Point LNG Terminal located in Calvert County, Maryland, to any country with

the capacity to import LNG via ocean-going carrier and with which trade is not prohibited by U.S. law or policy. This includes both countries with which the United States has entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas (FTA countries) and all other countries (non-FTA countries). This Notice applies only to the portion of the Application requesting authority to export the previously imported LNG to non-FTA countries pursuant to section 3(a) of the NGA.<sup>1</sup> DOE will review Cove Point's request to export the LNG to FTA countries separately pursuant to NGA section 3(c).<sup>2</sup>

Cove Point asks that the requested authorization commence upon issuance.<sup>3</sup> Additionally, Cove Point requests this authorization on its own behalf and as agent for other parties that hold title to the LNG at the time of export. Additional details can be found in Cove Point's Application, posted on the DOE website at: <https://www.energy.gov/fecm/articles/cove-point-lng-lp-fe-dkt-no-22-22-lng>.

### **DOE Evaluation**

In reviewing Cove Point's Application, DOE will consider any issues required by law or policy. DOE will consider domestic need for the gas, as well as any other issues determined to be appropriate, including whether the arrangement is consistent with DOE's policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties that may oppose this application should comment in their responses on these issues.

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

### **Public Comment Procedures**

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable. Interested parties will be provided 30 days from the date of publication of this Notice in which to submit comments, protests, motions to intervene, or notices of intervention.

<sup>1</sup> 15 U.S.C. 717b(a).

<sup>2</sup> 15 U.S.C. 717b(c).

<sup>3</sup> Cove Point states that its prior blanket authorization, set forth in DOE/FE Order No. 4508 (Docket No. 19–156–LNG), expired on March 1, 2022.

Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590, including the service requirements.

As noted, DOE is only accepting electronic submissions at this time. Please email the filing to [fergas@hq.doe.gov](mailto:fergas@hq.doe.gov). All filings must include a reference to “Docket No. 22–22–LNG” or “Cove Point LNG, LP Application” in the title line.

*Please Note:* Please include all related documents and attachments (e.g., exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

The Application and any filed protests, motions to intervene, notices of interventions, and comments will also be available electronically by going to the following DOE Web address: <https://www.energy.gov/fecm/division-natural-gas-regulation>.

A decisional record on the Application will be developed through responses to this Notice by parties, including the parties’ written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this Notice, in accordance with 10 CFR 590.316.

Signed in Washington, DC, on May 6, 2022.

**Amy Sweeney,**

*Director, Office of Regulation, Analysis, and Engagement, Office of Resource Sustainability.*

[FR Doc. 2022–10170 Filed 5–11–22; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Notice of Intent and Request for Information Regarding Establishment of a Transmission Facilitation Program

**AGENCY:** Grid Deployment Office, Department of Energy.

**ACTION:** Notice of intent (NOI); request for information (RFI).

**SUMMARY:** The Infrastructure Investment and Jobs Act (IIJA or the Act) directs the Secretary of Energy (Secretary) to establish a program, to be known as the “Transmission Facilitation Program” or “TFP,” under which the Secretary shall facilitate the construction of electric power transmission lines and related facilities. The U.S. Department of Energy (DOE or Department) Grid Deployment Office is issuing this NOI to notify interested parties of its intent to implement the TFP and to describe the proposed approach for participation by eligible entities in the TFP. The Department also seeks input from all stakeholders through this RFI regarding the application process, criteria for qualification, and selection of eligible projects to participate in the TFP.

**DATES:** Written comments and information are requested on or before June 13, 2022.

**ADDRESSES:** Interested parties may submit comments by any of the following methods: Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments. Instructions: All submissions received must include the agency name and identifier.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information may be sent to: [TransmissionFacilitation@hq.doe.gov](mailto:TransmissionFacilitation@hq.doe.gov). Questions about the NOI and RFI may be addressed to Carrie Cobb at (202) 586–1411.

#### SUPPLEMENTARY INFORMATION:

#### I. Background

On November 15, 2021, President Joseph R. Biden, Jr. signed the Infrastructure Investment and Jobs Act (IIJA, also known as the Bipartisan Infrastructure Law (BIL)). The BIL is a once-in-a-generation investment in infrastructure, which provides the backbone for a more sustainable,

resilient, and equitable economy through enhancing U.S. competitiveness in the world, diversifying regional economies to include supply chain and manufacturing industries, creating good union jobs, and ensuring stronger access to economic and other benefits for underserved communities. The BIL appropriates more than \$62 billion to DOE to ensure the clean energy future delivers true economic prosperity to the American people. Principles of equity and justice will guide BIL implementation, including the implementation of the TFP, consistent with the Biden Administration’s commitments to ensure that overburdened, underserved, and underrepresented individuals and communities have access to federal resources.<sup>1</sup>

As part of the BIL implementation, DOE is authorized to borrow from the Treasury, without further appropriation and without fiscal year limitation, up to \$2.5 billion in outstanding repayable balances at any one time for the purpose of carrying out the TFP. The expansion of transmission infrastructure facilitated by the TFP lays the groundwork for increasing the availability of lower cost and low carbon electricity sources. This will support the Biden Administration’s goal to achieve a carbon-free electric grid by 2035 and a net zero emissions economy by 2050.<sup>2</sup> In addition, the BIL directs that DOE support strong and equitable economic growth,<sup>3</sup> enhanced transmission system reliability and resilience, increased interregional transfers and the use of technology that enhances transmission system capacity, efficiency, resilience, or reliability.

Amounts borrowed by DOE, together with all amounts received by DOE as receipts, collections, and recoveries relating to the eligible projects

<sup>1</sup> See E.O. 13985, Advancing Racial Equity and Support for Underserved Communities; E.O. 14020, Establishment of the White House Gender Policy Council; and E.O. 14008, Tackling the Climate Crisis at Home and Abroad.

<sup>2</sup> FACT SHEET: President Biden sets 2030 Greenhouse Gas Pollution Reduction Target Aimed at Creating Good-paying Union Jobs and Securing U.S. Leadership on Clean Energy Technologies, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/22/fact-sheet-president-biden-sets-2030-greenhouse-gas-pollution-reduction-target-aimed-at-creating-good-paying-union-jobs-and-securing-u-s-leadership-on-clean-energy-technologies/>.

<sup>3</sup> Strengthening prosperity—by expanding good, safe union jobs and supporting job growth through investments in domestic manufacturing—is a key goal set by President Biden and is discussed in depth in his Executive Orders (EOs) on Ensuring the Future Is Made in All of America by All of America’s Workers (E.O. 14005), Tackling the Climate Crisis at Home and Abroad (E.O. 14008), Worker Organizing and Empowerment (E.O. 14025), and Promoting Competition in the American Economy (E.O. 14036).

supported under the TFP (including, for example, capacity contract marketing receipts, loan repayments, and eligible entity contributions under a public-private partnership) and any amounts appropriated for the program, will be placed in the “Transmission Facilitation Fund” for the purpose of carrying out the TFP. The TFP offers three forms of facilitation to assist eligible with the construction of new, replacement, and upgraded high-capacity transmission lines.: Capacity contracts, loans, and public-private partnerships. The IJJA directs the Secretary of Energy to prioritize projects that, to the maximum extent possible, improve resilience and reliability of the grid; facilitate inter-regional transfer of electricity; lower electric sector greenhouse gas emissions; and use technology that enhances the capacity, efficiency, resilience, or reliability of the transmission system. The TFP must judiciously use the tools included in the statute to support projects that both meet the statute’s articulated goals and provide a reasonable expectation that the costs of capacity contracts, loans, or public-private partnerships borne by the Federal Government will be repaid.

Community engagement will be central to the successful implementation of all phases of the TFP. Projects funded through the BIL provisions will include Equity, Environmental and Energy Justice principles and priorities. Equity requires the consideration of existing barriers underserved and underrepresented individuals and communities face when accessing Federal resources. Environmental and energy justice principles include procedural justice, distributive justice, recognition justice, and restorative justice. In keeping with the administration’s goals, and as an agency whose mission includes strengthening our country’s energy prosperity, DOE intends to use this program to support the creation of good-paying jobs with the free and fair choice to join a union, the incorporation of strong labor standards, and high-road workforce development, especially registered apprenticeship and quality pre-apprenticeship. This program will also support the Justice40 Initiative, which aims to provide 40 percent of the overall benefits of certain Federal investments to Disadvantaged Communities.

## II. Purpose of NOI and RFI

DOE is seeking opportunities that optimize the use of the available TFP funds to accelerate the deployment of transmission facilities that will best serve the national interest. The NOI describes DOE’s proposed approach to

soliciting applications for TFP facilitation, identifying information that applicants would provide in an application, and describing the criteria that will be used to evaluate applications. The RFI includes questions based on DOE’s proposed approach, as well as other matters relevant to the implementation and administration of the TFP.

The NOI and RFI seek information on TFP implementation. Responses to the NOI and RFI should not include applications or requests for facilitation of any transmission projects. Applications will be accepted after DOE issues an initial solicitation for proposals seeking TFP support.

## III. Summary of TFP Features

*A. Key Definitions.* The TFP was established in the IJJA to authorize the Secretary to “facilitate the construction of electric power transmission lines and related facilities,”<sup>4</sup> using tools delineated in the statute. The IJJA language establishing the TFP defined four terms that are central to describing the program, and those are reproduced here:

- “Eligible electric power transmission line” means an electric power transmission line that is capable of transmitting not less than (a) 1,000 megawatts (MW); or (b) in the case of a project that consists of upgrading an existing transmission line or constructing a new transmission line in an existing transmission, transportation, or telecommunications infrastructure corridor, 500 MW.

- “Eligible entity” means an entity seeking to carry out an eligible project.

- “Eligible project” means a project (including any related facility) (a) to construct a new or replace an existing eligible electric power transmission line; (b) to increase the transmission capacity of an existing eligible electric power transmission line; or (c) to connect an isolated microgrid to an existing transmission, transportation, or telecommunications infrastructure corridor located in Alaska, Hawaii, or a territory of the United States.

- “Capacity contract” means a contract entered into by the Secretary and an eligible entity for the right to the use of the transmission capacity of an eligible project.

### *B. Three Tools Available to DOE.*

Under the TFP, DOE can offer three types of support to facilitate construction of eligible projects. These tools are:

1. *Capacity Contracts.* DOE is authorized to purchase the right to use

transmission capacity of up to 50 percent of the total proposed transmission capacity of the transmission line from an eligible project for a term of not more than 40 years.<sup>5</sup> DOE participation is to help provide certainty to developers, operators, and marketers that customer revenue will be sufficient to justify the construction of a transmission line that meets current and future needs. Applications for capacity contracts are not required to account for National Environmental Policy Act (NEPA) environmental impact review, because DOE’s entry into a capacity contract does not independently trigger NEPA review.<sup>6</sup> DOE may terminate the capacity contract as soon as practicable after determining that there is sufficient subscription to the new project to ensure the project’s long-term financial viability.<sup>7</sup> DOE may transfer contractual rights to transmission capacity to a third party upon payment by the third party.<sup>8</sup> DOE may also relinquish contractual rights back to the developer of the project, upon payment to DOE for those rights by the developer.<sup>9</sup> If DOE has not terminated or transferred the capacity before the eligible project enters service, DOE is required to market the transmission capacity of the project to which it holds rights under a capacity contract. DOE is also required to seek to ensure that any power marketing contract maximizes the financial return to the Federal Government.

2. *Loans.* DOE is authorized to make loans to eligible entities for the costs of carrying out an eligible project.<sup>10</sup> The interest rate on a TFP loan shall be fixed by DOE, taking into consideration market yields on outstanding marketable obligations of the United States of comparable maturities as of the date of the loan.<sup>11</sup> To the extent consistent with the underlying purposes and scope of the TFP, DOE anticipates that the TFP loan process will be similar to the process for evaluating DOE loans and loan guarantees offered by the Loan Programs Office (LPO) or federal Power Marketing Administrations. For example, loans issued by LPO are subject to a thorough and formal due diligence process before DOE offers conditional commitment to borrowers. Applicants should expect a similar process before a final loan commitment

<sup>5</sup> IJJA Section 40106(f)(3).

<sup>6</sup> IJJA Section 40106(f)(7).

<sup>7</sup> IJJA Section 40106(f)(5).

<sup>8</sup> IJJA Section 40106(f)(5)(B).

<sup>9</sup> IJJA Section 40106(f)(5)(C)–(D).

<sup>10</sup> IJJA Section 40106(e)(1)(B).

<sup>11</sup> IJJA Section 40106(g).

<sup>4</sup> IJJA Sec. 40106(b).

will be made by DOE for any request for TFP facilitation.

3. *Public-Private Partnerships.* DOE is authorized to undertake public-private partnerships under which DOE will participate with an eligible entity in designing, developing, constructing, operating, maintaining, or owning an eligible project. Among other requirements, a public-private partnership eligible project may be located in an area designated as a national interest electric transmission corridor pursuant to section 216(a) of the Federal Power Act, 16 U.S.C. 824p(a) (NIETC), or the eligible project must be necessary to accommodate an actual or projected increase in demand for electric transmission capacity across more than one State or transmission planning region.<sup>12</sup> DOE anticipates that TFP public-private partnerships will be similar in structure and process to, and may confer similar benefits to, transmission projects undertaken pursuant to Section 1222 of the Energy Policy Act of 2005 (42 U.S.C. 16421), except that DOE has funding available under the TFP to invest in an eligible project.

#### IV. Proposed Approach

The IJA directs the Secretary to establish procedures for the solicitation and review of applications from eligible entities. DOE proposes the following solicitation process and key application requirements and application evaluation considerations.

##### A. Proposed TFP Solicitation Process

The DOE proposes to conduct an initial solicitation for eligible projects seeking capacity contracts, as detailed herein. In subsequent solicitations, DOE will conduct additional solicitations applicable to some or all of the three facilitation mechanisms available under the TFP (capacity contract, loan, public-private partnership). At present, DOE plans to conduct a TFP solicitation at least annually, assuming funds are available. The annual solicitation process may be focused on one or all of the TFP mechanisms, depending on market needs and available funding.

1. *Initial Solicitation:* The first solicitation will be limited to applicants seeking capacity contracts for eligible projects that will commence commercial operation no later than December 31, 2027, if DOE authorizes a capacity contract. The timing of DOE's determination on a request for support will be based on the time necessary to conduct due diligence on the proposed project, to negotiate with the sponsor, to

consult with affected stakeholders, including regional transmission planning regions, and to finalize the definitive legal documents that will govern each transaction. If an applicant is found to be eligible and its project meets the selection criteria, but it is not selected in the first round of TFP capacity contracts, the applicant is welcome to submit another application when DOE issues subsequent solicitations.

DOE expects its first solicitation will be issued in 2022 and a second solicitation will be issued in early 2023. In the second solicitation, DOE currently anticipates it will invite applications for all the forms of support available from the TFP: Capacity contracts, loans, public-private partnerships, as well as support for connecting microgrids in Alaska, Hawaii, or a U.S. Territory. As with the initial solicitation, the timing of DOE's determination on a request for support in subsequent solicitations will include the time necessary to conduct due diligence on the proposed project and to finalize definitive legal documents governing the transaction. Following the second solicitation, the types and amounts of TFP support offered in 2024 and beyond will be identified in the solicitation documentation.

In the following sections, DOE states its expectations for the first solicitation, that is, the solicitation for eligible projects seeking capacity contracts for eligible projects that could be in commercial operation by December 31, 2027.

##### 2. Solicitation Announcement.

Following review and consideration of comments received in response to the RFI issued herewith, DOE proposes to issue a solicitation announcement seeking applications for eligible projects. The solicitation announcement will include detailed requirements for applications, and an application form to be submitted to DOE. Applicants should expect the information requested to include the items identified in this NOI. The solicitation announcement may identify paths or regions that DOE prefers for the location of eligible projects that promote the goals of the TFP, including to promote grid flexibility, increase reliability and resilience, and connect communities to greater opportunity for lower-cost, lower-carbon electric generation resources.

3. *Timeline.* The solicitation announcement will include a deadline for applications and will provide a timeline for DOE's selection process. The solicitation will include guidance regarding DOE's expectations for its

review of applications, for selection of projects for negotiation of capacity contracts, for the due diligence process, and for the execution of capacity contracts.

##### B. TFP Eligibility Determination

The IJA includes specific, objective eligibility requirements for participation in the TFP. If DOE determines that an application fails to demonstrate the proposed project is eligible for TFP support, DOE may provide a written notice of that decision to the applicant. If a proposed project is determined by DOE to be ineligible, the application supporting it will not be considered further by DOE (unless supplemented with information demonstrating, to DOE's satisfaction, that the project meets the eligibility criteria).

To demonstrate eligibility, the entity seeking to carry out the project must certify at least one of the following regarding the proposed project:

- If the project proposes construction of a new transmission line that is not in an existing transmission, transportation, or telecommunications corridor, the new transmission line will be capable of transmitting not less than 1,000 megawatts.

- If the project proposes upgrading an existing transmission line or constructing a new transmission line in an existing transmission, transportation, or telecommunications corridor, the transmission line will be capable of transmitting not less than 500 megawatts.

- If replacing an existing line, the existing line being replaced will be one that would be eligible for TFP (transmits not less than 1,000 megawatts if not in an existing corridor, or not less than 500 megawatts if in an existing corridor).

- The proposed project will increase the transmission capacity of an existing line that would be eligible for TFP (the existing line must transmit no less than 500 megawatts).

- Rather than, or in addition to, demonstrating compliance with the factors identified above, the project will connect an isolated microgrid to an existing transmission, transportation, or telecommunications infrastructure corridor located in Alaska, Hawaii, or a territory of the United States.

The applicant must also certify that the proposed transmission line project does not include related facilities used primarily to generate electric energy or used in the local distribution of electric energy.

If DOE determines that information submitted in the application establishes that the proposed project is an eligible project, then the application will be

<sup>12</sup> IJA Section 40106(h).

reviewed to determine if it meets the standards necessary for the Secretary to certify that the proposed project may receive TFP facilitation.

### C. Selection and Execution

As a condition to facilitation of an eligible project using any of the tools available in the TFP, DOE must certify that: (a) The eligible project is in the public interest; (b) the eligible project is unlikely to be constructed in a timely manner or with as much transmission capacity in the absence of facilitation provided from the TFP; and (c) there is a reasonable expectation that the proceeds from the eligible project will be adequate to recover the cost of DOE's facilitation activities for the eligible project. In evaluating projects for possible solicitation, DOE will prioritize projects that advance the TFP's statutory objectives.<sup>13</sup> DOE proposes to make such determinations based on the application materials submitted for a project, consultation with DOE and outside experts and stakeholders, and any financial or technical due diligence needed by DOE. Applicants must provide information on the following issues to support DOE's certification of their project for TFP facilitation.

1. *The applicant must demonstrate that the eligible project is unlikely to be constructed in as timely a manner or with as much transmission capacity in the absence of TFP facilitation.*

To assess whether an eligible project is unlikely to be constructed in as timely a manner or with as much transmission capacity in the absence of TFP facilitation, DOE will request applicants provide information including:

- A status report on the proposed project, and the nature of the challenges the project sponsor currently faces that prevent or hinder construction of the project.
- An explanation of why the proposed project is unlikely to be built, or unlikely to be built with as much transmission capacity, absent the TFP support.
- A description of how the applicant believes TFP support would mitigate or eliminate the barriers to successful construction of the proposed project.

2. *The applicant must demonstrate that its proposed project has a realistic chance of being constructed and going into commercial operation if DOE approves TFP assistance.*

An applicant must demonstrate that its proposed project has a realistic chance of being constructed and going into commercial operation if DOE

approves TFP assistance. DOE expects that projects further along in the development process will be more effectively assisted by the tools available under the TFP.

The information DOE expects to request will address the regulatory, financial, commercial, and affected community issues that are key to the success of large transmission projects. Applicants must provide a thorough explanation of their project, detailed information regarding necessary regulatory approvals, financial data, and modeling sufficient to enable DOE to assess the prospects of cost recovery or repayment to DOE of TFP support from the proceeds of the project.

DOE proposes to seek the following information to determine the readiness of the proposed project, including but not limited to:

- A detailed description of the proposed project, including the transmission facilities and related facilities, the proposed route, the equipment that will be used to construct the line, its anticipated capacity and line ratings, points of interconnection, unidirectional or bidirectional capabilities, cybersecurity plan, and the proposed schedule for completing construction and interconnection of the project.

- The status of the Federal, Tribal, State, and local permits, approvals, and other legal authority necessary to construct, own, and operate the transmission line as proposed and the project sponsor's schedule for obtaining all necessary permits and approvals.

- Identification of the rights-of-way, easements, or other land use arrangements necessary for construction of the proposed project that the project sponsor has in place, and what land use arrangements remain to be completed to successfully undertake construction and operation of the proposed project. Applicants should detail the community and stakeholder outreach they have undertaken, and plan to undertake in the future, to inform those along the route of the proposed project of its potential impacts on their communities. The description of community and stakeholder engagement should include concerns raised, issues resolved in writing, and issues outstanding.

- A schedule showing the length of time the project will take from the date of its application, and from its notice to proceed with construction, to commercial operation of the line. The timeline should include key milestones and required permits or regulatory approvals that could accelerate or delay completion of the proposed project.

- Evidence demonstrating that the proposed project is consistent with regional transmission plans and priorities.

- An estimate of the time required to complete grid interconnection(s) necessary to successfully operate the proposed project, including the length of time the project expects to be in any interconnection queues.

- The scope of the generation resources available or expected to be available and their competitive status relative to other resources able to meet the same goals and needs.

- The number and estimated financial value of firm commitments from transmission customers for the electric power to be transmitted by the proposed project. The applicant should detail the steps it has taken and plans to take to market the unsold transmission capacity on the proposed project.

- Detailed information about: (a) The project sponsor's experience in planning and completing transmission projects; and (b) the management team that will be responsible for construction and operation of the line.

- The identification of the equity investors in the project and the amounts invested to date, and the amount of, or prospects for, debt instruments to finance construction of the project. This information should include evidence of the financial strength of the equity and debt participants in the project.

- The identification of companies or other entities that the project sponsor expects to: (a) Own, operate, and maintain the project's transmission lines and related facilities once commercial operations are underway; and (b) be engaged to market the power to be transmitted by the line.

- The status of the vendor contracts necessary to complete the construction of the project. This information should include planned or executed contracts for Engineering, Procurement, and Construction (EPC) services and project management.

- A description of engagement with the relevant construction trade unions and the status of negotiations on Project Labor Agreements<sup>14</sup> that address skill certifications, use of registered apprentices, dispute resolution, project stabilization, and other conditions.

- A certification that the planning, construction, and operation of the line will comply with federal "Made In

<sup>14</sup> "Project labor agreement" means a pre-hire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project and is an agreement described in 29 U.S.C. 158(f).

<sup>13</sup> See Section 40106(j)(8).

America” laws,<sup>15</sup> including the Build America, Buy America Act.<sup>16</sup>

3. *The applicant must demonstrate that there is a reasonable expectation that the proceeds from the eligible project will be adequate to recover the cost of DOE’s facilitation activities for the eligible project.*

DOE intends to execute the TFP in a manner that optimizes the use of available funds, and that provides a reasonable expectation that the proceeds from the eligible project will be adequate for DOE to recover the cost of support it provides to the eligible project at the earliest reasonable date. Accordingly, applicants should provide information including:

- Evidence that the proposed project is not duplicative of the functions of existing transmission lines.
- An estimate of the length of time after commencement of commercial operation that the sponsor expects DOE would need to maintain its position under a capacity contract.
- Data showing the expected demand for transmission capacity provided by the project, the need for the electricity expected to be transmitted by the project, the competitiveness of the energy supplied by the project, and the savings to the affected customers while DOE holds an interest.

When it provides such information, the applicant should also identify the risks and uncertainties its estimates are subject to, as well as other factors that would affect the value of DOE’s interest in the capacity contract.

4. *The applicant must explain how the eligible project advances the priorities established for TFP facilitation in the IJJA.*

The IJJA directs that, in evaluating projects for TFP facilitation, DOE shall prioritize projects that will achieve specific objectives.<sup>17</sup> Applicants should

<sup>15</sup> “Made in America Laws” means all statutes, regulations, rules, and Executive Orders relating to Federal financial assistance awards or Federal procurement, including those that refer to “Buy America” or “Buy American,” that require, or provide a preference for, the purchase or acquisition of goods, products, or materials produced in the United States, including iron, steel, and manufactured products offered in the United States. Made in America Laws include laws requiring domestic preference for maritime transport, including the Merchant Marine Act of 1920 (Pub. L. 66–261), also known as the Jones Act. Exec. Order No. 14,005, 86 FR 7475, § 2(b) (Jan. 28, 2021), available at <https://www.federalregister.gov/documents/2021/01/28/2021-02038/ensuring-the-future-is-made-in-all-of-america-by-all-of-americas-workers>. Made in America Laws also include laws that give preference to Indian-owned and -controlled businesses, such as the Buy Indian Act (25 U.S.C. 47), that produce items in the United States.

<sup>16</sup> Public Law 117–58, § 70901–52.

<sup>17</sup> IJJA Section 40106(j)(8).

provide information demonstrating how an eligible project would:

- Use technologies that enhance the capacity, efficiency, resiliency, or reliability of an electric power transmission system, including (a) reconductoring of an existing electric power transmission line with advanced conductors; and (b) hardware or software that enables dynamic line ratings, advanced power flow control, or grid topology optimization; and (c) additional grid-enhancing technologies the applicant anticipates including in the proposed project.
- Improve the resiliency and reliability of an electric power transmission system.
- Facilitate interregional transfer capacity that supports strong and equitable economic growth.
- Contribute to national or subnational goals to lower electricity sector greenhouse gas emissions, including the national goal to achieve 100% clean electricity by 2035.

#### D. Possible Types of Contracts

In the first solicitation, DOE will identify capacity contract transaction structure(s) for which it is soliciting applications. DOE expects that it will negotiate individual transactions with each eligible project selected for TFP support, but that the transactions will be based on a consistent set of contract forms. The contracts will include terms applicable to and appropriate for each of the selected eligible projects and eligible entities.

In the general form, DOE expects capacity contract agreements may include elements of the following types of contracts commonly used for transmission services to secure capacity for the eligible project, permit DOE to market its capacity, and ultimately to exit from the eligible project.

- *Precedent Transmission Service Agreement.* An agreement DOE enters into with the transmission owner, that describes the events and circumstances that must occur before a Transmission Service Agreement takes effect. A precedent agreement would identify the terms under which DOE will enter into the Transmission Service Agreement to take long-term firm transmission service. This agreement would be in effect before transmission service is available from the eligible project, and would include terms such as:

—A project that receives TFP facilitation, once commercially operational, will operate its facilities used for transmitting electric energy in interstate commerce under an open access, non-discriminatory transmission tariff.

—Termination provisions with and without fee options for either party should be considered as appropriate. In addition, remedies should be provided if specified conditions precedent are not met. For example, if project construction is not begun or completed by a date certain, the contract would establish the terms on which a party may terminate its commitment; and

—Provisions governing the sale of capacity to third parties prior to commercial operation. For example, a “most favored nation” provision could be included to ensure that DOE receives terms of service at least as favorable as any subsequent capacity customer. The agreement could also include a requirement that the eligible entity developing the eligible project include capacity contracted with DOE in a pro rata proportion when it sells uncommitted capacity to third parties. Another alternative might be to allow DOE to reduce its commitment as third parties contract for uncommitted capacity above a certain level.

- *Transmission Service Agreement.* DOE would enter into this agreement with the transmission owner to provide DOE with firm point-to-point transmission service along the contracted paths for the term of the agreement. The agreement would include:

- Price, volume, tenor of capacity commitment (DOE capacity contracts may be for up to 50% of the total transmission capacity of the eligible project, with a tenor of up to forty (40) years);<sup>18</sup>
- Incorporation of the transmission provider’s open access transmission tariff; and
- Right of DOE to market its contract capacity, both short-term and on a permanent basis, and may include a most favored nation right as described previously.

- *Transmission Capacity Resale Agreement.* This agreement would provide a contractual mechanism for resale on a short-term basis of capacity rights that DOE may agree from time to time to make available. The agreement is entered into between DOE and third parties who seek transmission capacity for less than the full term or full volume of the capacity contract. The agreement would include:

- Terms addressing creditworthiness of the parties;
- Billing and payment terms and conditions; and

<sup>18</sup> Section 40106(f)(3).



—Terms identifying DOE's continued responsibility with respect to the capacity contract.

- *Transmission Capacity Transfer or Relinquishment Agreement.* This Agreement would reflect DOE's right to permanently transfer to a third party, or relinquish to the project developer, DOE's contractual rights to transmission capacity. This agreement would enable DOE to sell its transmission rights and terminate the TFP capacity contract, as contemplated by the IJA.<sup>19</sup> Terms of this agreement would include:

—Terms addressing creditworthiness of the party to whom DOE transfers or relinquishes its contractual capacity rights; and

—The process by which DOE effectuates its exit from the project.

- *Transmission Remarketing Agency Agreement.* This would be the agreement between DOE and a remarketing agent, to remarket the transmission capacity and ultimately to find a party to novate DOE's capacity contract. This agreement would enable an agent to post DOE's transmission capacity for sale on a transmission owner's Open Access Same-Time Information System (OASIS). The agent would be required to meet contractual standards defined by DOE for its performance as DOE's remarketing agent.

These examples are identified to explain the types of agreements DOE expects to be involved in a TFP capacity contract transaction. They do not constitute an exhaustive list of legal agreements necessary to complete a TFP transaction.

## V. Questions for Requests for Information

DOE seeks comment regarding all elements of the proposed approach to the TFP described in the previous sections. In addition, DOE seeks comment on the following specific questions.

### A. General

(1) Please comment on the TFP solicitation process proposed in this NOI. What are the potential positive and negative impacts of limiting the initial solicitation to capacity contracts for projects that can be completed by December 31, 2027? Rather than conducting separate solicitation processes, should DOE request applications under a single solicitation that remains open for a rolling review and determination process? What are the merits and demerits of using one

approach or another to achieve TFP's objectives?

(2) When considering the merits of TFP applications, how should DOE consider the impact a proposed project has on reliability and resilience, reducing greenhouse gas emissions, generating host community benefits, encouraging strong labor standards the growth of union jobs and expanding career-track workforce development in various regions of the country, improving energy equity and achieving environmental justice goals, maximizing the use of products and materials made in the United States, and maintaining or improving energy security? How should DOE evaluate eligible projects that include benefits that may vary across the set of preferred impacts? To what extent should DOE consider additionality of outcome on these dimensions? What information should DOE seek from applicants to inform such considerations? What metrics and methods are available for conducting such evaluations?

(3) To what extent should maximizing the benefit from federal expenditures be a factor considered when comparing eligible projects? How should the "benefit" be interpreted and measured, either in financial terms, in terms of system benefits, or in terms of policy outcomes as outlined in Question 2? Please provide recommendations for a methodology for making such comparisons of benefit.

(4) What are the best tools for ensuring availability of a skilled workforce to support timely, efficient implementation, project continuity, and success? Specifically, how should DOE encourage the use of Project Labor Agreements that specify required certifications, dispute resolution, and utilization of registered apprentices?

(5) Are there methods and approaches to implementing TFP that amplify and leverage the funding available through TFP, and accelerate the greatest quantity of new transmission development that will best serve the national interest, including by cost-effectively increasing resilience and reducing greenhouse gas emissions, while promoting economic growth and energy justice?

(6) Are there other policy parameters not listed previously that should inform the determination of which proposals most cost-effectively achieve the objectives of the TFP? What criteria would indicate achievement of such parameters? What metrics and methods are available for evaluating a proposed project's potential to achieve the criteria?

(7) Are there types of eligible projects, however defined, where the TFP is an

especially suitable and useful method of providing financial support, relative to other forms of financial support, from DOE or other programs?

(8) What criteria should DOE consider for determining that "the eligible project is unlikely to be constructed in as timely a manner or with as much transmission capacity in the absence of facilitation" provided by the TFP?

(9) Should DOE establish a standard format and methodology for each applicant to present economic data, projections, analysis, and other information in support of an application for TFP support? If so, please address the components that should be included as part of a standard format and methodology and what information should be required. Or alternatively, please identify methods or processes that are employed in other federal or non-federal programs, such as the DOE Loan Guarantee Program, that could be adopted by the TFP as standard methods for assessing applications.

(10) The IJA calls upon DOE to consult with, and consider the views of, specific organizations in its considerations of capacity contracts. Before DOE can enter into a capacity contract, the statute requires DOE to consult with the relevant transmission planning region regarding the region's identification of needs, and DOE is instructed to avoid duplication or conflict with a region's needs determination when selecting projects.<sup>14</sup> What information should DOE seek from an applicant, transmission owner or operator, or from a regional transmission organization or regional reliability organization to satisfy the consultation requirement in the statute? What are the appropriate points in the process when such consultation should occur?

(11) Please identify any regulatory or business barriers that might impede the implementation of the TFP. Please propose solutions to eliminate or mitigate any identified barriers.

(12) Recognizing that transmission projects are located based on the availability of generation, and ultimately customers to buy that generation, and have limited long term direct employment impacts:

- What equity, energy and environmental justice concerns or priorities are most relevant for the TFP? How can these concerns or priorities be addressed in TFP implementation?

- How might the TFP encourage greater employment, equity, environmental justice, and economic growth? What mechanisms are available to DOE and eligible transmission

<sup>19</sup> See Section 40106(f)(5).

projects encourage these outcomes?  
How should the results be measured?

- What regional and local factors should be considered when evaluating TFP applications (e.g., economic considerations, policy considerations, labor-management partnerships, environmental and energy justice considerations, geology, workforce availability and skills, current industrial and other relevant infrastructure and storage available/repurposed/reused, industry partners, minority-serving institutions (MSIs), minority-owned businesses, regional specific resources, security of supply, climate risk, etc.)?

(13) If DOE asks for a market analysis as part of the application process, what should the analysis include so that DOE can be confident that a proposed project will be successful? What qualifications should be required of the parties preparing such analyses?

(14) What can DOE provide that would be helpful to an eligible project to facilitate its collaborations with potential financing partners?

(15) What data should DOE collect from TFP recipients to evaluate the impact of the program? How should this data and the program outcomes be disseminated to the public?

(16) Please provide any other input DOE should consider in the establishment and implementation of the TFP, including any other information and criteria that might be useful in DOE's approach for and implementation of the certification, due diligence review, and selection process.

#### B. Microgrid Projects

(17) The "eligible project" definition for the TFP includes a project "to connect an isolated microgrid to an existing transmission, transportation, or telecommunications infrastructure corridor located in Alaska, Hawaii, of a territory of the United States." Which of the forms of TFP support (capacity contracts, loans, or public-private partnerships) are expected to be most useful to the projects to connect microgrids to existing infrastructure corridors as contemplated in the IJJA? What criteria should be used to evaluate qualification of microgrids for support under the TFP?

#### C. Capacity Contracts

(18) Is it advisable for DOE to limit its first solicitation to applications seeking capacity contracts for projects that are able to commence commercial operation by December 31, 2027, and defer applications to a subsequent solicitation for projects supported by capacity contracts but with a later forecasted commercial operation date, or for

projects seeking TFP loans or public-private partnerships?

(19) The IJJA calls on DOE to seek to enter into capacity contracts that will encourage other entities to enter into contracts for the transmission capacity of the eligible projects. On what basis should DOE assess whether a capacity contract with an applicant will encourage other entities to enter contracts for transmission capacity?

(20) Should DOE use any standards, or collect information from applicants, different from what is described in this NOI for selecting among applicants for capacity contracts? If so, please suggest alternative standards or information requirements.

(21) The FERC Pro Forma Open Access Tariff<sup>20</sup> allows transmission customer rollover rights with a minimum contract term of five years. If the DOE capacity contract with an eligible entity had a term of five years, would that be sufficient to successfully facilitate construction of an eligible project? If not, what is the minimum contract term length required, with or without rollover rights, needed to successfully facilitate construction of an eligible project?

(22) What conditions precedent would be sufficient for DOE to terminate its contract prior to commercial operation of an eligible project?

(23) Should capacity contracts include provisions that authorize DOE to terminate the contract for convenience subject to a termination fee? What, if any, impact would such a termination provision (and associated fee) have on an eligible project's financing, rate design, or a rate review and approval required from FERC?

(24) Should DOE enter into contingent offers with multiple eligible entities, and award final capacity contracts to the projects that achieve significant milestones first? If so, what should be the significant milestones be? What, if any, impact would such an approach have on an eligible project's financing, rate design, or a rate review and approval required from FERC?

(25) Is it advisable for DOE, when selecting eligible projects for capacity contracts, to prioritize projects that have a certain percentage of capacity already subscribed? If so, what should that percentage be? What level of commitment (firm supply versus other types of capacity subscription) should DOE require eligible entities to demonstrate to be selected for a capacity

<sup>20</sup> Pro Forma Open Access Transmission Tariff (OATT), available at Pro Forma OATT—effective March 14, 2022, | Federal Energy Regulatory Commission ([ferc.gov](http://ferc.gov)).

contract? How should applicants be required to document such commitments? Should DOE's capacity be capped as a ratio of the firm subscription obtained before the execution of a capacity contract? If so, what should that ratio be?

(26) Should DOE require counterparties to capacity contracts to offer DOE's capacity to other customers on a pro rata share before being able to sell the remaining capacity on an eligible project to other customers?

(27) DOE seeks to exit its capacity contract as soon as practicable after determining that sufficient transmission capacity has been secured by other entities to ensure the long-term financial viability of an eligible project. What other contract mechanisms are available to limit DOE's commitment so it may exit, and free up funds obligated to support future projects?

(28) Should DOE receive a more favorable rate for its capacity commitment than other subscribers, to reflect its first mover position?

(29) Please comment on the forms of contractual arrangements discussed previously, and whether the types of contracts mentioned are appropriate vehicles for achieving the statutory requirements and goals of the TFP. If not, please suggest other contractual arrangements or structures that would more effectively meet the IJJA's requirements and goals. DOE welcomes inclusion of examples of proposed contract terms as part of a response to this RFI.

#### VII. Response Guidelines

NOI/RFI responses shall include:

- NOI/RFI title and reference number;
- Name(s), phone number(s), and email address(es) for the principal point(s) of contact;
- Institution or organization affiliation and postal address; and
- Clear indication of the specific question(s) to which you are responding.

Responses including business proprietary information will be handled per guidance in Section VIII.

NOI/RFI responses should be submitted electronically to [www.regulations.gov](http://www.regulations.gov).

#### VIII. Business Proprietary Information

Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be business proprietary and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the document marked "Business Proprietary" including all the information believed to be proprietary,

and one copy of the document marked “non-Proprietary” deleting all information believed to be business proprietary. DOE will make its own determination about the business proprietary status of the information and treat it according to its determination. Factors of interest to DOE when evaluating requests to treat submitted information as business proprietary include: (1) A description of the items; (2) whether and why such items are customarily treated as business proprietary within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its business proprietary nature; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its business proprietary character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

#### Signing Authority

This document of the Department of Energy was signed on May 6, 2022, by Patricia A. Hoffman, Acting Director of the Grid Deployment Office, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. The administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 6, 2022.

**Treena V. Garrett,**

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

[FR Doc. 2022–10137 Filed 5–11–22; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

[Docket No. 16–28–LNG]

### Venture Global Plaquemines LNG, LLC; Application for Limited Amendment to Existing Long-Term, Multi-Contract Authorization To Export Liquefied Natural Gas to Non-Free Trade Agreement Nations

**AGENCY:** Office of Fossil Energy and Carbon Management, Department of Energy.

**ACTION:** Notice of application.

**SUMMARY:** The Office of Fossil Energy and Carbon Management (FECM) (formerly the Office of Fossil Energy) of the Department of Energy (DOE) gives notice (Notice) of receipt of an application (Application), filed on March 11, 2022, by Venture Global Plaquemines LNG, LLC (Plaquemines LNG). In relevant part, Plaquemines LNG requests a limited amendment of its existing authorization to export domestically produced liquefied natural gas (LNG) to non-free trade agreement (non-FTA) countries, issued in Order No. 4446 (as amended in Order No. 4446–A). The amendment would increase Plaquemines LNG’s approved non-FTA export volume from 1,240 billion cubic feet per year (Bcf/yr) to 1,405.33 Bcf/yr of natural gas—an increase of 165.33 Bcf/yr. Plaquemines LNG filed the Application under the Natural Gas Act (NGA).

**DATES:** Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed electronically as detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, July 11, 2022.

#### ADDRESSES:

*Electronic Filing by email: fergas@hq.doe.gov.*

Although DOE has routinely accepted public comment submissions through a variety of mechanisms, including postal mail and hand delivery/courier, DOE has found it necessary to make temporary modifications to the comment submission process in light of the ongoing Covid–19 pandemic. DOE is currently accepting only electronic submissions at this time. If a commenter finds that this change poses an undue hardship, please contact Office of Resource Sustainability staff at (202) 586–4749 or (202) 586–7893 to discuss the need for alternative arrangements. Once the Covid–19 pandemic health emergency is resolved, DOE anticipates resuming all of its regular options for public comment submission, including postal mail and hand delivery/courier.

#### FOR FURTHER INFORMATION CONTACT:

Jennifer Wade or Peri Ulrey, U.S. Department of Energy (FE–34), Office of Regulation, Analysis, and Engagement, Office of Resource Sustainability, Office of Fossil Energy and Carbon Management, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–4749 or (202) 586–7893, *jennifer.wade@hq.doe.gov* or *peri.ulrey@hq.doe.gov*.

Cassandra Bernstein, U.S. Department of Energy (GC–76), Office of the Assistant General Counsel for Energy Delivery and Resilience, Forrestal Building, Room 6D–033, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–9793 *cassandra.bernstein@hq.doe.gov*.

**SUPPLEMENTARY INFORMATION:** In Order No. 4446–A, Plaquemines LNG is currently authorized under NGA section 3(a)<sup>1</sup> to export domestically produced LNG in a volume equivalent to 1,240 Bcf/yr of natural gas from the Plaquemines LNG Project (the Project), which Plaquemines LNG states is currently under construction in Plaquemines Parish, Louisiana.<sup>2</sup> Plaquemines LNG is authorized to export this LNG by vessel to any country with which the United States has not entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas, and with which trade is not prohibited by U.S. law or policy (non-FTA countries), for a term extending through December 31, 2050.<sup>3</sup>

In the Application, as relevant here,<sup>4</sup> Plaquemines LNG asks DOE to amend Order No. 4446 (as amended) to increase its non-FTA export volume from 1,240 Bcf/yr to 1,405.33 Bcf/yr of natural gas. According to Plaquemines LNG, this increase reflects a refinement in the final design of the Project. Plaquemines LNG states that it is contemporaneously filing an application with the Federal Energy Regulatory Commission (FERC)

<sup>1</sup> 15 U.S.C. 717b(a).

<sup>2</sup> *Venture Global Plaquemines LNG, LLC, DOE/FE Order No. 4446, Docket No. 16–28–LNG, Opinion and Order Granting Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Nations* (Oct. 16, 2019), *amended by DOE/FE Order No. 4446–A* (Oct. 21, 2020) (extending export term).

<sup>3</sup> *Id.*

<sup>4</sup> This Notice applies only to the portion of the Application requesting an amendment to Plaquemines LNG’s non-FTA order. DOE will review separately the portion of the Application requesting an amendment to its existing authorization to export LNG to FTA countries, pursuant to section 3(c) of the NGA, 15 U.S.C. 717b(c).

to amend its NGA section 3 authorization to increase the Project's authorized peak liquefaction capacity under optimal conditions to 27.2 million metric tons per annum of LNG, or approximately 1,405.33 Bcf/yr of natural gas. Plaquemines LNG states that it seeks to increase its authorized export volume to align with the increased peak liquefaction capacity proposed to FERC.

Plaquemines LNG states that the proposed increase in its non-FTA export volume will not require the construction of any new facilities or the modification of the previously authorized Project facilities.

Additional details can be found in Plaquemines LNG's Application, posted on the DOE website at: <https://www.energy.gov/sites/default/files/2022-03/Plaquemines%20LNG%20DOE%20Amendment%20Application%20re%20Peak%20Liquefaction.pdf>.

### DOE Evaluation

In reviewing the Application, DOE will consider any issues required by law or policy. DOE will consider domestic need for the natural gas, as well as any other issues determined to be appropriate, including whether the arrangement is consistent with DOE's policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements. As part of this analysis, DOE will consider the study entitled, *Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports* (2018 LNG Export Study),<sup>5</sup> and DOE's response to public comments received on that Study.<sup>6</sup>

Additionally, DOE will consider the following environmental documents:

- *Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States*, 79 FR 48132 (Aug. 15, 2014);<sup>7</sup>
- *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States*, 79 FR 32260 (June 4, 2014);<sup>8</sup> and

<sup>5</sup> See NERA Economic Consulting, *Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports* (June 7, 2018), available at: [www.energy.gov/sites/prod/files/2018/06/f52/Macroeconomic%20LNG%20Export%20Study%202018.pdf](https://www.energy.gov/sites/prod/files/2018/06/f52/Macroeconomic%20LNG%20Export%20Study%202018.pdf).

<sup>6</sup> U.S. Dep't of Energy, *Study on Macroeconomic Outcomes of LNG Exports: Response to Comments Received on Study; Notice of Response to Comments*, 83 FR 67251 (Dec. 28, 2018).

<sup>7</sup> The Addendum and related documents are available at: <https://energy.gov/fe/draft-addendum-environmental-review-documents-concerning-exports-natural-gas-united-states>.

<sup>8</sup> The 2014 Life Cycle Greenhouse Gas Report is available at: <https://energy.gov/fe/life-cycle-greenhouse-gas-perspective-exporting-liquefied-natural-gas-united-states>.

- *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States: 2019 Update*, 84 FR 49278 (Sept. 19, 2019), and DOE's response to public comments received on that study.<sup>9</sup> Parties that may oppose this Application should address these issues and documents in their comments and protests, as well as other issues deemed relevant to the Application.

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its environmental responsibilities.

### Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable. Interested parties will be provided 60 days from the date of publication of this Notice in which to submit comments, protests, motions to intervene, or notices of intervention.

Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590, including the service requirements.

As noted, DOE is only accepting electronic submissions at this time. Please email the filing to [fergas@hq.doe.gov](mailto:fergas@hq.doe.gov). All filings must include a reference to "Docket No. 16–28–LNG" or "Venture Global Plaquemines LNG, LLC" in the title line.

*Please Note:* Please include all related documents and attachments (e.g., exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE

<sup>9</sup> U.S. Dep't of Energy, *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States: 2019 Update—Response to Comments*, 85 FR 72 (Jan. 2, 2020). The 2019 Update and related documents are available at: <https://fossil.energy.gov/app/docketindex/docket/index/21>.

must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

The Application and any filed protests, motions to intervene, notices of interventions, and comments will also be available electronically by going to the following DOE Web address: <https://www.energy.gov/fecm/division-natural-gas-regulation>.

A decisional record on the Application will be developed through responses to this Notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this Notice, in accordance with 10 CFR 590.316.

Signed in Washington, DC, on May 6, 2022.

**Amy Sweeney,**

*Director, Office of Regulation, Analysis, and Engagement Office of Resource Sustainability.*  
[FR Doc. 2022–10169 Filed 5–11–22; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Environmental Management Site-Specific Advisory Board, Oak Ridge

**AGENCY:** Office of Environmental Management, Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces an in-person/virtual hybrid open meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

**DATES:** Wednesday, June 8, 2022; 6:00 p.m.–7:30 p.m.

**ADDRESSES:** This meeting will be open to the public in-person at the Department of Energy (DOE) Information Center (address below) or virtually. To attend virtually, please send an email to: [orssab@orem.doe.gov](mailto:orssab@orem.doe.gov) by no later than 5:00 p.m. EDT on Wednesday, June 1, 2022.

The meeting will be held, strictly following COVID–19 precautionary measures, at: DOE Information Center, Office of Science and Technical

Information, 1 Science.gov Way, Oak Ridge, Tennessee 37831.

**FOR FURTHER INFORMATION CONTACT:**

Melyssa P. Noe, Alternate Deputy Designated Federal Officer, U.S. Department of Energy, Oak Ridge Office of Environmental Management (OREM), P.O. Box 2001, EM-942, Oak Ridge, TN 37831; Phone (865) 241-3315; or e-mail: [Melyssa.No@orem.doe.gov](mailto:Melyssa.No@orem.doe.gov). Or visit the website at <https://www.energy.gov/orem/services/community-engagement/oak-ridge-site-specific-advisory-board>.

**SUPPLEMENTARY INFORMATION:**

*Purpose of the Board:* The purpose of the Board is to make recommendations to DOE-EM and site management in the areas of environmental restoration, waste management, and related activities.

**Tentative Agenda**

- Comments from the Alternate Deputy Designated Federal Officer (DDFO)
- Comments from the DOE, Tennessee Department of Environment and Conservation, and Environmental Protection Agency Liaisons
- Presentation: *Discussion on Groundwater Remedies*
- Public Comment Period
- Motions/Approval of May 8, 2022 Meeting Minutes
- Status of Outstanding Recommendations
- Alternate DDFO Report
- Subcommittee Reports

*Public Participation:* The in-person/virtual hybrid meeting is open to the public. In addition to participation in the live public comment period, written statements may be filed with the Board via email either before or after the meeting. Public comments received by no later than 5:00 p.m. EDT on Wednesday, June 1, 2022, will be read aloud during the meeting. Comments will be accepted after the meeting, by no later than 5:00 p.m. EDT on Monday, June 13, 2022. Please submit comments to [orssab@orem.doe.gov](mailto:orssab@orem.doe.gov). The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make live public comments will be provided a maximum of five minutes to present their comments. Individuals wishing to submit written public comments should email them as directed above.

*Minutes:* Minutes will be available by emailing or calling Melyssa P. Noe at the email address and telephone number listed above. Minutes will also be available at the following website: <https://www.energy.gov/orem/listings/oak-ridge-site-specific-advisory-board-meetings>.

Signed in Washington, DC on May 9, 2022.

**LaTanya Butler,**

*Deputy Committee Management Officer.*

[FR Doc. 2022-10198 Filed 5-11-22; 8:45 am]

**BILLING CODE 6450-01-P**

**DEPARTMENT OF ENERGY**

[Docket No. 22-39-LNG]

**New Fortress Energy Louisiana FLNG LLC; Application for Long-Term Authorization To Export Liquefied Natural Gas to Non-Free Trade Agreement Nations**

**AGENCY:** Office of Fossil Energy and Carbon Management, Department of Energy.

**ACTION:** Notice of application.

**SUMMARY:** The Office of Fossil Energy and Carbon Management (FECM) of the Department of Energy (DOE) gives notice (Notice) of receipt of an application (Application), filed by New Fortress Energy Louisiana FLNG LLC (New Fortress Energy) on March 30, 2022, and supplemented on April 22, 2022. New Fortress Energy requests long-term, multi-contract authorization to export domestically produced liquefied natural gas (LNG) in a volume equivalent to 145 billion cubic feet per year (Bcf/yr) of natural gas from its proposed deepwater port export terminal project, the New Fortress Energy Louisiana FLNG Project (Project), to be located off the southeast coast of Grand Isle, Louisiana. New Fortress Energy filed the Application under the Natural Gas Act (NGA).

**DATES:** Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed electronically as detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, July 11, 2022.

**ADDRESSES:**

*Electronic Filing by email: [fergas@hq.doe.gov](mailto:fergas@hq.doe.gov).*

Although DOE has routinely accepted public comment submissions through a variety of mechanisms, including postal mail and hand delivery/courier, DOE has found it necessary to make temporary modifications to the comment submission process in light of the ongoing Covid-19 pandemic. DOE is currently accepting only electronic submissions at this time. If a commenter finds that this change poses an undue hardship, please contact Office of Resource Sustainability staff at (202) 586-4749 or (202) 586-7893 to discuss the need for alternative arrangements. Once the Covid-19 pandemic health

emergency is resolved, DOE anticipates resuming all of its regular options for public comment submission, including postal mail and hand delivery/courier.

**FOR FURTHER INFORMATION CONTACT:**

Jennifer Wade or Peri Ulrey, U.S.

Department of Energy (FE-34), Office of Regulation, Analysis, and Engagement, Office of Resource Sustainability, Office of Fossil Energy and Carbon Management, Forrestal Building, Room 3E-042, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586-4749 or (202) 586-7893,

[jennifer.wade@hq.doe.gov](mailto:jennifer.wade@hq.doe.gov) or [peri.ulrey@hq.doe.gov](mailto:peri.ulrey@hq.doe.gov).

Cassandra Bernstein, U.S. Department of Energy (GC-76), Office of the Assistant General Counsel for Energy Delivery and Resilience, Forrestal Building, Room 6D-033, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586-9793, [cassandra.bernstein@hq.doe.gov](mailto:cassandra.bernstein@hq.doe.gov).

**SUPPLEMENTARY INFORMATION:** New Fortress Energy requests authorization to export domestically produced LNG from its proposed Project to be located in West Delta Block 38 off the southeast coast of Grand Isle, Louisiana. New Fortress Energy seeks to export this LNG in a volume equivalent to 145 Bcf/yr of natural gas (equivalent to approximately 2.8 million metric tons per annum) on a non-additive basis to: (i) Any nation with which the United States has entered into a free trade agreement (FTA) requiring national treatment for trade in natural gas (FTA nations), and (ii) any other nation with which trade is not prohibited by U.S. law or policy (non-FTA nations). This Notice applies only to the portion of the Application requesting authority to export LNG to non-FTA countries pursuant to section 3(a) of the NGA.<sup>1</sup> DOE will review New Fortress Energy's request for a FTA export authorization separately pursuant to NGA section 3(c).<sup>2</sup>

New Fortress Energy seeks to export this LNG on its own behalf and as agent for other entities that hold title to the LNG at the point of export. New Fortress Energy requests the authorization for a term to commence on the date of first export following the commencement of commercial operation of the Project, and to extend through December 31, 2050.

New Fortress Energy states that the Project will be a deepwater port under the Deepwater Port Act of 1974, as amended (DWPA). New Fortress Energy states that it is concurrently filing an

<sup>1</sup> 15 U.S.C. 717b(a).

<sup>2</sup> 15 U.S.C. 717b(c).

application for a license to construct, own, and operate the Project pursuant to the DWSA, in accordance with the United States Coast Guard's and the Maritime Administration's implementing regulations.

Additional details can be found in New Fortress Energy's Application and supplement, posted on the DOE website at:

<https://www.energy.gov/sites/default/files/2022-04/22-39-LNG.pdf>.

<https://www.energy.gov/sites/default/files/2022-04/NFE%20Supplemental%20Transmittal.pdf>.

### DOE Evaluation

In reviewing the Application, as supplemented, DOE will consider any issues required by law or policy. DOE will consider domestic need for the natural gas, as well as any other issues determined to be appropriate, including whether the arrangement is consistent with DOE's policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements. As part of this analysis, DOE will consider the study entitled, *Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports (2018 LNG Export Study)*,<sup>3</sup> and DOE's response to public comments received on that Study.<sup>4</sup>

Additionally, DOE will consider the following environmental documents:

- *Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States*, 79 FR 48132 (Aug. 15, 2014);<sup>5</sup>
- *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States*, 79 FR 32260 (June 4, 2014);<sup>6</sup> and
- *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States: 2019 Update*, 84 FR 49278 (Sept. 19, 2019), and DOE's response to public comments received on that study.<sup>7</sup>

<sup>3</sup> See NERA Economic Consulting, *Macroeconomic Outcomes of Market Determined Levels of U.S. LNG Exports (June 7, 2018)*, available at: [www.energy.gov/sites/prod/files/2018/06/f52/Macroeconomic%20LNG%20Export%20Study%202018.pdf](https://www.energy.gov/sites/prod/files/2018/06/f52/Macroeconomic%20LNG%20Export%20Study%202018.pdf).

<sup>4</sup> U.S. Dep't of Energy, *Study on Macroeconomic Outcomes of LNG Exports: Response to Comments Received on Study; Notice of Response to Comments*, 83 FR 67251 (Dec. 28, 2018).

<sup>5</sup> The Addendum and related documents are available at: <https://energy.gov/fe/draft-addendum-environmental-review-documents-concerning-exports-natural-gas-united-states>.

<sup>6</sup> The 2014 Life Cycle Greenhouse Gas Report is available at: <https://energy.gov/fe/life-cycle-greenhouse-gas-perspective-exporting-liquefied-natural-gas-united-states>.

<sup>7</sup> U.S. Dep't of Energy, *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas*

Parties that may oppose this Application should address these issues and documents in their comments and protests, as well as other issues deemed relevant to the Application.

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its environmental responsibilities.

### Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable. Interested parties will be provided 60 days from the date of publication of this Notice in which to submit comments, protests, motions to intervene, or notices of intervention.

Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590, including the service requirements.

As noted, DOE is only accepting electronic submissions at this time. Please email the filing to [fergas@hq.doe.gov](mailto:fergas@hq.doe.gov). All filings must include a reference to "Docket No. 22-39-LNG" or "New Fortress Energy Louisiana FLNG LLC" in the title line.

*Please Note:* Please include all related documents and attachments (e.g., exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

From the United States: 2019 Update—Response to Comments, 85 FR 72 (Jan. 2, 2020). The 2019 Update and related documents are available at: <https://fossil.energy.gov/app/docketindex/docket/index/21>.

The Application, as supplemented, and any filed protests, motions to intervene, notices of interventions, and comments will also be available electronically by going to the following DOE Web address: <https://www.energy.gov/fecm/division-natural-gas-regulation>.

A decisional record on the Application will be developed through responses to this Notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application, as supplemented, and responses filed by parties pursuant to this Notice, in accordance with 10 CFR 590.316.

Signed in Washington, DC, on May 6, 2022.

**Amy Sweeney,**

*Director, Office of Regulation, Analysis, and Engagement, Office of Resource Sustainability.*

[FR Doc. 2022-10168 Filed 5-11-22; 8:45 am]

**BILLING CODE 6450-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CD22-6-000]

#### City of Hood River, Oregon; Notice of Preliminary Determination of a Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions To Intervene

On May 5, 2022, the City of Hood River, Oregon, filed a notice of intent to construct a qualifying conduit hydropower facility, pursuant to section 30 of the Federal Power Act (FPA). The proposed Dee Bridge Hydroelectric Station Project would have an installed capacity of 175 kilowatts (kW), and would be located along an existing 24-inch pipeline at the applicant's Dee Bridge Pressure Reducing Station in Dee, Hood River County, Oregon.

*Applicant Contact:* Andrew Benjamin, NLine Energy, Inc., 403 Portway Avenue, Suite 300, Hood River, OR 97031, 530-420-6098, [abenjamin@nlineenergy.com](mailto:abenjamin@nlineenergy.com).

*FERC Contact:* Christopher Chaney, 202-502-6778, [christopher.chaney@ferc.gov](mailto:christopher.chaney@ferc.gov).

*Qualifying Conduit Hydropower Facility Description:* The proposed project would consist of: (1) One 175

kW turbine/generator unit; (2) 12 or 18-inch-diameter intake and discharge pipes; and (3) appurtenant facilities. The proposed project would have an estimated annual generation of approximately 650 megawatt-hours. A qualifying conduit hydropower facility is one that is determined or deemed to meet all the criteria shown in the table below.

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY

Statutory provision	Description	Satisfies (Y/N)
FPA 30(a)(3)(A) .....	The conduit the facility uses is a tunnel, canal, pipeline, aqueduct, flume, ditch, or similar man-made water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.	Y
FPA 30(a)(3)(C)(i) .....	The facility is constructed, operated, or maintained for the generation of electric power and uses for such generation only the hydroelectric potential of a non-federally owned conduit.	Y
FPA 30(a)(3)(C)(ii) .....	The facility has an installed capacity that does not exceed 40 megawatts .....	Y
FPA 30(a)(3)(C)(iii) .....	On or before August 9, 2013, the facility is not licensed, or exempted from the licensing requirements of Part I of the FPA.	Y

*Preliminary Determination:* The proposed Dee Bridge Hydroelectric Station Project will not alter the primary purpose of the conduit, which is to transport potable water for municipal use. Therefore, based upon the above criteria, Commission staff preliminarily determines that the proposal satisfies the requirements for a qualifying conduit hydropower facility, which is not required to be licensed or exempted from licensing.

*Comments and Motions to Intervene:* Deadline for filing comments contesting whether the facility meets the qualifying criteria is 30 days from the issuance date of this notice.

Deadline for filing motions to intervene is 30 days from the issuance date of this notice.

Anyone may submit comments or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. Any motions to intervene must be received on or before the specified deadline date for the particular proceeding.

*Filing and Service of Responsive Documents:* All filings must (1) bear in all capital letters the “COMMENTS CONTESTING QUALIFICATION FOR A CONDUIT HYDROPOWER FACILITY” or “MOTION TO INTERVENE,” as applicable; (2) state in the heading the name of the applicant and the project number of the application to which the filing responds; (3) state the name, address, and telephone number of the person filing; and (4) otherwise comply with the requirements of sections 385.2001 through 385.2005 of the Commission’s regulations.<sup>1</sup> All comments contesting Commission staff’s preliminary determination that the facility meets the qualifying criteria must set forth their evidentiary basis.

The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission’s eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may send a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

*Locations of Notice of Intent:* 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 website at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (i.e., CD22–6) in the docket number field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. Copies of the notice of intent can be obtained directly from the applicant.

For assistance, call toll-free 1–866–208–3676 or email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov). For TTY, call (202) 502–8659.

Dated: May 6, 2022.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2022–10201 Filed 5–11–22; 8:45 am]

**BILLING CODE 6717–01–P**

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

**Combined Notice of Filings**

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

**Filings Instituting Proceedings**

- Docket Numbers:* RP22–892–000.  
*Applicants:* Cameron Interstate Pipeline, LLC.  
*Description:* Annual Report of Penalty Revenues of Cameron Interstate Pipeline, LLC.  
*Filed Date:* 4/29/22.  
*Accession Number:* 20220429–5679.  
*Comment Date:* 5 p.m. ET 5/11/22.  
*Docket Numbers:* RP22–894–000.  
*Applicants:* Cameron Interstate Pipeline, LLC.  
*Description:* Annual Interruptible Transportation Revenue Sharing Report of Cameron Interstate Pipeline, LLC.  
*Filed Date:* 4/29/22.  
*Accession Number:* 20220429–5682.  
*Comment Date:* 5 p.m. ET 5/11/22.  
*Docket Numbers:* RP22–895–000.  
*Applicants:* Cameron Interstate Pipeline, LLC.  
*Description:* Operational Transactions Report of Cameron Interstate Pipeline, LLC.  
*Filed Date:* 4/29/22.  
*Accession Number:* 20220429–5683.  
*Comment Date:* 5 p.m. ET 5/11/22.  
*Docket Numbers:* RP22–898–000.

<sup>1</sup> 18 CFR 385.2001–2005 (2021).

*Applicants:* Cameron Interstate Pipeline, LLC.

*Description:* Annual Operational Imbalances and Cash Out Activity Report for 2021 of Cameron Interstate Pipeline, LLC.

*Filed Date:* 4/29/22.

*Accession Number:* 20220429–5702.

*Comment Date:* 5 p.m. ET 5/11/22.

*Docket Numbers:* RP22–906–000.

*Applicants:* Cameron Interstate Pipeline, LLC.

*Description:* Annual Transportation Imbalances and Cash Out Activity Report for of Cameron Interstate Pipeline, LLC.

*Filed Date:* 4/29/22.

*Accession Number:* 20220429–5714.

*Comment Date:* 5 p.m. ET 5/11/22.

*Docket Numbers:* RP22–910–000.

*Applicants:* Gulf South Pipeline Company, LLC.

*Description:* § 4(d) Rate Filing: Cap Rel Neg Rate Agmt (Panda 624 to Tenaska 55334) to be effective 5/5/2022.

*Filed Date:* 5/5/22.

*Accession Number:* 20220505–5076.

*Comment Date:* 5 p.m. ET 5/17/22.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

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: May 6, 2022.

**Kimberly D. Bose,**

Secretary.

[FR Doc. 2022–10199 Filed 5–11–22; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

*Docket Numbers:* EG22–113–000.

*Applicants:* Vansycle II Wind, LLC.

*Description:* Vansycle II Wind, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

*Filed Date:* 5/5/22.

*Accession Number:* 20220505–5192.

*Comment Date:* 5 p.m. ET 5/26/22.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER20–2429–005.

*Applicants:* ISO New England Inc., Central Maine Power Company.

*Description:* Compliance filing: ISO New England Inc. submits tariff filing per 35: CMP; Supplement to Compliance Filing to Comply with Order No. 864 to be effective 1/27/2020.

*Filed Date:* 5/6/22.

*Accession Number:* 20220506–5125.

*Comment Date:* 5 p.m. ET 5/27/22.

*Docket Numbers:* ER22–680–002.

*Applicants:* Southern California Edison Company.

*Description:* Tariff Amendment: Response to Deficiency Letter—Revised WDAT Enhancements 2021 to be effective 7/6/2022.

*Filed Date:* 5/6/22.

*Accession Number:* 20220506–5081.

*Comment Date:* 5 p.m. ET 5/27/22.

*Docket Numbers:* ER22–1014–001.

*Applicants:* Power Authority of the State of New York, New York Independent System Operator, Inc.

*Description:* Tariff Amendment: Power Authority of the State of New York submits tariff filing per 35.17(b): Deficiency Response re: NYPA Formula Rate to be effective 7/6/2022.

*Filed Date:* 5/6/22.

*Accession Number:* 20220506–5073.

*Comment Date:* 5 p.m. ET 5/27/22.

*Docket Numbers:* ER22–1241–000.

*Applicants:* REV Energy Marketing, LLC.

*Description:* Supplement to March 10, 2022 REV Energy Marketing, LLC tariff filing.

*Filed Date:* 5/5/22.

*Accession Number:* 20220505–5195.

*Comment Date:* 5 p.m. ET 5/16/22.

*Docket Numbers:* ER22–1324–000.

*Applicants:* LeConte Energy Storage, LLC.

*Description:* LeConte Energy Storage, LLC submits Supplement to Application for Market-Based Rate Authorization and Request for Shortened Comment Period.

*Filed Date:* 5/5/22.

*Accession Number:* 20220505–5191.

*Comment Date:* 5 p.m. ET 5/16/22.

*Docket Numbers:* ER22–1801–000.

*Applicants:* NorthWestern Corporation.

*Description:* Tariff Amendment: Cancellation of SA 905: Agreement With GCC Three Forks LLC to be effective 5/7/2022.

*Filed Date:* 5/5/22.

*Accession Number:* 20220505–5180.

*Comment Date:* 5 p.m. ET 5/26/22.

*Docket Numbers:* ER22–1802–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Original ISA, Service Agreement No. 6431; Queue No. AE1–243 to be effective 4/6/2022.

*Filed Date:* 5/6/22.

*Accession Number:* 20220506–5023.

*Comment Date:* 5 p.m. ET 5/27/22.

*Docket Numbers:* ER22–1803–000.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* § 205(d) Rate Filing: 2022–05–06 SA 3365 METC-Calhoun Solar Energy 2nd Rev GIA (J758) to be effective 5/3/2022.

*Filed Date:* 5/6/22.

*Accession Number:* 20220506–5030.

*Comment Date:* 5 p.m. ET 5/27/22.

*Docket Numbers:* ER22–1804–000.

*Applicants:* Yaphank Fuel Cell Park, LLC.

*Description:* Baseline eTariff Filing: Baseline new to be effective 7/6/2022.

*Filed Date:* 5/6/22.

*Accession Number:* 20220506–5041.

*Comment Date:* 5 p.m. ET 5/27/22.

*Docket Numbers:* ER22–1805–000.

*Applicants:* Florida Power & Light Company.

*Description:* Baseline eTariff Filing: Transfer eTariff Records from Gulf DB to FPL DB–CBT and TFCAT Migration to be effective 5/7/2022.

*Filed Date:* 5/6/22.

*Accession Number:* 20220506–5044.

*Comment Date:* 5 p.m. ET 5/27/22.

*Docket Numbers:* ER22–1806–000.

*Applicants:* Gulf Power Company.

*Description:* Tariff Amendment: Filing to Transfer eTariff Records and Notice of Cancellation to be effective 5/7/2022.

*Filed Date:* 5/6/22.

*Accession Number:* 20220506–5045.

*Comment Date:* 5 p.m. ET 5/27/22.

*Docket Numbers:* ER22–1808–000.

*Applicants:* Panther Creek Power Operating, LLC.

*Description:* Compliance filing: Panther Creek Power Operating, LLC Reactive Power Tariff—Clone to be effective 5/6/2022.

*Filed Date:* 5/6/22.

*Accession Number:* 20220506–5123.

*Comment Date:* 5 p.m. ET 5/27/22.

*Docket Numbers:* ER22–1809–000.

*Applicants:* Wisconsin Power and Light Company.

*Description:* Initial rate filing: WPL-Kossuth Cty Wind SFA for



Interconnection Service to be effective 5/7/2022.

*Filed Date:* 5/6/22.

*Accession Number:* 20220506–5164.

*Comment Date:* 5 p.m. ET 5/27/22.

*Docket Numbers:* ER22–1810–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Amendment to WMPA, SA No. 6367; Queue No. AF2–250 to be effective 1/26/2022.

*Filed Date:* 5/6/22.

*Accession Number:* 20220506–5170.

*Comment Date:* 5 p.m. ET 5/27/22.

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: May 6, 2022.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2022–10200 Filed 5–11–22; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 10489–020]

#### City of River Falls Municipal Utilities; Notice of Intent To Prepare an Environmental Assessment

On August 26, 2021, the City of River Falls Municipal Utilities (City of River Falls) filed an application for a subsequent minor license for the 250-kilowatt River Falls Hydroelectric Project (River Falls Project; FERC No. 10489). The River Falls Project is located on the Kinnickinnic River in the City of River Falls in Pierce County, Wisconsin. The project does not occupy federal lands.

In accordance with the Commission's regulations, on March 2, 2022,

Commission staff issued a notice that the project was ready for environmental analysis (REA Notice). Based on the information in the record, including comments filed on the REA Notice, staff does not anticipate that licensing the project would constitute a major federal action significantly affecting the quality of the human environment. Therefore, staff intends to prepare an Environmental Assessment (EA) on the application to relicense the River Falls Project.

The EA will be issued and circulated for review by all interested parties. All comments filed on the EA will be analyzed by staff and considered in the Commission's final licensing decision.

The application will be processed according to the following schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Commission issues EA .....	January 2023. <sup>1</sup>
Comments on EA .....	February 2023.

Any questions regarding this notice may be directed to Michael Davis at (202) 502–8339 or [michael.davis@ferc.gov](mailto:michael.davis@ferc.gov).

Dated: May 6, 2022.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2022–10202 Filed 5–11–22; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2022–0116; FRL–9412–14–OCSP]

### Certain New Chemicals or Significant New Uses; Statements of Findings for February 2022

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

**ACTION:** Notice.

**SUMMARY:** The Toxic Substances Control Act (TSCA) requires EPA to publish in the **Federal Register** a statement of its findings after its review of certain TSCA notices when EPA makes a finding that a new chemical substance or significant new use is not likely to present an unreasonable risk of injury to health or

<sup>1</sup> The Council on Environmental Quality's (CEQ) regulations under 40 CFR 1501.10(b)(1) require that EAs be completed within 1 year of the federal action agency's decision to prepare an EA. This notice establishes the Commission's intent to prepare an EA for the River Falls Project. Therefore, in accordance with CEQ's regulations, the EA must be issued within 1 year of the issuance date of this notice.

the environment. Such statements apply to premanufacture notices (PMNs), microbial activity notices (MCANs), and significant new use notices (SNUNs) submitted to EPA under TSCA. This document presents statements of findings made by EPA on such submissions during the period from February 1, 2022 to February 28, 2022.

**FOR FURTHER INFORMATION CONTACT:** *For technical information contact:* Rebecca Edelstein, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: 202–564–1667 email address: [Edelstein.rebecca@epa.gov](mailto:Edelstein.rebecca@epa.gov).

*For general information contact:* The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: [TSCA-Hotline@epa.gov](mailto:TSCA-Hotline@epa.gov).

## SUPPLEMENTARY INFORMATION:

### I. General Information

#### A. Does this action apply to me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitters of the PMNs addressed in this action.

#### B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2022–0116, is available at <http://www.regulations.gov> or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. For the latest information on EPA/DC services and docket access, visit <https://www.epa.gov/dockets>.

### II. What action is the Agency taking?

This document lists the statements of findings made by EPA after review of notices submitted under TSCA section 5(a) that certain new chemical substances or significant new uses are not likely to present an unreasonable risk of injury to health or the

environment. This document presents statements of findings made by EPA during the period from February 1, 2022 to February 28, 2022.

**III. What is the Agency’s authority for taking this action?**

TSCA section 5(a)(3) requires EPA to review a TSCA section 5(a) notice and make one of the following specific findings:

- The chemical substance or significant new use presents an unreasonable risk of injury to health or the environment;
- The information available to EPA is insufficient to permit a reasoned evaluation of the health and environmental effects of the chemical substance or significant new use;
- The information available to EPA is insufficient to permit a reasoned evaluation of the health and environmental effects and the chemical substance or significant new use may present an unreasonable risk of injury to health or the environment;
- The chemical substance is or will be produced in substantial quantities, and such substance either enters or may reasonably be anticipated to enter the environment in substantial quantities or there is or may be significant or substantial human exposure to the substance; or
- The chemical substance or significant new use is not likely to

present an unreasonable risk of injury to health or the environment.

Unreasonable risk findings must be made without consideration of costs or other non-risk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant under the conditions of use. The term “conditions of use” is defined in TSCA section 3 to mean “the circumstances, as determined by the Administrator, under which a chemical substance is intended, known, or reasonably foreseen to be manufactured, processed, distributed in commerce, used, or disposed of.”

EPA is required under TSCA section 5(g) to publish in the **Federal Register** a statement of its findings after its review of a TSCA section 5(a) notice when EPA makes a finding that a new chemical substance or significant new use is not likely to present an unreasonable risk of injury to health or the environment. Such statements apply to PMNs, MCANs, and SNUNs submitted to EPA under TSCA section 5.

Anyone who plans to manufacture (which includes import) a new chemical substance for a non-exempt commercial purpose and any manufacturer or processor wishing to engage in a use of a chemical substance designated by EPA as a significant new use must submit a notice to EPA at least 90 days before

commencing manufacture of the new chemical substance or before engaging in the significant new use.

The submitter of a notice to EPA for which EPA has made a finding of “not likely to present an unreasonable risk of injury to health or the environment” may commence manufacture of the chemical substance or manufacture or processing for the significant new use notwithstanding any remaining portion of the applicable review period.

**IV. Statements of Administrator Findings Under TSCA Section 5(a)(3)(C)**

In this unit, EPA provides the following information (to the extent that such information is not claimed as Confidential Business Information (CBI)) on the PMNs, MCANs and SNUNs for which, during this period, EPA has made findings under TSCA section 5(a)(3)(C) that the new chemical substances or significant new uses are not likely to present an unreasonable risk of injury to health or the environment:

- EPA case number assigned to the TSCA section 5(a) notice.
- Chemical identity (generic name if the specific name is claimed as CBI).
- Website link to EPA’s decision document describing the basis of the “not likely to present an unreasonable risk” finding made by EPA under TSCA section 5(a)(3)(C).

EPA case No.	Chemical identity	Website link
J-22-0008 .....	Modified Yeast (generic)	<a href="https://www.epa.gov/system/files/documents/2022-03/j-22-0008_determination_non-cbi_final.pdf">https://www.epa.gov/system/files/documents/2022-03/j-22-0008_determination_non-cbi_final.pdf</a>

(Authority: 15 U.S.C. 2601 *et seq.*)

Dated: May 6, 2022.

**Madison Le,**

Director, New Chemicals Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2022-10188 Filed 5-11-22; 8:45 am]

BILLING CODE 6560-50-P

**FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD**

**Notice of Request for Comment on an Exposure Draft, Omnibus Amendments: Technical Clarifications Addressing Lessee and Lessor Discount Rates and Sale-Leasebacks**

**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 Statement

of Federal Financial Accounting Standards titled *Omnibus Amendments: Technical Clarifications Addressing Lessee and Lessor Discount Rates and Sale-leasebacks*. Respondents are encouraged to comment on any part of the exposure draft. Written comments are requested by July 8, 2022, and should be sent to [fasab@fasab.gov](mailto: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: May 9, 2022.

**Monica R. Valentine,**  
Executive Director.

[FR Doc. 2022-10203 Filed 5-11-22; 8:45 am]

BILLING CODE P

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

**Sunshine Act Meetings; Cancellation**

May 10, 2022.

The following Commission meeting has been cancelled. No earlier announcement of the cancellation was possible. A Commission meeting in this matter will be rescheduled.

**TIME AND DATE:** 10:00 a.m., Friday, May 13, 2022.

**PLACE:** The Richard V. Backley, Hearing Room, Room 511, 1331 Pennsylvania Avenue NW, Suite 504 North, Washington, DC 20004 (enter from F Street entrance).

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** The Commission will consider and act upon the following in open session: *Peabody Midwest Mining, LLC and Butler employed by Peabody Mining Midwest Mining, LLC*, Docket Nos. LAKE 2019–0023, 2019–0122, 2019–0361. (Issues include whether the Judge erred in concluding that the operator violated standards when it failed to immediately de-energize equipment when it encountered high methane levels, whether the violation was significant and substantial, and whether a supervisor was liable for individual penalties.)

Pursuant to the Commission's COVID–19 Workplace Safety Plan, in-person attendance shall be limited to persons participating in the decisional process (e.g., Chair and Commissioners, Commission employees providing support for the meeting). Non-participating individuals may listen to the meeting by calling the phone number listed below in this notice.

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

**CONTACT PERSON FOR MORE INFO:**

Emogene Johnson (202) 434–9935/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

**PHONE NUMBER FOR LISTENING TO MEETING:**

1–(866) 236–7472, Passcode: 678–100.

*Authority:* 5 U.S.C. 552b.

Dated: May 10, 2022.

**Sarah L. Stewart,**

*Deputy General Counsel.*

[FR Doc. 2022–10404 Filed 5–10–22; 4:15 pm]

**BILLING CODE 6735–01–P**

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

**Sunshine Act Meetings; Cancellation**

May 10, 2022.

The following Commission oral argument has been cancelled. No earlier announcement of the cancellation was possible. Commission oral argument in this matter will be rescheduled.

**TIME AND DATE:** 10:00 a.m., Thursday, May 12, 2022.

**PLACE:** The Richard V. Backley Hearing Room, Room 511, 1331 Pennsylvania Avenue NW, Suite 504 North, Washington, DC 20004 (enter from F Street entrance).

Note that workplace policies instituted to address the COVID–19

pandemic may restrict the ability of some participants to take part in the argument in-person. Those participants will join the argument through a videoconference involving all other participants who are appearing in-person.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:** The Commission will consider and act upon the following in open session: *Peabody Midwest Mining, LLC and Butler employed by Peabody Mining Midwest Mining, LLC*, Docket Nos. LAKE 2019–0023, 2019–0122, 2019–0361. (Issues include whether the Judge erred in concluding that the operator violated standards when it failed to immediately de-energize equipment when it encountered high methane levels, whether the violation was significant and substantial, and whether a supervisor was liable for individual penalties.)

Pursuant to the Commission's COVID–19 Workplace Safety Plan, in-person attendance shall be limited to persons participating in the oral argument process (e.g., Chair and Commissioners, parties and their representatives, Commission employees providing support for the meeting). Non-participating individuals may listen to the meeting by calling the phone number listed below in this notice.

Any person attending this oral argument who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and § 2706.160(d).

**CONTACT PERSON FOR MORE INFO:**

Emogene Johnson (202) 434–9935/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

**PHONE NUMBER FOR LISTENING TO MEETING:**

1–(866) 236–7472, Passcode: 678–100.

*Authority:* 5 U.S.C. 552b.

Dated: May 10, 2022.

**Sarah L. Stewart,**

*Deputy General Counsel.*

[FR Doc. 2022–10407 Filed 5–10–22; 4:15 pm]

**BILLING CODE 6735–01–P**

**FEDERAL RESERVE SYSTEM**

**Formations of, Acquisitions by, and Mergers of Bank Holding Companies**

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part

225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than June 13, 2022.

*A. Federal Reserve Bank of St. Louis* (Holly A. Rieser, Manager) P.O. Box 442, St. Louis, Missouri 63166–2034.

Comments can also be sent electronically to

[Comments.applications@stls.frb.org](mailto:Comments.applications@stls.frb.org):

1. *Montgomery Bancorporation, Inc., Sikeston, Missouri*; to acquire Meramec Valley Bank, Valley Park, Missouri.

Board of Governors of the Federal Reserve System.

**Michele Taylor Fennell,**

*Deputy Associate Secretary of the Board.*

[FR Doc. 2022–10186 Filed 5–11–22; 8:45 am]

**BILLING CODE 6210P**

**FEDERAL RESERVE SYSTEM**

**Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company**

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the

Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551-0001, not later than May 27, 2022.

A. *Federal Reserve Bank of Kansas City* (Jeffrey Imgarten, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198-0001:

1. *Michael Mark Matthews, Houston, Texas, and Anthony Charles Matthews, Estero, Florida, as co-trustees of the Haviland Bancshares, Inc. Employee Stock Ownership Plan, Haviland, Kansas*; to join the Matthews Family Group, a group acting in concert, to retain voting shares of Haviland Bancshares, Inc., and thereby indirectly retain voting shares of The Haviland State Bank, both of Haviland, Kansas.

Board of Governors of the Federal Reserve System.

**Michele Taylor Fennell,**

*Deputy Associate Secretary of the Board.*

[FR Doc. 2022-10183 Filed 5-11-22; 8:45 am]

**BILLING CODE P**

## OFFICE OF GOVERNMENT ETHICS

### Privacy Act of 1974; Systems of Records

**AGENCY:** Office of Government Ethics (OGE).

**ACTION:** Notice of a modified system of records.

**SUMMARY:** The U.S. Office of Government Ethics (OGE) proposes to revise one of its existing internal systems of records under the Privacy Act, currently called OGE/INTERNAL-1, Pay, Leave, Travel, and Reasonable Accommodation Records. It contains records related to OGE employees' pay, leave, and travel, including information regarding leave accrual rate, usage, and balances, salary withholdings, travel expenses, and usage of the transit fare subsidy program. OGE proposes to add additional financial reimbursement

records and rename the system of records OGE/INTERNAL-1, Employee Leave, Travel, Reasonable Accommodation, and Payment Records.

**DATES:** The revisions and rescindment will be effective on May 12, 2022, subject to a 30-day period in which to comment on the new routine uses, described below. Please submit any comments by June 13, 2022. The new routine uses will be effective on that date.

**ADDRESSES:** Comments may be submitted to OGE by any of the following methods:

*Email:* [usoge@oge.gov](mailto:usoge@oge.gov) (Include reference to "OGE Internal 1" in the subject line of the message.)

*Mail, Hand Delivery/Courier:* Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Attention: Jennifer Matis, Associate Counsel, Washington, DC 20005-3917.

*Instructions:* Comments may be posted on OGE's website, [www.oge.gov](http://www.oge.gov). Sensitive personal information, such as account numbers or Social Security numbers, should not be included. Comments generally will not be edited to remove any identifying or contact information before posting.

**FOR FURTHER INFORMATION CONTACT:**

Jennifer Matis at the U.S. Office of Government Ethics; telephone: 202-482-9216; TTY: 800-877-8339; Email: [jmatis@oge.gov](mailto:jmatis@oge.gov).

**SUPPLEMENTARY INFORMATION:** In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, this document provides public notice that OGE is proposing to revise the OGE/INTERNAL-1 system of records to include all records regarding financial reimbursements to employees.

Accordingly, OGE publishes the following notice of revision:

**SYSTEM NAME AND NUMBER:**

OGE/INTERNAL-1, Employee Leave, Travel, Reasonable Accommodation, and Payment Records

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Washington, DC 20005-3917.

**SYSTEM MANAGER(S):**

Deputy Director for Compliance, Office of Government Ethics, Suite 500, 1201 New York Avenue NW, Washington, DC 20005-3917, email: [usoge@oge.gov](mailto:usoge@oge.gov).

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. 5525; 5 U.S.C. App. (Ethics in Government Act of 1978); 44 U.S.C.

3101, 3102; 29 U.S.C. 701 *et seq.* (Rehabilitation Act of 1973); 42 U.S.C. Section 2000e (Title VII of the Civil Rights Act); 31 U.S.C. 3511; Executive Order 13164; 29 CFR 1605 and 1614.

**PURPOSE(S) OF THE SYSTEM:**

These records are used to administer the pay, leave, and travel requirements of the Office of Government Ethics, including the administration of the transit fare subsidy program and the authorization of reimbursement payments to employees. The records are also used to collect and maintain records on employees who request or receive reasonable accommodation as required by the Rehabilitation Act of 1973 and Title VII of the Civil Rights Act.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current employees of the Office of Government Ethics. The records may be retained after an employee leaves the Office of Government Ethics.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system contains various records relating to pay, leave, travel, reimbursements, and requests for reasonable accommodations pursuant to the Rehabilitation Act of 1973 and Title VII of the Civil Rights Act. This includes information such as: Name; date of birth; social security number; home address; grade; employing organization; disability status, religious affiliation, accommodation requested and/or granted, timekeeper number; salary; pay plan; number of hours worked; leave accrual rate, usage, and balances; Civil Service Retirement and Federal Employees Retirement System contributions; FICA withholdings; Federal, state, and local tax withholdings; Federal Employee's Group Life Insurance withholdings; Federal Employee's Health Benefits withholdings; charitable deductions; allotments; garnishment documents; travel and other expenses; and information on the leave transfer program and fare subsidy program.

**RECORD SOURCE CATEGORIES:**

Information in this system of records is obtained from:

a. The individual to whom the record pertains.

b. Office of Government Ethics officials responsible for administering agency leave, travel, reasonable accommodation, and payment functions.

c. Other official personnel documents of the Office of Government Ethics.

**ROUTINE USES:**

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible (hereinafter "responsible agency") for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, when the record either alone or in conjunction with other information indicates a violation or potential violation of civil or criminal law or regulation.

b. To disclose information when OGE determines that the records are arguably relevant and necessary to a proceeding before a court, grand jury, or administrative or adjudicative body; or in a proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant and necessary to the proceeding.

c. To disclose information to the National Archives and Records Administration or the General Services Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

d. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A-19.

e. To disclose information to a Member of Congress or a congressional office in response to an inquiry made on behalf of, and at the request of, an individual who is the subject of the record.

f. To disclose information to contractors, grantees, experts, consultants, detailees, and other non-OGE employees performing or working on a contract, service, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records.

g. To disclose information to the Department of Labor in connection with a claim filed by an employee for compensation due to a job-connected injury or illness.

h. To disclose information to the Social Security Administration (SSA) and the Department of the Treasury as required in accordance with their authorized functions, including Federal Insurance Collections Act withholding and benefits for the SSA and the issuance of paychecks and savings bonds for the Treasury.

i. To disclose information to State offices of unemployment compensation.

j. To disclose information to Federal Employees Group Life Insurance or Health Benefits carriers in connection

with survivor annuity or health benefits claims or records reconciliations.

k. To disclose information to the Internal Revenue Service and State and local tax authorities.

l. To disclose information to any source from which additional information is requested relevant to an OGE determination concerning an individual's pay, leave, or expenses, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested.

m. To disclose information to a Federal agency, in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a suitability or security investigation of an individual, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

n. To disclose information to the authorized employees of another Federal agency that provides the Office of Government Ethics with manual and automated assistance in processing payments, leave, and travel.

o. To disclose information to officials of the Office of Special Counsel, Office of Personnel Management, Federal Labor Relations Authority, Merit Systems Protection Board or the Equal Employment Opportunity Commission when requested in the performance of their authorized duties, including respectively in connection with cases and appeals, special studies of the civil service and other merit systems, review of personnel matters and practices, investigations of alleged or possible prohibited personnel and discrimination practices, Hatch Act matters, whistleblower protections, compliance with employee selection procedures and investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

p. To provide information to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

q. To disclose the names, social security numbers, home addresses, date of birth, date of hire, quarterly earnings, employer identifying information, and State of hire of employees to the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and

Human Services for the purposes of locating individuals to establish paternity, establishing and modifying orders of child support, identifying sources of income, and for other child support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act, Public Law 104-193, as amended.

r. To disclose information to appropriate agencies, entities, and persons when: (1) OGE suspects or has confirmed that there has been a breach of the system of records; (2) OGE has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the agency (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with OGE's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

s. To disclose information to another Federal agency or Federal entity, when OGE determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

These records are maintained in paper and/or electronic form.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

These records are retrieved by the name, social security number, or other identifier assigned to the individual on whom they are maintained.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

These records are retained in accordance with the National Archives and Records Administration General Records Schedule (GRS) as follows:

a. *GRS 2.3*: Employee Relations Records;

b. *GRS 2.4*: Employee Compensation and Benefits Records; and

c. *GRS 1.1*: Financial Management and Reporting Records.

Disposal of paper records is by shredding, and disposal of electronic records is by deletion.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

Paper records are maintained in locked file storage areas or in specified areas to which only authorized personnel have access. Electronic records are protected from unauthorized access through password identification procedures, limited access, firewalls, and other system-based protection methods.

**RECORD ACCESS PROCEDURES:**

Individuals requesting access to this system of records must follow the procedures set forth in OGE's Privacy Act regulations at 5 CFR part 2606.

**CONTESTING RECORD PROCEDURES:**

Individuals wishing to request amendment of records about themselves should contact the System Manager. Individuals must furnish the following information for their records to be located and identified:

- a. Full name.
- b. Social Security Number.
- c. Dates of employment.

Individuals requesting amendment must also follow OGE's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR part 2606).

**NOTIFICATION PROCEDURES:**

Individuals wishing to inquire whether this system of records contains information about themselves must follow the procedures set forth in OGE's Privacy Act regulations at 5 CFR part 2606.

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:**

None.

**HISTORY:**

86 FR 62537.

Approved: May 9, 2022.

**Emory Rounds,**

Director, U.S. Office of Government Ethics.

[FR Doc. 2022-10190 Filed 5-11-22; 8:45 am]

BILLING CODE 6345-03-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Centers for Disease Control and Prevention****Solicitation of Nominations for Appointment to CDC's Advisory Committee to the Director (ACD) Laboratory Workgroup (LW); Amended Notice**

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Amended notice.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC) gives notice of a change in the solicitation of CDC's Advisory Committee to the Director (ACD) Laboratory Workgroup (LW), in the original FRN published on May 4, 2022. The request for nominations is being amended to update the language in the supplementary information section of the notice, restated below.

**DATES:** Nominations for membership on the LW workgroup must be received no later than May 16, 2022. Late nominations will not be considered for membership.

**ADDRESSES:** All nominations (cover letters and curriculum vitae) should be emailed to [LWACD@cdc.gov](mailto:LWACD@cdc.gov) with the subject line: "Nomination for CDC ACD LW Workgroup."

**FOR FURTHER INFORMATION CONTACT:** Lauren Hoffmann, MA, Office of the Chief of Staff, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mailstop H21-10, Atlanta, Georgia 30329-4027; Telephone: (404) 639-7000; Email: [LWACD@cdc.gov](mailto:LWACD@cdc.gov).

**SUPPLEMENTARY INFORMATION:**

*Background:* The purpose of the ACD, CDC is to advise the Secretary, HHS, and the Director, CDC, on policy and broad strategies that will enable CDC to fulfill its mission of protecting health through health promotion, prevention, and preparedness. The ACD, CDC consists of up to 15 non-federal members, including the Chair, knowledgeable in areas pertinent to the CDC mission, such as health policy, public health, global health, preparedness, preventive medicine, the faith-based and community-based sector, and allied fields. The request for nominations in the original published FRN was published in the **Federal Register** on May 4, 2022, Volume 87, Number 86, page 26358.

*Purpose:* The establishment and formation of the LW is to provide input to the ACD, CDC on agency-wide activities related to laboratory quality management, continuous laboratory quality improvement, and laboratory diagnostic testing to support public health programs and investigations. The LW membership will consist of up to 15 members. It will be co-chaired by two current ACD, CDC Special Government Employees. The LW co-chairs will present their findings, observations, and work products at one or more ACD, CDC meetings for discussion, deliberation, and decisions (final recommendations to CDC).

*Nomination Criteria:* LW members will serve terms ranging from six months to one year and be required to

attend LW meetings approximately 1-2 times per month (virtually or in person), and contribute time between meetings for research, consultation, discussion, and writing assignments.

Nominations are being sought for individuals who have the expertise and qualifications necessary to contribute to the accomplishments of the committee's/workgroup's objectives. Nominees will be selected based on expertise in the fields of public health laboratory science and practice, laboratory quality management, diagnostic regulations, and clinical laboratory testing and research. To ensure a diverse workgroup composition, nominees with front line and field experience at the local, state, tribal, and territorial levels are encouraged to apply. Federal employees will not be considered for membership. Selection of members is based on candidates' qualifications to contribute to the accomplishment of the LW's objectives.

HHS policy stipulates that membership be balanced in terms of points of view represented and the workgroup's function. Appointments shall be made without discrimination based on age, race, ethnicity, gender, sexual orientation, gender identity, HIV status, disability, and cultural, religious, or socioeconomic status. Nominees cannot be full-time employees of the U.S. Government. Current participation on federal workgroups or prior experience serving on a federal advisory committee does not disqualify a candidate; however, HHS policy is to avoid excessive individual service on advisory committees and multiple committee memberships. Interested candidates should submit the following items:

- A one-half to one-page cover letter that includes your understanding of, and commitment to, the time and work necessary; one to two sentences on your background and experience; and one to two sentences on the skills/perspective you would bring to the LW.
- Current curriculum vitae which highlights the experience and work history being sought relevant to the criteria set forth above, including complete contact information (telephone numbers, mailing address, email address).

Nominations may be submitted by the candidate him or herself, or by the person/organization recommending the candidate no later than May 16, 2022. All nominations (cover letters and curriculum vitae) should be emailed to [LWACD@cdc.gov](mailto:LWACD@cdc.gov) with the subject line: "Nomination for CDC ACD LW Workgroup."

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

**Kalwant Smagh,**

*Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.*

[FR Doc. 2022–10142 Filed 5–11–22; 8:45 am]

**BILLING CODE 4163–18–P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

[Docket No. FDA–2019–N–1875]

**Financial Transparency and Efficiency of the Prescription Drug User Fee Act, Biosimilar User Fee Act, and Generic Drug User Fee Amendments; Public Meeting; Request for Comments**

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

**ACTION:** Notice of public meeting; request for comments.

**SUMMARY:** The Food and Drug Administration (FDA, the Agency, or we) is announcing the following public meeting entitled “Financial Transparency and Efficiency of the Prescription Drug User Fee Act, Biosimilar User Fee Act, and Generic Drug User Fee Amendments.” The topic to be discussed is the financial transparency and efficiency of the Prescription Drug User Fee Act, Biosimilar User Fee Act, and Generic Drug User Fee Amendments.

**DATES:** The public meeting will be held on June 7, 2022, from 9:30 a.m. to 10:50 a.m. via ZoomGov. Submit either electronic or written comments on this public meeting by July 7, 2022. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

**ADDRESSES:** The public meeting will be held virtually due to extenuating circumstances.

You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before July 7, 2022. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of July 7, 2022. Comments received by

mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

*Electronic Submissions*

Submit electronic comments in the following way:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

*Written/Paper Submissions*

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

*Instructions:* All submissions received must include the Docket No. FDA–2019–N–1875 for “Financial Transparency and Efficiency of the Prescription Drug User Fee Act, Biosimilar User Fee Act, and Generic Drug User Fee Amendments; Public Meeting; Request for Comments.” Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9

a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

*Docket:* For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

**FOR FURTHER INFORMATION CONTACT:** Monica Ellerbe, Office of Finance, Budget, Acquisition, and Planning, 4041 Powder Mill Rd., Rm. 72044, Beltsville, MD 20750, 301–796–5276, [Monica.Ellerbe@fda.hhs.gov](mailto:Monica.Ellerbe@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The meeting will include presentations from FDA on topics related to the financial management of certain user fee programs, including presentations on the following: (1) The 5-year financial plan for the Prescription Drug User Fee Act (PDUFA) VI, Biosimilar User Fee Act (BsUFA) II, and Generic Drug User Fee Amendments (GDUFA) II and (2) the Agency’s

progress in implementing resource capacity planning and modernized time reporting. This meeting is intended to satisfy FDA's commitment to host an annual public meeting in the third quarter of each fiscal year beginning in FY 2019 and can be found in the Commitment Letters listed below (sections II.B.3 of PDUFA VI (p. 38), IV.B.3 of BsUFA II (p. 29), and VI.B.4 of GDUFA II (p.22)).

This public meeting is intended to meet performance commitments included in the respective Commitment Letters for PDUFA VI, BsUFA II, and GDUFA II. These user fee programs were reauthorized as part of the FDA Reauthorization Act of 2017 signed by the President on August 18, 2017. The complete set of performance goals for each program are available at:

- PDUFA VI program: <https://www.fda.gov/downloads/ForIndustry/UserFees/PrescriptionDrugUserFee/UCM511438.pdf>
- BsUFA II program: <https://www.fda.gov/downloads/forindustry/userfees/biosimilaruserfeeactbsufa/ucm521121.pdf>
- GDUFA II program: <https://www.fda.gov/downloads/forindustry/userfees/genericdruguserfees/ucm525234.pdf>

Each of these user fee programs' Commitment Letters included a set of commitments related to financial management. These included commitments to publish a 5-year financial plan and update that plan annually, develop resource capacity planning capability and modernize time reporting practices, and have a third-party evaluation of resource management practices for these user fee programs. In addition, each user fee program includes a commitment to host a public meeting in the third quarter of each fiscal year, beginning in FY 2019, to discuss specific topics.

## II. Topics for Discussion at the Public Meeting

This meeting will provide FDA the opportunity to update interested public stakeholders on topics related to the financial management of PDUFA VI, BsUFA II, and GDUFA II. These topics include the 5-year financial plans for each of these programs and FDA's progress towards implementing resource capacity planning and modernizing its time reporting approach.

## III. Participating in the Public Meeting

**Registration:** To register for the public meeting, please visit the following website: [https://fda.zoomgov.com/webinar/register/WN\\_](https://fda.zoomgov.com/webinar/register/WN_C5cXHj38R6WeNg1ZuqbKaA)

[C5cXHj38R6WeNg1ZuqbKaA](https://fda.zoomgov.com/webinar/register/WN_C5cXHj38R6WeNg1ZuqbKaA). Please provide complete contact information for each attendee, including name, title, affiliation, address, email, and telephone.

Persons interested in attending this public meeting must register by June 2, 2022, at 11:59 p.m. Eastern Time. We will let registrants know if registration closes before the day of the public meeting.

If you need special accommodations due to a disability, please contact Monica Ellerbe at [Monica.Ellerbe@fda.hhs.gov](mailto:Monica.Ellerbe@fda.hhs.gov) by June 2, 2022, at 11:59 p.m. Eastern Time.

**Streaming Webcast of the Public Meeting:** This public meeting will be a webcast. To register for the public meeting and obtain the webcast information, please visit the following website: [https://fda.zoomgov.com/webinar/register/WN\\_C5cXHj38R6WeNg1ZuqbKaA](https://fda.zoomgov.com/webinar/register/WN_C5cXHj38R6WeNg1ZuqbKaA).

**Transcripts:** Please be advised that as soon as a transcript of the public meeting is available, it will be accessible at <https://www.regulations.gov>. It may be viewed at the Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: May 6, 2022.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2022-10131 Filed 5-11-22; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration (SAMHSA)

#### Advisory Committee for Women's Services (ACWS) Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Substance Abuse and Mental Health Services Administration's (SAMHSA) Advisory Committee for Women's Services (ACWS) on June 14, 2022.

The meeting will include discussions on assessing SAMHSA's current strategies, including the mental health and substance use needs of the women and girls population. Additionally, the ACWS will be addressing priorities regarding the impact of COVID-19 on the behavioral health needs of women and children and directions around behavioral health services and access for women and children.

The meeting is open to the public and will be held virtually. Interested persons may present data, information, or views, orally or in writing, on issues pending

before the committee. Oral presentations from the public will be scheduled at the conclusion of the meeting. Individuals interested in sending written submissions or in making oral presentations should forward them to the contact person by 4:00 p.m. (EDT) May 27, 2022. Up to five minutes will be allotted for each presentation.

The meeting may be accessed via telephone or web meeting. To obtain the call-in number and access code, submit written or brief oral comments, or request special accommodations for persons with disabilities, please register on-line at: <https://www.samhsa.gov/about-us/advisory-councils> or communicate with SAMHSA's Designated Federal Officer, Ms. Valerie Kolick.

Substantive meeting information and a roster of ACWS members may be obtained either by accessing the SAMHSA Committees' Web, <https://www.samhsa.gov/about-us/advisory-councils/acws> or by contacting Ms. Kolick.

**Committee Name:** Substance Abuse and Mental Health Services Administration Advisory Committee for Women's Services (ACWS).

**Date/Time/Type:** Tuesday, June 14, 2022, from: 12:30 p.m. to 4:30 p.m. EDT/(OPEN).

**Place:** SAMHSA, 5600 Fishers Lane, Rockville, MD 20857 (Virtual).

**Contact:** Valerie Kolick, Designated Federal Officer, SAMHSA's Advisory Committee for Women's Services, 5600 Fishers Lane, Rockville, MD 20857, Telephone: (240) 276-1738, Email: [Valerie.kolick@samhsa.hhs.gov](mailto:Valerie.kolick@samhsa.hhs.gov).

Dated: May 5, 2022.

**Carlos Castillo,**

*CAPT, USPHS, Committee Management Officer, Substance Abuse and Mental Health Services Administration.*

[FR Doc. 2022-10158 Filed 5-11-22; 8:45 am]

**BILLING CODE 4162-20-P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4634-DR; Docket ID FEMA-2022-0001]

#### Colorado; Amendment No. 4 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the State of Colorado (FEMA-4634-DR), dated December 31, 2021, and related determinations.



**DATES:** This change occurred on April 22, 2022.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646-2833.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Jon K. Huss, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Nancy M. Casper as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**Deanne Criswell,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2022-10231 Filed 5-11-22; 8:45 am]

**BILLING CODE 9111-23-P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Docket ID FEMA-2020-0016]

#### Meetings To Implement Pandemic Response Voluntary Agreement Under Section 708 of the Defense Production Act

**AGENCY:** Federal Emergency Management Agency, Department of Homeland Security.

**ACTION:** Notice of meeting cancellations.

**SUMMARY:** The Federal Emergency Management Agency (FEMA) previously announced a series of meetings under the Plan of Action to Establish a National Strategy for the Coordination of National Multimodal Healthcare Supply Chains to Respond to COVID-19, to implement the Voluntary

Agreement for the Manufacture and Distribution of Critical Healthcare Resources Necessary to Respond to a Pandemic. The meetings listed below have been cancelled.

**DATES:** The meetings scheduled for the dates listed below were cancelled:

- Wednesday, March 16, 2022, from 1 p.m. to 3 p.m. Eastern Time (ET).
- Wednesday, March 30, 2022, from 1 p.m. to 3 p.m. ET.
- Wednesday, April 13, 2022, from 1 p.m. to 3 p.m. ET.
- Wednesday, April 27, 2022, from 1 p.m. to 3 p.m. ET.
- Wednesday, May 11, 2022, from 1 p.m. to 3 p.m. ET.
- Wednesday, May 25, 2022, from 1 p.m. to 3 p.m. ET.

**FOR FURTHER INFORMATION CONTACT:** Mary Anne Lyle, Office of Business, Industry, and Infrastructure Integration, via email at [OB3I@fema.dhs.gov](mailto:OB3I@fema.dhs.gov) or via phone at (202) 212-1666.

**SUPPLEMENTARY INFORMATION:** On March 10, 2022, FEMA announced a series of meetings to be held pursuant to section 708(h)(8) of the Defense Production Act (DPA), 50 U.S.C. 4558(h)(8).<sup>1</sup> The meeting scheduled for March 2, 2022, took place as planned, but in light of other efforts to address the draft recommendations of the National Multimodal Healthcare Supply Chains Plan of Action, as well as incremental improvement in the overall multimodal transportation situation, the Sponsor of the Voluntary Agreement,<sup>2</sup> the FEMA Administrator, no longer sees the need to conduct the other meetings, and has cancelled them.

**Deanne Criswell,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2022-10219 Filed 5-11-22; 8:45 am]

**BILLING CODE 9111-19-P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4651-DR; Docket ID FEMA-2022-0001]

#### Massachusetts; Major Disaster and Related Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

<sup>1</sup> 87 FR 13742 (Mar. 10, 2022).

<sup>2</sup> “[T]he individual designated by the President in subsection (c)(2) [of section 708 of the DPA] to administer the voluntary agreement, or plan of action.” 50 U.S.C. 4558(h)(7).

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Massachusetts (FEMA-4651-DR), dated April 18, 2022, and related determinations.

**DATES:** The declaration was issued April 18, 2022.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646-2833.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated April 18, 2022, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”), as follows:

I have determined that the damage in certain areas of the Commonwealth of Massachusetts resulting from a severe winter storm and snowstorm during the period of January 28 to January 29, 2022, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”). Therefore, I declare that such a major disaster exists in the Commonwealth of Massachusetts.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the Commonwealth. You are further authorized to provide snow assistance under the Public Assistance program for a limited period of time during or proximate to the incident period. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, William F. Roy, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the Commonwealth of Massachusetts have been designated as adversely affected by this major disaster:

Bristol, Norfolk, Plymouth, and Suffolk Counties, including the Mashpee Wampanoag Tribe for Public Assistance.

Bristol, Norfolk, Plymouth, and Suffolk Counties, including the Mashpee Wampanoag Tribe for snow assistance under the Public Assistance program for any continuous 48-hour period during or proximate to the incident period.

All areas within the Commonwealth of Massachusetts are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**Deanne Criswell,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2022–10235 Filed 5–11–22; 8:45 am]

**BILLING CODE 9111–23–P**

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

[Internal Agency Docket No. FEMA–4562–DR; Docket ID FEMA–2022–0001]

**Oregon; Amendment No. 9 to Notice of a Major Disaster Declaration**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the State of Oregon (FEMA–4562–DR), dated September 15, 2020, and related determinations.

**DATES:** This change occurred on April 6, 2022.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Lance Davis, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Timothy B. Manner as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**Deanne Criswell,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2022–10228 Filed 5–11–22; 8:45 am]

**BILLING CODE 9111–23–P**

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

[Docket ID FEMA–2022–0016]

**Assistance to Firefighters Grant Program; Fire Prevention and Safety Grants**

**AGENCY:** Federal Emergency Management Agency (FEMA), Department of Homeland Security (DHS).

**ACTION:** Notice.

**SUMMARY:** Pursuant to the Federal Fire Prevention and Control Act of 1974, as amended, the Administrator of FEMA is publishing this notice describing the fiscal year (FY) 2021 Fire Prevention and Safety (FP&S) Program application process, deadlines, and award selection criteria. This notice explains the differences, if any, between these guidelines and those recommended by representatives of the national fire service leadership during the annual Criteria Development Panel (CDP), which was held June 25, 2021. The application period for the FY 2021 FP&S Program was January 18, 2022, to February 18, 2022, and was announced on the Assistance to Firefighters Grants Program (AFGP) website at <https://www.fema.gov/grants/preparedness/firefighters>, as well as [www.grants.gov](http://www.grants.gov).

**DATES:** Grant applications for the FP&S Program were accepted electronically at

<https://go.fema.gov> from January 18, 2022, through February 18, 2022, at 5 p.m. Eastern Time.

**ADDRESSES:** Assistance to Firefighters Grants Program Branch, DHS/FEMA, 400 C Street SW, 3N, Washington, DC 20472–3635.

**FOR FURTHER INFORMATION CONTACT:** Catherine Patterson, Branch Chief, Assistance to Firefighters Grants Program Branch, 1–866–274–0960.

**SUPPLEMENTARY INFORMATION:** FEMA awards FP&S Program grants directly to eligible fire departments, and national, regional, State, local, Tribal governments and nonprofit organizations such as academic (*e.g.*, universities), public health, occupational health, and injury prevention institutions to enhance the safety of the public and firefighters, by assisting fire prevention programs and supporting firefighter health and safety research and development. Eligible organizations must be operating in any of the 50 states, as well as fire departments in the District of Columbia, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of Puerto Rico, or any federally recognized Indian Tribe or Tribal government.

Applications for the FY 2021 FP&S Program were submitted and processed online at <https://go.fema.gov>. Before the application period started, the FY 2021 FP&S Program Notice of Funding Opportunity (NOFO) was published on the FEMA FP&S Program website at *Fire Prevention & Safety Documents* | [FEMA.gov](http://FEMA.gov), as well as [www.grants.gov](http://www.grants.gov). The FP&S Program website provides additional information and materials useful for FY 2021 FP&S Program applicants including Frequently Asked Questions, Application Checklist, Self-Evaluation Sheet, and a Cost Share Calculator. FEMA received 491 applications for the FY 2021 FP&S Program, and anticipates awarding approximately 150 grants.

**Congressional Appropriations**

The funding for the FP&S Program is through the Assistance to Firefighters Grant (AFG) Program. For the FY 2021 AFG Program, Congress appropriated \$360 million through the *Department of Homeland Security Appropriations Act, 2021* (Pub. L. 116–260) and \$100 million through the *American Rescue Plan Act of 2021* (Pub. L. 117–2) for a total of \$460 million. From these amounts, a total of \$46 million was made available for FY 2021 FP&S Program awards, pursuant to 15 U.S.C. 2229(h)(5), which states that not less

than 10% of available grant funds each year are awarded under the FP&S Program. Funds appropriated for FY 2021 will be available for obligation and award until September 30, 2022.

### Background of the FP&S Program

Since FY 2002, the FP&S Program has provided grant funding to provide critically needed resources to fire departments and nonprofit organizations to carry out fire prevention education and training, fire code enforcement, fire/arson investigation, firefighter safety and health programming, prevention efforts, and research and development. FEMA awards grants on a competitive basis to applicants that best address the FP&S Program's priorities and provide the most compelling justification. Applications that best address FP&S Program priorities, as identified in the Application Evaluation Criteria section of the FP&S Program NOFO, are reviewed by a panel composed of fire service personnel.

The FP&S Program activities include:

1. *FP&S Activity*: Activities designed to reach high-risk target groups and mitigate the incidence of death, injuries, and property damage caused by fire and fire-related hazards. The five project categories eligible for funding under this activity are:

- Community Risk Reduction;
- Wildfire Risk Reduction;
- Code Enforcement/Awareness;
- Fire and Arson Investigation; and,
- National/State/Regional Programs and Projects.

2. *Research and Development (R&D) Activity*: Projects aimed at improving firefighter safety, health, or wellness through research and development that reduce firefighter fatalities and injuries. The five project categories eligible for funding under this activity are:

- Clinical Studies;
- Technology and Product Development;
- Database System Development;
- Preliminary Studies; and,
- Early Career Investigator.

The priorities for each activity are fully outlined in the NOFO.

### Application Evaluation Criteria

Before making a grant award, FEMA is required by 31 U.S.C. 3354, as enacted by the Payment Integrity Information Act of 2019, Public Law 116–117 (2020), 41 U.S.C. 2313, and 2 CFR 200.206 to review information available through any Office of Management and Budget designated repositories of government-wide eligibility qualification or financial integrity information. Therefore,

application evaluation criteria may include the following risk-based considerations of the applicant: (1) Financial stability; (2) quality of management systems and ability to meet management standards; (3) history of performance in managing Federal awards; (4) reports and findings from audits; and (5) ability to effectively implement statutory, regulatory, or other requirements.

FEMA will rank all complete and submitted applications based on how well they align with program priorities for the type of activity requested. Answers to activity-specific questions provide information used to determine each application's ranking relative to the stated program priorities.

Funding priorities and criteria for evaluating FP&S Program applications are established by FEMA based on the recommendations from the CDP. The CDP is comprised of fire service professionals that make recommendations to FEMA regarding the creation of new, or the modification of previously established, funding priorities, as well as developing criteria for awarding grants. The content of the FP&S Program NOFO reflects implementation of the CDP's recommendations with respect to the priorities and evaluation criteria for awards.

The nine major fire service organizations represented on the CDP are:

- Congressional Fire Service Institute
- International Association of Arson Investigators
- International Association of Fire Chiefs
- International Association of Fire Fighters
- International Society of Fire Service Instructors
- National Association of State Fire Marshals
- National Fire Protection Association
- National Volunteer Fire Council
- North American Fire Training Directors

### Review and Selection Process

FP&S Program applications will be scored competitively by no less than three members of a Peer Review Panel. Applications with the highest score rankings per activity will also be evaluated through a series of internal FEMA review processes for completeness, adherence to programmatic guidelines, technical feasibility, costs/quantities, and anticipated effectiveness of the proposed project(s). Below is the process by which applications will be reviewed:

#### i. Peer Review Panel Process

*FP&S Activity Projects*: All applications will be evaluated through the Peer Review Panel process. The panelists will assess the merits of each project within the application based on the narrative section of the application using the evaluation elements listed in the Narrative Evaluation Criteria below will be used to calculate the narrative's score for each activity requested. Panelists will independently score each requested project within the application, discuss the merits and/or shortcomings of the application with his or her peers, and document the findings. A consensus is not required.

*R&D Activity Projects*: The Peer Review Panel process is composed of a Fire Service Panel Review and a Science Panel Review.

#### Fire Service Panel Review

All eligible project applications will first be reviewed and scored by a panel of fire service experts to assess the need for the research results and the likelihood that the results would be implemented by the fire service in the United States. The projects that are determined most likely to be implemented to enable improvement in firefighter safety, health, or well-being will be deemed to be in the "competitive range" and will be forwarded to the second level of project review, which is the scientific panel review process. A consensus is not required.

#### Science Panel Review

This panel will be comprised of scientists and technology experts who have expertise pertaining to the subject matter of the proposal. Scientific reviewers will independently score projects in the competitive range and, if necessary, discuss the merits or shortcomings of the project in order to reconcile any major discrepancies identified by fellow reviewers. A consensus is not required.

#### ii. Technical Evaluation Process

The highest scoring project(s) for both activities, will be considered within the fundable range. Projects that are in the fundable range will undergo a technical review by the FEMA FP&S Program Office before being recommended for award. The FEMA FP&S Program Office will assess the request with respect to costs, quantities, feasibility, eligibility, and recipient responsibility prior to recommending any application for award. Additionally, FEMA will review whether the project duplicates other federally funded research or prevention activities in order to avoid duplication.

Once the technical evaluation process is complete, each project's final score is determined, and a final ranking of projects will be created. FEMA will award grants based on this final ranking and the ability to meet statutorily required funding limitations listed in this notice and the NOFO.

### Narrative Evaluation Criteria

#### FP&S Activity Projects

##### 1. Financial Need (Fire Departments–10%; Interest Organizations–0%)

Applicants must describe with particularity their unique financial need in the Applicant Information section of the application and detail how consistent it is with their need for financial assistance to carry out the proposed project(s). Applicants may include other unsuccessful attempts to acquire financial assistance. Applicants should provide detail about the applicant's operating budget, including a high-level breakdown of the budget, the applicant's inability to address financial needs without federal assistance, and other actions the applicant has taken to meet their needs (e.g., state assistance programs or other grant programs).

##### 2. Commitment to Mitigation (Fire Departments Only–5%)

Fire department applicants that can demonstrate their commitment and proactive posture to reducing fire risk will receive higher consideration. Applicants must explain their code adoption and enforcement (to include Wildland Urban Interface and commercial/residential sprinkler code adoption and enforcement) and mitigation strategies (including whether or not the jurisdiction has a FEMA-approved mitigation strategy). Applicants can also demonstrate their commitment to reducing fire risk by applying to implement fire mitigation strategies (code adoption and enforcement) via this application.

##### 3. Vulnerability Statement (Fire Departments–15%, Interest Organizations–25%)

The assessment of fire risk is essential in the development of an effective project goal, as well as meeting FEMA's goal to reduce risk by conducting a risk assessment as a basis for action. Vulnerability is a "weak link," demonstrating high-risk behavior, living conditions, or any type of high-risk situation. The Vulnerability Statement should include a detailed description of the steps taken to determine the vulnerability and identify the target audience. The methodology for

determination of vulnerability (*i.e.*, how the vulnerability was found) should be discussed in-depth in the application's Narrative Statement.

##### 4. Project Description (Fire Departments–20%, Interest Organizations–25%)

Applicants must describe in detail not only the project components but also how the proposed project addresses the identified capability gap due to financial need and/or the specific vulnerabilities identified in the vulnerability statement. The following information should be included:

- Project components;
- Review of any existing programs or models that have been successful;
- Detailed description of how the proposed project components fill the identified capability gap; and,
- If working with Fire Service Partners/Organizations, identify each partner/organization and the role(s) they will fill in the successful completion of the proposed project.

##### 5. Implementation Plan (Fire Departments–25%, Interest Organizations–30%)

Each project proposal should include nuanced details on the implementation plan that discusses the proposed project's goals and objectives. The following information should be included to support the implementation plan:

- Goals and objectives;
- Details regarding the methods and specific steps that will be used to achieve the goals and objectives;
- Timelines outlining the chronological project steps (this is critical for determining the likelihood of the project's completion within the period of performance);
- Where applicable, examples of marketing efforts to promote the project, who will deliver the project (*e.g.*, effective partnerships), and the manner in which materials or deliverables will be distributed;
- Requests for props (*i.e.*, tools used in educational or awareness demonstrations), including specific goals, measurable results, and details on the frequency for which the prop will be utilized. Applicants should include information describing the efforts that will be used to reach the high-risk audience and/or the number of people reached through the proposed project (examples of props include safety trailers, puppets, or costumes); and,
- Where human subjects are involved, describe plans for submission to the Institutional Review Board (IRB).

##### 6. Evaluation Plan (Fire Departments–15%, Interest Organizations–15%)

Projects should include a plan for evaluation of effectiveness and identify measurable and quantifiable goals. Applicants seeking to carry out awareness and educational projects, for example, should identify how they intend to determine that there has been an increase in knowledge about fire hazards, or measure a change in the safety behaviors of the audience. Applicants should demonstrate how they will measure risk at the outset of the project in comparison to how much the risk decreased after the project is finished. There are various ways to measure the knowledge gained about fire hazards, including the use of surveys, pre- and post-tests, or documented observations. Applicants are encouraged to attend training on evaluation methods, such as the National Fire Academy's "Demonstrating Your Fire Prevention Program's Worth."

##### 7. Cost-Benefit (Fire Departments–10%, Interest Organizations–5%)

Projects will be evaluated and scored by the Peer Review Panelists based on how well the applicant addresses the fire prevention needs of the department or organization in an economic and efficient manner. The applicant should show how it will maximize the level of funding that goes directly into the delivery of the project. The costs associated with the project also must be reasonable for the target audience that will be reached, and a description should be included of how the anticipated project benefit(s) (quantified if possible) outweighs the cost(s) of the requested item(s). The application should provide justification for all costs included in the project in order to assist the Technical Evaluation Panel with their review.

### R&D Activity Projects

#### Fire Service Panel Evaluation Criteria

##### 1. Purpose (25%)

Applicants should clearly identify the specific benefits of the proposed research project to improve firefighter safety, health, or well-being. The discussion should include:

- The specific risk to firefighter safety, health, or well-being that the project will address;
- The expected benefits of the project, including how the project will prevent, reduce, or mitigate the specific risk;
- The gaps in knowledge that will be addressed; and,

- The general project methods planned to produce the intended results.

## 2. Potential Impact (15%)

Applicants should discuss the potential impact of the research outcome/product on firefighter safety by quantifying the possible reduction in the number of fatal or non-fatal injuries or on projected well-being by significantly improving the overall health of firefighters.

## 3. Implementation by the Fire Service (25%)

Applicants should discuss how the outcomes/products of this research, if successful, are likely to be widely/nationally adopted and accepted by the fire service as changes that enhance firefighter safety, health, or well-being.

## 4. Barriers (15%)

Applicants should identify and discuss potential fire service and other barriers to successfully completing the study on schedule, including contingencies and strategies to deal with barriers if they materialize. This may include barriers that could inhibit the proposed fire service participation in the study, barriers that could inhibit the adoption of successful results by the fire service when the project is completed, or project components most likely to cause delay in successful completion.

## 5. Partners (20%)

Applicants should recognize that participation of the fire service as a partner in the research from development to dissemination is regarded as an essential part of all projects. Describe the fire service partners and contractors that will support the project to accomplish the objectives of the study. The specific roles and contributions of the partners to the project should be described. Partnerships should be formed with national fire-related organizations, in addition to local and regional fire departments. Letters of support and letters of commitment to actively participate in the project should be included in the Appendix of the application. Generally, participants of a diverse population, including both career and volunteer firefighters, are expected to facilitate acceptance of results nationally. In cases where this is not practical due to the nature of the study or other limitations, these circumstances should be clearly explained.

## Science Panel Evaluation Criteria

### 1. Project Goals, Objectives and Specific Aims (15%)

Applicants should address how the purpose, goals, objectives, and specific aims of the proposal will lead to results that will improve firefighter safety, health, or well-being. Describe the specific goals and objectives for each year of the project.

### 2. Literature Review (10%)

Applicants should provide a literature review that is relevant to the project's goals, objectives, and specific aims. The citations should be placed in the narrative text and references listed at the end of the Narrative Statement (and not in the Appendix) of the application. The review should be of sufficient depth to make it clear that the proposed project is necessary, adds to an existing body of knowledge, is different from current and previous studies, and offers a unique contribution.

### 3. Project Methods (Early Career Investigator Applicants–15%, All Other Applicants–20%)

Applicants should provide a description of how the project will be carried out, including demonstration of the overall scientific and technical rigor and merit of the project. This includes the operations to accomplish the purpose, goals, and objectives, and the specific aims of the project. Plans to recruit and retain human subjects, where applicable, should be described.

### 4. Project Measurements (Early Career Investigator Applicants–15%, All Other Applicants–20%)

Applicants should provide evidence of the technical rigor and merit of the project, such as data pertaining to validity, reliability, and sensitivity (where established) of the facilities, equipment, instruments, standards, and procedures that will be used to carry out the research. The applicant should discuss the data to be collected to evaluate the performance methods, technologies, and products proposed to enhance firefighter safety, health, or well-being. The applicant should demonstrate that the measurement methods and equipment selected for use are appropriate and sufficient to successfully deliver the proposed project objectives.

### 5. Project Analysis (Early Career Investigator Applicants–15%, All Other Applicants–20%)

The applicant should indicate the planned approach for analysis of the data obtained from measurements,

questionnaires, or computations. Specify within the plan what will be analyzed, the statistical methods that will be used, the sequence of steps, and interactions as appropriate. It should be clear that the Principal Investigator (PI) and research team have the expertise to perform the planned analysis and defend the results in a peer review process.

### 6. Dissemination and Implementation (15%)

Applicants should indicate dissemination plans for scientific audiences (e.g., plans for submissions to specific peer review publications) and for firefighter audiences (e.g., via websites, magazines, and conferences). Also, assuming positive results and where applicable, indicate future steps that would support dissemination and implementation throughout the fire service. These are likely to be beyond the current study, so those features of the research activity that will facilitate future dissemination and implementation should be discussed. All applicants should specify how the results of the project, if successful, might be disseminated and implemented in the fire service to improve firefighter safety, health, or well-being.

### 7. Mentoring (Early Career Investigator Applicants Only–15%)

An important factor in the evaluation of Early Career Investigator projects is the participation of a mentor(s) in the project. A mentor for the PI should be an experienced researcher in areas appropriate to the research project and be able to provide support to the PI for ongoing development of knowledge and skills throughout the project. The mentor needs to have relationships with the fire service community sufficient to assist the PI in building relationships with fire departments and fire service organizations. The mentor has a role to support the applicant from submitting the application for funding through the completion of a funded project. The applicant should identify the mentor(s) that has agreed to support the applicant and the project. The applicant should discuss the role of the mentor(s) in the project and the expected benefits of the mentoring relationship to the applicant and the project. A biographical sketch and letter of commitment/support from the mentor(s) are required to be included in the Appendix document.

## Eligible Applicants

*FP&S Activity:* Fire departments operating in any of the 50 states, as well as fire departments in the District of

Columbia, the Commonwealth of the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of Puerto Rico, or any federally recognized Indian Tribe or Tribal government. A fire department is an agency or organization having a formally recognized arrangement with a state, local (city, county, parish, fire district, township, town, or other governing body), Tribal government, or territorial authority to provide fire suppression to a population within a geographically fixed primary first due response area.

National, regional, state, local, Tribal government, and nonprofit interest organizations that are recognized for their experience and expertise in fire prevention and safety programs and activities are eligible applicants.

*Firefighter Safety R&D Activity:*

National, state, local, federally recognized Tribal government, and nonprofit organizations, such as academic (e.g., universities), public health, occupational health, and injury prevention institutions.

**Ineligibility**

- To avoid a duplication of benefits, FEMA reserves the right to review all program activities or grant applications where two or more organizations share a single facility. To be eligible as a separate organization, two or more fire departments, national, state, local, federally recognized Tribal government, and nonprofit interest organizations, and other nonprofit organizations, such as academic (e.g. universities), public health, occupational health, and injury prevention institutions will have different funding streams, personnel rosters, or Employer Identification Numbers (EINs). If two or more organizations share facilities and each submits an application in the same activity (e.g., Community Risk Reduction, Wildfire Risk Reduction, Code Enforcement/Awareness, Fire and Arson Investigation, or National/State/Regional Programs and Projects), FEMA will carefully review all of those program area applications for eligibility.

- For-profit organizations, federal agencies, and individuals are not eligible to apply for FP&S Program funding.

**Statutory Limits to Funding**

FP&S Program awards are limited to a maximum federal share of \$1.5 million dollars regardless of applicant type, in accordance with 15 U.S.C. 2229(d)(2). FP&S R&D Activity applicants that applied under the Early Career Investigator category are limited to a

maximum federal share of \$200,000 per project year.

**Cost Sharing and Maintenance of Effort**

Grant recipients must share in the costs of the projects funded under this grant program as required by 15 U.S.C. 2229(k)(1) and in accordance with the applicable Federal regulations at 2 CFR part 200, but they were not required to have the cost share at the time of application nor are they required to have it at the time of award. However, before a grant is awarded, FEMA validates that the grant recipient provided sufficient evidence that the cost-share requirement will be fulfilled during the performance period of the grant award.

In general, an eligible applicant seeking an FP&S Program grant shall agree to make available non-federal funds equal to not less than 5% of the grant awarded. Cash match and in-kind matches are both allowable. Cash (hard) matches include non-federal cash spent for project-related costs. In-kind (soft) matches include, but are not limited to, the valuation of in-kind services; complementary activities; and provision of staff, facilities, services, material, or equipment. In-kind is the value of something received or provided that does not have a cost associated with it. For example, where an in-kind match (other than cash payments) is permitted, then the value of donated services could be used to comply with the match requirement. Also, third party in-kind contributions may count toward satisfying match requirements provided the grant recipient receiving the contributions expends them as allowable costs in compliance with provisions listed above.

Grant recipients under the FP&S Program must also agree to a maintenance of effort requirement as required by 15 U.S.C. 2229(k)(3) (referred to as a “maintenance of expenditure” requirement in that statute). A grant recipient shall agree to maintain during the term of the grant the applicant’s aggregate expenditures relating to the activities allowable under the NOFO at not less than 80% of the average amount of such expenditures in the two fiscal years preceding the fiscal year in which the grant amounts are received.

In cases of demonstrated economic hardship, and upon the request of the grant recipient, the FEMA Administrator may waive or reduce a certain grant recipient’s cost share or maintenance of expenditure requirements (15 U.S.C. 2229(k)(4)(A)). FP&S Program applicants for FY 2021 must indicate at the time of application

whether they are requesting a waiver and whether the waiver is for the cost share requirement, for the maintenance of effort requirement, or both. As required by statute, the Administrator of FEMA is required to establish guidelines for determining what constitutes economic hardship. FEMA published these guidelines on the FEMA website at (Grant Programs Directorate Information Bulletin No. 427): [https://www.fema.gov/sites/default/files/2020-04/Eco\\_Hardship\\_Waiver\\_FPS\\_SAFER\\_AFG\\_IB\\_FINAL.pdf](https://www.fema.gov/sites/default/files/2020-04/Eco_Hardship_Waiver_FPS_SAFER_AFG_IB_FINAL.pdf). Per 15 U.S.C. 2229(k)(4)(C), FP&S Program nonprofit organization grant recipients that are not fire departments or emergency medical services organizations are not eligible to receive a waiver of their cost share for economic hardship requirements.

**Application Process**

Organizations may apply for funding under both eligible activities (FP&S and R&D) but must complete separate applications for each eligible activity. Each application may be for up to three projects under that activity, however each project within an application must be presented separately as a free-standing proposal. Organizations are limited to one application per activity, per application period. If an organization submits more than one application for the same activity, either intentionally or unintentionally, both applications may be disqualified.

Applicants access the grant application electronically at <https://go.fema.gov>. The application is also accessible from the [Grants.gov](https://www.grants.gov) website at <http://www.grants.gov>. New applicants must register in the FEMA Grants Outcomes system (FEMA GO) and establish a username and password for secure access to the grant application. Previous FP&S Program applicants must use their previously established username and password for FEMA GO.

Applicants are expected to answer questions about their grant request that reflect the FP&S Program funding priorities. In addition, applicants must complete narratives for each project requested.

During the FY 2021 FP&S Program application period, FEMA conducted applicant internet webinars to inform potential applicants about the FP&S Program. In addition, FEMA provided applicants with information at the FP&S Program website, <https://www.fema.gov/grants/preparedness/firefighters/safety-awards/documents>, to help them prepare quality grant applications. The FP&S Program Help Desk is staffed throughout the application period to

assist applicants with the automated application process as well as answer any questions.

Applicants can reach the FP&S Program Help Desk through a toll-free telephone number during normal business hours (1-866-274-0960) or email at [firegrants@fema.dhs.gov](mailto:firegrants@fema.dhs.gov).

### System for Award Management (SAM)

Per 2 CFR 25.200, all Federal grant applicants and recipients must register at <https://SAM.gov>. SAM is the Federal Government's System for Award Management, and registration is free of charge. Applicants must maintain current information in SAM that is consistent with the data provided in their FP&S Program grant application, and for purposes of this particular application period, in the Dun & Bradstreet database, which previously provided the official unique entity identifier, the Data Universal Numbering System (DUNS) number. As of April 4, 2022, SAM has transitioned from the DUNS number to a nonproprietary Unique Entity Identifier (UEI) obtained through [SAM.gov](https://SAM.gov). For entities that had an active registration in [SAM.gov](https://SAM.gov) prior to April 4, 2022, the UEI was automatically assigned and no further action is necessary. Per 2 CFR 25.205, FEMA may not make a federal award or make any financial modifications to an existing award unless the applicant or grant recipient complied with all applicable unique entity identifier and SAM requirements. The grant applicant's banking information, EIN, organization/entity name, address, and unique entity identifier must match the same information provided in SAM.

### Criteria Development Process Recommendations

If there are any differences between the published FP&S Program guidelines and the recommendations made by the CDP, FEMA must explain them and publish the information in the **Federal Register** prior to awarding any grant under the FP&S Program. For FY 2021, FEMA accepted, and will implement, all of the CDP's recommendations for the prioritization of eligible activities.

### Adopted Recommendations for FY 2021

The FY 2021 FP&S Program NOFO contains some changes to definitions, descriptions, and priority categories. Changes to the FY 2021 FP&S Program NOFO include:

- Under Applicant Eligibility Criteria:
  - Added information on application submittal and Authorized Organization Representatives.

- Under section E—Narrative Evaluation Criteria:
  - Added information on FEMA's review of Narrative Statements.
  - Added guidance regarding R&D Activity Fire Service Panel Evaluation Criteria.
  - Reorganized R&D Activity Fire Service Panel Evaluation Criteria to include Potential Impact in advance of Implementation by Fire Service.
  - Updated the weighted evaluation criteria for R&D Activity Early Career Investigator applicants, including a new Science Panel Evaluation criterion for Mentoring.
  - R&D Activity Early Career Investigator applicants are required to submit a biological sketch of the mentor and a signed letter of commitment from the mentor.
- Under section F—Environmental Planning and Historic Preservation (EHP) Compliance:
  - Added examples of activities that require EHP review.
- Under Appendix B—Supporting Definitions:
  - Updated definition of Human Subject.
  - Under Appendix B—FP&S Activity, Community Risk Reduction Category:
    - Added guidance regarding smoke alarm installation.
    - Added guidance regarding LED/electronic signs.
  - Under Appendix B—FP&S Activity, Code Enforcement/Awareness Category:
    - Added pre-planning.
  - Under Appendix B—FP&S Activity, National/State/Regional Programs and Projects:
    - Added guidance regarding IRB exemption determinations.
  - Under Appendix B—FP&S Activity, Ineligible Projects and Items:
    - Clarified that remodeling/renovations to an existing facility is only eligible if limited to minor interior alterations costing less than \$10,000.
    - Included emergency medical services equipment/supplies/vehicles, firefighter physicals, Research and Development, creation of new databases, projects requiring IRB approval to work with human subjects, fuel or vegetation removal/reduction on public land, and evacuation roads.
  - Under Appendix B—R&D Activities Overview:
    - Absorbed the Dissemination and Implementation Research category into the Clinical Studies category.
  - Under Appendix B—R&D Activity, Ineligible Projects and Items:
    - Included international travel to attend conferences or disseminate results, and projects to purchase stock in any entity.

- Under Appendix C:
  - Added additional information on allowability of costs under Grant Writer/Preparation Fees.

(Authority: 15 U.S.C. 2229)

**Deanne Criswell,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2022-10193 Filed 5-11-22; 8:45 am]

**BILLING CODE 9111-64-P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4413-DR; Docket ID FEMA-2022-0001]

### Alaska; Amendment No. 2 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster for the State of Alaska (FEMA-4413-DR), dated January 31, 2019, and related determinations.

**DATES:** This amendment was issued March 28, 2022.

**FOR FURTHER INFORMATION CONTACT:**

Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646-2833.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated March 28, 2022, the President amended the cost-sharing arrangements regarding Federal funds provided under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act"), in a letter to Deanne Criswell, Administrator, Federal Emergency Management Agency, Department of Homeland Security, under Executive Order 12148, as follows:

I have determined that the damage in certain areas of the State of Alaska resulting from an earthquake on November 30, 2018, is of sufficient severity and magnitude that special cost sharing arrangements are warranted regarding Federal funds provided under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the "Stafford Act").

Therefore, I amend the declaration of January 31, 2019, to authorize Federal funds for all categories of Public Assistance at 90 percent of total eligible costs.

This adjustment to state and local cost sharing applies only to Public Assistance costs and direct Federal assistance eligible for such adjustments under the law. The

Robert T. Stafford Disaster Relief and Emergency Assistance Act specifically prohibits a similar adjustment for funds provided for Other Needs Assistance (Section 408) and the Hazard Mitigation Grant Program (Section 404). These funds will continue to be reimbursed at 75 percent of total eligible costs.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050 Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**Deanne Criswell,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2022–10226 Filed 5–11–22; 8:45 am]

**BILLING CODE 9111–23–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4474–DR; Docket ID FEMA–2022–0001]

#### Vermont; Amendment No. 2 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the State of Vermont (FEMA–4474–DR), dated January 17, 2020, and related determinations.

**DATES:** This change occurred on April 28, 2022.

**FOR FURTHER INFORMATION CONTACT:**

Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Robert V. Fogel, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of James R. McPherson as

Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**Deanne Criswell,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2022–10227 Filed 5–11–22; 8:45 am]

**BILLING CODE 9111–23–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4599–DR; Docket ID FEMA–2022–0001]

#### Oregon; Amendment No. 3 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the State of Oregon (FEMA–4599–DR), dated May 4, 2021, and related determinations.

**DATES:** This change occurred on April 6, 2022.

**FOR FURTHER INFORMATION CONTACT:**

Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Lance Davis, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of Timothy B. Manner as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used

for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**Deanne Criswell,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2022–10229 Filed 5–11–22; 8:45 am]

**BILLING CODE 9111–23–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4649–DR; Docket ID FEMA–2022–0001]

#### Puerto Rico; Major Disaster and Related Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Puerto Rico (FEMA–4649–DR), dated March 29, 2022, and related determinations.

**DATES:** The declaration was issued March 29, 2022.

**FOR FURTHER INFORMATION CONTACT:**

Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated March 29, 2022, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”), as follows:

I have determined that the damage in certain areas of the Commonwealth of Puerto Rico resulting from a severe storm, flooding, and landslides during the period of February 4 to February 6, 2022, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”). Therefore, I declare that such a major



disaster exists in the Commonwealth of Puerto Rico.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas and Hazard Mitigation throughout the Commonwealth. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and Other Needs Assistance under section 408 will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Robert Little III, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the Commonwealth of Puerto Rico have been designated as adversely affected by this major disaster:

The municipalities of Cataño, Dorado, Toa Baja, Vega Alta, and Vega Baja for Individual Assistance.

All areas within the Commonwealth of Puerto Rico are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**Deanne Criswell,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2022–10233 Filed 5–11–22; 8:45 am]

**BILLING CODE 9111–23–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4621–DR; Docket ID FEMA–2022–0001]

#### Vermont; Amendment No. 2 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the State of Vermont (FEMA–4621–DR), dated September 29, 2021, and related determinations.

**DATES:** This change occurred on April 28, 2022.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Robert V. Fogel, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of James R. McPherson as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**Deanne Criswell,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2022–10230 Filed 5–11–22; 8:45 am]

**BILLING CODE 9111–23–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4650–DR; Docket ID FEMA–2022–0001]

#### Washington; Major Disaster and Related Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the State of Washington (FEMA–4650–DR), dated March 29, 2022, and related determinations.

**DATES:** The declaration was issued March 29, 2022.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated March 29, 2022, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”), as follows:

I have determined that the damage in certain areas of the State of Washington resulting from severe winter storms, straight-line winds, flooding, landslides, and mudslides during the period of January 1 to January 15, 2022, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the “Stafford Act”). Therefore, I declare that such a major disaster exists in the State of Washington.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Toney L. Raines, of FEMA is appointed to act as the Federal

Coordinating Officer for this major disaster.

The following areas of the State of Washington have been designated as adversely affected by this major disaster:

Cowlitz, Franklin, Grays Harbor, Jefferson, Klickitat, Lewis, Mason, Pacific, Skagit, Skamania, Thurston, and Wahkiakum Counties and the Skokomish Indian Tribe, Quinalt Indian Nation, Shoalwater Bay Indian Tribe of the Shoalwater Bay Indian Reservation, Squaxin Island Tribe of the Squaxin Island Reservation, Hoh Indian Tribe, Nisqually Indian Tribe, Confederated Tribes of the Chehalis Reservation, Swinomish Indian Tribal Community, and the Upper Skagit Indian Tribe for Public Assistance.

All areas within the State of Washington are eligible for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**Deanne Criswell,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2022–10234 Filed 5–11–22; 8:45 am]

**BILLING CODE 9111–23–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4642–DR; Docket ID FEMA–2022–0001]

#### Iowa; Amendment No. 2 to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency, Homeland Security (DHS).

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster declaration for the State of Iowa (FEMA–4642–DR), dated February 23, 2022, and related determinations.

**DATES:** This change occurred on May 2, 2022.

**FOR FURTHER INFORMATION CONTACT:** Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW, Washington, DC 20472, (202) 646–2833.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Andrew P. Meyer, of FEMA is appointed to act as the Federal Coordinating Officer for this disaster.

This action terminates the appointment of DuWayne Tewes as Federal Coordinating Officer for this disaster.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

**Deanne Criswell,**

*Administrator, Federal Emergency Management Agency.*

[FR Doc. 2022–10232 Filed 5–11–22; 8:45 am]

**BILLING CODE 9111–23–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[Docket No. FWS–R4–ES–2022–0039; FXES11130400000–223–FF04EF4000]

#### Renewal of Four Incidental Take Permits for Florida Scrub-Jay, Charlotte County, FL

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; request for comments and information.

**SUMMARY:** We, the Fish and Wildlife Service, announce receipt of an application from Peter Famulari to renew four incidental take permits (ITPs) under the Endangered Species Act. If granted, the renewed ITPs would authorize take of the Florida scrub-jay via destruction of the species' feeding, breeding, and sheltering habitat. The compensatory portion of the mitigation

as described in the applicant's habitat conservation plan (HCP), as amended, has been completed; however, none of the activities covered by the HCP have occurred on the covered properties, and there has been no take of the species. We invite comments from the public and Federal, Tribal, State, and local governments on the applicant's HCP, our original set of findings, and our current review and certification which support categorical exclusions under the National Environmental Policy Act.

**DATES:** We must receive your written comments on or before June 13, 2022.

**ADDRESSES:**

*Obtaining Documents:* You may obtain copies of the documents online in Docket No. FWS–R4–ES–2022–0039 at <https://www.regulations.gov>.

*Submitting Comments:* If you wish to submit comments on any of the documents, you may do so in writing by any of the following methods:

- *Online:* <https://www.regulations.gov>.

Follow the instructions for submitting comments on Docket No. FWS–R4–ES–2022–0039.

- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS–R4–ES–2022–0039; U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

**FOR FURTHER INFORMATION CONTACT:**

Elizabeth Landrum, by U.S. mail (see **ADDRESSES**) or via phone at 772–469–4304. 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:** We, the Fish and Wildlife Service (Service), announce receipt of an incidental take permit (ITP) application for the renewal of four ITPs under section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicant is Peter C. Famulari, and the project sites, sizes, existing ITP numbers, and proposed new ITP numbers are:

- 1274 Navigator Road, Property Identification Number 402309287001, Port Charlotte, FL; 0.504 acres; TE136150–1; PER0027573;
- 1178 Melville Road, Property Identification Numbers 402309251001, 402309251002, and 402309251003, Port Charlotte, FL; 1.540 acres; TE136149–1; PER0028218;
- 1072 Melville Road, Property Identification Number 402309130005,

Port Charlotte, FL; 0.709 acres; TE136151-1; PER0028219; and,  
 • 1023 Bismarck Road, Property Identification Number 402309206002, Port Charlotte, FL; 0.459 acres; TE136153-1; PER0028220.

The applicant seeks authority to take Florida scrub-jays (*Aphelocoma coerulescens*) via destruction of the species' feeding, breeding, and sheltering habitat incidental to land preparation and construction in Charlotte County, Florida. The applicant's existing HCP provides measures to mitigate for the incidental take of the species, which was federally listed as threatened in 1987 (June 3, 1987; 52 FR 20719).

### Applicant's Proposed Projects

All four of the applicant's sites are zoned as single-family residential, so the development of each parcel would comprise the construction of a residential structure, driveway, installation of associated utilities and landscaping and possibly garages and pools. However, as the applicant currently has no timeframe for development or specific site plans, he is requesting his existing ITPs to be renewed for 10 more years, with each expiring on May 20, 2029. The applicant already has performed the required compensatory mitigation for impacts to the species by combining two 20-acre parcels (for which he had an assignable purchase contract) with adjacent parcels to form a 76-acre package of land that Charlotte County then acquired and is managing for scrub-jay conservation. The minimization measure of avoiding clearing the lot for construction during the scrub-jay nesting season (March 1 through June 30) cannot be implemented until construction is almost ready to begin. Other minimization measures involving the planting or retention of scrub oaks or other native vegetation cannot be implemented until clearing or construction is underway. Remaining minimization measures about providing information to subsequent buyers about Florida scrub-jays and the detrimental effects of free-roaming cats cannot be implemented until after the construction and sale of each new home is complete. None of the proposed activities have occurred, and there has been no incidental take of the covered species under the permits.

### Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment—including your personal

identifying information—may be made available to the public. While you may request that we withhold your personal identifying information, we cannot guarantee that we will be able to do so.

### Our Preliminary Determination

During our deliberations on whether to issue the existing ITPs, the Service determined that each of the applicant's projects, including the mitigation measures, individually and cumulatively would have minor or negligible effect on the species. Since none of the covered activities have occurred and the covered parcels have remained undeveloped, we have made the preliminary determination that each of these projects still would be "low effect" and qualify for categorical exclusions under the National Environmental Policy Act (NEPA; 42 U.S.C. 4231 *et seq.*).

### Next Steps

The Service will evaluate the application and the comments to determine whether to issue the requested renewals. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the preceding and other matters, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA and permit renewal requirements in our regulations have been met. If met, the Service will issue the four ITP numbers referenced above to Peter C. Famulari.

### Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.32) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6 and 43 CFR 46.305).

### Robert L. Carey,

*Division Manager, Environmental Review, Florida Ecological Services Office.*

[FR Doc. 2022-10166 Filed 5-11-22; 8:45 am]

**BILLING CODE 4333-15-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[Docket No. FWS-R4-ES-2022-0049; FXES11130400000-223-FF04EF4000]

### Receipt of Incidental Take Permit Application and Proposed Habitat Conservation Plan for the Sand Skink and Blue-Tailed Mole Skink; Polk County, FL; Categorical Exclusion

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; request for comments and information.

**SUMMARY:** We, the Fish and Wildlife Service (Service), announce receipt of an application from the Polk County Board of County Commissioners (applicant) for an incidental take permit (ITP) under the Endangered Species Act. The applicant requests the ITP to take the federally listed sand skink and blue-tailed mole skink incidental to the construction and operation of a fire rescue station in Polk County, Florida. We request public comment on the application, which includes the applicant's proposed habitat conservation plan (HCP), and on the Service's preliminary determination that this HCP qualifies as "low effect," categorically excluded under the National Environmental Policy Act. To make this determination, we used our environmental action statement and low-effect screening form, both of which are also available for public review.

**DATES:** We must receive your written comments on or before June 13, 2022.

### ADDRESSES:

**Obtaining Documents:** You may obtain copies of the documents online in Docket No. FWS-R4-ES-2022-0049 at <https://www.regulations.gov>.

**Submitting Comments:** If you wish to submit comments on any of the documents, you may do so in writing by one of the following methods:

- **Online:** <https://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS-R4-ES-2022-0049.

- **U.S. mail:** Public Comments Processing, Attn: Docket No. FWS-R4-ES-2022-0049; U.S. Fish and Wildlife Service, MS: JAO/3W, 5275 Leesburg Pike, Falls Church, VA 22041-3803.

### FOR FURTHER INFORMATION CONTACT:

Alfredo Begazo, by U.S. mail (see **ADDRESSES**), or via phone at 772-469-4234. 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:** We, the Fish and Wildlife Service (Service), announce receipt of an application from the Polk County Board of Commissioners (applicant) for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicant requests the ITP to take the federally listed sand skink (*Neoseps reynoldsi*) and blue-tailed mole-skink (*Eumeces egregius lividus*) (skinks) incidental to the construction and operation of a fire rescue station in Polk County, Florida. We request public comment on the application, which includes the applicant's HCP, and on the Service's preliminary determination that this HCP qualifies as "low effect," categorically excluded under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). To make this determination, we used our environmental action statement and low-effect screening form, both of which are also available for public review.

### Project

The applicant requests a 5-year ITP to take skinks via the conversion of approximately 0.46 acres (ac) of occupied nesting, foraging, and sheltering skink habitat incidental to the construction and operation of a fire rescue station on a 4.74-ac parcel in Section 13, Township 29 South, Range 27 East, Polk County, Florida. The applicant proposes to mitigate for take of the skinks by purchasing credits equivalent to 0.92 ac of skink-occupied habitat from a Service-approved conservation bank. The Service would require the applicant to purchase the credits prior to engaging in any phase of the project.

### Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment, including your personal identifying information, may be made available to the public. While you may request that we withhold your personal identifying information, we cannot guarantee that we will be able to do so.

### Our Preliminary Determination

The Service has made a preliminary determination that the applicant's project—including the construction of a small building, a driveway, parking space, green areas, storm water pond,

and associated infrastructure (*e.g.*, electric, water, and sewer lines)—would individually and cumulatively have a minor or negligible effect on the skinks and the environment. Therefore, we have preliminarily concluded that the ITP for this project would qualify for categorical exclusion and that the HCP is low effect under our NEPA regulations at 43 CFR 46.205 and 46.210. A low-effect HCP is one that would result in (1) minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) minor or negligible effects on other environmental values or resources; and (3) impacts that, when considered together with the impacts of other past, present, and reasonable foreseeable similarly situated projects, would not result in significant cumulative effects to environmental values or resources over time.

### Next Steps

The Service will evaluate the application and the comments to determine whether to issue the requested permit. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the preceding and other matters, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue ITP number PER 0034629 to the Polk County Board of Commissioners.

### Authority

The Service provides this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.32) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6 and 43 CFR 46.305).

### Robert L. Carey,

*Division Manager, Environmental Review, Florida Ecological Services Office.*

[FR Doc. 2022-10175 Filed 5-11-22; 8:45 am]

**BILLING CODE 4333-15-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[Docket No. FWS-R4-ES-2022-0047; FXES11130400000-223-FF04EF4000]

### Receipt of Incidental Take Permit Application and Proposed Habitat Conservation Plan for the Sand Skink, Lake County, FL; Categorical Exclusion

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; request for comments and information.

**SUMMARY:** We, the Fish and Wildlife Service (Service), announce receipt of an application from Kurly Key Properties, LLC (dba KB Home Orlando, LLC/Hills at Mt. Dora) (applicant) for an incidental take permit (ITP) under the Endangered Species Act. The applicant requests the ITP to take the federally listed sand skink incidental to the construction of a residential development in Lake County, Florida. We request public comment on the application, which includes the applicant's proposed habitat conservation plan (HCP), and on the Service's preliminary determination that this HCP qualifies as "low effect," categorically excluded under the National Environmental Policy Act. To make this determination, we used our environmental action statement and low-effect screening form, both of which are also available for public review.

**DATES:** We must receive your written comments on or before June 13, 2022.

### ADDRESSES:

**Obtaining Documents:** You may obtain copies of the documents online in Docket No. FWS-R4-ES-2022-0047 at <https://www.regulations.gov>.

**Submitting Comments:** If you wish to submit comments on any of the documents, you may do so in writing by any of the following methods:

- **Online:** <https://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS-R4-ES-2022-0047.
- **U.S. mail:** Public Comments Processing, Attn: Docket No. FWS-R4-ES-2022-0047; U.S. Fish and Wildlife Service, MS: JAO/3W, 5275 Leesburg Pike, Falls Church, VA 22041-3803.

**FOR FURTHER INFORMATION CONTACT:** Erin M. Gawera, by U.S. mail (see **ADDRESSES**) or via phone at 904-731-3121. 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:** We, the Fish and Wildlife Service (Service), announce receipt of an application from Kurly Key Properties, LLC (dba KB Home Orlando, LLC) (applicant) for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicant requests the ITP to take

the federally listed sand skink (*Neoseps reynoldsi*) incidental to the construction of a residential development (project) in Lake County, Florida. We request public comment on the application, which includes the applicant's HCP, and on the Service's preliminary determination that this HCP qualifies as "low effect," categorically excluded under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). To make this determination, we used our environmental action statement and low-effect screening form, both of which are also available for public review.

### Project

The applicant requests a 5-year ITP to take sand skinks through the conversion of approximately 0.63 acres (ac) of occupied sand skink foraging and sheltering habitat incidental to the construction of a residential development on a 20.00-ac parcel in Section 33, Township 19 South, Range 27 East, Lake County, Florida, identified by Parcel ID numbers 33-19-27-0003-0000-2400 and 33-19-27-0003-0000-2500. The applicant proposes to mitigate for take of the sand skinks by the purchase of 1.26 credits from Lake Wales Ridge Conservation Bank or another Service-approved Conservation Bank. The Service would require the applicant to purchase the credits prior to engaging in activities associated with the project on the parcel.

### Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment, including your personal identifying information, may be made available to the public. While you may request that we withhold your personal identifying information, we cannot guarantee that we will be able to do so.

### Our Preliminary Determination

The Service has made a preliminary determination that the applicant's project—including land clearing, infrastructure building, landscaping, and ground disturbance and site preparation activities, along with the proposed mitigation measures—would individually and cumulatively have a minor or negligible effect on the sand skink and the environment. Therefore, we have preliminarily concluded that the ITP for this project would qualify for categorical exclusion and that the HCP is low effect under our NEPA regulations at 43 CFR 46.205 and 46.210. A low-effect HCP is one that would result in (1) minor or negligible effects on federally listed, proposed, and

candidate species and their habitats; (2) minor or negligible effects on other environmental values or resources; and (3) impacts that, when considered together with the impacts of other past, present, and reasonable foreseeable similarly situated projects, would not result in significant cumulative effects to environmental values or resources over time.

### Next Steps

The Service will evaluate the application and the comments to determine whether to issue the requested permit. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the preceding and other matters, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue ITP number PER0021750 to Kurlly Key Properties, LLC (dba KB Home Orlando, LLC).

### Authority

The Service provides this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.32) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6 and 43 CFR 46.305).

### Robert L. Carey,

*Division Manager, Environmental Review, Florida Ecological Services Office.*

[FR Doc. 2022-10177 Filed 5-11-22; 8:45 am]

BILLING CODE 4333-15-P

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

[223A2100DD/AAKC001030/  
AOA501010.999900]

### Cabazon Band of Cahuilla Indians; Amended Alcoholic Beverages Ordinance

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

**SUMMARY:** This notice publishes the amended Alcoholic Beverages Ordinance of the Cabazon Band of Cahuilla Indians. The Cabazon Band of Cahuilla Indian amended Alcoholic Beverages Ordinance regulates and controls the possession, sale, manufacture, and distribution of alcohol in conformity with the laws of the State of California.

**DATES:** This ordinance shall become effective June 13, 2022.

**FOR FURTHER INFORMATION CONTACT:** Mr. Felix Kitto, Deputy Regional Director, Indian Services, Pacific Regional Office, Bureau of Indian Affairs, 2800 Cottage Way, Room W-2820, Sacramento, California 95825, Telephone: (916) 978-6000, Fax: (916) 978-6099.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Act of August 15, 1953, Public Law 83-277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice v. Rehner*, 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor control ordinances for the purpose of regulating liquor transactions in Indian country. The Cabazon Band of Cahuilla Indian adopted the amended Alcoholic Beverages Ordinance on May 13, 2021.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs. I certify that the Business Committee of the Cabazon Band of Cahuilla Indians duly adopted the amended Alcoholic Beverages Ordinance on May 13, 2021.

### Bryan Newland,

*Assistant Secretary—Indian Affairs.*

Cabazon Band of Cahuilla Indians' amended Tribal Alcoholic Beverages Ordinance shall read as follows:

### Cabazon Band of Cahuilla Indians

#### Title 10

#### Amended Alcoholic Beverages Ordinance

#### Ch. 1. Regulation and Taxation of Alcoholic Beverages

#### Chapter 1. Regulation and Taxation of Alcoholic Beverages

#### Section 10-101—Authority

This chapter is enacted pursuant to the act of August 15, 1953 (Pub. L. 83-277, 67 Stat. 586, 18 U.S.C. 1161) which provides that Federal Indian liquor laws shall be inapplicable to any act or transaction within any area of Indian Country, provided such act or transaction is in conformity both with the laws of the state in which such act or transaction occurs and with an ordinance duly adopted by the tribe having jurisdiction over such area of Indian Country, certified by the Secretary of the Interior, and published in the **Federal Register**.

#### Section 10-102—Sale, Possession, etc. To Comply With Chapter Provisions

The introduction, sale or possession of alcoholic beverages shall be lawful on and within the Indian Country of the Cabazon Band of Cahuilla Indians (hereafter the "Cabazon Indian

Reservation”), provided that such introduction, sale or possession is in conformity both with the laws of the State of California and with this chapter.

#### Section 10–103—Retail Sales

All retail sales of alcoholic beverages on the Cabazon Indian Reservation shall be conducted through one (1) or more retail outlets created, owned, established and operated by the Cabazon Band of Cahuilla Indians (the “Cabazon Band”). The Cabazon Band may form a tribal corporation or other tribal enterprise to engage in such retail sales activities. No other person or entity may engage in the retail sale of alcoholic beverages on or within the Cabazon Indian Reservation.

#### Section 10–104—Excise Tax

The Cabazon Band is hereby empowered to establish, levy and collect an excise tax upon the distribution of alcoholic beverages within the exterior boundaries of the Cabazon Indian Reservation.

#### Section 10–105—Sales Tax

The Cabazon Band is hereby empowered to establish, levy and collect a sales tax upon the purchase, use, consumption, handling or possession by a consumer of alcoholic beverages within the exterior boundaries of the Cabazon Indian Reservation.

#### Section 10–106—Repeal of Conflicting Legislation

Any law, resolution or ordinance heretofore enacted by the Cabazon Band which prohibits the introduction, sale or possession of alcoholic beverages on or within the Cabazon Indian Reservation is hereby repealed.

#### Section 10–107—Effective Date

This chapter shall be effective upon its certification by the Secretary of the Interior and its publication in the **Federal Register**.

[FR Doc. 2022–10207 Filed 5–11–22; 8:45 am]

BILLING CODE 4337–15–P

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

[199D1114PT DS62100000  
DPTA00000.000000; OMB Control Number  
1093–0005]

### Agency Information Collection Activities; Payments in Lieu of Taxes (PILT) Act, Statement of Federal Lands Payments

**AGENCY:** Office of the Secretary, Office of Budget, Interior.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, we, the Office of Budget, Office of the Secretary, Department of the Interior are proposing to renew an information collection.

**DATES:** Interested persons are invited to submit comments on or before July 11, 2022.

**ADDRESSES:** Send your comments on this information collection request (ICR) by mail to the U.S. Department of the Interior, Office of the Secretary, Office of Budget, Attn: Dionna Kiernan, 1849 C Street NW, MS 4106 MIB, Washington, DC 20240 or by email to [doi\\_pilt@ios.doi.gov](mailto:doi_pilt@ios.doi.gov). Please reference OMB Control Number 1093–0005 in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact Dionna Kiernan by email at [doi\\_pilt@ios.doi.gov](mailto:doi_pilt@ios.doi.gov), or by telephone at 202–513–7783. 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. You may also view the ICR at <http://www.reginfo.gov/public/do/PRAMain>.

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public’s reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the

agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

*Abstract:* “Payments in Lieu of Taxes” (PILT) are Federal payments to local governments that help offset losses in property taxes due to non-taxable Federal lands within their boundaries. The original law is Public Law 94–565, dated October 20, 1976. This law was rewritten and amended by Public Law 97–258 on September 13, 1982, and codified at Chapter 69, Title 31 of the United States Code. The law recognizes the financial impact of the inability of local governments to collect property taxes on federally owned land.

The PILT Act requires the Governor of each State to furnish the Department of the Interior with a listing of certain revenue sharing payments disbursed to local governments by the States on behalf of the Federal Government under 12 statutes described in Section 6903 of 31 U.S.C. The Department of the Interior uses the amounts reported by States to calculate PILT payments to units of general local governments. If such listings were not furnished by the Governor of each affected State, the Department would not be able to compute the PILT payments to units of general local government within the States in question.

In fiscal year 2004, administrative authority for the PILT program was transferred from the Bureau of Land

Management to the Office of the Secretary of the Department of the Interior. Applicable DOI regulations pertaining to the PILT program to be administered by the Office of the Secretary were published as a final rule in the **Federal Register** on December 7, 2004 (69 FR 70557). The Office of the Secretary, Office of Budget, is now planning to extend the information collection approval authority in order to enable the Department of the Interior to continue to comply with the PILT Act.

*Title of Collection:* Payments in Lieu of Taxes (PILT) Act, Statement of Federal Lands Payments.

*OMB Control Number:* 1093-0005.

*Form Number:* None.

*Type of Review:* Extension of a currently approved collection.

*Respondents/Affected Public:* State governments.

*Total Estimated Number of Annual Respondents:* 46.

*Total Estimated Number of Annual Responses:* 46.

*Estimated Completion Time per Response:* 40 Hours.

*Total Estimated Number of Annual Burden Hours:* 1,840 hours.

*Respondent's Obligation:* Required to Obtain or Retain a Benefit.

*Frequency of Collection:* Annually.

*Total Estimated Annual Nonhour Burden Cost:* None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**Jeffrey M. Parrillo,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2022-10176 Filed 5-11-22; 8:45 am]

**BILLING CODE 4334-63-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1256]

### Notice of Request for Submissions on the Public Interest; Certain Portable Battery Jump Starters and Components Thereof

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that on April 29, 2022, the presiding administrative law judge (“ALJ”) issued an Initial Determination on Violation of Section 337. The ALJ also issued a

Recommended Determination on remedy and bonding should a violation be found in the above-captioned investigation. The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation. This notice is soliciting comments from the public only.

**FOR FURTHER INFORMATION CONTACT:**

Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708-2310. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email [EDIS3Help@usitc.gov](mailto:EDIS3Help@usitc.gov). General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** Section 337 of the Tariff Act of 1930 provides that, if the Commission finds a violation, it shall exclude the articles concerned from the United States:

unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry.

19 U.S.C. 1337(d)(1). A similar provision applies to cease and desist orders. 19 U.S.C. 1337(f)(1).

The Commission is soliciting submissions on public interest issues raised by the recommended relief should the Commission find a violation, specifically: (1) A general exclusion order directed to certain portable battery jump starters and components thereof imported, sold for importation, and/or sold after importation that infringe one or more of asserted claims 1, 16, 24, 29, and 30 of U.S. Patent No. 10,604,024; (2) cease and desist orders directed to respondents Winplus North America, Inc., ADC Solutions Auto, LLC d/b/a Type-S, and Winplus NA, LLC, all of Costa Mesa, California; Shenzhen Carku Technology Co., Ltd. of Shenzhen, China; Antigravity Batteries LLC of Gardena, California; Gooloo Technologies LLC and Shenzhen Gooloo E-Commerce Co., Ltd., both of Shenzhen, China; Great Neck Saw Manufacturers, Inc. of Mineola, New

York; Matco Tools Corporation of Stow, Ohio; Nekteck, Inc. of Anaheim, California; PowerMax Battery (U.S.A.), Inc. of Ontario, California; 70mai Co., Ltd. of Shanghai, China; Horizon Tool, Inc. of Greensboro, North Carolina; Paris Corporation of Westampton, New Jersey; Guangdong Boltpower Energy Co., Ltd. of Shenzhen, China; and Best Buy Co., Inc. of South Richfield, Minnesota with respect to these asserted claims; and (3) limited exclusion orders directed to certain portable battery jump starters and components thereof imported, sold for importation, and/or sold after importation by defaulting respondents Shenzhen Mediatek Tong Technology Co., Ltd. of Shenzhen, China and Zhejiang Quingyou Electronic Commerce Co., Ltd. of Zhejiang, China that infringe one or more of asserted U.S. Trademark Registration Nos. 4,811,656 and 4,811,749. Parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4).

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, members of the public are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the ALJ’s Recommended Determination on Remedy and Bonding issued in this investigation on April 29, 2022. Comments should address whether issuance of the recommended remedial orders in this investigation, should the Commission find a violation, would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

- (i) Explain how the articles potentially subject to the recommended remedial orders are used in the United States;
- (ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;
- (iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;
- (iv) indicate whether complainant, complainant’s licensees, and/or third-party suppliers have the capacity to replace the volume of articles potentially subject to the recommended orders within a commercially reasonable time; and
- (v) explain how the recommended orders would impact consumers in the United States.

Written submissions must be filed no later than by the close of business on June 7, 2022. Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (Mar. 19, 2020). Submissions should refer to the investigation number ("Inv. No. 337-TA-1256") in a prominent place on the cover page and/or the first page. (See *Handbook for Electronic Filing Procedures*, [https://www.usitc.gov/documents/handbook\\_on\\_filing\\_procedures.pdf](https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf)). Persons with questions regarding filing should contact the Secretary (202-205-2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: May 9, 2022.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2022-10196 Filed 5-11-22; 8:45 am]

**BILLING CODE 7020-02-P**

## **INTERNATIONAL TRADE COMMISSION**

**[Investigation No. 337-TA-1213 (Rescission)]**

### **Certain Light-Emitting Diode Products, Fixtures, and Components Thereof; Notice of a Commission Determination To Institute a Rescission Proceeding and Grant a Joint Petition To Rescind Remedial Orders; Termination of Rescission Proceeding**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission ("the Commission") has determined to institute a rescission proceeding and grant a joint petition to rescind remedial orders issued in the underlying investigation. The rescission proceeding is terminated.

**FOR FURTHER INFORMATION CONTACT:**

Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708-2310. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email [EDIS3Help@usitc.gov](mailto:EDIS3Help@usitc.gov). General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on August 17, 2020, based on a complaint filed on behalf of Ideal Industries Lighting LLC d/b/a Cree Lighting ("Cree") of Durham, North Carolina. 85 FR 50047-48 (Aug. 17, 2020). The complaint, as supplemented, alleged violations of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 ("section 337"), based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain light-emitting diode products, fixtures, and components thereof by

reason of infringement of certain claims of U.S. Patent Nos. 8,403,531 ("the '531 patent"); 8,596,819 ("the '819 patent"); 8,777,449 ("the '449 patent"); 9,261,270 ("the '270 patent"); and 9,476,570 ("the '570 patent"). The complaint further alleged the existence of a domestic industry. The Commission's notice of investigation named RAB Lighting Inc. ("RAB") of Northvale, New Jersey as the sole respondent. The Office of Unfair Import Investigations did not participate in the investigation.

On August 17, 2021, the presiding administrative law judge issued a final initial determination ("ID") finding a violation of section 337 based on infringement of the asserted claims of the '270 and '570 patents, and finding no violation with respect to the '531, '819, and '449 patents.

On October 25, 2021, the Commission determined not to review the ID's finding of a violation with respect to the '270 and '570 patents and the ID's finding of no violation with respect to the '449 patent. 86 FR 60071-72 (Oct. 29, 2021).

On December 16, 2021, the Commission, on review, issued a final determination affirming the ID's finding of no violation as to the '531 and '819 patents. 86 FR 72623-24 (Dec. 22, 2021). As a remedy for the finding of a violation with respect to the '270 and '570 patents, the Commission issued a limited exclusion order ("LEO") directed against RAB's infringing products and a cease and desist order ("CDO") directed against RAB. *Id.*

Cree and RAB each timely appealed the Commission's final determination to the U.S. Court of Appeals for the Federal Circuit. The separate appeals were subsequently consolidated. On March 28, 2022, the Cree and RAB jointly moved to voluntarily dismiss their appeal and cross-appeal. See *Ideal Industries Lighting LLC v. ITC*, Appeal Nos. 2022-1484, -1501, Joint Stipulation for Voluntary Dismissal (Mar. 28, 2022). The Federal Circuit granted the motion and dismissed the appeals the following day. See *Ideal Industries Lighting LLC v. ITC*, Appeal Nos. 22-1484, -1501, Order (Fed. Cir. Mar. 29, 2022).

On April 8, 2022, Cree and RAB jointly petitioned to rescind the previously-issued LEO and CDO based on settlement pursuant to 19 U.S.C. 1337(k) and Commission Rule 210.76(a) (19 CFR 210.76(a)). The parties filed both confidential and public versions of the settlement agreements.

Upon consideration of the parties' joint petition, the Commission has determined to institute a rescission proceeding, grant the parties' joint



petition, and rescind the remedial orders in this investigation. This rescission proceeding is terminated.

The Commission vote for this determination took place on May 6, 2022.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in Part 210 of the Commission's Rules of Practice and Procedure, 19 CFR part 210.

By order of the Commission.

Issued: May 6, 2022.

**William Bishop,**

*Supervisory Hearings and Information Officer.*

[FR Doc. 2022-10151 Filed 5-11-22; 8:45 am]

**BILLING CODE 7020-02-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 Graphic Systems, Components Thereof, and Digital Televisions Containing the Same, DN 3620*; 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](mailto: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 Advance Micro Devices, Inc. and ATI Technologies ULC on May 5, 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 graphic systems, components thereof, and digital televisions containing the same. The complainant names as respondents: TCL Industries Holdings Co., Ltd. of China; TCL Industries Holdings (H.K.) Limited of Hong Kong; TCL Electronics Holdings Limited of Hong Kong; TCL Technology Group Corporation of China; TTE Corporation of Hong Kong; TCL Holdings (BVI) Limited of Hong Kong; TCL King Electrical Appliances (Huizhou) Co. Ltd. of China; Shenzhen TCL New Technologies Co., Ltd. of China; TCL MOKA International Limited of Hong Kong; TCL Smart Device (Vietnam) Co., Ltd. of Vietnam; Manufacturas Avanzadas SA de CV of Mexico; TCL Electronics Mexico, S de RL de CV of Mexico; TCL Overseas Marketing Ltd. of Hong Kong; and Realtek Semiconductor Corp. of Taiwan. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders and impose a bond upon respondents alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondent, 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. 3620*") in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, Electronic Filing Procedures<sup>1</sup>). Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, <https://edis.usitc.gov>). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at [EDIS3Help@usitc.gov](mailto:EDIS3Help@usitc.gov).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be

<sup>1</sup> Handbook for Electronic Filing Procedures: [https://www.usitc.gov/documents/handbook\\_on\\_filing\\_procedures.pdf](https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf).

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,<sup>2</sup> solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.<sup>3</sup>

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: May 6, 2022.

**William Bishop,**

*Supervisory Hearings and Information Officer.*

[FR Doc. 2022-10138 Filed 5-11-22; 8:45 am]

BILLING CODE 7020-02-P

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Open Grid Alliance, Inc.

Notice is hereby given that, on March 31, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Open Grid Alliance, Inc. ("OGA") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objectives of the venture. The notifications were filed for the

purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the identities of the parties to the venture are: Arctos Labs Scandinavia AB, Lucea, SWEDEN; Arm, Ltd., Cambridge, UNITED KINGDOM; Amazon Web Services, Inc., Seattle, WA; blocz IO Limited, Cambridge, UNITED KINGDOM; Centech, Montreal, CANADA; Dell Technologies, Round Rock, TX; DriveNets, Ra'anana, ISRAEL; Deutsche Telekom AG, Bonn, GERMANY; Intel Corp, Santa Clara, CA; Invision AI, Inc., Toronto, CANADA; ITRenew, Newark, CA; MITACS, Vancouver, CANADA; Nife Labs Pte Ltd., Singapore, SINGAPORE; OVA Inc., Quebec, CANADA; Vapor IO, Austin, TX; and VMware, Inc., Palo Alto, CA. The general area of OGA's planned activity is to develop "open grid" multi-cloud edge architectures and promote market adoption of such architectures, and undertake such further activities as may from time to time be appropriate to further such purposes and achieve such goals. Membership in OGA remains open and intends to file additional written notifications disclosing all changes in membership.

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2022-10215 Filed 5-11-22; 8:45 am]

BILLING CODE P

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—AI Infrastructure Alliance, Inc.

Notice is hereby given that, on March 21, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), AI Infrastructure Alliance, Inc. ("AIIA") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Superb AI, Inc., San Mateo, CA; YData Labs Inc., Seattle, WA; InfuseAI Inc., Taipei City, TAIWAN; Seldon Technologies Limited, London, UNITED KINGDOM; Comet ML, Inc., New York, NY; Aporia, Tel Aviv,

ISRAEL; Modzy, Inc., Vienna, VA; TheSequence, Coral Gables, FL; Iguazio, Hertzelia, ISRAEL; Valohai, Turku, FINLAND; Nvidia, Inc., Santa Clara, CA; Data-Centric AI Community, Seattle, WA; and WhyLabs Inc., Seattle, WA, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and AIIA intends to file additional written notifications disclosing all changes in membership.

On January 5, 2022, AIIA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 10, 2022 (87 FR 13759).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2022-10216 Filed 5-11-22; 8:45 am]

BILLING CODE P

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Maritime Sustainment Technology and Innovation Consortium

Notice is hereby given that, on April 8, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Maritime Sustainment Technology and Innovation Consortium ("MSTIC") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Grove Resource Solutions, Inc., Bethesda, MD; Antech Systems, Inc., Chesapeake, VA; Peerless Technologies Corporation, Fairborn, OH; Wartsila Defense, Inc., Chesapeake, VA; Dynamic Structures & Materials LLC, Franklin, TN; Magothy River Technologies, Herndon, VA; Bracari, Mount Pleasant, SC; Bloomy Controls, Inc., South Windsor, CT; Astro Machine & Tool Works LLC, Tyler, TX; C3.ai, Redwood City, CA; Kord Technologies, Huntsville, AL; Greystones Consulting Group LLC, Washington, DC; Mantel Technologies, Tacoma, WA; Engineering

<sup>2</sup> All contract personnel will sign appropriate nondisclosure agreements.

<sup>3</sup> Electronic Document Information System (EDIS): <https://edis.usitc.gov>.

& Consulting Center of Excellence, LLC, Hollis, NH; Accenture Federal Services LLC, Arlington, VA; Akita Innovations LLC, North Billerica, MA; Nalas Engineering Services, Inc., Centerbrook, CT; Trident Systems Incorporated, Fairfax, VA; Synthio Chemicals, Inc., Broomfield, CO; Crestwood Technology Group Corp., Yonkers, NY; Tri-Tec Manufacturing LLC, Kent, WA; Grahene Composites USA, Inc., Providence, RI; Martin Defense Group, LLC, Honolulu, HI; MPR Associates, Inc., Alexandria, VA; Tetramer Technologies LLC, Pendleton, SC; Mussel Polymers, Inc., Bethlehem, PA; Canfield Consulting Group LLC d/b/a Canfield CyberDefense Group, Olney, MD; and A-Tech, LLC, Albuquerque, NM, have been added as parties to this venture.

Also, BMT Designers & Planners, Houston, TX, has withdrawn as a party to this venture.

Lastly, Florida State University Center for Advanced Power Systems, a party to this venture as listed on previous reporting, has changed names to Florida State University, Sponsored Research Administrations.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and MSTIC intends to file additional written notifications disclosing all changes in membership.

On October 21, 2020, MSTIC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 19, 2020 (85 FR 73750).

The last notification was filed with the Department on January 19, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 10, 2022 (87 FR 13758).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2022-10218 Filed 5-11-22; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Integrated Photonics Institute for Manufacturing Innovation Operating Under the Name of the American Institute for Manufacturing Integrated Photonics

Notice is hereby given that, on April 12, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), the Integrated Photonics Institute for Manufacturing Innovation operating under the name of the American Institute for Manufacturing Integrated Photonics (“AIM Photonics”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, University of Dayton, Dayton, OH; Worcester Polytechnic Institute, Worcester, MA; and General Dynamics Mission Systems, Inc., Fairfax, VA, have been added as parties to this venture.

Also, Coventor, Inc., Cary, NC; TTM Technologies, Inc., St. Louis, MO; The Regents of the University of California Berkeley, Berkeley, CA; UChicago Argonne, LLC, Lemont, IL; Keysight Technologies, Inc., Englewood, CO; The University of Tulsa, Tulsa, OK; REDCOM Laboratories, Inc., Victor, NY; University of Washington, Seattle, WA; Quinsigamond Community College, Worcester, MA; Microcircuit Laboratories LLC, Kennett Square, PA and The Pennsylvania State University, State College, PA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and AIM Photonics intends to file additional written notifications disclosing all changes in membership.

On June 16, 2016, AIM Photonics filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 25, 2016 (81 FR 48450).

The last notification was filed with the Department on November 23, 2021. A notice was published in the **Federal**

**Register** pursuant to Section 6(b) of the Act on January 13, 2022 (87 FR 2178).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2022-10221 Filed 5-11-22; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Southwest Research Institute—Cooperative Research Group on Ros-Industrial Consortium Americas

Notice is hereby given that, on March 24, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), Southwest Research Institute—Cooperative Research Group on ROS-Industrial Consortium—Americas (“RIC-Americas”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Autodesk Inc., San Rafael, CA, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and RIC-Americas intends to file additional written notifications disclosing all changes in membership.

On April 30, 2014, RIC-Americas filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 9, 2014 (79 FR 32999).

The last notification was filed with the Department on January 28, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 10, 2022 (87 FR 13757).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2022-10237 Filed 5-11-22; 8:45 am]

**BILLING CODE P**

**DEPARTMENT OF JUSTICE****Antitrust Division****Notice Pursuant to the National Cooperative Research and Production Act of 1993—Advanced Fluids for Electrified Vehicles**

Notice is hereby given that, on March 29, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), Advanced Fluids for Electrified Vehicles (“AFEV”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, TotalEnergies Marketing Services has changed its name to TotalEnergies One Tech, Solaize, FRANCE.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and AFEV intends to file additional written notifications disclosing all changes in membership.

On June 16, 2021, AFEV filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on August 16, 2021 (86 FR 45751).

The last notification was filed with the Department on January 17, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 10, 2022 (87 FR 13757).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2022–10214 Filed 5–11–22; 8:45 am]

**BILLING CODE P**

**DEPARTMENT OF JUSTICE****Antitrust Division****Notice Pursuant to the National Cooperative Research and Production Act of 1993—Undersea Technology Innovation Consortium**

Notice is hereby given that, on April 5, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), Undersea Technology Innovation Consortium (“UTIC”) has filed written notifications simultaneously with the Attorney General and the Federal Trade

Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, The NOMAD Group LLC, Morristown, NJ, has been added as a party to this venture.

Also, Aviation & Missile Solutions LLC, Huntsville, AL; Gibbs & Cox, Inc., Arlington, VA; ATI Engineering Services LLC, Johnstown, PA; Cross Domain Systems, Inc., Medford, MA; Lynntech, Inc., College Station, TX; and Xiletric, Inc., Fall River, MA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and UTIC intends to file additional written notifications disclosing all changes in membership.

On October 9, 2018, UTIC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 2, 2018 (83 FR 55203).

The last notification was filed with the Department on February 2, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 10, 2022 (87 FR 13757).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2022–10223 Filed 5–11–22; 8:45 am]

**BILLING CODE P**

**DEPARTMENT OF JUSTICE****Antitrust Division****Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Spectrum Consortium**

Notice is hereby given that, on April 13, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), National Spectrum Consortium (“NSC”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Altair Engineering, Inc., Troy, MI; AlphaPixel LLC, Evergreen, CO; ARD Global LLC, Vienna, VA; Ascension Engineering Group LLC,

Colorado Springs, CO; Aurotech LLC, Silver Spring, MD; AVATAR Partners, Inc., Irvine, CA; Ballast LLC, Woodinville, WA; Baker Street Scientific, Inc., Marietta, GA; By Light Professional IT Services LLC, McLean, VA; Caliola Engineering LLC, Colorado Springs, CO; Coda Octopus Colmek, Murray, UT; COLSA Corporation, Huntsville, AL; Comcast Cable Communications LLC, Philadelphia, PA; Cyberspace Solutions LLC dba Illuminate Mission Solutions, Herndon, VA; Everactive, Inc., Santa Clara, CA; Expedition Technology, Inc., Herndon, VA; Futures Action Network LLC, New York, NY; G3 Technologies, Inc., Columbia, MD; General Atomics Aeronautical Systems, Inc., Poway, CA; Genesis Consulting Solutions LLC, Waldorf, MD; Google LLC, Mountain View, CA; HII Technical Solutions Corp, Virginia Beach, VA; I2T SME Global LLC, Austin, TX; iCallidus, Inc., Columbia, MD; Insight Public Sector, Goose Creek, SC; Kopis Mobile LLC, Flowood, MS; Kratos SRE, Inc., San Diego, CA; Kryptowire LLC, McLean, VA; Kyru Tech, Inc., Sterling, VA; Lane LLC/Laine Technologies, Goose Creek, SC; Ligado Networks LLC, Reston, VA; Mainstream Engineering Corp., Rockledge, FL; Marvell Government Solutions LLC, Burlington, VT; Microstrategy, Tysons, VA; PeopleTec, Inc., Huntsville, AL; Orolia Government Systems, Inc, Rochester, NY; Qualcomm Technologies, Inc., San Diego, CA; Quantum Xchange, Inc., Bethesda, MD; RADA Technologies LLC, Germantown, MD; Red Balloon Security, New York, NY; Ribbon Communications, Plano, VA; Saab, Inc., East Syracuse, NY; PTC, Boston, MA; Spectrum Effect, Inc., Kirkland, WA; Tapestry Solutions, Inc. San Diego, CA; Splunk, Inc., San Francisco, CA; The Nomad Group LLC dba Nomadics, Morristown, NJ; Tiami LLC, Elk Grove, CA; Tyto Athene LLC, Herndon, VA; University of California, Irvine, Irvine, CA; VARIABLECONSTANT LLC, Arlington, VA; Vectrona LLC, Virginia Beach, VA; Veritech LLC, Glendale, AZ; and Xtremis LLC, Washington, DC, have been added as parties to this venture.

Also, Aegis Systems, Inc., New York, NY; AirV Labs, Inc., Champaign, IL; Amentum Services, Inc., Germantown, MD; AnTrust, Columbia, MD; Artesion, Inc., Tacoma, WA; AVT Simulation, Orlando, FL; Blue Danube Systems, Inc., Santa Clara, CA; BTAS, Inc., Beaver Creek, OH; Cesium Astro, Austin, TX; CGI Federal, Inc., Fairfax, VA; Cirrus360 LLC, Richardson, TX; CNF Technologies, San Antonio, TX; Comsearch, Ashburn, VA; Concurrent

Technologies Corporation, Johnstown, PA; Conductive Composites Company, Heber City, UT; Connected Devices LLC, Chapel Hill, NC; Device Solutions, Inc., Hillsborough, NC; Edaptive Computing, Inc., Dayton, OH; Envistacom LLC, Atlanta, GA; Ewing Engineered Solutions, Allen, TX; DT Professional Services LLC, Canoga Park, CA; GATR Technologies, Huntsville, AL; General Dynamics Information Technology, Inc., Falls Church, VA; General Radar Corporation, Belmont, CA; GenOne Technologies LLC, Cambridge, MA; Gonzaga University, Spokane, WA; Granite Telecommunications LLC, Mclean, VA; Hanwha International LLC, Arlington, VA; IFS North America, Inc., Chicago, IL; Innovative Power LLC, Sterling, VA; iPosi, Inc., Denver, CO; James River Design and Manufacturing LLC, North Chesterfield, VA; Kutta Technologies, Inc., Phoenix, AZ; L3 Technologies, San Diego, CA; Knowledge Management, Inc., Tyngsboro, MA; M3 Defense Consulting LLC, Sterling Heights, MI; L3 Technologies, Inc. Communications Systems—East, Camden, NJ; Lumen Tech, Herndon, VA; Medivis, Inc.; MedCognition, Inc, San Antonio, TX; Medivis, Inc. New York, NY; Metawave Corporation, Carlsbad, CA; MedCognition, Inc., San Antonio, TX; MicroStrategy, Tysons, VA; Mobilestack, Inc., Dublin, CA; NetObjex, Inc., Santa Ana, CA; NetNumber, Inc., Lowell, MA; Northern Arizona University, Flagstaff, AZ; Novaa, Ltd Dublin, OH; NxGen Partners Manager LLC, Dallas, TX; NVIDIA Corporation, Santa Clara, CA; OmniMesh Technologies, Inc., Syracuse, NY; ORSA Technologies LLC, Sierra Vista, AZ; Pacific Antenna Systems LLC, Camarillo, CA; PAE Applied Technologies, Fort Worth, TX; Peraton, Inc., Herndon, VA; Pennsylvania State University-Applied Research Laboratory, State College, PA; Pn Automation, Inc., Haltehorpe, MD; PlusN LLC, Elmsford, NY; Prizm XR, Inc., Cold Spring, NY; Rafael Systems Global Sustainment LLC, Bethesda, MD; Ravenswood Solutions, Fremont, CA; Red Hat Professional Consulting, Inc., Raleigh, NC; ReFirm Labs, Inc., Fulton MD; Resonant Sciences LLC, Dayton, OH; Rivada Networks LLC, Colorado Springs, CO; SIEGE Technologies, Chantilly, VA; Spectral Labs Incorporated, San Diego, CA; SRC, Inc., N. Syracuse, NY; Strategic Data Systems, Inc., Keller, TX; Stratom, Inc., Boulder, CO; Synoptic Engineering LLC, Arlington, VA; Summation Research, Inc. Melbourne, FL; Taurean General Services, Inc., Boerne, TX; The Kenja-

Trusant Group LLC, Columbia, MD; Thinklogical LLC, Milford, CT; Tilson Technology Management, Inc., Portland, ME; Titan Systems LLC, Lexington Park, MD; Trilogy Networks, Boulder, CO; The University of Texas at Dallas, Richardson, TX; Trex Enterprises Corporation San Diego, CA; Two Six Labs LLC, Arlington, VA; UI Labs dba MxD USA, Chicago, IL; Undergrid Networks, Inc., Atlanta, GA; University at Buffalo, Amherst, NY; University of Illinois, Urbana IL; University of Oklahoma, Norman, OK; University of Washington, Seattle, WA; Vision Engineering Solutions, Inc., Merritt Island, FL; Waterleaf International LLC, Fort Myers, FL; and Wyle Laboratories, Inc., Huntsville, AL, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NSC intends to file additional written notifications disclosing all changes in membership.

On September 23, 2014, NSC filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 4, 2014 (79 FR 65424).

The last notification was filed with the Department on July 2, 2021. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on August 23, 2021 (86 FR 47157).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2022-10236 Filed 5-11-22; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Resilient Infrastructure + Secure Energy Consortium

Notice is hereby given that, on April 1, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), the Resilient Infrastructure + Secure Energy Consortium (“RISE”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, 3Rwater, Inc., Honolulu, HI; 60Hertz Energy, Anchorage, AK; Agentis Air LLC, Rockville, MD; Airbornway Corporation, Stamford, CT; Amionx, Inc., Carlsbad, CA; BlueDesal, Inc., Sausalito, CA; Breezy SEAS, Sherman, CT; Castor Energy, Sacramento, CA; CCG Consulting, Springfield, OH; Centrica, Ballston Lake, NY; ChloBis Water, Inc., Madison, WI; Clark, Richardson and Biskup Consulting Engineers, Inc., Saint Louis, MO; Clean Earth Rovers, Cincinnati, OH; Clean Energy Research Laboratory, Funabashi, JAPAN; Cleveland Electric Laboratories, Twinsburg, OH; Energy internet Corporation, San Jose, CA; Flux XII LLC, Madison, WI; Hydrogen Electro Systems, Inc., Boca Raton, FL; Image Insight, Inc., East Hartford, CT; Inceptis, Pittsburgh, PA; inCitu, Brooklyn, NY; Intelligent Material Solutions, Princeton, NJ; IPgallery, Raanana, ISR; IRIS, New York, NY; JYA INFOTTECH, Pune, INDIA; Lamar University, Beaumont, TX; Leidos, Reston, VA; LeVanta Tech LLC, Monett, MO; Link Puerto Rico, Guaynabo, PR; NanoAffix Science, Wauwatosa, WI; Nettoyer Automotives Private Limited, Pune, INDIA; Parasanti, Inc., Dallas, TX; PAT LLC, Alameda, CA; PATHION Holdings, Inc., Campbell, CA; Pirl Technology, Inc., Frederick, MD; Polaron Analytics, Beavercreek, OH; PowerHouse, Danvers, MA; Puldly Resiliency Partners LLC, El Segundo, CA; Queens College, City University of New York, Queens, NY; Roboze, Inc., Houston, TX; Samiep Technology Innovations Private Limited, Maharashtra, INDIA; Service Robotics & Technologies, Inc., Springfield, VA; SimBlocks LLC, Orlando, FL; Slidesoft Technologies, Pleasant Hill, MO; Solar Jooce, Fairfield, OH; South Coast AI, Sherman, CT; Strogen Strategic Sustainability LLC, Washington, DC; Sustainable Water & Energy LLC, Estes Park, CO; Tellus Networked Sensor Solutions, Inc., Salt Lake City, UT; The Enterprise Center, Chattanooga, TN; The Mackinac Technology Company, Grand Rapids, MI; Vibrant Planet, PBC, Incline Village, NV; Voltai, Inc., Dartmouth, CANADA; and Wejo Limited, Manchester, UNITED KINGDOM, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and RISE intends to file additional written notifications disclosing all changes in membership.

On July 2, 2021, RISE filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal**

**Register** pursuant to Section 6(b) of the Act on August 23, 2021 (86 FR 47155).

The last notification was filed with the Department on November 5, 2021. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 24, 2021 (86 FR 67085).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2022–10217 Filed 5–11–22; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Countering Weapons of Mass Destruction

Notice is hereby given that, on April 1, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (“the Act”), Countering Weapons of Mass Destruction (“CWMD”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Kyros Tech, Inc., Sterling, VA; Mainstream Engineering Corporation, Rockledge, FL; and mLogica LLC, Orange, CA, have been added as parties to this venture.

Also, iSense LLC, Mountain View, CA; Mesmo, Inc., Waldorf, MD; SelectTech Services Corporation, Centerville, OH; TerraTracker, Inc., Livermore, CA; and Washington State University, Pullman, WA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and CWMD intends to file additional written notifications disclosing all changes in membership.

On January 31, 2018, CWMD filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 12, 2018 (83 FR 10750).

The last notification was filed with the Department on January 5, 2022. A notice was published in the **Federal**

**Register** pursuant to Section 6(b) of the Act on March 10, 2022 (87 FR 13758).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

[FR Doc. 2022–10220 Filed 5–11–22; 8:45 am]

**BILLING CODE 4410–11–P**

## DEPARTMENT OF JUSTICE

### Executive Office for Immigration Review

#### Immigration Court Practice Manual and the Board of Immigration Appeals Practice Manual; Public Forum

**AGENCY:** Executive Office for Immigration Review, DOJ.

**ACTION:** Notice of meeting and solicitation of feedback.

**SUMMARY:** The Executive Office for Immigration Review (“EOIR”) invites interested parties to attend a public forum to discuss and provide feedback on EOIR’s Immigration Court Practice Manual and the Board of Immigration Appeals Practice Manual. EOIR also invites interested parties to provide written feedback from the public on the practice manuals.

**DATES:** The public forum will be held via GoToWebinar on May 24, 2022, from 2:00–3:00 p.m. EDT.

**ADDRESSES:** The public forum will be held online via GoToWebinar. Please RSVP to [EngageWithEOIR@usdoj.gov](mailto:EngageWithEOIR@usdoj.gov) by 5:00 p.m. EDT on May 23, 2022, with the name(s) of the attendee(s), any relevant organization, and a valid email address.

#### Public Participation

This public forum is open to the public. Interested persons should RSVP to [EngageWithEOIR@usdoj.gov](mailto:EngageWithEOIR@usdoj.gov) by 5:00 p.m. EDT on May 23, 2022, with the name(s) of the attendee(s), any relevant organization, and a valid email address. EOIR will send webinar information and an agenda to those who RSVP. Attendance for this program will be limited to the first 500 participants to register.

EOIR also welcomes written feedback from the public. Written submissions may be submitted by email to [EngageWithEOIR@usdoj.gov](mailto:EngageWithEOIR@usdoj.gov) or by mail to Lauren Alder Reid, Assistant Director, Office of Policy, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 1800, Falls Church, VA 22041, and are due no later than 5:00 p.m. EDT on June 7, 2022. All media inquiries should be directed to the Communications and Legislative Affairs Division at [pao.eoir@usdoj.gov](mailto:pao.eoir@usdoj.gov).

#### FOR FURTHER INFORMATION CONTACT:

Lauren Alder Reid, Assistant Director, Office of Policy, Executive Office for Immigration Review, 5107 Leesburg Pike, Falls Church, VA 22041, telephone (703) 305–0289.

**SUPPLEMENTARY INFORMATION:** The Executive Office for Immigration Review (“EOIR”) maintains a Policy Manual, which contains a practice manual for the immigration courts, <https://www.justice.gov/eoir/eoir-policy-manual/part-ii-ocij-practice-manual>, and a practice manual for the Board of Immigration Appeals (“BIA”), <https://www.justice.gov/eoir/eoir-policy-manual/iii> (“the Practice Manuals”). The Practice Manuals provide uniform standards for practice before the immigration court and BIA.

EOIR is currently conducting a comprehensive review of the Practice Manuals, and welcomes all suggestions or concerns from the public to inform this review. In particular, EOIR is considering revisions to enhance procedural consistency across all immigration courts and courtrooms. Members of the public may submit feedback at the public forum or in writing to the email address or mailing address outlined above. The purpose of the above deadline for written feedback is to give the public the opportunity to contribute to this comprehensive review, but EOIR will continue to update the Practice Manuals as appropriate. Following the closing date for public comments on this comprehensive review, EOIR encourages interested parties to continue to submit comments about the Practice Manuals as they are “living documents,” and the ability for the public to submit comments is ongoing.

**Lauren Alder Reid,**

*Assistant Director, Office of Policy, Executive Office for Immigration Review.*

[FR Doc. 2022–10185 Filed 5–11–22; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Program Year (PY) 2022 Workforce Innovation and Opportunity Act (WIOA) Allotments; PY 2022 Wagner-Peyser Act Allotments and PY 2022 Workforce Information Grants

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** This notice announces allotments for PY 2022 for WIOA Title

I Youth, Adult, and Dislocated Worker Activities programs; allotments for Employment Service (ES) activities under the Wagner-Peyser Act for PY 2022 and the allotments of Workforce Information Grants to States for PY 2022.

**DATES:** The Department must receive comments on the formula used to allot funds to the Outlying Areas by June 13, 2022.

**ADDRESSES:** Questions on this notice can be submitted to the Employment and Training Administration, Office of Workforce Investment, 200 Constitution Ave. NW, Room S4209, Washington, DC 20210, Attention: Randy Painter, Unit Chief, (202) 693-3979, or Robert Kight, Division Chief, (202) 693-3937. Randy Painter's email is: [painter.randy@dol.gov](mailto:painter.randy@dol.gov). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1-877-889-5627 (TTY-TDD).

Commenters are advised that mail delivery in the Washington area may be delayed due to security concerns. The Department will receive hand-delivered comments at the above address. All overnight mail will be considered hand-delivered and must be received at the designated place by the date specified above. Please be advised that there may be a delay between when the mail is delivered to the building and when the relevant person receives it.

**Comments:** The Department will retain all comments on this notice and will release them upon request via email to any member of the public. The Department also will make all the comments it receives available for public inspection by appointment during normal business hours at the above address. If you need assistance to review the comments, the Department will provide you with appropriate aids such as readers or print magnifiers. The Department will make copies of this notice available, upon request, in large print, Braille, and electronic file. The Department also will consider providing the notice in other formats upon request. To schedule an appointment to review the comments and/or obtain the notice in an alternative format, contact Mr. Painter using the information provided above. The Department will retain all comments received without making any changes to the comments, including any personal information provided. The Department therefore cautions commenters not to include their personal information such as Social Security Numbers, personal addresses, telephone numbers, and

email addresses in their comments; this information would be released with the comment if the comments are requested. It is the commenter's responsibility to safeguard his or her information.

**FOR FURTHER INFORMATION CONTACT:** WIOA Youth Activities allotments Sara Hastings at (202) 693-3599; WIOA Adult and Dislocated Worker Activities and ES allotments—Randy Painter at (202) 693-3979; Workforce Information Grant allotments—Donald Haughton at (202) 693-2784. Individuals with hearing or speech impairments may access the telephone numbers above via TTY by calling the toll-free Federal Information Relay Service at 1-877-889-5627 (TTY/TDD).

**SUPPLEMENTARY INFORMATION:** The Department is announcing WIOA allotments for PY 2022 for Youth Activities, Adults and Dislocated Worker Activities, Wagner-Peyser Act PY 2022 allotments, and PY 2022 Workforce Information Grant allotments. This notice provides information on the amount of funds available during PY 2022 to states with an approved WIOA Combined or Unified State Plan, and information regarding allotments to the Outlying Areas.

On March 15, 2022, the Consolidated Appropriations Act, 2022, Public Law 117-103 was signed into law ("the Act"). The Act, Division H, Title I, Sections 106(b) and 107 of the Act allows the Secretary of Labor (Secretary) to set aside up to 0.5 percent of each discretionary appropriation for activities related to program integrity and 0.75 percent of most operating funds for evaluations. For 2022, as authorized by the Act, the Department has set aside \$11,489,000 of the Training and Employment Services (TES) and \$2,819,000 of the State Unemployment Insurance and Employment Services Operations (SUIESO) appropriations impacted in this FRN for these activities. ETA reserved these funds from the WIOA Adult, Youth, Dislocated Worker, Wagner-Peyser Act Employment Service, and Workforce Information Grant program budgets. Any funds not utilized for these reserve activities will be provided to the states. We also have attached tables listing the PY 2022 allotments for programs under WIOA Title I Youth Activities (Table A), Adult and Dislocated Workers Employment and Training Activities (Tables B and C, respectively), and the PY 2022 Wagner-Peyser Act allotments (Table D). We also have attached the PY 2022 Workforce Information Grant table (Table E).

**Youth Activities Allotments.** The appropriated level for PY 2022 for WIOA Youth Activities totals \$933,130,000. After reducing the appropriation by \$3,963,000 for set asides authorized by the Act, \$929,167,000 is available for Youth Activities. Table A includes a breakdown of the Youth Activities program allotments for PY 2022 and provides a comparison of these allotments to PY 2021 Youth Activities allotments for all States and Outlying Areas. The WIOA Youth formula has a section in WIOA for a reservation for Migrant and Seasonal Farmworker (MSFW) Youth if the appropriation exceeds \$925,000,000. Per WIOA 127(a)(1), ETA reserved 4 percent (\$325,200) of the excess amount for MSFW Youth. For the Native American Youth program, the total amount available is 1.5 percent of the total amount for Youth Activities (after set asides authorized by the Act), after the MSFW Youth reservation in accordance with WIOA section 127. The total funding available for the Outlying Areas was reserved at 0.25 percent of the amount appropriated for Youth Activities (after set asides authorized by the Act) after the amount reserved for MSFW Youth and Native American Youth (in accordance with WIOA section 127(b)(1)(B)(i)). On December 17, 2003, Public Law 108-188, the Compact of Free Association Amendments Act of 2003 ("the Compact"), was signed into law. The Compact specified that the Republic of Palau remained eligible for WIA Title I funding. See 48 U.S.C 1921d(f)(1)(B)(ix). WIOA sec. 512(g)(1) updated the Compact to refer to WIOA funding. The National Defense Authorization Act for Fiscal Year 2018 (Division A, Title XII, Subtitle F, Section 1259C(c) of Public Law 115-91) authorized WIOA Title I funding to Palau through FY 2024.

Under WIA, the Secretary had discretion for determining the methodology for distributing funds to all Outlying Areas. Under WIOA the Secretary must award the funds through a competitive process. However, for PY 2022, the Consolidated Appropriations Act, 2022 waives the competition requirement regarding funding to Outlying Areas (e.g., American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, and the United States Virgin Islands). For PY 2022, the Department used the same methodology used since PY 2000 (i.e., we distribute funds among the Outlying Areas by formula based on relative share of the number of unemployed, a minimum of 90 percent

of the prior year allotment percentage, a \$75,000 minimum, and a 130 percent stop gain of the prior year share). For the relative share calculation in PY 2022, the Department continued to use the data obtained from the 2010 Census for American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands. For the Republic of Palau, the Department used data from Palau's 2015 Census. The Department will accept comments on this methodology.

After the Department calculated the amount for the MSFW Youth, Outlying Areas and the Native American program, the amount available for PY 2022 allotments to the states is \$912,621,900. This total amount is below the required \$1 billion threshold specified in WIOA sec.

127(b)(1)(C)(iv)(IV); therefore, the Department did not apply the WIOA additional minimum provisions. Instead, as required by WIOA, the minimums of 90 percent of the prior year allotment percentage and 0.25 percent state minimum floor apply. WIOA also provides that no state may receive an allotment that is more than 130 percent of the allotment percentage for the state for the previous year. The three data factors required by WIOA sec. 127(b)(1)(C)(ii) for the PY 2022 Youth Activities state formula allotments are, summarized slightly, as follows:

(1) The average number of unemployed individuals in Areas of Substantial Unemployment (ASUs) for the 12-month period, July 2020–June 2021 in each state compared to the total number of unemployed individuals in ASUs in all states;

(2) Number of excess unemployed individuals or excess unemployed individuals in ASUs (depending on which is higher) averages for the same 12-month period used for ASU unemployed data compared to the total excess unemployed individuals or ASU excess number in all states; and

(3) Number of disadvantaged youth (age 16 to 21, excluding college students not in the workforce and military) from special tabulations of data from the American Community Survey (ACS), which the Department obtained from the Census Bureau in each state compared to the total number of disadvantaged youth in all states. ETA obtained updated data for use in PY 2018 and the same data must be used in PY 2022. The Census Bureau collected the data used in the special tabulations for disadvantaged youth between January 1, 2011–December 31, 2015.

For purposes of identifying ASUs for the Youth Activities allotment formula, the Department continued to use the

data made available by BLS (as described in the Local Area Unemployment Statistics (LAUS) Technical Memorandum No. S–21–12). For purposes of determining the number of disadvantaged youth, the Department used the special tabulations of ACS data available at: <https://www.dol.gov/agencies/eta/budget/formula/disadvantagedyouthadults>.

See TEGL No. 14–17 for further information.

*Adult Employment and Training Activities Allotments.* The total appropriated funds for Adult Activities in PY 2022 is \$870,649,000. After reducing the appropriated amount by \$3,024,000 for set asides authorized by the Act, \$867,625,000 remains for Adult Activities, of which \$865,455,937 is for states and \$2,169,063 is for Outlying Areas. Table B shows the PY 2022 Adult Employment and Training Activities allotments and a state-by-state comparison of the PY 2022 allotments to PY 2021 allotments.

In accordance with WIOA, the Department reserved the total available for the Outlying Areas at 0.25 percent of the full amount appropriated for Adult Activities (after set asides authorized by the Act). As discussed in the Youth Activities section above, in PY 2022 the Department will distribute the Adult Activities funding for the Outlying Areas, using the same principles, formula, and data as used for outlying areas for Youth Activities. The Department will accept comments on this methodology. After determining the amount for the Outlying Areas, the Department used the statutory formula to distribute the remaining amount available for allotments to the states.

The Department did not apply the WIOA minimum provisions for the PY 2022 allotments because the total amount available for the states was below the \$960 million threshold required for Adult Activities in WIOA sec. 132(b)(1)(B)(iv)(IV). Instead, as required by WIOA, the minimums of 90 percent of the prior year allotment percentage and 0.25 percent state minimum floor apply. WIOA also provides that no state may receive an allotment that is more than 130 percent of the allotment percentage for the state for the previous year. The three formula data factors for the Adult Activities program are the same as those used for the Youth Activities formula, except the Department used data for the number of disadvantaged adults (age 22 to 72, excluding college students not in the workforce and military).

*Dislocated Worker Employment and Training Activities Allotments.* The amount appropriated for Dislocated

Worker activities in PY 2022 totals \$1,376,412,000. The total appropriation includes formula funds for the states, while the National Reserve is used for National Dislocated Worker Grants, technical assistance and training, demonstration projects, Workforce Opportunity for Rural Communities, Community College Grants, and the Outlying Areas' Dislocated Worker allotments. After reducing the appropriated amount by \$4,502,000 for set asides authorized by the Act, a total of \$1,371,910,000 remains available for Dislocated Worker activities. The amount available for Outlying Areas is \$3,429,775, leaving \$296,579,225 for the National Reserve and a total of \$1,071,901,000 available for states. Table C shows the PY 2022 Dislocated Worker activities allotments and a state-by-state comparison of the PY 2022 allotments to PY 2021 allotments.

Similar to the Adult Activities program, the Department reserved the total available for the Outlying Areas at 0.25 percent of the full amount appropriated for Dislocated Worker Activities (after set asides authorized by the Act). Similar to Youth and Adult funds, instead of competition, in PY 2022 the Department will use the same *pro rata* share as the areas received for the PY 2022 WIOA Adult Activities program to distribute the Outlying Areas' Dislocated Worker funds, the same methodology used in PY 2021. The Department will accept comments on this methodology.

The three data factors required in WIOA sec. 132(b)(2)(B)(ii) for the PY 2022 Dislocated Worker state formula allotments are, summarized slightly, as follows:

(1) Relative number of unemployed individuals in each state, compared to the total number of unemployed individuals in all states, for the 12-month period, October 2020–September 2021;

(2) Relative number of excess unemployed individuals in each state, compared to the total excess number of unemployed individuals in all states, for the 12-month period, October 2020–September 2021; and

(3) Relative number of long-term unemployed individuals in each state, compared to the total number of long-term unemployed individuals in all states, for the 12-month period, October 2020–September 2021.

In PY 2022, under WIOA the Dislocated Worker formula uses minimum and maximum provisions. No state may receive an allotment that is less than 90 percent of the state's prior year allotment percentage (stop loss) or more than 130 percent of the state's



prior year allotment percentage (stop gain).

*Wagner-Peyser Act ES Allotments.* The appropriated level for PY 2022 for ES grants totals \$675,052,000. After reducing the appropriated amount by \$2,775,000 for set asides authorized by the Act, \$672,277,000 is available for ES grants. After determining the funding for Guam and the United States Virgin Islands, the Department calculated allotments to states using the formula set forth at section 6 of the Wagner-Peyser Act (29 U.S.C. 49e). The Department based PY 2022 formula allotments on each state's share of calendar year 2021 monthly averages of the civilian labor force (CLF) and unemployment. Section 6(b)(4) of the Wagner-Peyser Act requires the Secretary to set aside up to three percent of the total funds available for ES to ensure that each state will have sufficient resources to maintain statewide ES activities. In accordance with this provision, the Department included the three percent set aside funds in this total allotment. The Department distributed the set-aside funds in two steps to states that have experienced a reduction in their relative share of the total resources available this year from their relative share of the total resources available the previous year. In

Step 1, states that have a CLF below one million and are also below the median CLF density were maintained at 100 percent of their relative share of prior year resources. ETA calculated the median CLF density based on CLF data provided by the BLS for calendar year 2021. The Department distributed all remaining set-aside funds on a *pro-rata* basis in Step 2 to all other states experiencing reductions in relative share from the prior year but not meeting the size and density criteria for Step 1. The distribution of ES funds (Table D) includes \$670,638,223 for states, as well as \$1,638,777 for Outlying Areas.

Section 7(a) of the Wagner-Peyser Act (49 U.S.C. 49f(a)) authorizes states to use 90 percent of funds allotted to a state for labor exchange services and other career services such as job search and placement services to job seekers; appropriate recruitment services for employers; program evaluations; developing and providing labor market and occupational information; developing management information systems; and administering the work test for unemployment insurance claimants. Section 7(b) of the Wagner-Peyser Act states that 10 percent of the total sums allotted to each state must be reserved for use by the Governor to

provide performance incentives for public ES offices and programs, provide services for groups with special needs, and to provide for the extra costs of exemplary models for delivering services of the type described in section 7(a) and models for enhancing professional development and career advancement opportunities of state agency staff.

*Workforce Information Grants Allotments.* Total PY 2022 funding for Workforce Information Grants allotments to states is \$32,000,000. After reducing the total by \$44,000 for set asides authorized by the Act, \$31,956,000 is available for Workforce Information Grants. Table E contains the allotment figures for each state and Outlying Area. The Department distributes the funds by administrative formula, with a reserve of \$176,694 for Guam and the United States Virgin Islands. Guam and the United States Virgin Islands allotment amounts are partially based on CLF data. The Department distributes the remaining funds to the states with 40 percent distributed equally to all states and 60 percent distributed based on each state's share of CLF for the 12 months ending September 2021.

TABLE A—U.S. DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION, WIOA YOUTH ACTIVITIES STATE ALLOTMENTS, COMPARISON OF PY 2022 ALLOTMENTS VS PY 2021 ALLOTMENTS

State	PY 2021	PY 2022	Difference	% Difference
Total .....	\$918,577,000	\$928,841,800	\$10,264,800	1.12
Alabama .....	12,513,632	11,388,121	(1,125,511)	-8.99
Alaska .....	4,596,951	4,183,488	(413,463)	-8.99
Arizona .....	30,555,385	27,807,148	(2,748,237)	-8.99
Arkansas .....	6,462,908	5,881,616	(581,292)	-8.99
California .....	125,113,453	141,613,074	16,499,621	13.19
Colorado .....	10,424,367	13,703,113	3,278,746	31.45
Connecticut .....	8,846,154	10,925,731	2,079,577	23.51
Delaware .....	2,583,296	2,350,947	(232,349)	-8.99
District of Columbia .....	4,638,230	4,221,055	(417,175)	-8.99
Florida .....	44,306,510	42,902,700	(1,403,810)	-3.17
Georgia .....	19,124,371	17,404,272	(1,720,099)	-8.99
Hawaii .....	2,933,243	3,855,827	922,584	31.45
Idaho .....	2,835,184	2,580,180	(255,004)	-8.99
Illinois .....	43,380,155	39,986,105	(3,394,050)	-7.82
Indiana .....	16,938,860	15,415,332	(1,523,528)	-8.99
Iowa .....	5,139,301	5,512,351	373,050	7.26
Kansas .....	5,469,726	4,977,764	(491,962)	-8.99
Kentucky .....	13,210,957	12,022,727	(1,188,230)	-8.99
Louisiana .....	16,900,060	15,380,021	(1,520,039)	-8.99
Maine .....	2,327,935	2,578,709	250,774	10.77
Maryland .....	12,015,195	13,647,037	1,631,842	13.58
Massachusetts .....	14,740,638	19,376,968	4,636,330	31.45
Michigan .....	37,126,700	33,787,421	(3,339,279)	-8.99
Minnesota .....	10,854,308	10,497,536	(356,772)	-3.29
Mississippi .....	11,497,306	10,463,206	(1,034,100)	-8.99
Missouri .....	11,189,065	10,182,689	(1,006,376)	-8.99
Montana .....	2,256,341	2,281,555	25,214	1.12
Nebraska .....	3,213,346	2,924,329	(289,017)	-8.99
Nevada .....	12,205,226	11,823,134	(382,092)	-3.13
New Hampshire .....	2,933,243	2,669,419	(263,824)	-8.99
New Jersey .....	24,956,081	26,917,413	1,961,332	7.86

TABLE A—U.S. DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION, WIOA YOUTH ACTIVITIES STATE ALLOTMENTS, COMPARISON OF PY 2022 ALLOTMENTS VS PY 2021 ALLOTMENTS—Continued

State	PY 2021	PY 2022	Difference	% Difference
New Mexico .....	8,559,309	7,789,461	(769,848)	-8.99
New York .....	56,398,671	68,508,072	12,109,401	21.47
North Carolina .....	23,769,771	22,179,701	(1,590,070)	-6.69
North Dakota .....	2,256,341	2,281,555	25,214	1.12
Ohio .....	41,201,337	37,495,574	(3,705,763)	-8.99
Oklahoma .....	8,264,948	7,521,576	(743,372)	-8.99
Oregon .....	10,931,465	10,396,634	(534,831)	-4.89
Pennsylvania .....	42,231,894	38,433,440	(3,798,454)	-8.99
Puerto Rico .....	25,906,013	23,575,954	(2,330,059)	-8.99
Rhode Island .....	3,383,527	3,633,400	249,873	7.38
South Carolina .....	9,690,097	8,818,543	(871,554)	-8.99
South Dakota .....	2,256,341	2,281,555	25,214	1.12
Tennessee .....	16,074,750	14,787,821	(1,286,929)	-8.01
Texas .....	66,978,946	73,435,799	6,456,853	9.64
Utah .....	4,222,059	3,842,315	(379,744)	-8.99
Vermont .....	2,256,341	2,281,555	25,214	1.12
Virginia .....	12,963,082	15,915,259	2,952,177	22.77
Washington .....	22,996,776	20,928,382	(2,068,394)	-8.99
West Virginia .....	6,609,801	6,015,297	(594,504)	-8.99
Wisconsin .....	12,040,412	10,957,464	(1,082,948)	-8.99
Wyoming .....	2,256,341	2,281,555	25,214	1.12
State Total .....	902,536,349	912,621,900	10,085,551	1.12
American Samoa .....	241,930	244,726	2,796	1.16
Guam .....	821,183	830,674	9,491	1.16
Northern Marianas .....	448,662	453,848	5,186	1.16
Palau .....	75,000	75,000	0	0.00
Virgin Islands .....	675,221	683,025	7,804	1.16
Outlying Areas Total .....	2,261,996	2,287,273	25,277	1.12
Native Americans .....	13,778,655	13,932,627	153,972	1.12

TABLE B—U.S. DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION, WIOA ADULT ACTIVITIES STATE ALLOTMENTS, COMPARISON OF PY 2022 ALLOTMENTS VS PY 2021 ALLOTMENTS

State	PY 2021	PY 2022	Difference	% Difference
Total .....	\$860,675,000	\$867,625,000	\$6,950,000	0.81
Alabama .....	12,159,393	11,031,823	(1,127,570)	-9.27
Alaska .....	4,323,978	3,923,005	(400,973)	-9.27
Arizona .....	28,989,270	26,301,024	(2,688,246)	-9.27
Arkansas .....	6,260,965	5,680,370	(580,595)	-9.27
California .....	120,643,129	136,107,910	15,464,781	12.82
Colorado .....	9,489,310	12,435,718	2,946,408	31.05
Connecticut .....	8,052,523	9,952,310	1,899,787	23.59
Delaware .....	2,485,077	2,254,630	(230,447)	-9.27
District of Columbia .....	4,211,055	3,820,554	(390,501)	-9.27
Florida .....	45,250,678	43,812,497	(1,438,181)	-3.18
Georgia .....	18,383,564	16,678,811	(1,704,753)	-9.27
Hawaii .....	2,790,201	3,656,552	866,351	31.05
Idaho .....	2,545,842	2,309,760	(236,082)	-9.27
Illinois .....	40,871,014	37,628,657	(3,242,357)	-7.93
Indiana .....	15,591,116	14,145,314	(1,445,802)	-9.27
Iowa .....	3,649,986	4,015,782	365,796	10.02
Kansas .....	4,646,637	4,215,743	(430,894)	-9.27
Kentucky .....	13,142,365	11,923,641	(1,218,724)	-9.27
Louisiana .....	16,359,261	14,842,227	(1,517,034)	-9.27
Maine .....	2,217,611	2,452,358	234,747	10.59
Maryland .....	11,570,245	13,150,215	1,579,970	13.66
Massachusetts .....	12,557,707	16,456,845	3,899,138	31.05
Michigan .....	34,262,349	31,085,117	(3,177,232)	-9.27
Minnesota .....	9,113,373	8,866,650	(246,723)	-2.71
Mississippi .....	11,037,403	10,013,878	(1,023,525)	-9.27
Missouri .....	10,388,598	9,425,238	(963,360)	-9.27
Montana .....	2,146,308	2,163,640	17,332	0.81
Nebraska .....	2,466,580	2,237,848	(228,732)	-9.27
Nevada .....	11,982,987	11,527,452	(455,535)	-3.80
New Hampshire .....	2,790,201	2,531,459	(258,742)	-9.27
New Jersey .....	24,557,671	26,373,115	1,815,444	7.39
New Mexico .....	8,295,640	7,526,365	(769,275)	-9.27

TABLE B—U.S. DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION, WIOA ADULT ACTIVITIES STATE ALLOTMENTS, COMPARISON OF PY 2022 ALLOTMENTS VS PY 2021 ALLOTMENTS—Continued

State	PY 2021	PY 2022	Difference	% Difference
New York .....	55,327,748	66,720,730	11,392,982	20.59
North Carolina .....	23,044,630	21,080,103	(1,964,527)	-8.52
North Dakota .....	2,146,308	2,163,640	17,332	0.81
Ohio .....	38,449,912	34,884,358	(3,565,554)	-9.27
Oklahoma .....	7,841,676	7,114,498	(727,178)	-9.27
Oregon .....	10,636,982	10,110,571	(526,411)	-4.95
Pennsylvania .....	39,079,073	35,455,175	(3,623,898)	-9.27
Puerto Rico .....	26,940,143	24,441,918	(2,498,225)	-9.27
Rhode Island .....	2,898,260	3,135,173	236,913	8.17
South Carolina .....	9,361,171	8,493,087	(868,084)	-9.27
South Dakota .....	2,146,308	2,163,640	17,332	0.81
Tennessee .....	15,690,266	14,440,407	(1,249,859)	-7.97
Texas .....	63,486,775	69,525,372	6,038,597	9.51
Utah .....	3,293,860	2,988,412	(305,448)	-9.27
Vermont .....	2,146,308	2,163,640	17,332	0.81
Virginia .....	12,066,044	14,854,061	2,788,017	23.11
Washington .....	21,709,068	19,695,933	(2,013,135)	-9.27
West Virginia .....	6,477,259	5,876,607	(600,652)	-9.27
Wisconsin .....	10,403,176	9,438,464	(964,712)	-9.27
Wyoming .....	2,146,308	2,163,640	17,332	0.81
State Total .....	858,523,312	865,455,937	6,932,625	0.81
American Samoa .....	229,728	231,650	1,922	0.84
Guam .....	779,764	786,288	6,524	0.84
Northern Marianas .....	426,033	429,597	3,564	0.84
Palau .....	75,000	75,000	0	0.00
Virgin Islands .....	641,163	646,528	5,365	0.84
Outlying Areas Total .....	2,151,688	2,169,063	17,375	0.81

TABLE C—U.S. DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION, WIOA DISLOCATED WORKER ACTIVITIES STATE ALLOTMENTS, COMPARISON OF PY 2022 ALLOTMENTS VS PY 2021 ALLOTMENTS

State	PY 2021	PY 2022	Difference	% Difference
Total .....	\$1,339,473,000	\$1,371,910,000	\$32,437,000	2.42
Alabama .....	15,759,598	14,354,136	(1,405,462)	-8.92
Alaska .....	7,633,223	6,952,482	(680,741)	-8.92
Arizona .....	36,101,896	32,882,281	(3,219,615)	-8.92
Arkansas .....	5,494,037	5,004,071	(489,966)	-8.92
California .....	149,720,406	172,716,686	22,996,280	15.36
Colorado .....	12,159,989	15,998,009	3,838,020	31.56
Connecticut .....	12,337,604	13,434,048	1,096,444	8.89
Delaware .....	3,066,268	2,792,814	(273,454)	-8.92
District of Columbia .....	10,070,193	9,172,120	(898,073)	-8.92
Florida .....	51,290,725	46,716,550	(4,574,175)	-8.92
Georgia .....	33,419,357	30,438,974	(2,980,383)	-8.92
Hawaii .....	2,119,112	2,787,961	668,849	31.56
Idaho .....	2,028,089	1,847,221	(180,868)	-8.92
Illinois .....	51,358,724	46,778,485	(4,580,239)	-8.92
Indiana .....	14,963,227	13,628,787	(1,334,440)	-8.92
Iowa .....	4,937,575	4,497,235	(440,340)	-8.92
Kansas .....	4,544,741	4,139,435	(405,306)	-8.92
Kentucky .....	14,548,366	13,250,923	(1,297,443)	-8.92
Louisiana .....	18,464,174	16,817,514	(1,646,660)	-8.92
Maine .....	2,322,923	2,242,181	(80,742)	-3.48
Maryland .....	13,613,404	17,212,091	3,598,687	26.43
Massachusetts .....	20,199,573	22,669,765	2,470,192	12.23
Michigan .....	34,356,689	31,292,714	(3,063,975)	-8.92
Minnesota .....	10,349,177	9,426,224	(922,953)	-8.92
Mississippi .....	15,297,756	13,933,482	(1,364,274)	-8.92
Missouri .....	12,028,805	10,956,060	(1,072,745)	-8.92
Montana .....	1,753,248	1,596,891	(156,357)	-8.92
Nebraska .....	2,203,020	2,006,552	(196,468)	-8.92
Nevada .....	15,074,356	14,994,671	(79,685)	-0.53
New Hampshire .....	2,326,314	2,118,850	(207,464)	-8.92
New Jersey .....	33,932,137	36,473,636	2,541,499	7.49
New Mexico .....	16,389,748	14,928,088	(1,461,660)	-8.92
New York .....	65,468,288	82,585,211	17,116,923	26.15
North Carolina .....	25,754,357	23,457,549	(2,296,808)	-8.92

TABLE C—U.S. DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION, WIOA DISLOCATED WORKER ACTIVITIES STATE ALLOTMENTS, COMPARISON OF PY 2022 ALLOTMENTS VS PY 2021 ALLOTMENTS—Continued

State	PY 2021	PY 2022	Difference	% Difference
North Dakota .....	864,826	813,070	(51,756)	-5.98
Ohio .....	33,700,620	30,695,154	(3,005,466)	-8.92
Oklahoma .....	6,740,873	6,139,713	(601,160)	-8.92
Oregon .....	11,192,082	10,443,575	(748,507)	-6.69
Pennsylvania .....	47,138,266	42,934,413	(4,203,853)	-8.92
Puerto Rico .....	69,068,117	62,908,530	(6,159,587)	-8.92
Rhode Island .....	3,900,287	3,552,454	(347,833)	-8.92
South Carolina .....	12,933,091	11,779,701	(1,153,390)	-8.92
South Dakota .....	1,451,487	1,322,041	(129,446)	-8.92
Tennessee .....	15,841,903	14,429,101	(1,412,802)	-8.92
Texas .....	65,619,333	83,358,322	17,738,989	27.03
Utah .....	3,862,696	3,518,216	(344,480)	-8.92
Vermont .....	1,103,914	1,005,465	(98,449)	-8.92
Virginia .....	15,538,166	14,152,452	(1,385,714)	-8.92
Washington .....	24,433,523	22,254,509	(2,179,014)	-8.92
West Virginia .....	11,649,037	10,610,160	(1,038,877)	-8.92
Wisconsin .....	11,939,631	10,874,839	(1,064,792)	-8.92
Wyoming .....	1,104,049	1,005,588	(98,461)	-8.92
State Total .....	1,059,169,000	1,071,901,000	12,732,000	1.20
American Samoa .....	357,527	366,291	8,764	2.45
Guam .....	1,213,551	1,243,297	29,746	2.45
Northern Marianas .....	663,037	679,289	16,252	2.45
Palau .....	116,723	118,592	1,869	1.60
Virgin Islands .....	997,845	1,022,306	24,461	2.45
Outlying Areas Total .....	3,348,683	3,429,775	81,092	2.42
National Reserve .....	276,955,317	296,579,225	19,623,908	7.09

TABLE D—U.S. DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION, EMPLOYMENT SERVICE (WAGNER-PEYSER), PY 2022 VS PY 2021 ALLOTMENTS

State	PY 2021	PY 2022	Difference	% Difference
Total .....	\$668,253,000	\$672,277,000	\$4,024,000	0.60
Alabama .....	8,493,359	8,132,935	(360,424)	-4.24
Alaska .....	7,264,229	7,307,972	43,743	0.60
Arizona .....	14,480,622	14,420,924	(59,698)	-0.41
Arkansas .....	5,064,818	4,980,892	(83,926)	-1.66
California .....	79,341,643	82,214,927	2,873,284	3.62
Colorado .....	11,558,593	12,535,126	976,533	8.45
Connecticut .....	7,379,439	7,441,172	61,733	0.84
Delaware .....	1,880,875	1,900,099	19,224	1.02
District of Columbia .....	1,931,319	1,918,142	(13,177)	-0.68
Florida .....	38,157,663	38,879,016	721,353	1.89
Georgia .....	19,277,250	18,713,831	(563,419)	-2.92
Hawaii .....	2,868,272	2,851,951	(16,321)	-0.57
Idaho .....	6,052,395	6,088,841	36,446	0.60
Illinois .....	26,407,178	26,228,600	(178,578)	-0.68
Indiana .....	12,527,754	12,199,107	(328,647)	-2.62
Iowa .....	5,955,328	5,922,601	(32,727)	-0.55
Kansas .....	5,419,149	5,369,400	(49,749)	-0.92
Kentucky .....	7,981,844	7,699,960	(281,884)	-3.53
Louisiana .....	8,709,267	8,565,336	(143,931)	-1.65
Maine .....	3,599,303	3,620,977	21,674	0.60
Maryland .....	12,238,257	12,301,343	63,086	0.52
Massachusetts .....	15,027,451	14,909,252	(118,199)	-0.79
Michigan .....	19,947,034	19,223,218	(723,816)	-3.63
Minnesota .....	11,205,122	10,949,342	(255,780)	-2.28
Mississippi .....	5,359,095	5,216,683	(142,412)	-2.66
Missouri .....	11,443,768	11,234,763	(209,005)	-1.83
Montana .....	4,946,048	4,975,831	29,783	0.60
Nebraska .....	4,784,749	4,580,711	(204,038)	-4.26
Nevada .....	6,916,575	6,837,890	(78,685)	-1.14
New Hampshire .....	2,708,149	2,612,731	(95,418)	-3.52
New Jersey .....	18,576,861	18,696,713	119,852	0.65
New Mexico .....	5,550,337	5,583,759	33,422	0.60
New York .....	38,617,826	40,021,771	1,403,945	3.64
North Carolina .....	19,324,850	18,987,978	(336,872)	-1.74
North Dakota .....	5,036,558	5,066,886	30,328	0.60

TABLE D—U.S. DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION, EMPLOYMENT SERVICE (WAGNER-PEYSER), PY 2022 VS PY 2021 ALLOTMENTS—Continued

State	PY 2021	PY 2022	Difference	% Difference
Ohio .....	22,991,322	22,422,864	(568,458)	-2.47
Oklahoma .....	6,882,777	6,664,893	(217,884)	-3.17
Oregon .....	8,184,234	8,219,250	35,016	0.43
Pennsylvania .....	25,873,748	25,780,925	(92,823)	-0.36
Puerto Rico .....	6,186,754	5,922,930	(263,824)	-4.26
Rhode Island .....	2,265,237	2,226,894	(38,343)	-1.69
South Carolina .....	8,856,996	8,758,024	(98,972)	-1.12
South Dakota .....	4,654,937	4,682,968	28,031	0.60
Tennessee .....	12,452,163	12,337,195	(114,968)	-0.92
Texas .....	52,704,570	56,597,052	3,892,482	7.39
Utah .....	5,726,955	5,574,504	(152,451)	-2.66
Vermont .....	2,180,637	2,193,768	13,131	0.60
Virginia .....	15,557,121	15,417,551	(139,570)	-0.90
Washington .....	15,710,820	15,464,004	(246,816)	-1.57
West Virginia .....	5,328,035	5,360,119	32,084	0.60
Wisconsin .....	11,423,220	11,191,329	(231,891)	-2.03
Wyoming .....	3,611,526	3,633,273	21,747	0.60
State Total .....	666,624,032	670,638,223	4,014,191	0.60
Guam .....	312,691	314,574	1,883	0.60
Virgin Islands .....	1,316,277	1,324,203	7,926	0.60
Outlying Areas Total .....	1,628,968	1,638,777	9,809	0.60

TABLE E—U.S. DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION, WORKFORCE INFORMATION GRANTS TO STATES, PY 2022 VS PY 2021 ALLOTMENTS

State	PY 2021	PY 2022	Difference	% Difference
Total .....	\$31,950,000	\$31,956,000	\$6,000	0.02
Alabama .....	506,353	506,864	511	0.10
Alaska .....	284,363	285,764	1,401	0.49
Arizona .....	662,635	669,420	6,785	1.02
Arkansas .....	402,420	404,322	1,902	0.47
California .....	2,481,342	2,470,599	(10,743)	-0.43
Colorado .....	612,512	619,163	6,651	1.09
Connecticut .....	465,877	455,646	(10,231)	-2.20
Delaware .....	301,540	301,848	308	0.10
District of Columbia .....	291,923	292,570	647	0.22
Florida .....	1,433,659	1,461,300	27,641	1.93
Georgia .....	835,600	851,132	15,532	1.86
Hawaii .....	320,532	320,990	458	0.14
Idaho .....	349,266	350,918	1,652	0.47
Illinois .....	988,047	973,900	(14,147)	-1.43
Indiana .....	637,407	637,447	40	0.01
Iowa .....	443,566	438,745	(4,821)	-1.09
Kansas .....	419,747	422,438	2,691	0.64
Kentucky .....	481,407	478,220	(3,187)	-0.66
Louisiana .....	487,139	488,417	1,278	0.26
Maine .....	324,729	324,031	(698)	-0.21
Maryland .....	622,290	612,523	(9,767)	-1.57
Massachusetts .....	679,820	681,313	1,493	0.22
Michigan .....	816,629	804,659	(11,970)	-1.47
Minnesota .....	607,863	601,540	(6,323)	-1.04
Mississippi .....	391,019	394,407	3,388	0.87
Missouri .....	604,947	606,182	1,235	0.20
Montana .....	306,992	307,706	714	0.23
Nebraska .....	366,802	364,735	(2,067)	-0.56
Nevada .....	422,026	426,010	3,984	0.94
New Hampshire .....	332,835	333,085	250	0.08
New Jersey .....	776,244	765,235	(11,009)	-1.42
New Mexico .....	354,602	356,841	2,239	0.63
New York .....	1,347,196	1,339,210	(7,986)	-0.59
North Carolina .....	825,655	835,128	9,473	1.15
North Dakota .....	291,668	291,967	299	0.10
Ohio .....	920,322	913,859	(6,463)	-0.70
Oklahoma .....	458,591	463,701	5,110	1.11
Oregon .....	490,768	498,069	7,301	1.49
Pennsylvania .....	1,003,087	985,407	(17,680)	-1.76
Puerto Rico .....	366,973	369,856	2,883	0.79

TABLE E—U.S. DEPARTMENT OF LABOR, EMPLOYMENT AND TRAINING ADMINISTRATION, WORKFORCE INFORMATION GRANTS TO STATES, PY 2022 VS PY 2021 ALLOTMENTS—Continued

State	PY 2021	PY 2022	Difference	% Difference
Rhode Island .....	309,099	308,165	(934)	-0.30
South Carolina .....	526,505	525,780	(725)	-0.14
South Dakota .....	299,083	299,791	708	0.24
Tennessee .....	632,761	636,477	3,716	0.59
Texas .....	1,882,605	1,907,849	25,244	1.34
Utah .....	435,134	439,232	4,098	0.94
Vermont .....	284,079	281,711	(2,368)	-0.83
Virginia .....	758,607	745,168	(13,439)	-1.77
Washington .....	706,823	704,841	(1,982)	-0.28
West Virginia .....	337,023	337,779	756	0.22
Wisconsin .....	606,266	608,147	1,881	0.31
Wyoming .....	278,942	279,199	257	0.09
State Total .....	31,773,320	31,779,306	5,986	0.02
Guam .....	93,023	93,031	8	0.01
Virgin Islands .....	83,657	83,663	6	0.01
Outlying Areas Total .....	176,680	176,694	14	0.01

**Angela Hanks,**

Acting Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2022-10205 Filed 5-11-22; 8:45 am]

BILLING CODE 4510-FN-P

**NUCLEAR REGULATORY COMMISSION**

[Docket No. 50-391; NRC-2022-0111]

**Tennessee Valley Authority; Watts Bar Nuclear Plant, Unit 2; Correction**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Exemption; issuance; correction.

**SUMMARY:** The U.S. Nuclear Regulatory Commission is correcting a notice that was published in the **Federal Register** (FR) on May 6, 2022, regarding the exemption issuance for Tennessee Valley Authority, Watts Bar Nuclear Plant, Unit 2. This action is necessary to correct the NRC Docket ID in the notice title and **ADDRESSES** section.

**DATES:** May 12, 2022.

**ADDRESSES:** Please refer to Docket ID NRC-2022-0111 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2022-0111. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301-415-0624; email: [Stacy.Schumann@nrc.gov](mailto:Stacy.Schumann@nrc.gov). For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov). The Request for Exemption from Requirements of paragraph 26.205(d)(4) of title 10 of the *Code of Federal Regulations* (10 CFR), 26.206(d)(6), and 10 CFR 26.205(d)(7) is available in ADAMS under Accession No. ML22105A579. The Watts Bar Nuclear Plant, Unit 2—Response to Request for Additional Information and Clarification Regarding Request for Exemption from Requirements of 10 CFR 26.205(d)(4), 26.205(d)(6) and 26.205(d)(7), "Fitness for Duty Programs—Work Hours," is available in ADAMS under Accession No. ML22115A232.

- *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](mailto:PDR.Resource@nrc.gov) or call 1-800-397-4209 or 301-415-4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Kimberly Green, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington,

DC 20555-0001, telephone: 301-415-1627, email: [Kimberly.Green@nrc.gov](mailto:Kimberly.Green@nrc.gov).

**SUPPLEMENTARY INFORMATION:** In the FR on May 6, 2022, in FR Doc. 2022-09709, on page 27190, in the notice title after agency name, correct "NRC-2021-0104" to read "NRC-2022-0111." In the **ADDRESSES** section, correct "NRC-2021-0104" to read "NRC-2022-0111."

Dated: May 9, 2022.

For the Nuclear Regulatory Commission.

**Kimberly J. Green,**

Senior Project Manager, Plant Licensing Branch II-2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2022-10197 Filed 5-11-22; 8:45 am]

BILLING CODE 7590-01-P

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-94865; File No. SR-NYSEAMER-2022-15]

**Self-Regulatory Organizations; NYSE American LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Amend Rule 7.31-E(h)(3)**

May 6, 2022.

On March 9, 2022, NYSE American LLC filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to modify certain factors relevant to the quote instability calculation for Discretionary Pegged Orders. The proposed rule change was

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

published for comment in the **Federal Register** on March 28, 2022.<sup>3</sup>

Section 19(b)(2) of the Act<sup>4</sup> provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is May 12, 2022.

The Commission is extending the 45-day time period for Commission action on the proposed rule change. The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> the Commission designates June 26, 2022, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR-NYSEAMER-2022-15).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2022-10145 Filed 5-11-22; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-94866; File No. SR-MEMX-2021-10]

### Self-Regulatory Organizations; MEMX LLC; Order Disapproving a Proposed Rule Change, as Modified by Amendment No. 1, To Establish a Retail Midpoint Liquidity Program

May 6, 2022.

#### I. Introduction

On August 18, 2021, MEMX LLC (“MEMX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act

of 1934 (“Act” or “Exchange Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to establish a Retail Midpoint Liquidity Program (“Program”). The proposed rule change was published for comment in the **Federal Register** on September 8, 2021.<sup>3</sup> On October 19, 2021, the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.<sup>4</sup> On December 7, 2021, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act<sup>5</sup> to determine whether to approve or disapprove the proposed rule change.<sup>6</sup> On January 27, 2022, the Exchange filed Amendment No. 1 to the proposed rule change, which supersedes the original filing in its entirety, and on February 14, 2022, the Commission published for comment Amendment No. 1 and designated a longer period for Commission action on the proposed rule change.<sup>7</sup> The Commission received comments on the proposed rule change,<sup>8</sup> and the Exchange submitted a response to comments at the time it filed Amendment No. 1.<sup>9</sup>

This order disapproves the proposed rule change, as modified by Amendment No. 1, because, as discussed below, the Exchange has not met its burden under the Act and the Commission’s Rules of Practice to demonstrate that its proposal is consistent with the requirements of the Act, including, in particular, the requirements in Section 6(b)(5) of the Act that the rules of a national securities exchange be designed to promote just and equitable principles of trade and to protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers<sup>10</sup> and the objectives in Section 11A of the Exchange Act, including the

maintenance of fair and orderly markets.<sup>11</sup>

#### II. Description of the Proposal

The Exchange proposes to establish a Retail Midpoint Liquidity Program to provide retail investors with price improvement opportunities at or better than the midpoint of the national best bid and offer (“Midpoint Price”). Specifically, the Exchange proposes to allow Retail Member Organizations (“RMOs”)<sup>12</sup> to submit a new type of order on behalf of retail investors that is designed to execute at the Midpoint Price or better (a “Retail Midpoint Order”).<sup>13</sup> Contra-side liquidity would be provided by (i) a new non-displayed Midpoint Peg order that would be restricted to interacting only with incoming Retail Midpoint Orders through the proposed Program (“Retail Midpoint Liquidity Order” or “RML Order”)<sup>14</sup> as well as (ii) resting liquidity on the Exchange’s order book that would offer greater price improvement than the Midpoint Price,<sup>15</sup> and (iii) regular non-restricted Midpoint Peg orders that users designate as also eligible to interact with Retail Midpoint Orders (“Eligible Midpoint Peg Orders”).<sup>16</sup>

MEMX would disseminate a Retail Liquidity Identifier through its proprietary market data feeds, MEMOIR Depth<sup>17</sup> and MEMOIR Top,<sup>18</sup> and the appropriate securities information processor (“SIP”) when RML Order interest aggregates to form at least one round lot for a particular security, provided that such interest is resting at the Midpoint Price<sup>19</sup> and is priced at

<sup>11</sup> 15 U.S.C. 78k-1(a)(1)(C).

<sup>12</sup> See MEMX Rule 11.21(a)(1).

<sup>13</sup> A Retail Midpoint Order would have a Midpoint Peg instruction (*i.e.*, to re-price to the Midpoint Price in response to changes in the national best bid and offer). As proposed, a Retail Midpoint Order must have a time-in-force instruction of Immediate-or-Cancel. See MEMX Rule 11.6(o)(1) (defining Immediate-or-Cancel). See also MEMX Rules 11.6(h)(2) (defining Midpoint Peg) and 11.21(a) (defining Retail Order).

<sup>14</sup> See proposed MEMX Rule 11.22(a)(2).

<sup>15</sup> See *infra* note 24.

<sup>16</sup> The Exchange proposes to revise MEMX Rule 11.6(h)(2)’s definition of Midpoint Peg to provide that a Midpoint Peg order (other than a RML Order) would generally not be eligible to execute against a Retail Midpoint Order, provided, however, that a user submitting a Midpoint Peg order would be able to include an instruction that such order is eligible to execute against a Retail Midpoint Order through the execution process described in proposed MEMX Rule 11.22(c).

<sup>17</sup> See MEMX Rule 13.8(a).

<sup>18</sup> See MEMX Rule 13.8(b).

<sup>19</sup> The Exchange explains that a RML Order could have a limit price that is less aggressive than the Midpoint Price, in which case it would not be eligible to trade with an incoming Retail Midpoint Order and therefore would not be included for

<sup>3</sup> See Securities Exchange Act Release No. 94487 (Mar. 22, 2022), 87 FR 17349 (Mar. 28, 2022).

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> *Id.*

<sup>6</sup> 17 CFR 200.30-3(a)(31).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 92844 (September 1, 2021), 86 FR 50411 (September 8, 2021).

<sup>4</sup> See Securities Exchange Act Release No. 93383 (October 19, 2021), 86 FR 58964 (October 25, 2021).

<sup>5</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>6</sup> See Securities Exchange Act Release No. 93727 (December 7, 2021), 86 FR 70874 (December 13, 2021) (“Order Instituting Proceedings”).

<sup>7</sup> See Securities Exchange Act Release No. 94189 (February 8, 2022), 87 FR 8305 (February 14, 2022).

<sup>8</sup> All comments received by the Commission on the proposed rule change are available on the Commission’s website at: <https://www.sec.gov/comments/sr-memx-2021-10/srmemx202110.htm>.

<sup>9</sup> See Letter from Adrian Griffiths, Head of Market Structure, MEMX, dated January 27, 2022 (“MEMX Letter”).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

least \$0.001 better than the national best bid (“NBB”) or national best offer (“NBO”).<sup>20</sup> The Retail Liquidity Identifier would reflect the symbol and the side (buy and/or sell) of the RML Order interest but would not include the price or size of that interest.<sup>21</sup>

#### Priority and Order Execution

Proposed MEMX Rule 11.22(c) sets forth the execution priority rules for the Program. First, an incoming Retail Midpoint Order would execute against resting liquidity priced more aggressively than the Midpoint Price. Specifically, proposed MEMX Rule 11.22(c)(2) provides that if there is: (1) A Limit Order<sup>22</sup> of Odd Lot<sup>23</sup> size that is displayed by the MEMX system (“Displayed Odd Lot Order”) and that is priced more aggressively than the Midpoint Price and/or (2) an order that is not displayed by the MEMX system (“Non-Displayed Order”) and that is priced more aggressively than the Midpoint Price, resting on the MEMX Book,<sup>24</sup> an incoming Retail Midpoint Order would first execute against any such orders pursuant to the Exchange’s standard price/time priority in accordance with MEMX Rules 11.9 and

purposes of Retail Liquidity Identifier dissemination since it would not reflect interest available to trade with Retail Midpoint Orders. See Amendment No. 1, *supra* note 7, at 8308.

<sup>20</sup> The Exchange explains that because RML Orders are proposed to be only Midpoint Peg orders, they would always represent at least \$0.001 price improvement over the NBB or NBO, with two exceptions: (1) In a locked or crossed market; and (2) a sub-dollar security when the security’s spread is less than \$0.002. See *id.* The Exchange would only disseminate the Retail Liquidity Identifier for sub-dollar securities if the spread in the security is greater than or equal to \$0.002, meaning the Midpoint Price represents at least \$0.001 price improvement over the NBB or NBO. See *id.*

<sup>21</sup> The Exchange would remove the Retail Liquidity Identifier when remaining RML Order interest no longer aggregates to form at least one round lot, or in situations where there is no actionable RML Order interest (such as when the market is locked or crossed). See *id.* at 8308–09. A limited exception for some exchange retail liquidity programs from the Quote Rule has been granted to allow those exchanges to disseminate identifiers including symbol and side, but not price or size, to attract retail interest and provide them with price improvement over displayed prices. See, e.g., Securities Exchange Act Release No. 93217 (September 30, 2021) (Order Granting Application of Investors Exchange LLC for a Limited Exemption from Rule 602 of Regulation NMS for its Retail Price Improvement Program).

<sup>22</sup> See MEMX Rule 11.8(b).

<sup>23</sup> See MEMX Rule 11.6(q)(2).

<sup>24</sup> The Exchange states that Displayed Odd Lot Orders and Non-Displayed Orders are the only types of orders that could rest on the MEMX Book at a price that is more aggressive than the Midpoint Price, as any displayed buy (sell) order that is at least one round lot in size would be eligible to form the NBB (NBO). See Amendment No. 1, *supra* note 7, at 8309 n.41.

11.10 before executing against resting RML Orders.<sup>25</sup>

Second, after executing against resting liquidity priced more aggressively than the Midpoint Price, proposed MEMX Rule 11.22(c)(3) states that any unfilled portion of a Retail Midpoint Order would next execute against RML Orders at the Midpoint Price in time priority.

Third, proposed MEMX Rule 11.22(c)(4) states that after executing against all liquidity that is priced more aggressively than the Midpoint Price and all RML Orders, Retail Midpoint Orders would execute against Eligible Midpoint Peg Orders at the Midpoint Price in time priority.<sup>26</sup>

### III. Discussion and Commission Findings

Under Section 19(b)(2)(C) of the Act,<sup>27</sup> the Commission shall approve a proposed rule change of a self-regulatory organization (“SRO”) if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to such organization.<sup>28</sup> The Commission shall disapprove a proposed rule change if it does not make such a finding.<sup>29</sup> The Commission’s Rules of Practice, under Rule 700(b)(3), state that the “burden to demonstrate that a proposed rule change is consistent with the [Exchange] Act and the rules and regulations issued

<sup>25</sup> MEMX initially proposed that execution of a Retail Midpoint Order against such Displayed Odd Lot Orders and Non-Displayed Orders would have executed at the Midpoint Price irrespective of the prices at which such orders were ranked. Thus, any additional price improvement over the Midpoint Price would not have accrued to the retail investor’s Retail Midpoint Order, but rather would have accrued to the Displayed Odd Lot Order or Non-Displayed Order. The Exchange subsequently revised its proposal to accrue any price improvement to the incoming Retail Midpoint Order. See also MEMX Letter at 4.

<sup>26</sup> MEMX initially proposed to execute Retail Midpoint Orders only against RML Orders, to the exclusion of any other available Midpoint Peg order. Two commenters objected to that treatment and were critical of those aspects of the proposal that would have limited the ability of retail orders to access all available midpoint interest and the extent to which that could have harmed retail investors. See Letter from Joseph Saluzzi and Sal Arnuk, Themis Trading LLC, dated December 20, 2021, and Letter from Sean Paylor, Acadian Asset Management LLC, dated January 10, 2022. MEMX subsequently submitted Amendment No. 1 to its proposal to allow Eligible Midpoint Peg Orders to participate in the Program. Another commenter expressed concern about a lack of transparency in the rebate and fee tiering structure behind the proposed Program. See Letter from Reginald Neumann Maximillian Smythers, dated April 1, 2022. The Exchange has not yet filed an accompanying filing to propose a fee schedule in connection with this proposal.

<sup>27</sup> See 15 U.S.C. 78s(b)(2)(C).

<sup>28</sup> See 15 U.S.C. 78s(b)(2)(C)(i).

<sup>29</sup> See 15 U.S.C. 78s(b)(2)(C)(ii); see also 17 CFR 201.700(b)(3).

thereunder . . . is on the self-regulatory organization that proposed the rule change” and that a “mere assertion that the proposed rule change is consistent with those requirements . . . is not sufficient.”<sup>30</sup>

The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding,<sup>31</sup> and any failure of an SRO to provide this information may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Act and the applicable rules and regulations.<sup>32</sup> Moreover, “unquestioning reliance” on an SRO’s representations in a proposed rule change is not sufficient to justify Commission approval of a proposed rule change.<sup>33</sup>

For the reasons discussed below, the Commission is disapproving the proposed rule change, as modified by Amendment No. 1, because the information before the Commission is insufficient to support a finding that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.

In summary, MEMX has an existing Midpoint Peg order type and is proposing a new Midpoint Peg order type (*i.e.*, RML Orders) as part of the proposed Program. From the perspective of an incoming Retail Midpoint Order, the current and proposed Midpoint-priced order types are indistinguishable because, under the proposed Program, both would result in a midpoint execution for the Retail Midpoint Order. From the perspective of market participants posting each order type, however, MEMX proposes to treat them differently by providing RML Orders with execution priority over Eligible Midpoint Peg Orders. This proposed disparate treatment raises concerns about whether the proposed Program is consistent with the Act.

As part of its filing, MEMX bears the burden to provide a sufficient legal analysis to demonstrate how its proposed rules are consistent with the Act, which requires, among other

<sup>30</sup> See 17 CFR 201.700(b)(3).

<sup>31</sup> See *id.*

<sup>32</sup> See *id.*

<sup>33</sup> *Susquehanna Int’l Group, LLP v. Securities and Exchange Commission*, 866 F.3d 442, 447 (D.C. Cir. 2017).



things, that MEMX's rules be designed to promote just and equitable principles of trade and to protect investors and the public interest, and not permit unfair discrimination between customers, issuers, brokers, or dealers.<sup>34</sup>

To demonstrate how providing RML Orders with execution priority over Eligible Midpoint Peg Orders is consistent with the Act, MEMX asserts the following: (1) Because RML Orders will contribute to the Retail Liquidity Identifier, which is designed to attract retail orders to the Exchange, RML Orders deserve the same priority advantage that MEMX provides to displayed orders to reward displayed orders for contributing to price discovery; (2) because the Retail Liquidity Identifier would signal the presence of a buyer or seller at the Midpoint Price, awarding higher priority to RML Orders would balance the risks and incentives associated with entering RML Orders; and (3) market participants that post Midpoint Peg orders can avoid losing priority to RML Orders when trading with Retail Midpoint Orders by switching to RML Orders.

The Commission is disapproving this proposed rule change, as modified by Amendment No. 1, because, as discussed in detail below, MEMX has not met its burden under the Act and the Commission's Rules of Practice to demonstrate how its proposal to provide RML Orders with execution priority over Eligible Midpoint Peg Orders is consistent with the requirements of the Act, including, in particular, the requirements in Section 6(b)(5) of the Act that a national securities exchange's rules be designed to promote just and equitable principles of trade and to protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers, and the objectives in Section 11A of the Exchange Act, including the maintenance of fair and orderly markets.

#### 1. Price-Time Priority

The rules of a national securities exchange specify the priority of orders for execution in its matching engine. When exchange rules award higher execution priority to one type of order over another, they must do so in a manner that is consistent with the Act. One reason to provide execution priority to one liquidity-providing order type over another may be that the favored order is more aggressive and takes more risk in a way that provides benefits to the market and liquidity

seekers. An exchange may seek to attract those types of orders because they directly improve the exchange's market quality and increase trading volume. Offering a priority advantage to the more aggressive order is an incentive to attract those types of orders to the exchange and may be justified as promoting just and equitable principles of trade, avoiding unfair discrimination between broker-dealers and between their customers, and contributing to the maintenance of fair and orderly markets to the extent the priority advantage rewards those liquidity providers for the risks they take and benefits they provide to the market when they are the first to provide the most aggressive widely-available best prices to the broadest population of liquidity seekers.

MEMX Rule 11.9 establishes the priority of orders and describes how MEMX uses "price-time" priority to rank orders for execution priority. Under its price-time priority rule, MEMX affords priority to the highest-priced order to buy (or lowest-priced order to sell) over orders with less aggressive prices.<sup>35</sup> For equally priced orders, MEMX's rules specify that it will rank them in time priority (*i.e.*, with the first order entered into the MEMX system having priority over later-arriving orders)<sup>36</sup> and it also generally awards priority to displayed orders over non-displayed orders.<sup>37</sup>

However, for its proposed Program, MEMX would deviate from its price-time priority rule by always awarding priority to the RML Orders (*i.e.*, Midpoint Peg orders that can only trade against Retail Midpoint Orders) over Eligible Midpoint Peg Orders (*i.e.*, Midpoint Peg orders that will trade with any counterparty, including Retail Midpoint Orders), even though both orders are equally priced at the Midpoint Price and would otherwise execute in time priority outside the proposed Program.<sup>38</sup> For the reasons further explained below, the Commission finds that MEMX has not met its burden to support a finding that

providing RML Orders with execution priority over Eligible Midpoint Peg Orders under the circumstances MEMX proposes is consistent with the Act.

#### a. Analogizing Non-Displayed Orders to Displayed Orders

MEMX analogizes RML Orders to fully displayed orders (*e.g.*, a limit order whose price and size is published by the Exchange) because they would contribute to the Retail Liquidity Identifier. Specifically, MEMX states that "it is appropriate to execute RML Orders, which contribute to the dissemination of the Retail Liquidity Identifier, ahead of Eligible Midpoint Peg Orders, which do not contribute to the dissemination of the Retail Liquidity Identifier and are not displayed on the MEMX Book."<sup>39</sup> MEMX asserts that such treatment is "consistent with general principles of order priority on the Exchange . . . [where] orders that contribute to price discovery receive priority ahead of non-displayed orders that do not contribute to market transparency."<sup>40</sup> "As such," the Exchange continues, it "does not believe that the proposed order priority under the RML Program raises any novel issues for the Commission to consider."<sup>41</sup>

MEMX's proposal does present a novel issue because MEMX seeks to award execution priority to a new type of Midpoint Peg order (*i.e.*, RML Orders) over an existing type of Midpoint Peg order (*i.e.*, Eligible Midpoint Peg Orders). First, both Eligible Midpoint Peg Orders and RML Orders would be classified as pegged orders under MEMX rules and MEMX's rules specifically provide that pegged orders cannot be displayed.<sup>42</sup> Second, RML Orders would not contribute to market transparency or price discovery in the same way that displayed orders do because RML Orders are pegged to the Midpoint Price that solely is derived from displayed quotes and does not impact or contribute to those displayed quotes. The information conveyed by the Retail Liquidity Identifier (*i.e.*, the existence of one round lot of RML Order interest at the Midpoint Price) is different than the information on price and size that displayed orders provide to inform price discovery. Displayed orders help establish the best available

<sup>35</sup> See MEMX Rule 11.9(a)(1).

<sup>36</sup> See MEMX Rule 11.9(a)(2)(A) ("Where orders to buy (sell) are entered into the System at the same price, the order clearly established as the first entered into the System at such particular price shall have precedence at that price, up to the number of shares of stock specified in the order.").

<sup>37</sup> See, *e.g.*, MEMX Rule 11.9(a)(2)(A)(i) and (ii).

<sup>38</sup> See MEMX Rule 11.9(a)(2)(A)(iv). As proposed, if MEMX has a 90 share Eligible Midpoint Peg Order resting on its order book and later receives a 90 share RML Order, it would execute an incoming 20 share Retail Midpoint Order against the later-arriving RML Order even though the Eligible Midpoint Peg Order arrived first in time (and even though the 90 share RML Order was not of sufficient size to trigger the Retail Liquidity Identifier).

<sup>39</sup> See Amendment No. 1, *supra* note 7, at 8309.

<sup>40</sup> See *id.* at 8310.

<sup>41</sup> See *id.*

<sup>42</sup> See MEMX Rule 11.8(c)(3). Because they are pegged to a reference price (the Midpoint Price), RML Orders would be classified as Pegged Orders under MEMX rules and MEMX's Pegged Order rule specifically provides that "Pegged Orders are not eligible to include a Displayed instruction." *Id.*

<sup>34</sup> 15 U.S.C. 78f(b)(5).

prices in the market, which broadly benefits investors, serves the public interest, and facilitates fair and orderly markets by informing not only trading decisions but also security and portfolio valuation, prices of derivative securities like listed options, and the calculation of market indices. MEMX's comparison of the broad benefits that displayed orders contribute to the market to the narrow benefit that the Retail Liquidity Identifier would provide to RMOs to justify endowing RML Orders with the same exception to its price-time execution priority rule that MEMX provides to displayed orders, without more, does not sufficiently address how the proposal would promote just and equitable principles of trade, be consistent with the maintenance of fair and orderly markets, and not permit unfair discrimination between customers, issuers, brokers, or dealers.

Third, Midpoint Peg orders are not eligible to be displayed for a number of reasons, including, among others, prohibitions on the display of quotes in subpenny increments,<sup>43</sup> requirements to avoid locking the market,<sup>44</sup> and the impact that a displayed Midpoint Peg order would have on the Midpoint Price. Thus, MEMX proposes to reward RML Orders for doing something (*i.e.*, contributing to the Retail Liquidity Identifier) that Eligible Midpoint Peg Orders simply are not permitted to do. Without more, MEMX has not sufficiently explained how providing a priority advantage to one type of Midpoint Peg order (RML Orders) over another (Eligible Midpoint Peg Orders), based on something that Eligible Midpoint Peg Orders are not permitted to do, promotes just and equitable principles of trade, is consistent with the maintenance of fair and orderly markets, and does not permit unfair discrimination between customers, issuers, brokers, or dealers.

#### b. Balancing the Risks and Incentives Associated With Entering RML Orders

MEMX also states that "entering RML Orders involves some additional risk for those market participants as the Retail Liquidity Identifier will signal that there is a buyer or seller that is willing to trade with retail investors at the Midpoint Price."<sup>45</sup> "Thus," the Exchange states, "the RML Program seeks to balance the risks and incentives associated with entering RML Orders. . . ." <sup>46</sup> Consequently, MEMX proposes to reward RML Orders with

execution priority over Eligible Midpoint Peg Orders to the same extent that it rewards displayed orders with priority over non-displayed orders.

In general, some market participants may be hesitant to display regular limit orders on an exchange's order book because of the potential for adverse selection when trading against counterparties more associated with price movements and the inability to avoid interacting with those counterparties. To encourage display of trading interest on its order book in light of those risks, an exchange might offer displayed orders enhanced execution priority over non-displayed orders. Rewarding displayed orders with priority over non-displayed orders compensates them for the risks they take in displaying prices that are available for any liquidity taker and for the chance of adverse selection when trading with certain counterparties.

However, market participants posting RML Orders would face little risk (if any) from the Retail Liquidity Identifier because RML Orders are uniquely counterparty-restricted whereas displayed orders are not so restricted. In other words, RML Orders would experience significantly different risk compared to displayed orders on MEMX's order book because MEMX would restrict the counterparties with which an RML Order could trade to only permit executions against retail orders to the exclusion of all other types of orders and counterparties. Market participants placing RML Orders would be specifically seeking to interact exclusively with retail customers because they likely regard retail customers to be attractive counterparties that submit smaller-sized orders that typically are less predictive of very short-term price movements.<sup>47</sup>

Despite this significant difference, MEMX proposes to confer the same execution priority benefit to restricted RML Orders that it grants to unrestricted displayed limit orders. However, MEMX's proposal is designed to effectively eliminate the risk of adverse selection when trading with non-retail counterparties more associated with price movements and RML Orders would not be exposed to a level of execution risk in the Program that is comparable to what displayed orders face on MEMX's order book. The Retail Liquidity Identifier and counterparty

restriction would be a benefit to RMOs that permit an otherwise non-displayed order to advertise its presence to the very counterparty with which the poster seeks to trade (and is only permitted to trade with by the terms of the RML Order). Compounding advantages does not appear to balance the risks and incentives of entering RML Orders that MEMX said it seeks to balance.

Accordingly, the Exchange's assertion that the Program "seeks to balance the risks and incentives" is misplaced because the Retail Liquidity Identifier should not generate additional risks to RMOs commensurate with the risks experienced by market participants posting regular displayed orders on MEMX's order book. Moreover, as stated above, market participants placing RML Orders would instead benefit from the Retail Liquidity Identifier because it is intended to attract the desirable retail counterparties with whom they specifically seek to trade and with whom, aside from the proposed Program, they may have fewer opportunities to interact.

Consequently, MEMX is proposing to reward counterparty-restricted RML Orders for contributing to a Retail Liquidity Identifier that benefits them and MEMX has not sufficiently explained why those compounded benefits are consistent with the Act. Further, MEMX has not sufficiently explained why that different treatment proposed between brokers, dealers, or customers when such brokers, dealers, or customers post each different order type is not unfairly discriminatory. Without more, MEMX has not carried its burden to sufficiently analyze how its proposed disparate treatment in execution priority between two types of Midpoint Peg orders promotes just and equitable principles of trade, protects investors and the public interest, contributes to the maintenance of fair and orderly markets, and is not designed to permit unfair discrimination.

#### 2. Choosing Between Two Types of Midpoint Peps

MEMX states that its users are free to select which Midpoint Peg order type they wish to submit if they want to interact with Retail Midpoint Orders, and would do so knowing their advantages and disadvantages, thus making its proposal to award RML Orders with execution priority over Eligible Midpoint Peg Orders not unfairly discriminatory.<sup>48</sup> As discussed above, MEMX is proposing disparate treatment between two Midpoint Peg

<sup>47</sup> See, e.g., Amendment No. 1, *supra* note 7, at 8306 ("[T]he Exchange believes that market makers and other sophisticated market participants generally value interacting with retail orders because they are smaller and not likely to be part of a larger parent order that can move a stock price, causing a loss to the market maker.").

<sup>48</sup> See Amendment No. 1, *supra* note 7, at 8313.

<sup>43</sup> See 17 CFR 242.612.

<sup>44</sup> See 17 CFR 242.610(d).

<sup>45</sup> See Amendment No. 1, *supra* note 7, at 8313.

<sup>46</sup> See *id.*

order types by proposing to reward RML Orders with execution priority over Eligible Midpoint Peg Orders when interacting with Retail Midpoint Orders. MEMX cannot resolve potential unfair discrimination in favor of RML Orders over Eligible Midpoint Peg Orders by relying on the fact that users can instead use RML Orders; doing so does not convert unfair discrimination into fair discrimination. When MEMX chooses to offer two Midpoint Peg order types but treats them differently, each order type must independently be consistent with the Act and any discriminatory treatment must also be consistent with the Act. The consistency of one order type with the requirements of the Act is independent of, and cannot be contingent on, the existence of a substitute.

### 3. MEMX Has Failed To Meet Its Burden

When assessing this proposed rule change, as modified by Amendment No. 1, the Commission must consider its consistency with the Act and the applicable rules and regulations issued thereunder. As stated above, under the Commission's Rules of Practice, the "burden to demonstrate that a proposed rule change is consistent with the Exchange Act and the rules and regulations issued thereunder . . . is on the self-regulatory organization that proposed the rule change."<sup>49</sup> For the foregoing reasons, the Exchange has not met its burden to demonstrate that it would be consistent with the Act for the Exchange to provide a priority advantage to one type of midpoint peg (RML Orders) over another type of midpoint peg (Eligible Midpoint Peg Orders). As a result, the Commission does not have sufficient information to find that the Exchange's proposal would promote just and equitable principles of trade and protect investors and the public interest, not permit unfair discrimination between customers, issuers, brokers, or dealers, and promote the maintenance of fair and orderly markets. Accordingly, the Commission must disapprove the proposal because the Exchange has not met its burden to demonstrate that the proposal is consistent with the Act, including Section 6(b)(5) and Section 11A of the Act.<sup>50</sup>

### IV. Conclusion

For the reasons set forth above, the Commission does not find, pursuant to

Section 19(b)(2) of the Act, that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with Section 6(b)(5) of the Act.<sup>51</sup>

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>52</sup> that the proposed rule change (SR-MEMX-2021-10), as modified by Amendment No. 1, is disapproved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>53</sup>

**J. Matthew DeLesDernier**,

*Assistant Secretary*.

[FR Doc. 2022-10152 Filed 5-11-22; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-94863; File No. SR-MEMX-2022-11]

### Self-Regulatory Organizations; MEMX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Exchange's Fee Schedule

May 6, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 29, 2022, MEMX LLC ("MEMX" 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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Commission a proposed rule change to amend the Exchange's fee schedule applicable to Members<sup>3</sup> (the "Fee Schedule") pursuant to Exchange Rules 15.1(a) and (c). The Exchange proposes to implement the changes to the Fee Schedule pursuant to this proposal on

May 2, 2022. The text of the proposed rule change is provided in Exhibit 5.

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The purpose of the proposed rule change is to amend the Fee Schedule to: (i) Adopt a new volume-based pricing incentive, referred to by the Exchange as the Step-Up Additive Rebate, in which a qualifying Member will receive an additive rebate for executions of certain orders in securities priced at or above \$1.00 per share that add displayed liquidity to the Exchange; (ii) reduce the rebate provided under Liquidity Provision Tier 1 for executions of orders in securities priced at or above \$1.00 per share that add displayed liquidity to the Exchange; and (iii) reduce the rebate provided under DLI Tier 2 for executions of orders in securities priced at or above \$1.00 per share that add displayed liquidity to the Exchange.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues, to which market participants may direct their order flow. Based on publicly available information, no single registered equities exchange currently has more than approximately 16% of the total market share of executed volume of equities trading.<sup>4</sup> Thus, in such a low-concentrated and highly competitive market, no single equities

<sup>49</sup> Rule 700(b)(3), Commission Rules of Practice, 17 CFR 201.700(b)(3).

<sup>50</sup> In disapproving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>51</sup> 15 U.S.C. 78f(b)(5).

<sup>52</sup> 15 U.S.C. 78s(b)(2).

<sup>53</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Exchange Rule 1.5(p).

<sup>4</sup> Market share percentage calculated as of April 27, 2022. The Exchange receives and processes data made available through consolidated data feeds (*i.e.*, CTS and UTDF).

exchange possesses significant pricing power in the execution of order flow, and the Exchange currently represents approximately 4% of the overall market share.<sup>5</sup> The Exchange in particular operates a “Maker-Taker” model whereby it provides rebates to Members that add liquidity to the Exchange and charges fees to Members that remove liquidity from the Exchange. The Fee Schedule sets forth the standard rebates and fees applied per share for orders that add and remove liquidity, respectively. Additionally, in response to the competitive environment, the Exchange also offers tiered pricing, which provides Members with opportunities to qualify for higher rebates or lower fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

#### Adoption of Step-Up Additive Rebate

The Exchange currently provides a standard rebate of \$0.0020 per share for executions of orders in securities priced at or above \$1.00 per share that add displayed liquidity to the Exchange (such orders, “Added Displayed Volume”). The Exchange also currently offers various volume-based tiers and incentives in which a Member may receive an enhanced or additive rebate for executions of Added Displayed Volume by achieving the specified volume criteria that corresponds to a particular tier/incentive. The Exchange now proposes to adopt a new volume-based incentive, referred to by the Exchange as the Step-Up Additive Rebate, in which the Exchange will provide an additive rebate of \$0.0002 per share for executions of certain orders that constitute Added Displayed Volume for a Member that qualifies for the Step-Up Additive Rebate by achieving a Step-Up ADAV (other than Retail Orders)<sup>6</sup> from April 2022 of at

<sup>5</sup> *Id.*

<sup>6</sup> As set forth on the Fee Schedule, “ADAV” means the average daily added volume calculated as the number of shares added per day, which is calculated on a monthly basis, and “Step-Up ADAV” means ADAV in the relevant baseline month subtracted from current ADAV. As set forth in Exchange Rule 11.21(a), a “Retail Order” means an agency or riskless principal order that meets the criteria of FINRA Rule 5320.03 that originates from a natural person and is submitted to the Exchange by a Retail Member Organization, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. As proposed, Retail Orders that add volume are not included in the calculations of ADAV and Step-Up ADAV for

least 0.07% of the TCV.<sup>7</sup> As proposed, a Member that qualifies for the Step-Up Additive Rebate will receive the additive rebate of \$0.0002 per share<sup>8</sup> in addition to the rebate that is otherwise applicable (including a rebate provided under another pricing tier/incentive) for each of such Member’s executions of orders that constitute Added Displayed Volume, except: (i) Orders that establish the national best bid or offer (“NBBO”) if such Member qualifies for the Exchange’s NBBO Setter Tier;<sup>9</sup> and (ii) and Retail Orders.<sup>10</sup> The Exchange notes that the Step-Up Additive Rebate will not apply to executions of orders in securities priced below \$1.00 per share.

The Exchange believes that the proposed Step-Up Additive Rebate

purposes of determining whether a Member qualifies for the Step-Up Additive Rebate.

<sup>7</sup> As set forth on the Fee Schedule, “TCV” means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

<sup>8</sup> The proposed pricing for the Step-Up Additive Rebate is referred to by the Exchange on the Fee Schedule under the new description “Step-Up Additive Rebate” with a Fee Code of “X” to be appended to the otherwise applicable Fee Code assigned by the Exchange on the monthly invoices for qualifying executions. The Exchange notes that because the determination of whether a Member qualifies for a certain pricing tier/incentive (including the Step-Up Additive Rebate) for a particular month will not be made until after the month-end, the Exchange will provide the Fee Codes otherwise applicable to such transactions on the execution reports provided to Members during the month and will only designate the Fee Codes applicable to the achieved pricing tier/incentive on the monthly invoices, which are provided after such determination has been made, as the Exchange does for its tier/incentive pricing today.

<sup>9</sup> The Exchange notes that a Member that qualifies for the Exchange’s NBBO Setter Tier currently receives an additive rebate of \$0.0003 per share for executions of Added Displayed Volume (other than Retail Orders) that establish the NBBO (“Setter Volume”). See the Exchange’s Fee Schedule. Because executions of Setter Volume already receive this relatively high additive rebate under the NBBO Setter Tier, the Exchange proposes that the Step-Up Additive Rebate would not apply to such transactions. Thus, as proposed, a Member that qualifies for the NBBO Setter Tier would continue to receive the additive rebate of \$0.0003 per share for executions of Setter Volume under the NBBO Setter Tier but would not also receive the additive rebate of \$0.0002 per share under the Step-Up Additive Rebate even if the Member qualifies for the Step-Up Additive Rebate.

<sup>10</sup> The Exchange notes that it currently provides a rebate of \$0.0035 per share for executions of Retail Orders that constitute Added Displayed Volume, which is the highest base rebate (*i.e.*, excluding any enhanced and/or additive rebates resulting from pricing tiers/incentives) that the Exchange currently provides with respect to any type of transaction effected on the Exchange. Because the base rebate for this type of transaction is already high relative to other types of transactions, the Exchange proposes that the Step-Up Additive Rebate would not apply to such transactions. This is consistent with the Exchange’s application of the \$0.0003 per share additive rebate provided under NBBO Setter Tier, which also does not apply to executions of Retail Orders. See the Exchange’s Fee Schedule.

provides an incremental incentive for Members to strive for higher ADAV on the Exchange (above their ADAV in the month immediately preceding the effectiveness of this proposal—*i.e.*, April 2022) to receive the proposed additive rebate for qualifying executions of Added Displayed Volume. As such, the proposed Step-Up Additive Rebate is designed to incentivize Members that provide liquidity on the Exchange to increase their orders that add liquidity to the Exchange in order to qualify for the \$0.0002 per share additive rebate for qualifying executions of Added Displayed Volume, which, in turn, the Exchange believes would encourage the submission of additional Added Displayed Volume to the Exchange, thereby promoting price discovery and contributing to a deeper and more liquid market to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue. The Exchange notes that the proposed Step-Up Tier Additive Rebate is comparable to other volume-based incentives and discounts, which have been widely adopted by exchanges (including the Exchange), including pricing incentives that provide an enhanced rebate for firms that achieve a specified Step-Up ADAV threshold.<sup>11</sup>

#### Reduced Rebate Under Liquidity Provision Tier 1

The Exchange also proposes to reduce the rebate provided under Liquidity Provision Tier 1 for executions of Added Displayed Volume from \$0.00325 per share to \$0.0032 per share.<sup>12</sup> The Exchange believes that the proposed rebate represents only a modest decrease from the current rebate provided under Liquidity Provision Tier 1 for executions of Added Displayed Volume. The purpose of reducing the enhanced rebate for executions of Added Displayed Volume under Liquidity Provision Tier 1 is for business and competitive reasons, as the

<sup>11</sup> See, *e.g.*, the Exchange’s Fee Schedule, which reflects enhanced rebates for executions of Added Displayed Volume for Members that qualify for the Liquidity Provision Tiers by achieving certain specified volume thresholds, including thresholds based on Step-Up ADAV; see also the Cboe BZX Exchange, Inc. equities trading fee schedule on its public website (available at [https://www.cboe.com/us/equities/membership/fee\\_schedule/bzx/](https://www.cboe.com/us/equities/membership/fee_schedule/bzx/)), which reflects enhanced rebates for executions of added displayed volume for firms that qualify for the “Step-Up Tiers” by achieving certain specified volume thresholds, including thresholds based on Step-Up ADAV.

<sup>12</sup> The proposed pricing for Liquidity Provision Tier 1 is referred to by the Exchange on the Fee Schedule under the existing description “Added displayed volume, Liquidity Provision Tier 1” with a Fee Code of “B1”, “D1” or “J1”, as applicable, to be provided by the Exchange on the monthly invoices provided to Members.

Exchange believes the reduction of such rebate would decrease the Exchange's expenditures with respect to its transaction pricing in a manner that is still consistent with the Exchange's overall pricing philosophy of encouraging added displayed liquidity. The Exchange does not propose to change the required criteria for a Member to qualify for Liquidity Provision Tier 1 or the rebate provided under Liquidity Provision Tier 1 for executions of orders in securities priced below \$1.00 per share.

#### Reduced Rebate Under DLI Tier 2

Lastly, the Exchange proposes to reduce the rebate provided under DLI Tier 2 for executions of Added Displayed Volume from \$0.0031 per share to \$0.0030 per share.<sup>13</sup> The Exchange believes that the proposed rebate represents only a modest decrease from the current rebate provided under DLI Tier 2 for executions of Added Displayed Volume. The Exchange does not propose to change the required criteria for a Member to qualify for DLI Tier 2 or the rebate provided under DLI Tier 2 for executions of orders in securities priced below \$1.00 per share.

The DLI Tiers are designed to encourage Members to promote price discovery and market quality by quoting at the NBBO for a significant portion of each day in a large number of securities, generally, and in a targeted group of securities (*i.e.*, the DLI Target Securities), in particular, thereby benefitting the Exchange and investors by providing improved trading conditions for all market participants through narrower bid-ask spreads and increased depth of liquidity available at the NBBO in a broad base of securities, including the DLI Target Securities specifically, and committing capital to support the execution of orders.<sup>14</sup> The purpose of reducing the enhanced rebate for executions of Added Displayed Volume under DLI Tier 2 is for business and competitive reasons, as the Exchange believes the reduction of such rebate would decrease the Exchange's expenditures with respect to

its transaction pricing in a manner that is still consistent with the Exchange's overall pricing philosophy of encouraging added displayed liquidity and promoting the price discovery and market quality objectives of the DLI Tiers described above.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>15</sup> in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,<sup>16</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As discussed above, the Exchange operates in a highly fragmented and competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient, and the Exchange represents only a small percentage of the overall market. The Commission and the courts have repeatedly expressed their 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."<sup>17</sup>

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products, in response to new or different pricing structures being introduced into the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. The Exchange believes the proposal reflects a reasonable and competitive pricing structure designed to incentivize market participants to

direct additional orders that add liquidity to the Exchange, which the Exchange believes would deepen liquidity and promote market quality on the Exchange to the benefit of all market participants, as well as to decrease the Exchange's expenditures with respect to its transaction pricing in a manner that is still consistent with the Exchange's overall pricing philosophy of encouraging added displayed liquidity.

As noted above, volume-based incentives and discounts have been widely adopted by exchanges (including the Exchange),<sup>18</sup> and are reasonable, equitable and not unfairly discriminatory because they are open to all members on an equal basis and provide additional benefits or discounts that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns, and the introduction of higher volumes of orders into the price and volume discovery process. The Exchange believes that the proposed Step-Up Additive Rebate is comparable to other incentives currently offered by other exchanges, as well as the Exchange,<sup>19</sup> and is reasonable, equitable and not unfairly discriminatory for these same reasons, as it provides Members with an additional incentive to achieve a certain volume threshold on the Exchange, is available to all Members and, as noted above, is designed to encourage Members to increase their orders that add liquidity on the Exchange in order to qualify for an additive rebate for qualifying executions of Added Displayed Volume, which, in turn, the Exchange believes would encourage the submission of additional Added Displayed Volume to the Exchange, thereby promoting price discovery and contributing to a deeper and more liquid market to the benefit of all market participants. As such, the Exchange believes the proposed additive rebate for qualifying executions of Added Displayed Volume provided under the Step-Up Additive Rebate for qualifying Members is reasonably related to the market quality benefits that such incentive is designed to promote.

The Exchange also believes it is reasonable, equitable and not unfairly discriminatory for the \$0.0002 additive rebate provided under the Step-Up Additive Rebate to not apply to executions of Setter Volume or Retail Orders that constitute Added Displayed Volume, as such orders already receive

<sup>13</sup> The proposed pricing for DLI Tier 2 is referred to by the Exchange on the Fee Schedule under the existing description "Added displayed volume, DLI Tier 2" with a Fee Code of "Bq2", "Dq2" or "Jq2", as applicable, to be provided by the Exchange on the monthly invoices provided to Members.

<sup>14</sup> See the Exchange's Fee Schedule for additional details regarding the Exchange's DLI Tiers and DLI Target Securities. See also Securities Exchange Act Release No. 92150 (June 10, 2021), 86 FR 32090 (June 16, 2021) (SR-MEMX-2021-07) (notice of filing and immediate effectiveness of fee changes adopted by the Exchange, including the adoption of DLI).

<sup>15</sup> 15 U.S.C. 78f.

<sup>16</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>17</sup> Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

<sup>18</sup> See *supra* note 11.

<sup>19</sup> *Id.*

a relatively high additive rebate and base rebate, respectively.<sup>20</sup> However, the Exchange notes that the proposed Step-Up Additive Rebate will not adversely impact any Member's ability to qualify for reduced fees or enhanced rebates offered under other pricing tiers/incentives; should a Member not meet the required criteria, the Member will merely not receive the corresponding additive rebate.

The Exchange also believes that the proposed reduced rebates for executions of Added Displayed Volume provided under Liquidity Provision Tier 1 and DLI Tier 2 are reasonable and consistent with an equitable allocation of fees and rebates, in that the Exchange believes that each such reduced rebate represents only a modest decrease from the current rebate provided under the respective tier for executions of Added Displayed Volume (*i.e.*, from \$0.00325 per share to \$0.0032 per share under Liquidity Provision Tier 1 and from \$0.0031 per share to \$0.0030 per share under DLI Tier 2), and such changes are designed to decrease the Exchange's expenditures with respect to its transaction pricing in a manner that is still consistent with the Exchange's overall pricing philosophy of encouraging added displayed liquidity. The Exchange further believes that such proposed reduced rebates are equitably allocated and not unfairly discriminatory because they will continue to apply equally to all Members, in that all Members will continue to have the opportunity to achieve the required criteria under such tiers, which the Exchange is not proposing to modify with this proposal, and, in turn, qualify for an enhanced rebate for executions of Added Displayed Volume, and the more stringent criteria under the Liquidity Provision Tiers and the DLI Tiers would continue to correlate to, and remain commensurate with, the corresponding tier's higher rebate.

For the reasons discussed above, the Exchange submits that the proposal satisfies the requirements of Sections 6(b)(4) and 6(b)(5) of the Act<sup>21</sup> in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities and is not designed to unfairly discriminate between customers, issuers, brokers, or dealers. As described more fully below in the Exchange's statement regarding the burden on competition, the Exchange believes that its transaction pricing is subject to significant competitive forces, and that the

proposed fees and rebates described herein are appropriate to address such forces.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposal will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the proposal is intended to incentivize market participants to direct additional orders that add liquidity to the Exchange, thereby deepening liquidity and promoting market quality on the Exchange to the benefit of all market participants, as well as to decrease the Exchange's expenditures with respect to its transaction pricing in a manner that is still consistent with the Exchange's overall pricing philosophy of encouraging added displayed liquidity. As a result, the Exchange believes the proposal would enhance its competitiveness as a market that attracts actionable orders, thereby making it a more desirable destination venue for its customers. For these reasons, the Exchange believes that the proposal furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."<sup>22</sup>

#### *Intramarket Competition*

As discussed above, the Exchange believes that the proposal would incentivize Members to submit additional orders that add liquidity to the Exchange, thereby contributing to a deeper and more liquid market and promoting price discovery and market quality on the Exchange to the benefit of all market participants and enhancing the attractiveness of the Exchange as a trading venue, which the Exchange believes, in turn, would continue to encourage market participants to direct additional order flow to the Exchange. Greater liquidity benefits all Members by providing more trading opportunities and encourages Members to send additional orders to the Exchange, thereby contributing to robust levels of liquidity, which benefits all market participants. As described above, the opportunity to qualify for the proposed new Step-Up Additive Rebate, and thus receive the proposed additive rebate for qualifying executions of Added Displayed Volume, would be available to all Members that meet the associated volume requirement, and the Exchange

believes the proposed additive rebate provided under such incentive is reasonably related to the enhanced market quality that it is designed to promote. Additionally, as noted above, the proposed reduced rebates for executions of Added Displayed Volume under Liquidity Provision Tier 1 and DLI Tier 2 would continue to apply equally to all Members in the same manner that the rebates provided under such tiers currently do today, and the Exchange believes that each such reduced rebate represents only a modest decrease from the current rebate provided under the respective tier for executions of Added Displayed Volume. For the foregoing reasons, the Exchange believes the proposed changes would not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

#### *Intermarket Competition*

As noted above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. Members have numerous alternative venues that they may participate on and direct their order flow to, including 15 other equities exchanges and numerous alternative trading systems and other off-exchange venues. As noted above, no single registered equities exchange currently has more than approximately 16% of the total market share of executed volume of equities trading. Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. Moreover, the Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products, in response to new or different pricing structures being introduced into the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates, including with respect to executions of Added Displayed Volume, and market participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. As described above, the proposed changes represent a competitive proposal through which the Exchange is seeking to decrease the Exchange's expenditures with respect to its transaction pricing

<sup>20</sup> See *supra* notes 9 and 10.

<sup>21</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>22</sup> See *supra* note 17.

and to encourage additional order flow to the Exchange through a volume-based incentive that is comparable to volume-based incentives adopted by other exchanges and the Exchange.<sup>23</sup> Accordingly, the Exchange believes the proposal would not burden, but rather promote, intermarket competition by enabling it to better compete with other exchanges that offer similar pricing incentives to market participants that achieve certain volume criteria and thresholds.

Additionally, 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.”<sup>24</sup> The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. SEC*, 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’ . . . .”<sup>25</sup> Accordingly, the Exchange does not believe its proposed pricing changes 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 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)(ii) of the Act<sup>26</sup> and Rule 19b-4(f)(2)<sup>27</sup> 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 shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### Electronic Comments

- Use the Commission’s internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-MEMX-2022-11 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to File Number SR-MEMX-2022-11. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and

printing in the Commission’s Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-MEMX-2022-11 and should be submitted on or before June 2, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>28</sup>

**J. Matthew DeLesDernier,**  
Assistant Secretary.

[FR Doc. 2022-10148 Filed 5-11-22; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-94862; File No. SR-CboeBYX-2022-016]

### Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

May 6, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 2, 2022, Cboe BYX Exchange, Inc. (“Exchange” or “BYX”) 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 BYX Exchange, Inc. (the “Exchange” or “BYX” or “BYX Equities”) is filing with the Securities and Exchange Commission (“Commission”) a proposed rule change to amend its Fee Schedule. The text of

<sup>23</sup> See *supra* note 11.

<sup>24</sup> See *supra* note 17.

<sup>25</sup> *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-NYSE-2006-21)).

<sup>26</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>27</sup> 17 CFR 240.19b-4(f)(2).

<sup>28</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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/equities/regulation/rule\\_filings/byx/](http://markets.cboe.com/us/equities/regulation/rule_filings/byx/)), 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

On March 26, 2021, the Commission approved the Exchange's proposed introduction of periodic auctions in U.S. equity securities ("Periodic Auctions").<sup>3</sup> Periodic Auctions, which will launch on the Exchange on April 14, 2022, will be conducted throughout the course of the trading day when there are matching buy and sell Periodic Auction orders that are available to trade in such an auction. They are price forming auctions that are executed at the price level that maximizes the total number of shares in both the auction book and the continuous book and are designed to enhance the ability for investors to source liquidity in all equity securities traded on the Exchange. The Exchange now proposes to introduce fees associated with orders executed in Periodic Auctions.<sup>4</sup>

The Exchange operates a "Taker-Maker" model whereby it pays credits to members that remove liquidity and assesses fees to those that add liquidity. The Exchange's Fees Schedule sets forth

<sup>3</sup> See Securities Exchange Act Release No. 91423 (March 26, 2021) 86 FR 17230 (April 1, 2021) (SR-CboeBYX-2020-021).

<sup>4</sup> The Exchange initially filed the proposed fee changes on April 14, 2022 (SR-CboeBYX-2022-012). On April 27, 2022, the Exchange withdrew that filing and re-submitted the proposed fee changes (SR-CboeBYX-2022-014). On April 29, 2022, the Exchange withdrew that filing and re-submitted the proposed fee changes (SR-CboeBYX-2022-015). On May 2, 2022, the Exchange withdrew that filing and submitted this filing.

the standard rebates and rates applied per share for orders that remove and provide liquidity, respectively. Particularly, for securities at or above \$1.00, the Exchange provides a standard rebate of \$0.00200 per share for orders that remove liquidity and assesses a fee of \$0.00200 per share for orders that add liquidity. For orders priced below \$1.00, the Exchange does not assess a fee or provide a rebate for orders that add liquidity and assesses a fee of 0.10% of total dollar value for orders that remove liquidity. Additionally, in response to the competitive environment, the Exchange also offers tiered pricing which provides Members opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria.

#### Proposed Fee Codes

The Exchange proposes to introduce three new fee codes applicable to orders executed in a Periodic Auction. First, the Exchange proposes to adopt fee code AD,<sup>5</sup> which would be appended to displayed orders executed in a Periodic Auction.<sup>6</sup> Periodic Auction Only Orders<sup>7</sup> or Periodic Auction Eligible Orders<sup>8</sup> are non-displayed orders and therefore fee code AD would not be appended to such orders. However, Continuous Book Orders<sup>9</sup> may be displayed or non-displayed orders and therefore such displayed Continuous Book Orders would be appended with fee code AD. Orders appended with fee code AD would be assessed a fee of \$0.00200 in securities priced equal to or greater than \$1.00, and would be provided no charge or rebate in

<sup>5</sup> As discussed more fully below, the Exchange is also proposing to add footnotes 1 and 2 to fee code, AD.

<sup>6</sup> "Continuous Book Orders", as defined in Rule 11.25(a)(2), may be displayed or non-displayed orders. Continuous Book Orders will not initiate a Periodic Auction but are eligible to participate in such an auction when it is executed.

<sup>7</sup> A "Periodic Auction Only Order" is a non-displayed limit order entered with an instruction to participate solely in Periodic Auctions pursuant to this Rule 11.25. Periodic Auction Only Orders are not eligible for execution on the Continuous Book. See Exchange Rule 11.25(b)(1).

<sup>8</sup> A "Periodic Auction Eligible Order" is a non-displayed limit order eligible to trade on the Continuous Book that is entered with an instruction to also initiate a Periodic Auction, if possible, pursuant to this Rule 11.25. See Exchange Rule 11.25(b)(2).

<sup>9</sup> A "Continuous Book Order" is an order on the BYX Book that is not a Periodic Auction Order. See Exchange Rule 11.25(a)(2).

securities priced less than \$1.00.<sup>10</sup> The proposed fee is the same as other displayed fee codes that add liquidity to the Exchange, such as fee codes B,<sup>11</sup> V,<sup>12</sup> and Y.<sup>13</sup>

Second, the Exchange proposes to adopt fee code AU, which would be appended to Periodic Auction Only or Periodic Auction Eligible orders executed in a Periodic Auction. Orders appended with fee code AU would not be provided a rebate or assessed a fee, regardless of the price of the security.<sup>14</sup>

Third, the Exchange proposes to adopt fee AH, which would be appended to non-displayed orders executed in a Periodic Auction. As noted above, Continuous Book Orders may be displayed or non-displayed orders. Therefore, non-displayed orders that are not Periodic Auction Only or Periodic Auction Eligible Orders would be appended with fee code AH. Orders appended with fee code AH would be assessed a fee of \$0.00100 in securities priced equal to or greater than \$1.00 and would be provided no charge or rebate in securities priced less than \$1.00.<sup>15</sup> The proposed fee is the same as the fee assessed to non-displayed midpoint peg orders (*i.e.*, fee code MM).<sup>16</sup>

#### Proposed Definitions

The Exchange proposes to adopt two new definitions pertaining to auction volume executed on the Exchange. First, the Exchange proposes to adopt the term "Auction ADV" which would mean the average daily auction volume calculated as the number of shares executed in an auction per day. The Exchange also proposes to adopt the term "Step-Up Auction ADV" which would mean the Auction ADV in the relevant baseline month subtracted from current Auction ADV.

#### Proposed Tier Changes

The Exchange proposes to modify the tiers in order to account for volume executed in a Periodic Auction. As noted above, the Exchange offers tiered pricing which provides Members opportunities to qualify for higher

<sup>10</sup> Footnote 15 of the BYX Fee Schedule provides that "[f]or securities priced below \$1.00: no charge or rebate" is applied. Therefore, the Exchange proposes to apply footnote 15 to proposed fee code AD.

<sup>11</sup> Fee code "B" is appended to displayed orders adding liquidity to BYX (Tape B).

<sup>12</sup> Fee code "V" is appended to displayed orders adding liquidity to BYX (Tape A).

<sup>13</sup> Fee code "Y" is appended to displayed orders adding liquidity to BYX (Tape C).

<sup>14</sup> The Exchange proposes to apply footnote 15 to proposed fee code AU.

<sup>15</sup> The Exchange proposes to apply footnote 15 to proposed fee code AH.

<sup>16</sup> Fee code "MM" is appended to non-displayed orders that add liquidity using a midpoint peg.



rebates or reduced fees where certain volume criteria and thresholds are met. The Exchange offers three sets of tiers as set forth in footnotes 1 through 3 of the Fee Schedule. Specifically, under footnote 1<sup>17</sup> of the Fee Schedule, the Exchange offers Add/Remove Volume Tiers, which offer various enhanced rebates and reduced fees for reaching certain, incrementally more challenging volume-based thresholds. Under footnote 2<sup>18</sup> of the Fee Schedule, the Step-Up Tiers offers a reduced fee to Members that increase their relative add volume order flow each month over a predetermined baseline as well as add liquidity over and established threshold. Last, under footnote 3<sup>19</sup> of the Fee Schedule, the Exchange offers the Routing Tier which offers an enhanced rebate for orders routed to Nasdaq BX through the Destination Specific or TRIM routing strategies. Under each of footnotes 1 through 3, the required criteria of certain tiers reference a Member's ADV,<sup>20</sup> ADAV,<sup>21</sup> or Step-Up ADAV<sup>22</sup> as follows:

- The Add Volume Tiers 1 through 4 provide a reduced fee for each Member's qualifying orders that have an ADAV equal to or greater than a certain percentage of TCV;
- The Add Volume Tier 5 provides a reduced fee to each MPID's qualifying orders that have an ADAV equal to or greater than a certain percentage of the TCV;<sup>23</sup>
- The Remove Volume Tier 6 provides the applicable rebate to each Member's qualifying orders that have (1) an ADV equal to or greater than 0.08% of the TCV; and (2) an ADAV equal to or greater than 500,00 shares meet the required criteria;<sup>24</sup>
- The Step-Up Tier provides a reduced fee to each Member's qualifying

orders where a Member (1) adds a Step-Up ADAV from June 2021 equal to or greater than 0.05% of TCV or adds a Step-Up ADAV from June 2021 equal to or greater than 2,000,000; and (2) has a total add ADAV equal to or greater than 0.25% of TCV.

- The Routing Tier provides the applicable rebate to each Member's qualifying orders with an ADV equal to or greater than 0.10% of the TCV.

Now, the Exchange proposes to modify each of the above referenced Tiers to include auction volume where ADV, ADAV, and Step-Up ADAV are referenced.<sup>25</sup> Therefore, the Exchange proposes the required criteria of the above Tiers as follows:

- The Add Volume Tiers 1 through 4 provide a reduced fee to each Member's qualifying orders that have a combined Auction ADV and ADAV equal to or greater than a certain percentage of the TCV;
- The Add Volume Tier 5 provides a reduced fee to each MPID's qualifying orders that have a combined Auction ADV and ADAV equal to or greater than a certain percentage of the TCV;
- The Remove Volume Tier 6 would provide the applicable rebate to Members' qualifying orders that have (1) a combined Auction ADV and ADV equal to or greater than 0.08% of the TCV; and (2) a combined Auction ADV and ADAV equal to or greater than 500,000 shares would meet the required criteria; and
- The Step-Up Tier would provide a reduced fee to each Member's qualifying orders with (1) a combined Step-Up Auction ADV and Step-Up ADAV from June 2021 equal to or greater than 0.05% of TCV or a combined Step-Up Auction ADV and Step-Up ADAV from June 2021 equal to or greater than 2,000,000; and (2) a combined Auction ADV and ADAV equal to or greater than 0.25% of TCV; and

- The Routing Tier would provide the applicable rebate to Members' qualifying orders with a combined Auction ADV and ADV of equal to or greater than 0.10% of the TCV.

As discussed above, orders yielding fee code AD will represent displayed Continuous Book Orders that add liquidity to the Exchange. Therefore, if such orders did not execute in a Periodic Auction, they would be appended with fee code B, V, or Y, as applicable, and those executions would qualify towards the Add Volume Tiers 1 through 5 and the Step-Up Tier.

Continuous Book Orders that add liquidity to the Exchange will participate in a Periodic Auction, if eligible. Therefore, to ensure such orders are not disincentivized to participate in such a Periodic Auction, the Exchange proposes to allow orders yielding fee code AD to qualify towards the Add Volume Tiers 1 through 5 and Step-Up Tier, as well qualify for the reduced fees or rebates provided by such Tiers.<sup>26</sup>

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,<sup>27</sup> in general, and furthers the objectives of Section 6(b)(4),<sup>28</sup> in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. Specifically, the Exchange believes that the proposed rule change is consistent with the requirements of the Act as it is designed to compensate the Exchange for the development of new and innovative market features, *i.e.*, Periodic Auctions, while continuing to provide a pricing model that the Exchange believes is competitive with pricing models offered by other national securities exchanges that offer auctions to their customers. The Exchange operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The proposed rule change reflects a competitive pricing structure designed both to compensate the Exchange for the introduction of innovative features and allow it to continue to compete aggressively with other market centers.

As discussed, the proposed rule change would introduce pricing that is specific to orders executed in a Periodic Auction. Generally, orders executed in an auction on other market centers are subject to a fee.<sup>29</sup> However, the Exchange proposes to charge no fee for orders that may initiate a Periodic Auction (*i.e.*, orders yielding fee code AU) in order to incentivize Members to enter such orders on the Exchange. As proposed, orders yielding fee code AD will represent displayed Continuous

<sup>26</sup> Based on the proposal to allow orders yielding fee code AD to qualify towards the Add Volume Tiers 1 through 5 and Step-Up Tier, the Exchange also proposes to append footnotes 1 and 2 to Fee Code AD.

<sup>27</sup> 15 U.S.C. 78f.

<sup>28</sup> 15 U.S.C. 78ff(b)(4).

<sup>29</sup> See *e.g.*, the Choe BZX U.S. Equities Fee Schedule, which charges fees ranging from \$0.00060 up to \$0.00100 for orders executed in an auction.

<sup>17</sup> Footnote 1, Add/Remove Volume Tiers, applies to fee codes B, V, and Y. The Exchange now proposes to add Footnote 1 to fee code, AD.

<sup>18</sup> Footnote 2, Step-Up Tiers, applies to fee codes B, V, and Y. The Exchange now proposes to add Footnote 2 to fee code, AD.

<sup>19</sup> Footnote 3, Routing Tier, applies to fee code, C (Routed to NASDAQ BX using Destination Specific, TRIM or SLIM routing strategies). AU/AH/AD are included in the calculations to qualify for the Routing Tier rebates.

<sup>20</sup> "ADV" means average daily volume calculated as the number of shares added or removed, combined, per day.

<sup>21</sup> "ADAV" means average daily volume calculated as the number of shares added per day.

<sup>22</sup> "Step-Up ADAV" means ADAV in the relevant baseline month subtracted from current ADAV.

<sup>23</sup> "TCV" means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

<sup>24</sup> The Exchange notes that Remove Volume Tiers 7 and 8 do not reference ADV or ADAV, but instead reference certain liquidity removing volume executed on the Exchange.

<sup>25</sup> The Exchange is not modifying the applicable fees and rebates associated with Tiers 1 through 4. Rather, the Exchange seeks only to add new types of volume that count toward the Tiers.

Book Orders that add liquidity to the Exchange. Therefore, if such orders did not execute in a Periodic Auction, they would be appended with fee code B, V, or Y, as applicable, and would be charged a fee of \$0.00200. Given this, the Exchange proposes that orders yielding fee code AD also be charged a fee of \$0.00200 so that the fee is congruent with orders with the same order instruction that did not execute in a Periodic Auction. As discussed above, non-displayed orders that are not Periodic Auction Only or Periodic Auction Eligible Orders would be appended with fee code AH. Such non-displayed orders would include orders that would otherwise yield fee codes HA,<sup>30</sup> HI,<sup>31</sup> or MM<sup>32</sup> had they not executed in a Periodic Auction. Orders yielding fee code HA are assessed a fee of \$0.00240 per share, orders yielding fee code HI are assessed a fee of \$0.00300 per share, and orders yielding fee code MM are assessed a fee of \$0.00100 per share. Given this, the Exchange proposes to assess a fee of \$0.00100 per share to orders yielding fee code AH so that there is no disadvantage for a non-displayed order to have executed in a Periodic Auction rather than on the Continuous Book.

The Exchange believes that the proposed fees associated with orders executed in a Periodic Auction are equitable and not unfairly discriminatory because they would apply equally to all orders executed in a Periodic Auction and meeting the applicable execution description. As discussed, Periodic Auction Only and Periodic Auction Eligible order instructions are optional, and a market participant can choose to include such an instruction in order to benefit from a free execution in the Periodic Auction. Furthermore, while orders entered on the Continuous Book that are eligible to participate in a Periodic Auction must participate in the Periodic Auction, the proposed fees are designed to ensure that such executions occur at a fee that is equal or favorable to the fee they would have otherwise been assessed had the order not executed in a Periodic Auction.

The Exchange believes the proposed modifications to the various Tiers are equitable and reasonable. As discussed above, if orders yielding fee code AD did not execute in a Periodic Auction,

they would be appended with fee code B, V, or Y, as applicable, and such executions would have counted towards the Add Volume Tiers 1 through 5 and Step-Up Tier. The proposal to include fee code AD to the applicable fee codes of the Add Volume Tiers 1 through 5 and Step-Up Tier is designed to ensure that orders yielding such fee codes are not disadvantaged for having executed in a Periodic Auction rather than the Continuous Book. Additionally, the proposed modifications to the various required criteria of the Tiers is designed to ensure that shares executed in a Periodic Auction are considered in conjunction with any volume added to the Exchange. As discussed above, certain types of orders that may be executed in a Periodic Auction would be included in the Member's or MPID's ADV, ADAV, and Step-Up ADAV if they had otherwise not executed in a Periodic Auction (*e.g.*, orders appended with fee code B, V, or Y). Therefore, so as not to disadvantage Members or MPIDs participating in a Periodic Auction, the Exchange proposes that such orders executed in a Periodic Auction will count toward any required criteria of a Tier involving ADV, ADAV, or Step-Up ADAV. The Exchange believes it is reasonable and equitable not to include volume executed in a Periodic Auction in a Member's remove volume because such orders would not have removed volume on the Exchange had they not executed in a Periodic Auction.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes that the proposed changes to its fees would promote continued competition between the Exchange, other national securities exchanges, and off-exchange venues that must continuously compete to offer both competitive pricing and services to members and investors. As proposed, the Exchange would charge fee ranging from free up to \$0.0020 per share for orders executed in a Periodic Auction. Charging fees for the use of this instruction would both compensate for the development and introduction of new and innovative features, and provide continued incentives for the Exchange to compete on both cost and the quality of its products and services.

The Exchange believes the proposed new fee codes would not impose any burden on intramarket competition that is not necessary or appropriate in

furtherance of the purposes of the Act. The proposed fee codes would apply to all Members equally in that all Members would be subject to the applicable fee for executing in the Periodic Auction based on its order instruction. The Exchange's proposed pricing is based on the characteristics of the order that is executed and has been proposed to reflect that no order will be disadvantaged by participating in a Periodic Auction as opposed to executing on the Exchange's continuous book. In fact, certain orders may benefit from executing in a Periodic Auction by receiving a reduced fee than it would not have otherwise received had it executed on the Exchange's Continuous Book.<sup>33</sup>

Similarly, the Exchange does not believe the proposed changes to the Exchange's tiers will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The revised tiers will continue to be available to all Members equally in that all Members are eligible for these tiers, have a reasonable opportunity to meet the tiers' criteria, and will receive the reduced fee or enhanced rebate on their qualifying orders if such criteria is met. The proposed changes to the Exchange's tiers are simply designed to ensure that no orders executed in a Periodic Auction are excluded from a tier for which they otherwise would have counted towards had the order not executed in a Periodic Auction. The Exchange does not believe the proposed change to modify the tiers burdens competition, but rather, enhances competition as it is intended to increase the competitiveness of BYX by ensuring Members are not disincentivized to participate in Periodic Auctions and thus may increase their participation on the Exchange, providing for additional execution opportunities for market participants and improved price transparency. Greater overall order flow, trading opportunities, and pricing transparency benefits all market participants on the Exchange by enhancing market quality and continuing to encourage Members to send orders, thereby contributing towards a robust and well-balanced market ecosystem.

Next, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

<sup>33</sup> For example, orders that would have been appended with fee code HA or HI had they not executed in a Periodic Auction would be assessed a lesser fee if executed in a Periodic Auction (and thus appended with fee code AH).

<sup>30</sup> Fee code "HA" is appended to non-displayed orders adding liquidity to BYX.

<sup>31</sup> Fee code "HI" is appended to non-displayed orders adding liquidity to BYX that receive price improvement.

<sup>32</sup> Fee code "MM" is appended to non-displayed orders adding liquidity to BYX using a midpoint peg.

As previously discussed, the Exchange operates in a highly competitive market. In such an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges. Members have numerous alternative venues that they may participate on and direct their order flow, including other equities exchanges, off-exchange venues, and alternative trading systems. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single equities exchange has more than 17% of the market share.<sup>34</sup> Therefore, no exchange possesses significant pricing power in the execution of order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”<sup>35</sup> 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’ . . . .”<sup>36</sup> Accordingly, the Exchange does not believe its proposed fee changes imposes any burden on competition that is not necessary or

appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>37</sup> and paragraph (f) of Rule 19b-4<sup>38</sup> 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](mailto:rule-comments@sec.gov). Please include File Number SR-CboeBYX-2022-016 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-CboeBYX-2022-016. 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-CboeBYX-2022-016, and should be submitted on or before June 2, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>39</sup>

**J. Matthew DeLesDernier,**  
*Assistant Secretary.*

[FR Doc. 2022-10146 Filed 5-11-22; 8:45 am]

**BILLING CODE 8011-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-94864; File No. SR-CboeEDGX-2022-026]

**Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule**

May 6, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 2, 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.

<sup>39</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>34</sup> See Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (April 11, 2022), available at: [https://markets.cboe.com/us/equities/market\\_statistics/](https://markets.cboe.com/us/equities/market_statistics/).

<sup>35</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

<sup>36</sup> *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)).

<sup>37</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>38</sup> 17 CFR 240.19b-4(f).

## I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the "Exchange" or "EDGX") proposes to amend its Fee Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website ([http://markets.cboe.com/us/options/regulation/rule\\_filings/edgx/](http://markets.cboe.com/us/options/regulation/rule_filings/edgx/)) [sic], at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

The Exchange proposes to amend its Fee Schedule applicable to its equities trading platform ("EDGX Equities") by amending the fee associated with fee code DQ. The Exchange proposes to implement these changes effective May 2, 2022.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues that do not have similar self-regulatory responsibilities under the Exchange Act, to which market participants may direct their order flow. Based on publicly available information,<sup>3</sup> no single registered equities exchange has more than 16% of the market share. Thus, in such a low-concentrated and highly

competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. The Exchange in particular operates a "Maker-Taker" model whereby it pays rebates to members that add liquidity and assesses fees to those that remove liquidity.

The Exchange's Fee Schedule sets forth the standard rebates and rates applied per share for orders that provide and remove liquidity, respectively. Currently, for orders in securities priced at or above \$1.00, the Exchange provides a standard rebate of \$0.00160 per share for orders that add liquidity and assesses a fee of \$0.0030 per share for orders that remove liquidity. For orders in securities priced below \$1.00, the Exchange provides a standard rebate of \$0.00009 per share for orders that add liquidity and assesses a fee of 0.30% of total dollar value for orders that remove liquidity.

Specifically, the proposed rule change amends the fee assessed to orders that yield fee code DQ under the Fee Codes and Associated Fees table of the Fee Schedule. Fee code DQ is appended to Midpoint Discretionary Orders ("MDOs")<sup>4</sup> using the Quote Depletion Protection ("QDP") order instruction.<sup>5</sup> QDP is designed to provide enhanced protections to MDOs by tracking significant executions that constitute the best bid or offer on the EDGX Book and enabling Users to avoid potentially unfavorable executions by preventing MDOs entered with the optional QDP instruction from exercising discretion to trade at more aggressive prices when QDP has been triggered.<sup>6</sup> Currently, MDOs entered with the QDP instruction are appended the fee code DQ and are assessed a fee of \$0.00020 per share in securities at or above \$1.00 and 0.30% of dollar value for securities priced below \$1.00. The proposal would increase the fee assessed under fee code DQ to \$0.00040 per share in securities at or above \$1.00. The Exchange seeks to align the fee assessed to orders appended with fee code DQ with the current fee assessed by the Exchange's affiliate exchange, Cboe EDGA Exchange, Inc. ("EDGA"), which currently assesses a fee of \$0.00040 per share in securities at or above \$1.00 and 0.30% of dollar value for securities priced below \$1.00.<sup>7</sup> The Exchange does not propose to change the fee assessed

for orders yielding fee code DQ priced below \$1.00.

#### 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the objectives of Section 6 of the Securities and Exchange Act of 1933 [sic] (the "Act"),<sup>8</sup> in general, and furthers the objectives of Section 6(b)(4),<sup>9</sup> 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)<sup>10</sup> 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. As described above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule change reflects a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance market quality to the benefit of all Members.

In particular, the Exchange believes that the proposed amendment to increase the fee associated with fee code DQ is reasonable, equitable and not unfairly discriminatory. The Exchange believes the proposed increase is reasonable because the proposed change represents a modest fee increase for an optional order instruction. Members may continue to submit MDOs without the QDP order instruction if they do not wish to incur the slightly increased fee. Users may also opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. The Exchange further believes that the proposed change is reasonable because

<sup>3</sup> See Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (April 22, 2022), available at [https://markets.cboe.com/us/equities/market\\_statistics/](https://markets.cboe.com/us/equities/market_statistics/).

<sup>4</sup> See Exchange Rule 11.8(g).

<sup>5</sup> See Exchange Rule 11.8(g)(10).

<sup>6</sup> See Securities Exchange Act Release No. 89007 (June 4, 2020), 85 FR 35454 (June 10, 2020) (SR-CboeEDGX-2020-010).

<sup>7</sup> See Cboe EDGA Exchange Fee Schedule, Fee Code and Associated Fees, Fee Code DQ.

<sup>8</sup> 15 U.S.C. 78f.

<sup>9</sup> 15 U.S.C. 78f(b)(4).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

the proposed fee remains consistent with pricing offered by the other exchanges and does not represent a significant departure from the Exchange's general pricing structure. Specifically, the proposed fee applicable to fee code DQ is equal to that of the Exchange's affiliate, EDGA, which currently assesses a fee of \$0.00040 for MDOs submitted to EDGA with a QDP order instruction. In addition, the proposed fee is equal to the fee currently offered by the Nasdaq Stock Market LLC ("Nasdaq"), for its Midpoint Extended Life Order ("M-ELO")<sup>11</sup> in securities priced at or above \$1.00.<sup>12</sup> The Exchange believes that the proposed fee is reasonable as it is competitive with the fee assessed by EDGA for its MDOs appended with the QDP order instruction and the fee Nasdaq charges for M-ELO executions, which offer similar protective features to MDOs entered with the QDP order instruction on the Exchange. The Exchange believes the proposed rule change is equitable and not unfairly discriminatory because both the MDO order type and the associated QDP order instruction are available to all Users on an equal and non-discriminatory basis, and any User that chooses to use the QDP instruction would be uniformly subject to the same proposed fee. The Exchange notes that the QDP instruction is optional and market participants who do not wish to incur the increased flat fee can continue to enter MDOs without the QDP instruction.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposed change to the fee assessed on orders that yield fee code DQ will apply to all such orders equally in that all MDO orders utilizing the QDP order instruction will be assessed the

proposed slightly higher fee. The Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act as the proposed change does not represent a significant departure from pricing currently offered by the Exchange or pricing offered by other equities exchanges. Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed change will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including other equities exchanges, off-exchange venues, and alternative trading systems. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single equities exchange has more than 16% of the market share.<sup>13</sup> Therefore, no exchange possesses significant pricing power in the execution of order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."<sup>14</sup> 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';

<sup>13</sup> *Supra* note 3.

<sup>14</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[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' . . .".<sup>15</sup>

#### *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<sup>16</sup> and paragraph (f) of Rule 19b-4<sup>17</sup> 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](mailto:rule-comments@sec.gov). Please include File Number SR-CboeEDGX-2022-026 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-2022-026. This file number should be included on the subject line if email is used. To help the

<sup>15</sup> *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)).

<sup>16</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>17</sup> 17 CFR 240.19b-4(f).

<sup>11</sup> Nasdaq's Midpoint Extended Life Orders are non-displayed orders pegged to the midpoint of the NBBO that do not execute until the passage of at least 10 milliseconds after the order has been accepted by the System. See Nasdaq Rules, Equity 4, Section 4702(b)(14).

<sup>12</sup> See Nasdaq Rules, Equity 7, Pricing Schedule, Section 118(a)(1), (2), (3). Nasdaq assesses a fee of \$0.0004 per share when executed at a price at or above \$1.00. Nasdaq does not charge a fee for M-ELO executions in securities priced below \$1.00. See Nasdaq Rules, Equity 7, Pricing Schedule, Section 118(b).

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. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CboeEDGX-2022-026, and should be submitted on or before June 2, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**J. Matthew DeLesDernier,**  
Assistant Secretary.

[FR Doc. 2022-10144 Filed 5-11-22; 8:45 am]

**BILLING CODE 8011-01-P**

**SMALL BUSINESS ADMINISTRATION**

[License No. 05/05-0298]

**LaSalle Capital Group II-A, L.P.; 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. 05/05-0298 issued to LaSalle Capital Group II-A, L.P., said license is hereby declared null and void.

United States Small Business Administration.

**Michele Schimpp,**  
Deputy Associate Administrator, Office of Investment and Innovation.

[FR Doc. 2022-10160 Filed 5-11-22; 8:45 am]

**BILLING CODE P**

**SMALL BUSINESS ADMINISTRATION**

[Disaster Declaration #17438 and #17439; Texas Disaster Number TX-00627]

**Administrative Declaration of a Disaster for the State of Texas**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a notice of an Administrative declaration of a disaster for the State of Texas dated 05/05/2022.

*Incident:* Severe Storms and Tornados.

*Incident Period:* 03/21/2022.

**DATES:** Issued on 05/05/2022.

*Physical Loan Application Deadline Date:* 07/05/2022.

*Economic Injury (EIDL) Loan Application Deadline Date:* 02/06/2023.

**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 Administrator's disaster declaration, 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:* Bastrop, Grayson, Houston, Jack, Montague, Nacogdoches, Upshur, Williamson.

*Contiguous Counties:*

Texas: Anderson, Angelina, Archer, Bell, Burnet, Caldwell, Camp, Cherokee, Clay, Collin, Cooke, Denton, Fannin, Fayette, Gregg, Harrison, Lee, Leon, Madison, Marion, Milam, Morris, Palo Pinto, Parker, Rusk, San Augustine, Shelby, Smith, Travis, Trinity, Walker, Wise, Wood, Young.  
Oklahoma: Bryan, Jefferson, Love, Marshall.

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
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
<i>For Economic Injury:</i>	
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 17438 C and for economic injury is 17439 O.

The States which received an EIDL Declaration # are Oklahoma, Texas.

(Catalog of Federal Domestic Assistance Number 59008)

**Isabella Guzman,**  
Administrator.

[FR Doc. 2022-10161 Filed 5-11-22; 8:45 am]

**BILLING CODE 8026-03-P**

**SUSQUEHANNA RIVER BASIN COMMISSION**

**Grandfathering Registration Notice**

**AGENCY:** Susquehanna River Basin Commission.

**ACTION:** Notice.

**SUMMARY:** This notice lists Grandfathering Registration for projects by the Susquehanna River Basin Commission during the period set forth in **DATES**.

**DATES:** April 1-30, 2022.

**ADDRESSES:** Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110-1788.

**FOR FURTHER INFORMATION CONTACT:** Jason E. Oyler, General Counsel and Secretary to the Commission, telephone: (717) 238-0423, ext. 1312; fax: (717) 238-2436; email: [joyler@srbc.net](mailto:joyler@srbc.net). Regular mail inquiries may be sent to the above address.

**SUPPLEMENTARY INFORMATION:** This notice lists GF Registration for projects, described below, pursuant to 18 CFR 806, Subpart E for the time period specified above:

<sup>18</sup> 17 CFR 200.30-3(a)(12).

**Grandfathering Registration Under 18 CFR Part 806, Subpart E**

1. Flatbush Golf Course, Inc.—Flatbush Golf Course, GF Certificate No. GF-202204213, Mount Pleasant and Union Townships, Adams County, Pa.; Wells 1, 2, and 3; Issue Date: April 28, 2022.

2. Irem Temple of the Ancient Arabic Order of the Nobles of the Mystic Shrine, Wilkes-Barre, Pennsylvania—Irem Country Club, GF Certificate No. GF-202204214, Dallas Township, Luzerne County, Pa.; combined withdrawal from Wells 1 and 2; Issue Date: April 28, 2022.

3. New Enterprise Stone & Lime Co., Inc.—Roaring Spring Quarry, GF Certificate No. GF 202204215, Taylor Township, Blair County, Pa.; Quarry Sump, Halter Creek 1, Halter Creek 2, Well 1, Well 2, and Well 3 (M4); Issue Date: April 28, 2022.

4. Pennsylvania—American Water Company—Philipsburg/Moshannon District, GF Certificate No. GF-202204216, Rush Township, Centre County, Pa.; Cold Stream, Blue Spring, Sandy Ridge Well 1, and Sandy Ridge Well 2; Issue Date: April 28, 2022.

*Authority:* Public Law 91-575, 84 Stat. 1509 *et seq.*, 18 CFR parts 806 and 808.

Dated: May 6, 2022.

**Jason E. Oyler,**

*General Counsel and Secretary to the Commission.*

[FR Doc. 2022-10135 Filed 5-11-22; 8:45 am]

**BILLING CODE 7040-01-P**

**SUSQUEHANNA RIVER BASIN COMMISSION****Commission Meeting**

**AGENCY:** Susquehanna River Basin Commission.

**ACTION:** Notice.

**SUMMARY:** The Susquehanna River Basin Commission will conduct its regular business meeting on June 16, 2022 in Baltimore, Maryland. Details concerning the matters to be addressed at the business meeting are contained in the Supplementary Information section of this notice. Also the Commission published a document in the **Federal Register** on April 13, 2022, concerning its public hearing on May 5, 2022, in Harrisburg, Pennsylvania.

**DATES:** The meeting will be held on Thursday, June 16, 2022, at 9 a.m.

**ADDRESSES:** The meeting will be conducted in person and digitally from the Maryland Department of the Environment, 1800 Washington

Boulevard, Baltimore, Maryland 21230-1708.

**FOR FURTHER INFORMATION CONTACT:**

Jason E. Oyler, General Counsel and Secretary to the Commission, telephone: 717-238-0423; fax: 717-238-2436.

**SUPPLEMENTARY INFORMATION:** The business meeting will include actions or presentations on the following items: (1) Election of Commission officers for FY2023; (2) reconciliation of FY2023 budget; (3) a resolution in regard to the Conowingo Watershed Implementation Plan; (4) ratification of contracts/grants; (5) revision of Commission By-laws; (6) proposed Water Resources Program for 2022-2024; (7) three regulatory program waiver requests; and (8) actions on 20 regulatory program projects, including one diversion and one Commission-initiated approval modification.

This agenda is complete at the time of issuance, but other items may be added, and some stricken without further notice. The listing of an item on the agenda does not necessarily mean that the Commission will take final action on it at this meeting. When the Commission does take final action, notice of these actions will be published in the **Federal Register** after the meeting. Any actions specific to projects will also be provided in writing directly to project sponsors.

The meeting will be conducted both in person at the Maryland Department of the Environment headquarters and digitally. The public is invited to attend the Commission's business meeting. You can access the Business Meeting through a computer (Audio and Video) by following the link: <https://srbc.webex.com/srbc/j.php?MTID=m79bb5b40439d92254c1d58b07ac89dcd> then enter meeting number 177 325 1513 and password CommBusMtg0616. You may also participate telephonically by dialing 1-877-668-4493 and entering the meeting number 177 325 1513 followed by the # sign.

Written comments pertaining to items on the agenda at the business meeting, except the proposed actions on the 20 regulatory program items, may be mailed to the Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, Pennsylvania 17110-1788, or submitted electronically through [www.srbc.net/about/meetings-events/business-meeting.html](http://www.srbc.net/about/meetings-events/business-meeting.html). Such comments are due to the Commission on or before June 14, 2022. Comments will not be accepted at the business meeting noticed herein.

*Authority:* Public Law 91-575, 84 Stat. 1509 *et seq.*, 18 CFR parts 806, 807, and 808.

Dated: May 6, 2022.

**Jason E. Oyler,**

*General Counsel and Secretary to the Commission.*

[FR Doc. 2022-10136 Filed 5-11-22; 8:45 am]

**BILLING CODE 7040-01-P**

**SUSQUEHANNA RIVER BASIN COMMISSION****Projects Approved for Consumptive Uses of Water**

**AGENCY:** Susquehanna River Basin Commission.

**ACTION:** Notice.

**SUMMARY:** This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in **DATES**.

**DATES:** April 1-30, 2022.

**ADDRESSES:** Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110-1788.

**FOR FURTHER INFORMATION CONTACT:**

Jason E. Oyler, General Counsel and Secretary to the Commission, telephone: (717) 238-0423, ext. 1312; fax: (717) 238-2436; email: [joyler@srbc.net](mailto:joyler@srbc.net). Regular mail inquiries may be sent to the above address.

**SUPPLEMENTARY INFORMATION:** This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22(e) and 18 CFR 806.22(f) for the time period specified above:

**Water Source Approval—Issued Under 18 CFR 806.22(f)**

1. Chief Oil & Gas, LLC; Pad ID: Myers Unit Drilling Pad #1; ABR-201201039.R2; Burlington Township, Bradford County, Pa.; Consumptive Use of Up to 2.0000 mgd; Approval Date: April 14, 2022.

2. Chesapeake Appalachia, LLC; Pad ID: Lundy; ABR-20100340.R2; Standing Stone Township, Bradford County, Pa.; Consumptive Use of Up to 7.50000 mgd; Approval Date: April 14, 2022.

3. JKLM Energy, LLC.; Pad ID: Headwaters 142; ABR-201703009.R2; Ulysses Township, Potter County, Pa.; Consumptive Use of Up to 3.5500 mgd; Approval Date: April 14, 2022.

4. EXCO Resources (PA), LLC.; Pad ID: Dale Bowers Drilling Pad #1; ABR-20100214.R2; Penn Township, Lycoming County, Pa.; Consumptive Use of Up to 8.0000 mgd; Approval Date: April 14, 2022.

5. Chief Oil & Gas, LLC; Pad ID: SGL-12 J UNIT PAD ; ABR-202204001; Leroy Township, Bradford County, Pa.;

Consumptive Use of Up to 2.5000 mgd; Approval Date: April 18, 2022.

6. Chesapeake Appalachia, L.L.C.; Pad ID: Elevation; ABR–20100339.R2; North Towanda Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: April 18, 2022.

7. Chesapeake Appalachia, L.L.C.; Pad ID: Schoonover; ABR–20100345.R2; Wysox Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: April 18, 2022.

8. Chief Oil & Gas, LLC; Pad ID: Raimo Unit Pad; ABR–201703002.R1; Wilmot Township, Bradford County, Pa.; Consumptive Use of Up to 2.5000 mgd; Approval Date: April 18, 2022.

9. Repsol Oil & Gas USA, LLC; Pad ID: JONES (02 186); ABR–202204002; Blossburg Borough and Hamilton Township, Tioga County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: April 25, 2022.

10. Seneca Resources Company, LLC; Pad ID: Bartlett 531; ABR–20100351.R2; Liberty Township, Tioga County, Pa.; Consumptive Use of Up to 4.9900 mgd; Approval Date: April 25, 2022.

11. Coterra Energy, Inc.; Pad ID: Halliday A P1; ABR–201503005.R1; Bridgewater Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: April 25, 2022.

12. Seneca Resources Company, LLC; Pad ID: PHC Pad B; ABR–20100352.R2; Lawrence Township, Clinton County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: April 25, 2022.

13. Seneca Resources Company, LLC; Pad ID: PHC Pad A; ABR–20100353.R2; Lawrence Township, Clinton County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: April 26, 2022.

14. Repsol Oil & Gas USA, LLC; Pad ID: Strange; ABR–20100404.R2; Sullivan Township, Tioga County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: April 26, 2022.

15. Chesapeake Appalachia, L.L.C.; Pad ID: Crawford; ABR–20100402.R2; Terry Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: April 26, 2022.

16. Seneca Resources Company, LLC; Pad ID: DCNR Tract 100 5H; ABR–20100439.R2; Lewis Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: April 28, 2022.

17. Seneca Resources Company, LLC; Pad ID: Gee 832; ABR–20100444.R2; Middlebury Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: April 28, 2022.

18. Seneca Resources Company, LLC; Pad ID: Topf 416; ABR–20100443.R2; Delmar Township, Tioga County, Pa.;

Consumptive Use of Up to 4.0000 mgd; Approval Date: April 28, 2022.

19. Repsol Oil & Gas USA, LLC; Pad ID: DCNR 587 (02 005); ABR–20100354.R2; Ward Township, Tioga County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: April 28, 2022.

20. Seneca Resources Company, LLC; Pad ID: Wood 512; ABR–20100415.R2; Rutland Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: April 28, 2022.

21. Chesapeake Appalachia, L.L.C.; Pad ID: Allford ABR–20100412.R2; Smithfield Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: April 28, 2022.

22. Chesapeake Appalachia, L.L.C.; Pad ID: Rexford; ABR–20100437.R2; Orwell Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: April 28, 2022.

23. Repsol Oil & Gas USA, LLC; Pad ID: Golden Eagle; ABR–20100433.R2; Covington Township, Tioga County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: April 28, 2022.

24. Chesapeake Appalachia, L.L.C.; Pad ID: Brink; ABR–20100449.R2; Herrick Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: April 29, 2022.

25. Chesapeake Appalachia, L.L.C.; Pad ID: Polomski ABR–20100447.R2; Wyalusing Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: April 29, 2022.

26. Coterra Energy Inc.; Pad ID: Bolcato G P1; ABR–201503006.R1; Gibson Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: April 29, 2022.

27. Range Resources—Appalachia, LLC; Pad ID: Laurel Hill D Pad; ABR–201503003.R1; Cogan House Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: April 29, 2022.

28. SWN Production Company, LLC; Pad ID: Charles Pad; ABR–201204013.R2; Jackson Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: April 29, 2022.

29. Chesapeake Appalachia, L.L.C.; Pad ID: Champdale; ABR–20100450.R2; Tuscarora Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: April 30, 2022.

*Authority:* Public Law 91–575, 84 Stat. 1509 *et seq.*, 18 CFR parts 806 and 808.

Dated: May 6, 2022.

**Jason E. Oyler,**

*General Counsel and Secretary to the Commission.*

[FR Doc. 2022–10134 Filed 5–11–22; 8:45 am]

**BILLING CODE 7040–01–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Unmanned Aircraft Systems Beyond Visual Line of Sight Aviation Rulemaking Committee Final Report; Notice of Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** This action announces a public meeting of the UAS Beyond Visual Line of Sight (BVLOS) Aviation Rulemaking Committee (ARC) Final Report.

**DATES:** The meeting will be held on June 22, 2022, from 5:30 p.m.–7:30 p.m. Eastern Time.

Request for accommodations to a disability must be received by June 13, 2022.

Request to provide oral comment must be received by June 7, 2022.

Written comments will be accepted through June 29, 2022.

**ADDRESSES:** This meeting will be held virtually. Members of the public who wish to view the meeting can access the livestream on the following FAA social media platforms on the day of the event, <https://www.facebook.com/FAA> or <https://www.youtube.com/FAAnews>.

Members of the public who wish to provide written comments and/or oral comments may do so by emailing 9-FAA-UAS-BVLOS@faa.gov.

Meeting minutes and other information will be posted at: [https://www.faa.gov/regulations\\_policies/rulemaking/committees/documents/index.cfm/committee/browse/committeeID/837](https://www.faa.gov/regulations_policies/rulemaking/committees/documents/index.cfm/committee/browse/committeeID/837).

#### FOR FURTHER INFORMATION CONTACT:

Laura E. Gómez, 202–267–8076, Federal Aviation Administration, at 9-FAA-UAS-BVLOS@faa.gov with “Attention to Laura E. Gómez” in the subject line.

#### SUPPLEMENTARY INFORMATION:

##### Background

On June 8, 2021, the FAA established the UAS BVLOS ARC to provide recommendations to the FAA on performance-based regulatory requirements to normalize safe, scalable, economically viable, and



environmentally advantageous UAS BVLOS operations that are not under positive air traffic control (ATC). The UAS BVLOS ARC, composed of stakeholders from 86 organizations, was tasked with providing recommendations that addressed requirements and supported concepts of the following BVLOS operations: Long-line linear infrastructure inspections, industrial aerial data gathering, small package delivery, and precision agriculture operations, including crop spraying.

A copy of the UAS BVLOS ARC charter and final report can be downloaded at: [https://www.faa.gov/regulations\\_policies/rulemaking/committees/documents/index.cfm/committee/browse/committeeID/837](https://www.faa.gov/regulations_policies/rulemaking/committees/documents/index.cfm/committee/browse/committeeID/837).

#### Purpose

The FAA is hosting a public meeting to give members of the public an opportunity to comment on the UAS BVLOS ARC Final Report. We invite public comments related to all aspects of the final report. In particular, we are interested in comments related to initial reactions and areas that the FAA should further explore for performance-based regulatory requirements to normalize safe, scalable, economically viable, and environmentally advantageous UAS BVLOS operations that are not under positive ATC.

#### Public Participation

Requests to provide oral comments related to the BVLOS ARC report during the meeting must be received no later than June 7, 2022, and must include the commenter's full name and email address. Requests received without this information may not be given the opportunity to provide oral comment. The opportunity to provide oral comment will be given in the order that the requests are received. Comments should be limited to five minutes and must be reserved to the topic of the BVLOS ARC Final Report. Members of the public who submit a request to make oral comments during the meeting will receive a confirmation email with instructions on how to participate in the meeting virtually.

Commenters who may need longer than five minutes are strongly encouraged to submit a written comment. The FAA will accept written comments until June 29, 2022.

The U.S. Department of Transportation is committed to providing equal access to this meeting for all participants. If you need alternative formats or services because of a disability, such as sign language, interpretation, or other ancillary aids, please contact the person listed in the

#### FOR FURTHER INFORMATION CONTACT section.

Issued in Washington, DC.

**Abigail A. Smith,**

*Deputy Executive Director, UAS Integration Office (AUS), Federal Aviation Administration.*

[FR Doc. 2022-10164 Filed 5-11-22; 8:45 am]

**BILLING CODE 4910-13-P**

#### DEPARTMENT OF TRANSPORTATION

##### Federal Aviation Administration

**[Docket No.: FAA-2021-1058; Summary Notice No.—2022-24]**

##### Petition for Exemption; Summary of Petition Received; International Aviation Services, LLC

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

**ACTION:** Notice.

**SUMMARY:** This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion nor omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

**DATES:** Comments on this petition must identify the petition docket number and must be received on or before June 1, 2022.

**ADDRESSES:** Send comments identified by docket number FAA-2021-1058 using any of the following methods:

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

*Privacy:* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking

process. DOT posts these comments, without edit, including any personal information the commenter provides, to <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

*Docket:* Background documents or comments received may be read at <http://www.regulations.gov> at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Alphonso Pendergrass, (202) 267-4713, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC.

**Timothy R. Adams,**

*Deputy Executive Director, Office of Rulemaking.*

#### Petition for Exemption

*Docket No.:* FAA-2021-1058.

*Petitioner:* International Aviation Services, LLC.

*Section(s) of 14 CFR Affected:* § 60.17(c)(i).

*Description of Relief Sought:* The Petitioner is seeking an exemption from the two (2) year time limit stated in 14 CFR part 60.17(c)(i) to allow the NASA Ames B747-400 FSTD, FAA ID #431 to have its qualification restored using the original qualification basis in accordance with Advisory Circular (AC) 120-40B.

[FR Doc. 2022-10165 Filed 5-11-22; 8:45 am]

**BILLING CODE 4910-13-P**

#### DEPARTMENT OF TRANSPORTATION

##### Federal Railroad Administration

**[Docket No. FRA-2022-0002-N-9]**

##### Proposed Agency Information Collection Activities; Comment Request

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, this notice

announces that FRA is forwarding the Information Collection Request (ICR) abstracted below to the Office of Management and Budget (OMB) for review and comment. The ICR describes the information collection and its expected burden. On February 11, 2022, FRA published a notice providing a 60-day period for public comment on the ICR.

**DATES:** Interested persons are invited to submit comments on or before June 13, 2022.

**ADDRESSES:** Written comments and recommendations for the proposed ICR should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find the particular ICR by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Ms. Hodan Wells, Information Collection Clearance Officer, at email: [Hodan.Wells@dot.gov](mailto:Hodan.Wells@dot.gov).

**SUPPLEMENTARY INFORMATION:** The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. See 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. On February 11, 2022, FRA published a 60-day notice in the **Federal Register** soliciting comment on the ICR for which it is now seeking OMB approval. See 87 FR 8082. FRA received no comments related to the proposed collection of information.

Before OMB decides whether to approve the proposed collection of information, it must provide 30 days for public comment. Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.12(a); see also 60 FR 44978, 44983 (Aug. 29, 1995). OMB believes the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983 (Aug. 29, 1995). Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect.

Comments are invited on the following ICR regarding: (1) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the information will have practical utility; (2) the accuracy of FRA’s estimates of

the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology.

The summary below describes the ICR that FRA will submit for OMB clearance as the PRA requires:

*Title:* State Safety Participation Regulations and Reporting of Remedial Actions.

*OMB Control Number:* 2130–0509.

*Abstract:* The collection of information is set forth under 49 CFR part 212, and requires qualified State inspectors to provide various reports to FRA for monitoring and enforcement purposes concerning State investigative, inspection, and surveillance activities regarding railroad compliance with Federal railroad safety laws and regulations. Additionally, under 49 CFR part 209, subpart E, railroads are required to report to FRA actions taken to remedy certain alleged violations of law.

*Type of Request:* Extension without change (with changes in estimates) of a currently approved collection.

*Affected Public:* Businesses.

*Form(s):* FRA F 6180.33/61/67/96/96A/109/110/111/112/144.

*Respondent Universe:* States and railroads.

*Frequency of Submission:* On occasion.

*Total Estimated Annual Responses:* 24,066.

*Total Estimated Annual Burden:* 11,958 hours.

*Total Estimated Annual Burden Hour Dollar Cost Equivalent:* \$970,427.

FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information that does not display a currently valid OMB control number.

*Authority:* 44 U.S.C. 3501–3520.

**Brett A. Jortland,**

*Deputy Chief Counsel.*

[FR Doc. 2022–10206 Filed 5–11–22; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

#### Early Scoping Notice for the Kitsap County Public Transportation Benefit Area Authority Proposed Seattle Fast Ferry Terminal Facility Project

**AGENCY:** Federal Transit Administration, Department of Transportation (DOT).

**ACTION:** Early scoping notice.

**SUMMARY:** The Federal Transit Administration (FTA) and Kitsap County Public Transportation Benefit Area Authority (Kitsap Transit), the operator of Kitsap Fast Ferries, issue this early scoping notice to advise tribes, agencies, and the public that FTA and Kitsap Transit will explore potential expansion of passenger-only ferry facility capacity on the downtown Seattle waterfront for the Kitsap Transit Seattle Fast Ferry Terminal Facility Project (Project). The Project would improve regional transit service by addressing the current lack of passenger-only ferry landing site capacity on the Seattle waterfront, the most in-demand destination in downtown Seattle.

**DATES:** Two online public early scoping meetings will be held at the following times (all times are Pacific Daylight Time):

- Monday, June 6, 2022, 12:00–1:00 p.m.
- Wednesday, June 8, 2022, 6:00–7:00 p.m.

Links for the online public early scoping meetings can be found at the project web page: <https://www.kitsaptransit.com/seattle-fast-ferry-terminal-siting-study>.

In addition, an interagency and tribal early scoping meeting will be held Monday, June 6, 2022, 2:00–3:00 p.m., to receive comments from tribes and agencies who have an interest in the proposed Project. Invitations to the tribal and agency early scoping meeting will be sent to appropriate federal, tribal, state, and local government units and will include details on how to participate in the online meeting.

These early scoping meetings will be conducted in a webinar format, accessible via the internet and by teleconference.

FTA and Kitsap Transit will offer individual meetings with federally-recognized tribes having usual and accustomed (U&A) rights in the project area at their convenience.

Additional information about the Project is provided in the following sections and the Kitsap Transit Fast Ferry Terminal Siting: Early Scoping

Information Report available on the project website identified below. Kitsap Transit will also provide information on the alternative analysis at the early scoping meetings, along with opportunities for comment. Information is also currently available on the Kitsap Transit website at the following project web page (<https://www.kitsaptransit.com/seattle-fast-ferry-terminal-siting-study>).

Written early scoping comments are requested by June 12, 2022, and can be mailed or emailed to the addresses below. Comments can also be provided via the online comment form available at the website address below or left as a voicemail at the phone number below.

**ADDRESSES:** Steffani Lillie, Kitsap Transit Service and Capital Development Director, 60 Washington Avenue, Suite 200, Bremerton, WA 98337, Email: [SteffaniL@kitsaptransit.com](mailto:SteffaniL@kitsaptransit.com), Project website: <https://www.kitsaptransit.com/seattle-fast-ferry-terminal-siting-study>, Telephone: (360) 478-6931. Information for alternate formats: (360) 479-4348.

**FOR FURTHER INFORMATION CONTACT:** Mark Assam, Environmental Protection Specialist, Region X, Federal Transit Administration, 915 Second Avenue, Suite 3142, Seattle, WA 98174, phone: (206) 220-4465, email: [mark.assam@dot.gov](mailto:mark.assam@dot.gov).

#### SUPPLEMENTARY INFORMATION:

##### Early Scoping

Early scoping is an optional step in the National Environmental Policy Act (NEPA) process that is intended to invite public, agency, and tribal comments at the earliest reasonable time in project planning. FTA is the lead federal agency under NEPA. Early scoping is also being conducted under the Washington State Environmental Policy Act (SEPA) rules regarding expanded scoping (Washington Administrative Code 197-11-410). Kitsap Transit is the lead agency under SEPA.

Early scoping is being initiated during this Project's site screening and alternatives development phase. This early scoping notice invites the public and other interested parties to comment on the scope of the site screening and alternatives development analysis, including the following: (a) The purpose and need for the Project; (b) the assessment and criteria presented in the Early Scoping Information Report; (c) the potential impacts and benefits of the Project; and (d) other considerations that are relevant to the evaluation of alternatives. These early scoping efforts

are being conducted in accordance with NEPA and its implementing regulations.

##### Purpose and Need for the Project

The purpose of the proposed Project is to improve regional mobility through expanded passenger-only terminal facilities on the downtown Seattle waterfront to:

- Increase vessel docking capacity.
  - Increase passenger staging capacity and improve rider amenities, including restrooms and bicycle storage.
  - Incorporate shoreside infrastructure and equipment to support electric vessel charging.
  - Increase integration of passenger-only ferry travel with other transit modes.
  - Maintain or improve rider accessibility to Seattle business, employment, cultural and retail destinations.
  - Create opportunities for growth of regional passenger-only ferry routes throughout the Puget Sound Region.
  - Improve access to jobs and housing opportunities in regional growth centers.
  - Expand mobility options for minority and low-income populations.
- Additional terminal facilities are needed because:

- The current passenger-only ferry terminal in downtown Seattle, Pier 50, is the only public facility of its kind. This facility can only accommodate two vessels at one time.
- The Pier 50 passenger-only ferry terminal facility does not have shore-side space for equipment and infrastructure needed to support future electric vessel charging, such as energy storage systems.
- Kitsap Transit's passenger-only ferry service frequency cannot be increased during peak commute periods due to the limited landing site capacity. Current service is limited to 12 landings from the three Kitsap Transit routes within the peak period.
- Terminal docking congestion leads to cascading departure delays and schedule disruptions.
- Access between the more affordable housing on the Kitsap peninsula and the Downtown Seattle job center is constrained due to limited frequency of the passenger-only ferry service. Alternatives to passenger-only ferry service include auto/passenger ferry service provided by WSF, bus transit, or driving; all of which result in travel times roughly twice as long as Kitsap Transit's passenger-only ferry routes.
- Additionally, the Puget Sound Regional Council (PSRC) 2020 Puget Sound Passenger-only Ferry Study identified the lack of landing site

capacity in downtown Seattle as a barrier to potential future routes or service expansion.

##### Project Description

Kitsap Transit is exploring potential expansion of passenger-only ferry facility capacity on the downtown Seattle waterfront to support ongoing operations of Kitsap Fast Ferries and growth of regional passenger-only ferry service. The first step in the Project is to assess downtown Seattle waterfront locations to identify a preferred downtown terminal location to support long-term passenger-only ferry operations.

##### Project Context and History

Passenger-only ferry docking facilities at the Seattle waterfront, the most in demand destination in downtown Seattle, are limited and inhibit any increases to service on current routes or introduction of new routes due to capacity constraints at the existing facility. The PSRC forecasts in 2018 that the region will add 1.8 million people and 1.2 million jobs by 2050. This growth is supported by PSRC's regional transportation forecasting models that predict continued growth over the next 20 years.

Passenger-only ferry service to downtown Seattle, the region's economic and cultural center, offers an alternative to the region's capacity strained land-based transportation systems and complements existing Washington State Ferries (WSF) service. Passenger-only ferry transportation continues to expand, with Kitsap Transit implementing three routes in the last four years (Bremerton-Seattle, Kingston-Seattle, and Southworth-Seattle) with four vessels, and with ridership growing on the two existing King County Water Taxi routes (West Seattle-Seattle and Vashon Island-Seattle), operated by the Metropolitan King County, Metro Transit Department, Marine Division (King County Metro). In addition to existing operators, a recent PSRC 2020 Puget Sound Passenger-only Ferry Study identified additional potential ferry routes into the congested downtown Seattle waterfront.

The Kitsap Transit passenger-only ferry program is an important transportation link connecting the Kitsap Peninsula to downtown Seattle. To ensure this service is reliable and meets rider needs, adequate landing facilities must be available on both ends of the routes. Kitsap Transit has built adequate landing facilities at two of their four landing locations: Bremerton and Kingston. The Southworth-Seattle route currently shares a single slip with

WSF at Southworth, and Kitsap Transit is working with WSF to make facility improvements to expand docking facilities. However, all three Kitsap Transit routes share two slips with the two King County Metro routes at Pier 50 on the Seattle waterfront (Kitsap Transit's fourth landing location). Pier 50's designed operating capacity is insufficient for five distinct routes, serviced by six operating vessels, arriving 20 times during both the morning and afternoon commute periods.

Kitsap Transit is the secondary user at Pier 50 and must fit their service schedule around King County Metro's schedule. Hence, the driving factor in Kitsap Transit's service schedule is docking availability. This means that landing times are limited to available docking windows rather than customer preferences for arrival and departure times. With 12 landings in the peak commute ridership periods (5 a.m. to 9 a.m. and 3 p.m. to 7 p.m.), Kitsap Transit's current schedule fully utilizes the docking times not reserved for King County Metro. Although there are a few remaining dock openings during the commute window, they cannot be accommodated within Kitsap Transit vessel headways and dwell times.

Additional challenges to maintaining service schedules occur when Kitsap Transit and King County Metro vessels experience inevitable transit delays due to weather conditions such as fog or marine traffic that lead to cascading departure delays and service disruptions that cannot be mitigated with two landing slips.

Kitsap Transit must stay within their docking windows in Seattle so as not to disrupt King County Metro's schedule. To maintain docking windows, Kitsap Transit routinely has to travel at higher than planned speeds to maintain the Seattle arrival and departure schedule. At these higher speeds, Kitsap Transit consumes more fuel leading to higher carbon emissions and increased operating costs from higher fuel expense. Higher-speed operations also place greater loads on vessel engines and other vessel systems leading to increased maintenance costs.

Kitsap Transit temporarily operated their Bremerton-Seattle route from a leased private dock at Pier 54. The lease could not be renewed, forcing Kitsap Transit to consolidate all three routes with King County Metro's two routes at Pier 50 beginning May 2, 2022. With five routes and six vessels operating from two slips, the risk of arrival and departure delays and higher operating costs will increase.

### Next Steps

Following early scoping, FTA and Kitsap Transit will use the comments received from early scoping to help identify and narrow the range of Project location alternatives for further evaluation in a combined NEPA/SEPA environmental document. If the resulting range of alternatives involves the potential for significant environmental impacts requiring an environmental impact statement (EIS), FTA will publish a Notice of Intent to Prepare an EIS in the **Federal Register**, and Kitsap Transit will publish a Determination of Significance/Scoping Notice. Tribes, agencies, and the public will be invited to comment on the scope of the EIS at that time.

*Authority:* 49 CFR 622.101, 23 CFR 771.111, and 40 CFR 1501.7.

Linda M. Gehrke,

Regional Administrator.

[FR Doc. 2022-10156 Filed 5-11-22; 8:45 am]

### BILLING CODE 4

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[Docket No. DOT-MARAD-2022-0101]

#### Request for Comments on the Renewal of a Previously Approved Information Collection: Request for Transfer of Ownership, Registry, and Flag, or Charter, Lease, or Mortgage of U.S. Citizen Owned Documented Vessels

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Maritime Administration (MARAD) invites public comments on our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The collection involves documenting Transfer of Ownership, Registry, and Flag, or Charter, Lease, or Mortgage of U.S. Citizen owned documented vessels.

We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

**DATES:** Comments must be submitted on or July 11, 2022.

**ADDRESSES:** You may submit comments identified by Docket No. DOT-MARAD-2022-0099 through one of the following methods:

- *Federal eRulemaking Portal:* [www.regulations.gov](http://www.regulations.gov). Search using the above DOT docket number and follow the online instructions for submitting comments.

- *Fax:* 1-202-493-2251.

- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

*Instructions:* All submissions must include the agency name and docket number for this rulemaking.

*Note:* All comments received will be posted without change to [www.regulations.gov](http://www.regulations.gov) including any personal information provided.

*Comments are invited on:* (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

### Electronic Access and Filing

A copy of the notice may be viewed online at [www.regulations.gov](http://www.regulations.gov) using the docket number listed above. A copy of this notice will be placed in the docket. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at [www.FederalRegister.gov](http://www.FederalRegister.gov) and the Government Publishing Office's website at [www.GovInfo.gov](http://www.GovInfo.gov).

### FOR FURTHER INFORMATION CONTACT:

Katrina McRae, Vessel Transfer Specialist, Office of Sealift Support, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, (202) 366-3198, [katrina.mcrae@dot.gov](mailto:katrina.mcrae@dot.gov).

### SUPPLEMENTARY INFORMATION:

*Title:* Request for Transfer of Ownership, Registry, and Flag, or Charter, Lease, or Mortgage of U.S.-Citizen Owned Documented Vessels.

*OMB Control Number:* 2133-0006.

*Type of Request:* Extension of currently approved collection.

*Background:* This collection provides information necessary for MARAD to approve the sale, transfer, charter, lease, or mortgage of U.S. documented vessels to non-citizens, or the transfer of such vessels to foreign registry and flag, or the transfer of foreign flag vessels by their owners as required by various contractual requirements. The

information will enable MARAD to determine whether the vessel proposed for transfer will initially require retention under the U.S.-flag statutory regulations.

*Respondents:* Vessel owners who have applied for foreign transfer of U.S.-flag vessels.

*Affected Public:* Business or other for Profit.

*Estimated Number of Respondents:* 85.

*Estimated Number of Responses:* 85.

*Estimated Hours per Response:* 2 hours.

*Estimated Total Annual Burden Hours:* 170.

*Frequency of Collection:* Annually.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93.)

By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

*Secretary, Maritime Administration.*

[FR Doc. 2022-10149 Filed 5-11-22; 8:45 am]

**BILLING CODE 4910-81-P**

## DEPARTMENT OF THE TREASURY

### Open Meeting of the Federal Advisory Committee on Insurance

**AGENCY:** Departmental Offices, U.S. Department of the Treasury.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces that the U.S. Department of the Treasury's Federal Advisory Committee on Insurance (FACI) will meet via videoconference on Thursday, June 2, 2022, from 12:00 p.m.–3:30 p.m. Eastern Time. The meeting is open to the public. The FACI provides non-binding recommendation and advice to the Federal Insurance Office (FIO) in the U.S. Department of Treasury.

**DATES:** The meeting will be held via videoconference on Thursday, June 2, 2022, from 12:00 p.m.–3:30 p.m. Eastern Time.

**ADDRESSES:** *Attendance:* The meeting will be held via videoconference and is open to the public. The public can attend remotely via live webcast: [www.yorkcast.com/treasury/events/2022/06/02/faci](http://www.yorkcast.com/treasury/events/2022/06/02/faci). The webcast will also be available through the FACI's website: <https://home.treasury.gov/policy-issues/financial-markets-financial-institutions-and-fiscal-service/federal-insurance-office/federal-advisory-committee-on-insurance-faci>. Please refer to the FACI website for up-to-date information on this meeting. Requests for reasonable accommodations under Section 504 of the Rehabilitation Act should be directed to Snider Page, Office of Civil Rights and Diversity, Department of the Treasury at (202) 622-0341, or [snider.page@treasury.gov](mailto:snider.page@treasury.gov).

**FOR FURTHER INFORMATION CONTACT:** Jigar Gandhi, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, U.S. Department of the Treasury, 1500 Pennsylvania Ave. NW, Room 1410 MT, Washington, DC 20220, at (202) 622-3220 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

**SUPPLEMENTARY INFORMATION:** Notice of this meeting is provided in accordance with the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 10(a)(2), through implementing regulations at 41 CFR 102-3.150.

*Public Comment:* Members of the public wishing to comment on the business of the FACI are invited to submit written statements by either of the following methods:

#### Electronic Statements

- Send electronic comments to [faci@treasury.gov](mailto:faci@treasury.gov).

#### Paper Statements

- Send paper statements in triplicate to the Federal Advisory Committee on Insurance, U.S. Department of the Treasury, 1500 Pennsylvania Ave. NW, Room 1410 MT, Washington, DC 20220.

In general, the Department of the Treasury will make submitted comments available upon request without charge, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers. Requests for public comments can be submitted via email to [faci@treasury.gov](mailto:faci@treasury.gov). The Department of the Treasury will also make such statements available for public inspection and copying in the Department of the Treasury's Library, 720 Madison Place NW, Room 1020, Washington, DC 20220, on official business days between the hours of 10:00 a.m. and 5:00 p.m. Eastern Time. You can make an appointment to inspect statements by telephoning (202) 622-2000. All statements received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

*Tentative Agenda/Topics for Discussion:* This will be the second FACI meeting of 2022. In this meeting, the FACI will continue to discuss topics related to climate-related financial risk and the insurance sector. The FACI will also receive status updates from each of its subcommittees and from FIO on its activities, and consider any new business.

Dated: May 9, 2022.

**Steven Seitz,**

*Director, Federal Insurance Office.*

[FR Doc. 2022-10187 Filed 5-11-22; 8:45 am]

**BILLING CODE 4810-AK-P**

# Reader Aids

Federal Register

Vol. 87, No. 92

Thursday, May 12, 2022

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## ELECTRONIC RESEARCH

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The text of laws is not published in the **Federal Register** but may be ordered in “slip law” (individual pamphlet) form from the Superintendent of Documents,

U.S. Government Publishing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available at <https://www.govinfo.gov>. Some laws may not yet be available.

**S. 1226/P.L. 117–119**

To designate the United States courthouse located at 1501 North 6th Street in Harrisburg, Pennsylvania, as the “Sylvia H. Rambo United States Courthouse”, and for other purposes. (May 10, 2022; 136 Stat. 1186)

**S. 2126/P.L. 117–120**

To designate the Federal Office Building located at 308 W. 21st Street in Cheyenne, Wyoming, as the “Louisa Swain Federal Office Building”, and for other purposes. (May 10, 2022; 136 Stat. 1187)

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