AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

# FEDERAL REGISTER

Vol. 85 Wednesday,
No. 180 September 16, 2020

Pages 57665–57936

OFFICE OF THE FEDERAL REGISTER

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

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

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

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

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

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

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

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

**How To Cite This Publication:** Use the volume number and the page number. Example: 85 FR 12345.

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

## SUBSCRIPTIONS AND COPIES

**PUBLIC**

**Subscriptions:**

| | |
|---|---|
| Paper or fiche | **202–512–1800** |
| Assistance with public subscriptions | **202–512–1806** |

**General online information** **202–512–1530; 1–888–293–6498**

**Single copies/back copies:**

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

**FEDERAL AGENCIES**

**Subscriptions:**

Assistance with Federal agency subscriptions:

| | |
|---|---|
| Email | *FRSubscriptions@nara.gov* |
| Phone | **202–741–6000** |

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

Printed on recycled paper.

# Contents

**Federal Register**

Vol. 85, No. 180

Wednesday, September 16, 2020

**Agriculture Department**
*See* Natural Resources Conservation Service

**Air Force Department**
NOTICES
Intent To Grant a Partially Exclusive Patent License, 57837–57838
Intent To Grant an Exclusive Patent License With a Joint Ownership Agreement, 57837

**Children and Families Administration**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Social Services Block Grant Post-Expenditure Report, 57863–57864

**Coast Guard**
RULES
Crediting Recent Sea Service of Personnel Serving on Vessels of the Uniformed Services, 57757–57765
Drawbridge Operations:
Trent River, New Bern, NC, 57691–57693
PROPOSED RULES
Drawbridge Operations:
New Jersey Intracoastal Waterway, Atlantic City, NJ, 57808–57810
NOTICES
Termination of the Coast Guard Federal Advisory Committee, 57872

**Commerce Department**
*See* Industry and Security Bureau
*See* International Trade Administration
*See* National Oceanic and Atmospheric Administration

**Commodity Futures Trading Commission**
NOTICES
Charter Renewal:
Global Markets Advisory Committee, 57837

**Defense Department**
*See* Air Force Department
NOTICES
Meetings:
Department of Defense Military Family Readiness Council, 57838–57839
National Security Education Board, 57838
Revised Non-Foreign Overseas Per Diem Rates, 57839–57842
Science and Technology Reinvention Laboratory Personnel Demonstration Project Program, 57842–57847

**Education Department**
RULES
Waiver and Extension of the Project Period:
Grant That Provides Rehabilitation Short Term Training to the Client Assistance Program, 57693–57694
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Historically Black College or University Capital Financing Program Deferment Applications, 57847–57848
Report of Children Receiving Early Intervention Services in Accordance With Part C; Report of Program Settings in Accordance With Part C; Report on Infants and Toddlers Exiting Part C, 57848–57849

**Energy Department**
*See* Energy Information Administration
*See* Federal Energy Regulatory Commission
PROPOSED RULES
Energy Conservation Program:
Standards for Battery Chargers, 57787–57799

**Energy Information Administration**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 57849

**Environmental Protection Agency**
RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
California; Coachella Valley; 2008 8-Hour Ozone Nonattainment Area Requirements, 57714–57721
California; Consumer Products Regulations, 57703–57707
California; Feather River Air Quality Management District, 57712–57714
California; Los Angeles-South Coast Air Basin; Finding of Failure to Attain the 2006 24-Hour Fine Particulate Matter Standards, 57733–57736
California; San Diego County Air Pollution Control District; Stationary Source Permits, 57727–57729
Colorado; Revisions to Air Pollution Emission Notice Rules, 57696–57698
Florida, Georgia, Kentucky, Mississippi, North Carolina, and South Carolina: Definition of Chemical Process Plants Under State Prevention of Significant Deterioration Regulations, 57707–57712
Georgia; Permit Requirements, 57694–57696
Idaho: Infrastructure Requirements for the 2015 Ozone Standard, 57723–57727
Indiana; Redesignation of the Morgan County Sulfur Dioxide Nonattainment Area, 57736–57739
Missouri; Control of Emissions From Industrial Surface Coating Operations, 57701–57703, 57721–57723
Missouri; Removal of Control of Emissions From Manufacture of Polystyrene Resin, 57700–57701
Missouri; Restriction of Emission of Lead From Specific Lead Smelter-Refinery Installations, 57698–57700
Utah; Infrastructure Requirements for the 2015 Ozone National Ambient Air Quality Standards, 57731–57733
Volatile Organic Compounds Reasonably Available Control Technology for the Wisconsin Portion of the Chicago-Naperville, Illinois-Indiana-Wisconsin Area, 57729–57731
Final Approval of State Underground Storage Tank Program:
Kentucky, 57754–57756
New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants:
Delegation of Authority to Albuquerque-Bernalillo County Air Quality Control Board, 57739–57746

Pesticide Tolerance Exemption:
2-Propenoic Acid, 2-Methyl-, Polymer with 2,5-Furandione and 2,4,4-Trimethyl-1-Pentene, Potassium Salt, 57746–57750
Significant New Use Rules:
Certain Chemical Substances (19–5.B); Technical Correction for PMN P-19-24, 57756–57757
Tolerance Exemption:
1-Octanamine, N, N-dimethyl-, N-oxide, 57750–57754
PROPOSED RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
1997 8-Hour Ozone National Ambient Air Quality Standards Second Maintenance Plan for the Johnstown Area, 57810–57815
New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants:
Delegation of Authority to Albuquerque-Bernalillo County Air Quality Control Board, 57815–57816
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
National Volatile Organic Compounds Emission Standards for Architectural Coatings; Renewal, 57856–57857
Request To Assume Administration of a Clean Water Act Program:
Florida, 57853–57856

**Federal Aviation Administration**
RULES
Airworthiness Directives:
Bell Textron Inc. (Type Certificate Previously Held by Bell Helicopter Textron Inc.) Helicopters, 57671–57673
General Electric Company Turbofan Engines, 57666–57668
Honeywell International Inc. Turbofan Engines, 57668–57671
Amendment of Class E Airspace:
Clarion, IA, 57673–57674
Clinton, MO, 57674–57675
Subdivision of Restricted Area R–4101:
Camp Edwards, MA, 57675–57677
PROPOSED RULES
Airworthiness Directives:
Airbus SAS Airplanes, 57802–57804
Gulfstream Aerospace LP Airplanes, 57799–57802
Pilatus Aircraft Limited Airplanes, 57804–57806
Revocation of Class D and Amendment of Class E Airspace:
Gillette, WY, 57806–57808

**Federal Communications Commission**
RULES
Expanding Flexible Use of the 3.7 to 4.2 GHz Band, 57765–57767
Implementation of the National Suicide Hotline Improvement Act, 57767–57783
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 57857–57861

**Federal Deposit Insurance Corporation**
NOTICES
Meetings:
Systemic Resolution Advisory, 57861–57862

**Federal Emergency Management Agency**
NOTICES
Flood Hazard Determinations; Changes, 57874–57877
Flood Hazard Determinations; Proposals, 57872–57874

**Federal Energy Regulatory Commission**
NOTICES
Combined Filings, 57850–57852
Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorizations:
AB Lessee, LLC, 57852
Albemarle Beach Solar, LLC, 57849–57850
Mechanicsville Lessee, LLC, 57850–57851
Meetings:
Electric Quarterly Report Users Group, 57851

**Federal Maritime Commission**
NOTICES
Agreements Filed, 57862
Service Contract Inventory Analysis; Fiscal Year 2017, 57862

**Federal Motor Carrier Safety Administration**
NOTICES
Parts and Accessories Necessary for Safe Operation; Exemption Applications:
Charles Machine Works, Inc., 57928–57930
Qualification of Drivers; Exemption Applications:
Epilepsy and Seizure Disorders, 57926–57928, 57930–57932

**Federal Railroad Administration**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 57932–57934
Application:
Approval of Discontinuance or Modification of a Railroad Signal System, 57932

**Federal Reserve System**
NOTICES
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 57862–57863

**Federal Retirement Thrift Investment Board**
RULES
Automatic Enrollment Program, 57665–57666

**Fish and Wildlife Service**
PROPOSED RULES
Endangered and Threatened Species:
Findings on a Petition To Delist the Distinct Population Segment of the Western Yellow-Billed Cuckoo and a Petition To List the Population of Northwestern Moose, 57816–57818

**Food and Drug Administration**
NOTICES
Guidance:
Eosinophilic Esophagitis: Developing Drugs for Treatment, 57866–57867
Geriatric Information in Human Prescription Drug and Biological Product Labeling, 57864–57866
Issuance of Priority Review Voucher:
Rare Pediatric Disease Product, 57864
Meetings:
Circulatory System Devices Panel of the Medical Devices Advisory Committee, 57867–57868

**Foreign Assets Control Office**
NOTICES
Blocking or Unblocking of Persons and Properties, 57934

**Health and Human Services Department**
*See* Children and Families Administration
*See* Food and Drug Administration
*See* Health Resources and Services Administration
*See* National Institutes of Health

**Health Resources and Services Administration**
NOTICES
Meetings:
National Advisory Council on Migrant Health, 57869
Proposed Updates to the Bright Futures Periodicity Schedule as Part of the Supported Preventive Services Guidelines for Infants, Children, and Adolescents, 57868–57869

**Homeland Security Department**
*See* Coast Guard
*See* Federal Emergency Management Agency
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Generic Clearance for Improving Customer Experience, 57877–57880
Meetings:
President's National Security Telecommunications Advisory Committee, 57877

**Industry and Security Bureau**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Rated Orders Under the Defense Priories and Allocations System, 57820–57821

**Interior Department**
*See* Fish and Wildlife Service
*See* Land Management Bureau

**Internal Revenue Service**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 57934–57935

**International Trade Administration**
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Certain Hot-Rolled Steel Flat Products From Japan, 57821–57824
Uranium From the Russian Federation; Draft Amendment to Agreement Suspending Antidumping Investigation, 57824–57832

**International Trade Commission**
NOTICES
Complaint:
Certain Video Processing Devices, Components Thereof, and Digital Smart Televisions Containing the Same, 57882–57884
Investigations; Determinations, Modifications, and Rulings, etc.:
Certain Frozen Fish Fillets From Vietnam, 57882

**Labor Department**
*See* Wage and Hour Division

**Land Management Bureau**
NOTICES
Environmental Assessments; Availability, etc.:
Williams Draw Coal Tract Lease-By-Application, Emery County, UT; Online Public Hearing, 57881–57882
Meetings:
Bears Ears National Monument Advisory Committee, Utah, 57880–57881

**National Aeronautics and Space Administration**
NOTICES
Meetings:
Aerospace Safety Advisory Panel, 57884

**National Archives and Records Administration**
NOTICES
Records Schedules, 57884–57885

**National Credit Union Administration**
RULES
Chartering and Field of Membership, 57666

**National Institutes of Health**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Bench to Bedside: Integrating Sex and Gender To Improve Human Health and Sex as a Biological Variable: A Primer, 57869–57872
Standards of Care for Chimpanzees Held in the Federally Supported Sanctuary System; Correction, 57872

**National Oceanic and Atmospheric Administration**
RULES
Atlantic Highly Migratory Species:
Atlantic Billfish Fisheries, 57783–57785
Fisheries of the Exclusive Economic Zone Off Alaska:
Pacific Cod by Catcher Vessels Less Than 60 Feet (18.3 Meters) Length Overall Using Hook-and-Line or Pot Gear in the Bering Sea and Aleutian Islands Management Area, 57786
Pacific Cod by Pot Catcher/Processors in the Bering Sea and Aleutian Islands Management Area, 57785–57786
Fisheries of the Northeastern United States:
Atlantic Sea Scallop Fishery; Closure of the Closed Area I Scallop Access Area to General Category Individual Fishing Quota Scallop Vessels, 57785
NOTICES
Endangered and Threatened Species:
Initiation of a 5-Year Review of Five Foreign Sturgeon Species, 57832
General Provisions for Domestic Fisheries:
Application for Exempted Fishing Permit, 57833–57835
Meetings:
Mid-Atlantic Fishery Management Council, 57832–57833
North Pacific Fishery Management Council, 57835–57836
Takes of Marine Mammals Incidental to Specified Activities:
Construction of the Alaska Liquefied Natural Gas Project in Prudhoe Bay, AK, 57836–57837

**Natural Resources Conservation Service**
NOTICES
Environmental Assessments; Availability, etc.:
Mississippi Trustee Implementation Group Final Restoration Plan II; Wetlands, Coastal, and Nearshore Habitats and Oysters and Finding of No Significant Impact, 57819–57820

**Nuclear Regulatory Commission**
NOTICES
Export License Amendment Application and Renewal:
EnergySolutions Services, Inc., 57887–57889
Export License Application:
Perma-Fix Northwest Richland, Inc., 57889–57890
License Amendment Application:
Columbia Generating Station; Issuance of License Amendment Revising Technical Specification 3.8.7, 57885–57887

**Personnel Management Office**
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Questionnaire for Public Trust Positions and Supplemental Questionnaire for Selected Positions, 57890–57891

**Securities and Exchange Commission**
NOTICES
Meetings; Sunshine Act, 57895
Self-Regulatory Organizations; Proposed Rule Changes:
Cboe BYX Exchange, Inc., 57891–57892
Cboe Exchange, Inc., 57900–57920
Nasdaq BX, Inc., 57893–57895
NYSE Arca, Inc., 57892–57893
NYSE National, Inc., 57896–57897
The Nasdaq Stock Market, LLC, 57895–57896
The Options Clearing Corp., 57897–57899

**Small Business Administration**
NOTICES
Major Disaster Declaration:
Louisiana, 57921
Puerto Rico, 57920–57921

**State Department**
NOTICES
Bureau of Political-Military Affairs, Directorate of Defense Trade Controls:
Notifications to the Congress of Proposed Commercial Export Licenses, 57922–57925
Meetings:
Defense Trade Advisory Group, 57921

**Trade Representative, Office of United States**
NOTICES
Product Exclusion:
China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation, 57925–57926

**Transportation Department**
*See* Federal Aviation Administration
*See* Federal Motor Carrier Safety Administration
*See* Federal Railroad Administration

**Treasury Department**
*See* Foreign Assets Control Office
*See* Internal Revenue Service

**Wage and Hour Division**
RULES
Paid Leave Under the Families First Coronavirus Response Act, 57677–57691

---

**Reader Aids**

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

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

## CFR PARTS AFFECTED IN THIS ISSUE

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


**5 CFR**
1600 ..... 57665
1650 ..... 57665

**10 CFR**
**Proposed Rules:**
430 ..... 57787

**12 CFR**
701 ..... 57666

**14 CFR**
39 (3 documents) ..... 57666, 57668, 57671
71 (2 documents) ..... 57673, 57674
73 ..... 57675
**Proposed Rules:**
39 (3 documents) ..... 57799, 57802, 57804
71 ..... 57806

**29 CFR**
826 ..... 57677

**33 CFR**
117 ..... 57691
**Proposed Rules:**
117 ..... 57808

**34 CFR**
Ch. III ..... 57693

**40 CFR**
52 (16 documents) ..... 57694, 57696, 57698, 57700, 57701, 57703, 57707, 57712, 57714, 57721, 57723, 57727, 57729, 57731, 57733, 57736
60 ..... 57739
61 ..... 57739
63 ..... 57739
81 (2 documents) ..... 57733, 57736
180 (2 documents) ..... 57746, 57750
281 ..... 57754
721 ..... 57756
**Proposed Rules:**
52 ..... 57810
60 ..... 57815
61 ..... 57815
63 ..... 57815

**46 CFR**
11 ..... 57757

**47 CFR**
27 ..... 57765
52 ..... 57767

**50 CFR**
635 ..... 57783
648 ..... 57785
679 (2 documents) ..... 57785, 57786
**Proposed Rules:**
17 ..... 57816

# Rules and Regulations

Federal Register

Vol. 85, No. 180

Wednesday, September 16, 2020

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

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

## FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

### 5 CFR Parts 1600 and 1650

### Automatic Enrollment Program

**AGENCY:** Federal Retirement Thrift Investment Board.

**ACTION:** Final rule.

**SUMMARY:** The Federal Retirement Thrift Investment Board (''FRTIB'') is amending its regulations to increase the automatic enrollment percentage from 3 percent to 5 percent of basic pay for all participants who are automatically enrolled in the Thrift Savings Plan (TSP) on or after October 1, 2020 and for Blended Retirement Service (BRS) participants who are automatically re-enrolled in the TSP on or after January 1, 2021. In addition, the FRTIB is making a non-substantive clarification regarding installment payments calculated based on life expectancy.

**DATES:** The change to the automatic enrollment percentage is effective October 1, 2020, for participants who are automatically enrolled in the TSP on or after that date, and January 1, 2021, for BRS participants who are automatically re-enrolled in the TSP on or after that date. The clarification regarding installment payments calculated based on life expectancy is effective immediately.

**FOR FURTHER INFORMATION CONTACT:** Austen Townsend, (202) 864–8647.

**SUPPLEMENTARY INFORMATION:** The FRTIB administers the Thrift Savings Plan (TSP), which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99–335, 100 Stat. 514. The TSP provisions of FERSA are codified, as amended, largely at 5 U.S.C. 8351 and 8401–79. The TSP is a tax-deferred retirement savings plan for federal civilian employees and members of the uniformed services. The TSP is similar to cash or deferred arrangements established for private-sector employees under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)).

On February 18, 2020, pursuant to its authority under the Thrift Savings Plan Enhancement Act of 2009 and National Defense Authorization Act for Fiscal Year 2016,[1] the FRTIB published a proposed rule with request for comments in the **Federal Register** (85 FR 8767) to increase the automatic enrollment rate and the automatic re-enrollment rate to 5 percent, effective October 1, 2020 and January 1, 2021, respectively. In addition, the FRTIB proposed to amend its rule regarding installment payments calculated based on life expectancy to clarify that, for each year following the year in which the installment payments begin, the installment payment amount for the year will be calculated on the first installment payment date of that year.

The FRTIB received three comments on the proposed rule. Two comments expressed strong support for the automatic enrollment and re-enrollment rate change noting, in particular, the importance of ensuring that a participant receives the full amount of Agency/Service Matching Contributions he or she is entitled to. The third comment did not address the substance of the regulation. Therefore, the FRTIB is publishing the proposed rule as final without change.

As noted in the preamble to the proposed rule, participants who are automatically enrolled in the TSP as of September 30, 2020 will not be affected by the automatic enrollment rate increase. However, BRS participants who are automatically enrolled in the TSP as of September 30, 2020 and subsequently terminate their TSP contributions will be affected by the automatic re-enrollment rate increase unless they elect to resume TSP contributions by the last full pay period of the year. All participants may elect to change their contribution rates at any time by contacting their respective agencies.

[1] The Thrift Savings Plan Enhancement Act of 2009 authorized the FRTIB to add an automatic enrollment program for all Federal employees eligible to participate in the TSP. The National Defense Authorization Act for Fiscal Year 2016 extended the automatic enrollment program, with an additional automatic re-enrollment feature, to certain members of the uniformed services. Under the automatic enrollment program, the Executive Director has the statutory authority to select a default contribution rate for automatically enrolled participants that is no less than 2 percent and no more than 5 percent of basic pay.

### Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation will affect Federal employees, members of the uniformed services who participate in the TSP, and beneficiary participants.

### Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act.

### Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 602, 632, 653, and 1501–1571, the effects of this regulation on state, local, and tribal governments and the private sector have been assessed. This regulation will not compel the expenditure in any one year of $100 million or more by state, local, and tribal governments, in the aggregate, or by the private sector. Therefore, a statement under 2 U.S.C. 1532 is not required.

### Submission to Congress and the General Accounting Office

Pursuant to 5 U.S.C. 810(a)(1)(A), the Agency submitted 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 before publication of this rule in the **Federal Register**. This rule is not a major rule as defined at 5 U.S.C. 804(2).

### List of Subjects

*5 CFR part 1600*

Government employees, Pensions, Retirement.

*5 CFR part 1650*

Alimony, Claims, Government employees, Pensions, Retirement.

**Ravindra Deo,**

*Executive Director, Federal Retirement Thrift Investment Board.*

For the reasons stated in the preamble, the FRTIB amends 5 CFR Chapter VI as follows:

## PART 1600—EMPLOYEE CONTRIBUTION ELECTIONS, CONTRIBUTION ALLOCATIONS, AND AUTOMATIC ENROLLMENT PROGRAM

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

**Authority:** 5 U.S.C. 8351, 8432(a), 8432(b), 8432(c), 8432(j), 8432d, 8474(b)(5) and (c)(1), and 8440e.

### § 1600.34 [Amended]

■ 2. In § 1600.34, amend paragraphs (a), (b), and (c) by removing the term ''3%'' and adding the term ''5%'' in its place.

### § 1600.37 [Amended]

■ 3. In § 1600.37, amend paragraph (a) by removing the term ''3 percent'' and adding the term ''5 percent'' in its place.

## PART 1650—METHODS OF WITHDRAWING FUNDS FROM THE THRIFT SAVINGS PLAN

■ 4. The authority citation continues to read as follows:

**Authority:** 5 U.S.C. 8351, 8432d, 8433, 8434, 8435, 8474(b)(5) and 8474(c)(1).

■ 5. Amend § 1650.13 by revising paragraph (a)(2) to read as follows:

### § 1650.13 Installment payments.

(a) * * *

(2) *An installment payment amount calculated based on life expectancy.* Payments based on life expectancy are determined using the factors set forth in the Internal Revenue Service life expectancy tables codified at 26 CFR 1.401(a)(9)–9, Q&A 1 and 2. The installment payment amount is calculated by dividing the account balance by the factor from the IRS life expectancy tables based upon the participant's age as of his or her birthday in the year payments are to begin. This amount is then divided by the number of installment payments to be made per calendar year to yield the installment payment amount. In subsequent years, the installment payment amount is recalculated on the first installment payment date of the year by dividing the prior December 31 account balance by the factor in the IRS life expectancy tables based upon the participant's age as of his or her birthday in the year payments will be made. There is no minimum amount for an installment payment calculated based on this method.

* * * * *

[FR Doc. 2020–17811 Filed 9–15–20; 8:45 am]

BILLING CODE 6760–01–P

## NATIONAL CREDIT UNION ADMINISTRATION

### 12 CFR Part 701

**RIN 3133–AF06**

### Chartering and Field of Membership

*Correction*

In rule document 2020–16988 appearing on pages 56498–56514 in the issue of September 14, 2020, make the following correction:

On page 56498, in the third column, in the **DATES** section, in the second line ''September 14, 2020'' should read ''October 14, 2020''.

[FR Doc. C1–2020–16988 Filed 9–14–20; 11:15 am]

BILLING CODE 1301–00–D

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2020–0494; Project Identifier AD–2020–00324–E; Amendment 39–21235; AD 2020–18–14]**

**RIN 2120–AA64**

### Airworthiness Directives; General Electric Company Turbofan Engines

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all General Electric Company (GE) GE90–110B1 and GE90–115B model turbofan engines with a certain high-pressure turbine (HPT) rotor stage 2 disk installed. This AD was prompted by a report from the manufacturer that a subsurface anomaly was found on a HPT rotor stage 2 disk. This AD requires an ultrasonic inspection (USI) of the HPT rotor stage 2 disk and, depending on the result of the inspection, replacement of the HPT rotor stage 2 disk with a part eligible for installation. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective October 21, 2020.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 21, 2020.

**ADDRESSES:** For service information identified in this final rule, contact General Electric Company, 1 Neumann Way, Cincinnati, OH 45215; phone: 513–552–3272; email: *aviation.fleetsupport@ae.ge.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0494.

**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–2020–0494; 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:** Stephen Elwin, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7236; fax: 781–238–7199; email: *stephen.l.elwin@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

**Background**

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all GE GE90–110B1 and GE90–115B model turbofan engines with a certain HPT rotor stage 2 disk installed. The NPRM published in the **Federal Register** on May 18, 2020 (85 FR 29676). The NPRM was prompted by a report from the manufacturer that a subsurface anomaly was found on a HPT rotor stage 2 disk. The NPRM proposed to require a USI of the HPT rotor stage 2 disk and, depending on the result of the inspection, replacement of the HPT rotor stage 2 disk with a part eligible for installation. The FAA is issuing this AD to address the unsafe condition on these products.

**Comments**

The FAA gave the public the opportunity to participate in developing this final rule. The FAA has considered the comments received. The Boeing Company, FedEx Express, United Airlines, and the Air Line Pilots Association, International, supported the NPRM.

**Conclusion**

The FAA reviewed the relevant data, considered the comments received, 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.

**Service Information Incorporated by Reference under 1 CFR part 51**

The FAA reviewed GE GE90–100 Service Bulletin (SB) 72–0838, dated January 31, 2020. The SB describes procedures for performing an USI of the HPT rotor stage 2 disk. 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 28 engines installed on airplanes of U.S. registry. Based on updated information from the manufacturer, the FAA revised the number of engines installed on airplanes of U.S. registry from 12 in the NPRM to 28 in this final rule.

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

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| USI of HPT rotor stage 2 disk | 8 work-hours × $85 per hour = $680 | $0 | $680 | $19,040 |

The FAA estimates the following costs to do any necessary replacements that would be required based on the results of the inspection. The FAA has no way of determining the number of engines that might need this replacement:

ON-CONDITION COSTS

| Action | Labor cost | Parts cost | Cost per product |
|---|---|---|---|
| Remove and replace HPT rotor stage 2 disk | 2 work-hours × $85 per hour = $170 | $565,600 | $565,770 |

**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) Would not affect intrastate aviation in Alaska, and

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

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

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

**The 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 (AD):

**2020–18–14 General Electric Company:** Amendment 39–21235; Docket No. FAA–2020–0494; Project Identifier AD–2020–00324–E.

**(a) Effective Date**

This AD is effective October 21, 2020.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to all General Electric Company (GE) GE90–110B1 and GE90–115B model turbofan engines with a high-pressure turbine (HPT) rotor stage 2 disk, part number 2505M73P03, and with a serial number listed in Appendix—A, Table 1, of GE GE90–100 Service Bulletin (SB) 72–0838, dated January 31, 2020.

**(d) Subject**

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

**(e) Unsafe Condition**

This AD was prompted by a report from the manufacturer that a subsurface anomaly was found on a HPT rotor stage 2 disk. The FAA is issuing this AD to prevent failure of the HPT rotor stage 2 disk. The unsafe condition, if not addressed, could result in uncontained HPT rotor stage 2 disk release,

damage to the engine, and damage to the airplane.

**(f) Compliance**

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

**(g) Required Action**

(1) At the next piece-part exposure after the effective date of this AD, perform an ultrasonic inspection (USI) of the HPT rotor stage 2 disk in accordance with the Accomplishment Instructions, paragraph 3.B.(1)(a), of GE GE90–100 SB 72–0838, dated January 31, 2020.

(2) If, during the USI required by paragraph (g)(1) of this AD, a rejectable indication is found, remove the HPT rotor stage 2 disk from service before further flight and replace it with a part eligible for installation.

**(h) Definition**

For the purpose of this AD, ''piece-part exposure'' is when the HPT rotor stage 2 disk is removed from the engine and completely disassembled.

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

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

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

**(j) Related Information**

For more information about this AD, contact Stephen Elwin, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7236; fax: 781–238–7199; email: *stephen.l.elwin@faa.gov.*

**(k) Material Incorporated by Reference**

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

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

(i) General Electric Company (GE) GE90–100 Service Bulletin 72–0838, dated January 31, 2020.

(ii) [Reserved]

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

(4) You may view this service information at FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759.

(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: *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on August 26, 2020.

**Gaetano A. Sciortino,**

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

[FR Doc. 2020–20337 Filed 9–15–20; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2020–0394; Project Identifier AD–2019–00141–E; Amendment 39–21230; AD 2020–18–09]**

**RIN 2120–AA64**

## Airworthiness Directives; Honeywell International Inc. Turbofan Engines

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all Honeywell International Inc. (Honeywell) ALF502L, ALF502L–2, ALF502L–2A, ALF502L–2C, ALF502L–3, ALF502R–3, ALF502R–3A, ALF502R–4, ALF502R–5, ALF502R–6, LF507–1F, and LF507–1H model turbofan engines. This AD was prompted by a report of an engine experiencing an uncontained release of low-pressure turbine (LPT) blades. This AD requires initial and repetitive visual inspections of the overspeed fuel solenoid valve assembly and the fuel filter outlet. Depending on the results of these inspections, the AD may require inspection of the adjacent fuel system tube assemblies as well as replacement or overhaul of the overspeed fuel solenoid valve assembly. This AD also requires periodic overhaul of the overspeed fuel solenoid valve assembly. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective October 21, 2020.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 21, 2020.

**ADDRESSES:** For service information identified in this final rule, contact Honeywell International Inc., 111 S. 34th Street, Phoenix, AZ 85034–2802; phone: 800–601–3099; website: *https://aerospace.honeywell.com/en#/.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0394.

### 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–2020–0394; 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:** Mark Matzke, Aerospace Engineer, Los Angeles ACO Branch, FAA, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5312; fax: 562–627–5210; email: *mark.matzke@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Honeywell ALF502L, ALF502L–2, ALF502L–2A, ALF502L–2C, ALF502L–3, ALF502R–3, ALF502R–3A, ALF502R–4, ALF502R–5, ALF502R–6, LF507–1F, and LF507–1H model turbofan engines. The NPRM published in the **Federal Register** on May 4, 2020 (85 FR 26375). The NPRM was prompted by a report of an engine experiencing an uncontained release of LPT blades. The NPRM proposed to require initial and repetitive visual inspections of the overspeed fuel solenoid valve assembly and the fuel filter outlet. Depending on the results of these inspections, the NPRM proposed to require inspection of the adjacent fuel system tube assemblies as well as replacement or overhaul of the overspeed fuel solenoid valve assembly. The NPRM also proposed to require periodic overhaul of the overspeed fuel

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

**Comments**

The FAA gave the public the opportunity to participate in developing this final rule. The FAA considered the comment received. The National Transportation Safety Board supported the NPRM.

**Update to the Service Information**

The FAA determined the need to incorporate the latest service information in this AD. The FAA revised the reference to Honeywell Service Bulletin (SB) ALF/LF–72–1120 in paragraph (g) of this AD from Revision 1, dated January 6, 2020, to Revision 2, dated May 14, 2020 (''the SB''). Revision 2 of the SB retains the same visual inspection, overhaul, and replacement instructions as Revision 1. The FAA is, therefore, revising the reference in this AD to Revision 2 so that operators may avoid unnecessary submission of alternative methods of compliance requests.

**Added Definition of a Part Eligible for Installation**

The FAA determined the need to define a ''part eligible for installation'' in this AD to clarify the overspeed fuel solenoid valve assemblies that are eligible for installation.

**Conclusion**

The FAA reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this final rule as proposed except for minor editorial changes and the changes to the service information reference and definition noted previously. 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.

**Service Information Incorporated by Reference Under 1 CFR Part 51**

The FAA reviewed Honeywell SB ALF/LF–72–1120, Revision 2, dated May 14, 2020. The SB describes procedures for a one-time inspection and overhaul of the overspeed fuel solenoid valve assembly, fuel tube, and dual heater oil cooler.

The FAA reviewed Honeywell Temporary Revision (TR) No. 72–1022, dated October 14, 2019, to Honeywell Engine Manual Report No. 286.1, Revision 27, dated August 27, 2004 for Honeywell Engine Manual ALF502R. The TR describes procedures for repetitive overhaul of overspeed fuel solenoid valve assemblies installed on Honeywell ALF502R model engines.

The FAA reviewed Honeywell TR No. 72–202, dated October 10, 2019, to Honeywell Engine Manual Report No. 507F.1, Revision 6, dated August 16, 2013, for Honeywell Engine Manual LF507–1F. The TR describes procedures for repetitive overhaul of overspeed fuel solenoid valve assemblies installed on Honeywell LF507–1F model engines.

The FAA reviewed Honeywell TR No. 72–177, dated October 10, 2019, to Honeywell Engine Manual Report No. 507H.1, Revision 5, dated September 30, 1999, for Honeywell Engine Manual LF507–1H. The TR describes procedures for repetitive overhaul of overspeed fuel solenoid valve assemblies installed on Honeywell LF507–1H model engines.

The FAA reviewed Honeywell TR No. 72–57, dated October 29, 2019, to Honeywell Turbofan Engine Overhaul Manual 72–07–07, Revision 1, dated January 31, 2001, for Honeywell Overhaul Manual ALF502L. The TR describes procedures for repetitive overhaul of overspeed fuel solenoid valve assemblies installed on Honeywell ALF502L model engines.

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

**Other Related Service Information**

The FAA reviewed Wright Components, Inc., Component Maintenance Manual (CMM) 73–19–01, Initial Revision, dated July 30, 1982. The CMM describes procedures for overhauling three-way two-position solenoid operated fuel valves, part number 2–303–175–01.

The FAA reviewed Honeywell Service Bulletin (SB) ALF502–72–0001, Revision 24, dated October 29, 2019. The SB describes procedures for repetitive visual inspections of overspeed fuel solenoid valve assemblies installed on Honeywell ALF502R model engines.

The FAA reviewed Honeywell SB LF507–1F–72–1, Revision 10, dated October 29, 2019. The SB describes procedures for repetitive visual inspections of overspeed fuel solenoid valve assemblies installed on Honeywell LF507–1F model engines.

The FAA reviewed Honeywell SB LF507–1H–72–1, Revision 9, dated October 18, 2019. The SB describes procedures for repetitive visual inspections of overspeed fuel solenoid valve assemblies installed on Honeywell LF507–1H model engines.

The FAA reviewed Honeywell SB ALF502–72–0005, Revision 17, dated October 29, 2019. The SB describes procedures for repetitive visual inspections of overspeed fuel solenoid valve assemblies installed on Honeywell ALF502L model engines.

**Costs of Compliance**

The FAA estimates that this AD affects 210 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Visual inspection of the fuel solenoid valve, fuel filter outlet, and adjacent fuel system tube assemblies. | 2 work-hours × $85 per hour = $170 | $0 | $170 | $35,700 |
| Overhaul of overspeed fuel solenoid valve assembly .. | 0.25 work-hours × $85 per hour = $21.25. | 7,700 | 7,721.25 | 1,621,462.50 |

The FAA estimates the following costs to do any necessary overhauls or replacements that would be required based on the results of the inspection. The FAA has no way of determining the number of aircraft that might need these overhauls or replacements:

ON-CONDITION COSTS

| Action | Labor cost | Parts cost | Cost per product |
|---|---|---|---|
| Removal, Inspection, and Cleaning of the engine fuel tube assemblies. | 2 work-hours × $85 per hour = $170 | $0 | $170 |
| Replacement or overhaul of overspeed fuel solenoid valve assembly. | 0.25 work-hours × $85 per hour = $21.25 | 7,700 | 7,721.25 |

## 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) Would not affect intrastate aviation in Alaska, and

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

## List of Subjects in 14 CFR Part 39

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

## The 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 (AD):

**2020–18–09 Honeywell International Inc.:** Amendment 39–21230; Docket No. FAA–2020–0394; Project Identifier AD–2019–00141–E.

**(a) Effective Date**

This AD is effective October 21, 2020.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to all Honeywell International Inc. (Honeywell) ALF502L, ALF502L–2, ALF502L–2A, ALF502L–2C, ALF502L–3, ALF502R–3, ALF502R–3A, ALF502R–4, ALF502R–5, ALF502R–6, LF507–1F, and LF507–1H model turbofan engines.

**(d) Subject**

Joint Aircraft System Component (JASC) Code 7200, Engine (Turbine/Turboprop); 7300, Engine Fuel and Control; and 7620, Engine Emergency Shutdown System.

**(e) Unsafe Condition**

This AD was prompted by a report of an engine experiencing an uncontained release of low-pressure turbine (LPT) blades. The FAA is issuing this AD to prevent failure of the LPT blades. The unsafe condition, if not addressed, could result in uncontained LPT blade release, damage to the engine, and loss of the aircraft.

**(f) Compliance**

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

**(g) Required Actions**

(1) Perform an initial visual inspection of the overspeed fuel solenoid valve assembly and fuel filter outlet in accordance with the Accomplishment Instructions, paragraphs 3.B.(1) to (3), of Honeywell Service Bulletin (SB) ALF/LF–72–1120, Revision 2, dated May 14, 2020 (''Honeywell SB ALF/LF–72–1120''), using the times, as applicable, in paragraphs (g)(1)(i), (ii), and (iii) of this AD.

(i) If, on the effective date of this AD, the fuel solenoid valve assembly has 1,500 or less engine cycles since last overhaul, perform the inspection before exceeding 3,000 engine cycles since last overhaul or within 5 years after the effective date of this AD, whichever occurs first.

(ii) If, on the effective date of this AD, the fuel solenoid valve assembly has greater than 1,500 but less than 3,000 engine cycles since last overhaul, perform the inspection before exceeding 3,500 engine cycles since last overhaul or within 5 years after the effective date of this AD, whichever occurs first.

(iii) If, on the effective date of this AD, the fuel solenoid valve assembly has 3,000 or more engine cycles since last overhaul, perform the inspection before exceeding 500 engine cycles or within 5 years after the effective date of this AD, whichever occurs first.

(2) Thereafter, repeat the visual inspection of the overspeed fuel solenoid valve assembly, fuel filter outlet, and adjacent fuel system tube assemblies at intervals not to exceed 3,000 engine cycles since the last visual inspection using the Accomplishment Instructions, paragraphs 3.B.(1) to (3), of Honeywell SB ALF/LF–72–1120.

(3) If, based on the visual inspection required by paragraph (g)(1) or (2) of this AD, an overspeed fuel solenoid valve assembly is rejected for visual coking or varnish residue, as depicted in the Accomplishment Instructions, paragraph 3.B.(3) of Honeywell SB ALF/LF–72–1120, before further flight:

(i) Remove and inspect the adjacent fuel system tube assemblies using the Accomplishment Instructions, paragraph 3.B.(3) of Honeywell SB ALF/LF–72–1120.

(ii) Overhaul the overspeed fuel solenoid valve assembly or replace it with a part eligible for installation using the Accomplishment Instructions, paragraphs 3.B.(5) to (8), of Honeywell SB ALF/LF–72–1120.

**Note to paragraph (g)(3)(ii) of this AD:** Valves may be serviced at any appropriately rated, FAA-approved repair facility.

(4) At the next engine shop visit after the effective date of this AD, and each shop visit thereafter, if the overspeed fuel solenoid valve assembly time since new or since last overhaul, whichever is less, exceeds 8,000 engine cycles or is unknown, overhaul the overspeed fuel solenoid valve assembly in accordance with the applicable Honeywell Temporary Revision (TR) for the engine, as defined in paragraph (h)(2) of this AD.

**(h) Definition**

(1) For the purpose of this AD, a ''part eligible for installation'' is an overspeed fuel solenoid valve assembly including, but not limited to, P/Ns 2–303–175–01, 2–303–175–02, or 2–303–901–01.

(2) For the purpose of this AD, the ''applicable Honeywell TR'' refers, depending on the affected engine model, to the following engine model TRs:

(i) Honeywell TR No. 72–1022, dated October 14, 2019, to Honeywell Turbofan Aircraft Engine Manual Report No. 286.1, Revision 27, dated August 27, 2004, for Honeywell Engine Manual ALF502R;

(ii) Honeywell TR No. 72–202, dated October 10, 2019, to Honeywell Turbofan Aircraft Engine Manual 507F.1, Revision 6, dated August 16, 2013, for Honeywell Engine Manual LF507–1F;

(iii) Honeywell TR No. 72–177, dated October 10, 2019, to Honeywell Turbofan Aircraft Engine Manual Report No. 507H.1, Revision 5, dated September 30, 1999, for Honeywell Engine Manual LF507–1H; or

(iv) Honeywell TR No. 72–57, dated October 29, 2019, to Honeywell Turbofan Engine Overhaul Manual 72–07–07, Revision 1, dated January 31, 2001, for Honeywell Overhaul Manual ALF502L.

**(i) Credit for Previous Actions**

You may take credit for the initial visual inspection, overhaul, and replacement required by paragraph (g)(1) to (3) of this AD if the inspection was performed using the Accomplishment Instructions, paragraphs 3.B.(1) to (3) and 3.B.(5) to (8), of Honeywell SB ALF/LF–72–1120, Revision 1, dated January 6, 2020, or paragraphs 3.B.(1) to (3) and 3.B.(6) of Revision 0, dated August 30, 2019.

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

(1) The Manager, Los Angeles ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (k) of this AD. Information may be emailed to: *9-ANM-LAACO-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.

**(k) Related Information**

For more information about this AD, contact Mark Matzke, Aerospace Engineer, Los Angeles ACO Branch, FAA, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5312; fax: 562–627–5210; email: *mark.matzke@faa.gov.*

**(l) Material Incorporated by Reference**

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

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

(i) Honeywell International Inc. (Honeywell) Service Bulletin ALF/LF–72–1120, Revision 2, dated May 14, 2020.

(ii) Honeywell Temporary Revision (TR) No. 72–1022, dated October 14, 2019, to Honeywell Turbofan Aircraft Engine Manual Report No. 286.1, Revision 27, dated August 27, 2004, for Honeywell Engine Manual ALF502R.

(iii) Honeywell TR No. 72–202, dated October 10, 2019, to Honeywell Turbofan Aircraft Engine Manual 507F.1, Revision 6, dated August 16, 2013, for Honeywell Engine Manual LF507–1F.

(iv) Honeywell TR No. 72–177, dated October 10, 2019, to Honeywell Turbofan Aircraft Engine Manual Report No. 507H.1, Revision 5, dated September 30, 1999, for Honeywell Engine Manual LF507–1H.

(v) Honeywell TR No. 72–57, dated October 29, 2019, to Honeywell Turbofan Engine Overhaul Manual 72–07–07, Revision 1, dated January 31, 2001, for Honeywell Overhaul Manual ALF502L.

(3) For Honeywell service information identified in this AD, contact Honeywell International Inc., 111 S. 34th Street, Phoenix, AZ 85034–2802; phone: 800–601–3099; website: *https://aerospace.honeywell.com/en#/.*

(4) You may view this service information at FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call 781–238–7759.

(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: *fedreg.legal@nara.gov,* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued on August 24, 2020.

**Lance T. Gant,**

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

[FR Doc. 2020–20374 Filed 9–15–20; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2020–0561; Product Identifier 2019–SW–019–AD; Amendment 39–21251; AD 2020–19–08]**

**RIN 2120–AA64**

## Airworthiness Directives; Bell Textron Inc. (Type Certificate Previously Held by Bell Helicopter Textron Inc.) Helicopters

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for Bell Textron Inc. (Type Certificate previously held by Bell Helicopter Textron Inc.) (Bell), Model 204B, 205A–1, and 212 helicopters. This AD was prompted by reports of corrosion on main rotor hub tension-torsion strap (TT strap) assemblies. This AD requires reducing the life limit of a certain part-numbered TT strap assembly and prohibits installing this TT strap assembly on any helicopter. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective October 21, 2020.

**ADDRESSES:** For service information identified in this final rule, contact Bell Textron Inc., P.O. Box 482, Fort Worth, TX 76101; telephone 817–280–3391; fax 817–280–6466; or at *https://www.bellcustomer.com.* You may view the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177.

**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–2020–0561; 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:** Kuethe Harmon, Safety Management Program Manager, DSCO Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5198; email *kuethe.harmon@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

**Discussion**

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to Bell Model 204B, 205A–1, and 212 helicopters with TT strap assembly part number (P/N) 204–012–112–005 installed. The NPRM published in the **Federal Register** on June 9, 2020 (85 FR 35227). The NPRM was prompted by three incidents of fatigue cracking in TT strap assembly P/N 206–010–105–3 installed on Model 206 helicopters. These TT strap assemblies have stainless steel filament windings (wires) encased in a urethane cover, which was manufactured using Caytur 21 (also known as Cature 21) as the urethane-curing accelerator. Caytur 21 contains

chlorides, which are retained in the urethane cover after curing and result in premature failure of the urethane cover and subsequent corrosion and failure of the encased wires of the TT strap assemblies. As a result, Bell changed the curing accelerator in the manufacturing process.

Due to manufacturing process similarities of the urethane cover, TT strap assembly P/N 204–012–112–005, which is installed on Model 204B, 205A–1, and 212 helicopters, is affected by the same unsafe condition.

Accordingly, the NPRM proposed to require reducing the life limit of the TT strap assembly from 2,400 total hours time-in-service (TIS) to 1,200 total hours TIS or 18 months since initial installation on any helicopter, whichever occurs first, and creating a component history card or equivalent record. The NPRM also proposed to prohibit installing the affected TT strap assembly on any helicopter.

The actions of this AD are intended to prevent the TT strap assembly from remaining in service beyond its fatigue life. This condition, if not addressed, could result in failure of a TT strap, loss of a main rotor blade, and subsequent loss of control of the helicopter.

## Comments

The FAA gave the public the opportunity to participate in developing this final rule. The FAA received one comment in support of the NPRM.

## FAA's Determination

The FAA has reviewed the relevant information and determined that an unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed.

## Differences Between This AD and the Service Information

The service information specifies replacing TT strap assemblies with less than 1,200 hours TIS no later than January 1, 1979, and replacing TT strap assemblies with more than 1,200 hours TIS no later than September 1, 1978. This AD requires reducing the life limit of the TT strap assembly to 1,200 total hours TIS or 18 months since initial installation on any helicopter, whichever occurs first, instead. This AD also prohibits installing the TT strap assembly on any helicopter after the effective date of this AD.

## Related Service Information

The FAA reviewed Bell Helicopter Textron Alert Service Bulletin (ASB) No. 204–78–3 for Model 204B helicopters, ASB No. 205–78–2 for Model 205A–1 helicopters, and ASB No. 212–78–4 for Model 212 helicopters, all dated April 19, 1978. This service information specifies replacing TT strap assembly P/N 204–012–112–005 at 1,200 hours TIS but no later than January 1, 1979. For any TT strap assembly P/N 204–012–112–005 that already has accumulated 1,200 hours TIS, this service information specifies replacing it no later than September 1, 1978.

## Costs of Compliance

The FAA estimates that this AD affects 143 helicopters of U.S. registry. The FAA estimates that operators may incur the following costs in order to comply with this AD. Labor costs are estimated at $85 per work-hour.

Determining the total hours TIS and the total months since initial installation of each TT strap assembly takes about .5 work-hours for an estimated cost of $43 per helicopter.

Replacing each TT strap assembly takes about 10 work-hours and parts cost about $9,000, for an estimated cost of $9,850 per TT strap assembly.

## 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.

## Adoption of 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 (AD):

**2020–19–08 Bell Textron Inc. (Type Certificate Previously Held by Bell Helicopter Textron Inc.):** Amendment 39–21251; Docket No. FAA–2020–0561; Product Identifier 2019–SW–019–AD.

**(a) Effective Date**

This AD is effective October 21, 2020.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Bell Textron Inc. (Type Certificate previously held by Bell Helicopter Textron Inc.), Model 204B, 205A–1, and 212 helicopters, certificated in any category, with main rotor hub tension-torsion strap (TT strap) assembly part number (P/N) 204–012–112–005 installed.

**(d) Subject**

Joint Aircraft System Component (JASC) Code: 6200, Main Rotor.

**(e) Unsafe Condition**

This AD was prompted by reports of corrosion detected on TT strap assemblies. The FAA is issuing this AD to reduce the life limit of and subsequently remove affected TT strap assemblies from service. The unsafe condition, if not addressed, could result in failure of the TT strap assembly causing loss of a main rotor blade and subsequent loss of control of the helicopter.

**(f) Compliance**

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

**(g) Required Actions**

(1) Within 25 hours time-in-service (TIS), determine the total hours TIS and the total months since initial installation of each TT strap assembly.

(i) If the TT strap assembly has accumulated 1,200 or more total hours TIS or reached 18 or more months since initial installation on any helicopter, whichever occurs first, before further flight, remove from service the TT strap assembly.

(ii) If the TT strap assembly has accumulated less than 1,200 total hours TIS and reached less than 18 months since initial installation on any helicopter, create a component history card or equivalent record establishing the new life limit of 1,200 total hours TIS or 18 months since initial installation on any helicopter, whichever occurs first.

(2) After the effective date of this AD, do not install TT strap assembly P/N 204–012–112–005 on any helicopter.

**(h) Special Flight Permit**

Special flight permits are prohibited.

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

(1) The Manager, DSCO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j)(1). Information may be emailed to: *9-ASW-190-COS@faa.gov.*

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

**(j) Related Information**

(1) For more information about this AD, contact Kuethe Harmon, Safety Management Program Manager, DSCO Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5198; email *kuethe.harmon@faa.gov.*

(2) For service information identified in this AD, contact Bell Textron Inc., P.O. Box 482, Fort Worth, TX 76101; telephone 817–280–3391; fax 817–280–6466; or at *https://www.bellcustomer.com.* You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177.

Issued on September 9, 2020.

**Lance T. Gant,**

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

[FR Doc. 2020–20275 Filed 9–15–20; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 71

**[Docket No. FAA–2020–0609; Airspace Docket No. 20–ACE–12]**

**RIN 2120–AA66**

## Amendment of Class E Airspace; Clarion, IA

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

**ACTION:** Final rule.

**SUMMARY:** This action amends the Class E airspace extending upward from 700 feet above the surface at Clarion Municipal Airport, Clarion, IA. This action is the result of an airspace review due to the decommissioning of the Clarion non-directional beacon (NDB). The geographic coordinates of the airport are also being updated to coincide with the FAA's aeronautical database.

**DATES:** Effective 0901 UTC, December 31, 2020. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

**ADDRESSES:** FAA Order 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E at NARA, email: *fedreg.legal@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

**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 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 amends the Class E airspace extending upward from 700 feet above the surface at Clarion Municipal Airport, Clarion, IA, to support instrument flight rule operations at this airport.

### History

The FAA published a notice of proposed rulemaking in the **Federal Register** (85 FR 37596; June 23, 2020) for Docket No. FAA–2020–0609 to amend the Class E airspace extending upward from 700 feet above the surface at Clarion Municipal Airport, Clarion, IA. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

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

This document amends FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

### The Rule

This amendment to 14 CFR part 71 amends the Class E airspace extending upward from 700 feet above the surface to within a 6.4-mile (increased from a 6.3-mile) radius of Clarion Municipal Airport, Clarion, IA; removes the Clarion NDB and associated extensions from the airspace legal description; and updates the geographic coordinates of the airport to coincide with the FAA's aeronautical database.

This action is due to an airspace review caused by the decommissioning of the Clarion NDB.

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, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that 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 qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

**Lists of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of 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 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

*Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.*

**ACE IA E5 Clarion, IA [Amended]**

Clarion Municipal Airport, IA
(Lat. 42°44′26″ N, long. 93°45′33″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Clarion Municipal Airport.

Issued in Fort Worth, Texas, on September 10, 2020.

**Martin A. Skinner,**

*Manager, Operations Support Group, ATO Central Service Center.*

[FR Doc. 2020–20284 Filed 9–15–20; 8:45 am]

**BILLING CODE 4910–13–P**

---

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2020–0514; Airspace Docket No. 20–ACE–9]**

**RIN 2120–AA66**

## Amendment of Class E Airspace; Clinton, MO

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

**ACTION:** Final rule.

**SUMMARY:** This action amends the Class E airspace extending upward from 700 feet above the surface at Clinton Regional Airport, Clinton, MO. This action is the result of an airspace review due to the decommissioning of the Golden Valley non-directional beacon (NDB). The name and geographic coordinates of the airport are also being updated to coincide with the FAA's aeronautical database.

**DATES:** Effective 0901 UTC, December 31, 2020. The Director of the Federal Register approves this incorporation by reference action under Title 1 Code of Federal Regulations part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

**ADDRESSES:** FAA Order 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E at NARA, email: *fedreg.legal@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

**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 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 amends the Class E airspace extending upward from 700 feet above the surface at Clinton Regional Airport, Clinton, MO, to support instrument flight rule operations at this airport.

**History**

The FAA published a notice of proposed rulemaking in the **Federal Register** (85 FR 36174; June 15, 2020) for Docket No. FAA–2020–0514 to amend the Class E airspace extending upward from 700 feet above the surface at Clinton Regional Airport, Clinton, MO. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

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

This document amends FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this

document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

**The Rule**

This amendment to 14 CFR part 71 amends the Class E airspace extending upward from 700 feet above the surface to within a 6.6-mile (increased from 6.4-mile) radius of Clinton Regional Airport, Clinton, MO; removes the Golden Valley NDB and associated extensions from the airspace legal description; and updates the name and the geographic coordinates of the airport (previously Clinton Memorial Airport) to coincide with the FAA's aeronautical database.

This action is due to an airspace review due to the decommissioning of the Golden Valley NDB which provided navigation information to the instrument procedures at this airport.

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, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that 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 qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5.a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

**Lists of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of 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 7400.11E Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

*Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.*

* * * * *

**ACE MO E5 Clinton, MO [Amended]**

Clinton Regional Airport, MO
(Lat. 38°21′17″ N, long. 93°40′45″ W)

The airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Clinton Regional Airport.

Issued in Fort Worth, Texas, on September 10, 2020.

**Martin A. Skinner,**

*Manager, Operations Support Group, ATO Central Service Center.*

[FR Doc. 2020–20283 Filed 9–15–20; 8:45 am]

BILLING CODE 4910–13–P

---

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 73

**[Docket No. FAA–2020–0610; Airspace Docket No. 19–ANE–1]**

**RIN 2120–AA66**

## Subdivision of Restricted Area R–4101; Camp Edwards, MA

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

**ACTION:** Final rule.

**SUMMARY:** This action modifies restricted area R–4101 at Camp Edwards, MA, by vertically subdividing the area into R–4101A, R–4101B, and R–4101C. Currently, R–4101 extends from the surface to 9,000 feet MSL. The FAA is taking this action to allow for more efficient use of the airspace during periods when military activities do not require the full vertical extent of restricted area R–4101. The modifications are fully contained within the existing lateral and vertical limits of R–4101. The activities conducted in the airspace are unchanged.

**DATES:** *Effective date:* 0901 UTC, November 5, 2020.

**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 since it vertically subdivides the restricted airspace at Camp Edwards, MA, into three sections to enable more efficient use of airspace.

**Background**

Restricted area R–4101 at Camp Edwards, MA, currently extends from the surface to 9,000 feet MSL. The time of designation for the area is ''From 0600 to 1800 local time, daily, or other times as specified by NOTAM issued 48 hours in advance.''

An FAA review of the utilization reports for R–4101 revealed that most activities being conducted only require restricted airspace up to 2,500 feet MSL. Less frequent activities are conducted that require restricted airspace up to 5,000 feet MSL, and 9,000 feet MSL, respectively.

To provide for more efficient use of airspace, the FAA and the using agency agreed to subdivide R–4101 vertically into three areas: R–4101A extending from the surface to but not including 2,500 feet MSL; R–4101B extending from 2,500 feet MSL to but not including 5,000 feet MSL; and R–4101C extending from 5,000 feet MSL to 9,000 feet MSL. The new configuration

enables activation of restricted airspace to the lower altitude required for the majority of the using agency's training needs while maintaining the ability to activate additional restricted airspace for missions that require higher altitudes.

These changes will accommodate the using agency's requirements while releasing unneeded restricted airspace for access by other users. The lateral boundaries of the restricted airspace, the overall vertical limits, and the activities conducted within the airspace are unchanged.

**The Rule**

This rule amends Title 14 Code of Federal Regulations (14 CFR) part 73 by subdividing the R–4101 at Camp Edwards, MA, into three areas: R–4101A extending from the surface to but not including 2,500 feet MSL; R–4101B extending from 2,500 feet MSL to but not including 5,000 feet MSL; and R–4101C extending from 5,000 feet MSL to 9,000 feet MSL. The time of designation for R–4101A and B remains the same as currently designated for R–4101: ''From 0600 to 1800 local time, daily, or other times as specified by NOTAM issued 48 hours in advance.'' The time of designation for R–4101C, due to its less frequent utilization, is ''By NOTAM issued 48 hours in advance.'' The changes are fully contained within the existing lateral and vertical dimensions of R–4101, and the activities conducted within the restricted areas are unchanged.

These changes enhance the efficient use of the National Airspace System by providing for: Activation of the minimum amount of restricted airspace needed for the specific mission being conducted; releasing unneeded restricted airspace for access by other users; and, more clearly informing the public of when to expect activation of the restricted airspace.

In addition, the modifications do not change the current lateral boundaries, overall designated altitudes, or activities conducted within the restricted areas; therefore, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

**Regulatory Notices and Analyses**

The FAA has determined that this action only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that 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 modifying restricted area R–4101 at Camp Edwards, MA, by vertically subdividing the area into R–4101A, R–4101B, and R–4101C, qualifies for categorical exclusion under the National Environmental Policy Act (NEPA) 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). This action also qualifies for FAA categorical exclusion under paragraph 5–6.5d, which categorically excludes from further environmental impact review ''Modification of the technical description of special use airspace (SUA) that does not alter the dimensions, altitudes, or times of designation of the airspace (such as changes in designation of the controlling or using agency, or correction of typographical errors).'' As such, this action is not expected to result in any potentially significant environmental impacts. A separate categorical exclusion declaration document citing the applicability of FAA categorical exclusion 5–6.5d was signed on May 21, 2020. 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 that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

**List of Subjects in 14 CFR Part 73**

Airspace, Prohibited areas, Restricted areas.

**Adoption of the Amendment**

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73, as follows:

## PART 73—SPECIAL USE AIRSPACE

■ 1. The authority citation for part 73 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.

### § 73. 41 [Amended]

■ 2. § 73.41 is amended as follows:

* * * * *

**R–4101 Camp Edwards, MA [Removed]**

**R–4101A Camp Edwards, MA [New]**

*Boundaries.* Beginning at lat. 41°40′52″ N, long. 70°33′07″ W; to lat. 41°41′01″ N, long. 70°33′58″ W; to lat. 41°41′58″ N, long. 70°34′56″ W; to lat. 41°42′52″ N, long. 70°34′56″ W; to lat. 41°43′52″ N, long. 70°34′30″ W; to lat. 41°44′30″ N, long. 70°34′14″ W; to lat. 41°45′17″ N, long. 70°34′11″ W; to lat. 41°45′12″ N, long. 70°33′59″ W; to lat. 41°46′07″ N, long. 70°33′02″ W; to lat. 41°45′18″ N, long. 70°31′16″ W; to lat. 41°44′37″ N, long. 70°30′40″ W; to lat. 41°44′11″ N, long. 70°29′38″ W; to lat. 41°43′06″ N, long. 70°30′06″ W; to lat. 41°43′07″ N, long. 70°30′34″ W; to lat. 41°42′45″ N, long. 70°30′48″ W; to lat. 41°42′38″ N, long. 70°30′31″ W; to lat. 41°41′51″ N, long. 70°30′50″ W; to lat. 41°41′38″ N, long. 70°31′16″ W; to lat. 41°41′20″ N, long. 70°31′27″ W; to lat. 41°41′18″ N, long. 70°31′24″ W; to lat. 41°41′06″ N, long. 70°31′52″ W; to the point of beginning.

*Designated Altitudes.* Surface to but not including 2,500 feet MSL.

*Times of designation.* From 0600 to 1800 local time, daily, or other times as specified by NOTAM issued 48 hours in advance.

*Controlling agency.* FAA, Boston Approach Control.

*Using agency.* Commander, U.S. Army Garrison, Camp Edwards, MA.

**R–4101B Camp Edwards, MA [New]**

*Boundaries.* Beginning at lat. 41°40′52″ N, long. 70°33′07″ W; to lat. 41°41′01″ N, long. 70°33′58″ W; to lat. 41°41′58″ N, long. 70°34′56″ W; to lat. 41°42′52″ N, long. 70°34′56″ W; to lat. 41°43′52″ N, long. 70°34′30″ W; to lat. 41°44′30″ N, long. 70°34′14″ W; to lat. 41°45′17″ N, long. 70°34′11″ W; to lat. 41°45′12″ N, long. 70°33′59″ W; to lat. 41°46′07″ N, long. 70°33′02″ W; to lat. 41°45′18″ N, long. 70°31′16″ W; to lat. 41°44′37″ N, long. 70°30′40″ W; to lat. 41°44′11″ N, long. 70°29′38″ W; to lat. 41°43′06″ N, long. 70°30′06″ W; to lat. 41°43′07″ N, long. 70°30′34″ W; to lat. 41°42′45″ N, long. 70°30′48″ W; to lat. 41°42′38″ N, long. 70°30′31″ W; to lat. 41°41′51″ N, long. 70°30′50″ W; to lat. 41°41′38″ N, long. 70°31′16″ W; to lat. 41°41′20″ N, long. 70°31′27″ W; to lat. 41°41′18″ N, long. 70°31′24″ W; to lat. 41°41′06″ N, long. 70°31′52″ W; to the point of beginning.

*Designated Altitudes.* 2,500 feet MSL to but not including 5,000 feet MSL.

*Times of designation.* From 0600 to 1800 local time, daily, or other times as specified by NOTAM issued 48 hours in advance.

*Controlling agency.* FAA, Boston Approach Control.

*Using agency.* Commander, U.S. Army Garrison, Camp Edwards, MA.

**R–4101C Camp Edwards, MA [New]**

*Boundaries.* Beginning at lat. 41°40′52″ N, long. 70°33′07″ W; to lat. 41°41′01″ N, long. 70°33′58″ W; to lat. 41°41′58″ N, long. 70°34′56″ W; to lat. 41°42′52″ N, long. 70°34′56″ W; to lat. 41°43′52″ N, long. 70°34′30″ W; to lat. 41°44′30″ N, long. 70°34′14″ W; to lat. 41°45′17″ N, long. 70°34′11″ W; to lat. 41°45′12″ N, long. 70°33′59″ W; to lat. 41°46′07″ N, long. 70°33′02″ W; to lat. 41°45′18″ N, long. 70°31′16″ W; to lat. 41°44′37″ N, long. 70°30′40″ W; to lat. 41°44′11″ N, long. 70°29′38″ W; to lat. 41°43′06″ N, long. 70°30′06″ W; to lat. 41°43′07″ N, long. 70°30′34″ W; to lat. 41°42′45″ N, long. 70°30′48″ W; to lat. 41°42′38″ N, long. 70°30′31″ W; to lat. 41°41′51″ N, long. 70°30′50″ W; to lat. 41°41′38″ N, long. 70°31′16″ W; to lat. 41°41′20″ N, long. 70°31′27″ W; to lat. 41°41′18″ N, long. 70°31′24″ W; to lat. 41°41′06″ N, long. 70°31′52″ W; to the point of beginning.

*Designated Altitudes.* 5,000 feet MSL to 9,000 feet MSL.

*Times of designation.* By NOTAM issued 48 hours in advance.

*Controlling agency.* FAA, Boston Approach Control.

*Using agency.* Commander, U.S. Army Garrison, Camp Edwards, MA.

* * * * *

Issued in Washington, DC, on August 28, 2020.

**Scott M. Rosenbloom,**

*Acting Manager, Rules and Regulations Group.*

[FR Doc. 2020–19467 Filed 9–15–20; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF LABOR

### Wage and Hour Division

### 29 CFR Part 826

**RIN 1235–AA35**

## Paid Leave Under the Families First Coronavirus Response Act

**AGENCY:** Wage and Hour Division, Department of Labor.

**ACTION:** Temporary rule.

**SUMMARY:** The Secretary of Labor (''Secretary'') is promulgating revisions and clarifications to the temporary rule issued on April 1, 2020, implementing public health emergency leave under Title I of the Family and Medical Leave Act (FMLA) and emergency paid sick leave to assist working families facing public health emergencies arising out of the Coronavirus Disease 2019 (COVID–19) global pandemic, in response to an August 3, 2020 district court decision finding certain portions of that rule invalid. Both types of emergency paid leave were created by a time-limited statutory authority established under the Families First Coronavirus Response Act (FFCRA), and are set to expire on December 31, 2020. The FFCRA and its implementing regulations, including this temporary rule, do not affect the FMLA after December 31, 2020.

**DATES:** This rule is effective from September 16, 2020 through December 31, 2020.

**FOR FURTHER INFORMATION CONTACT:** Amy DeBisschop, Director, Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW, Washington, DC 20210, telephone: (202) 693–0406 (this is not a toll-free number). Copies of this final rule may be obtained in alternative formats (Large Print, Braille, Audio Tape or Disc), upon request, by calling (202) 693–0675 (this is not a toll-free number). TTY/TDD callers may dial toll-free 1–877–889–5627 to obtain information or request materials in alternative formats.

Questions of interpretation and/or enforcement of the agency's regulations may be directed to the nearest WHD district office. Locate the nearest office by calling WHD's toll-free help line at (866) 4US–WAGE ((866) 487–9243) between 8 a.m. and 5 p.m. in your local time zone, or log onto WHD's website for a nationwide listing of WHD district and area offices at *http://www.dol.gov/whd/america2.htm.*

**SUPPLEMENTARY INFORMATION:**

### I. Background

On March 18, 2020, President Trump signed into law the FFCRA, which creates two new emergency paid leave requirements in response to the COVID–19 global pandemic. Division E of the FFCRA, ''The Emergency Paid Sick Leave Act'' (EPSLA), entitles certain employees of covered employers to take up to two weeks of paid sick leave if the employee is unable to work for specific qualifying reasons related to COVID–19. These qualifying reasons are: (1) Being subject to a Federal, state, or local quarantine or isolation order related to COVID–19; (2) being advised by a health care provider to self-quarantine due to COVID–19 concerns; (3) experiencing COVID–19 symptoms and seeking a medical diagnosis; (4) caring for another individual who is either subject to a Federal, state, or local quarantine or isolation order related to COVID–19 or who has been advised by a health care provider to self-quarantine due to COVID–19 concerns; (5) caring for the employee's son or daughter whose school, place of care, or child care provider is closed or unavailable due to COVID–19 related reasons; and (6) experiencing any other substantially similar condition as specified by the Secretary of Health and Human Services (HHS).[1] FFCRA section 5102(a)(1)–(6). Division C of the FFCRA, ''The Emergency Family and Medical Leave Expansion Act'' (EFMLEA), which amends Title I of the Family and Medical Leave Act, 29 U.S.C. 2601 *et seq.* (FMLA), permits certain employees of covered employers to take up to 12 weeks of expanded family and medical leave, ten of which are paid, if the employee is unable to work due to a need to care for his or her son or daughter whose school, place of care, or child care provider is closed or unavailable due to COVID–19 related reasons. FFCRA section 3012, adding FMLA section 110(a)(2)(A).

These paid sick leave and expanded family and medical leave requirements will expire on December 31, 2020. The costs to private-sector employers of providing paid leave required by the EPSLA and the EFMLEA (collectively ''FFCRA leave'') are ultimately covered by the Federal Government as Congress provided tax credits for these employers in the full amount of any FFCRA leave taken by their employees. On March 27, 2020, President Trump signed into law the Coronavirus Aid, Relief, and Economic Security Act, Public Law 116–136 (CARES Act), which amends certain provisions of the EPSLA and the provisions of the FMLA added by the EFMLEA.

FFCRA leave is part of a larger set of Federal Government-provided COVID–19 economic relief programs, which also include the Paycheck Protection Program and expanded unemployment benefits provided under the CARES Act. The Paycheck Protection Program, CARES Act sections 1101–1114, provided an incentive for employers to keep workers on their payrolls. FFCRA leave provides paid leave to certain employees who continue to be employed but are prevented from working for specific COVID–19 related reasons. And the CARES Act's expanded unemployment benefits, CARES Act sections 2101–2116, provided help to workers whose

[1] The Secretary of HHS has not identified any other substantially similar condition that would entitle an employee to take paid sick leave.

positions have been affected by COVID–19. Together, these three programs provide relief with respect to: (1) Employed individuals whose employers continue to pay them; (2) employed individuals who must take leave from work; and (3) unemployed individuals who no longer had work or had as much work.

The FFCRA grants authority to the Secretary to issue regulations for certain purposes. Section 3102(b) of the FFCRA, as amended by section 3611(7) of the CARES Act, and 5111(3) of the FFCRA grant the Secretary authority to issue regulations ''as necessary, to carry out the purposes of this Act, including to ensure consistency'' between the EPSLA, the EFMLEA, and the Act's tax credit reimbursement provisions. Due to the exigency created by COVID–19, the FFCRA authorizes the Secretary to issue EPSLA and EFMLEA regulations under two exceptions to the usual requirements of the Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.* One of those exceptions permits issuing a rule without prior public notice or the opportunity for the public to comment if there is good cause to believe that doing so is ''impractical, unnecessary, or contrary to the public interest''; the other permits a rule to become effective immediately, rather than after a 30-day delay, if there is good cause to do so. FFCRA sections 3102(b) (as amended by section 3611(7) of the CARES Act), 5111 (referring to 5 U.S.C. 553(b)(B) and (d)(3)). Relying on those exceptions, the Department promulgated a temporary rule to carry out the EPLSA and EFMLEA, which was made public on April 1, 2020. 85 FR 19326 (published April 6, 2020); *see also* 85 FR 20156–02 (April 10, 2020 correction and correcting amendment to April 1 rule).

On April 14, 2020, the State of New York filed suit in the United States District Court for the Southern District of New York (''District Court'') challenging certain parts of the temporary rule under the APA. On August 3, 2020, the District Court ruled that four parts of the temporary rule are invalid: (1) The requirement under § 826.20 that paid sick leave and expanded family and medical leave are available only if an employee has work from which to take leave; (2) the requirement under § 826.50 that an employee may take FFCRA leave intermittently only with employer approval; (3) the definition of an employee who is a ''health care provider,'' set forth in § 826.30(c)(1), whom an employer may exclude from being eligible for FFCRA leave; and (4) the statement in § 826.100 that employees who take FFCRA leave must provide their employers with certain documentation before taking leave. *New York* v. *U.S. Dep't of Labor,* No. 20–CV–3020 (JPO), 2020 WL 4462260 (S.D.N.Y. Aug. 3, 2020).[2]

The Department has carefully examined the District Court's opinion and has reevaluated the portions of the temporary rule that the court held were invalid. Given the statutory authorization to invoke exemptions from the usual requirements to engage in notice-and-comment rulemaking and to delay a rule's effective date, *see* FFCRA sections 3102(b), 5111, the time-limited nature of the FFCRA leave benefits, the urgency of the COVID–19 pandemic and the associated need for FFCRA leave, and the pressing need for clarity in light of the District Court's decision, the Department issues this temporary rule, effective immediately, to reaffirm its regulations in part, revise its regulations in part, and further explain its positions. In summary:

1. The Department reaffirms that paid sick leave and expanded family and medical leave may be taken only if the employee has work from which to take leave and explains further why this requirement is appropriate. This temporary rule clarifies that this requirement applies to all qualifying reasons to take paid sick leave and expanded family and medical leave.

2. The Department reaffirms that, where intermittent FFCRA leave is permitted by the Department's regulations, an employee must obtain his or her employer's approval to take paid sick leave or expanded family and medical leave intermittently under § 825.50 and explains further the basis for this requirement.

3. The Department revises the definition of ''health care provider'' under § 825.30(c)(1) to mean employees who are health care providers under 29 CFR 825.102 and 825.125,[3] and other employees who are employed to provide diagnostic services, preventive services, treatment services, or other services that are integrated with and necessary to the provision of patient care.

4. The Department revises § 826.100 to clarify that the information the employee must give the employer to support the need for his or her leave should be provided to the employer as soon as practicable.

5. The Department revises § 826.90 to correct an inconsistency regarding when an employee may be required to give notice of expanded family and medical leave to his or her employer.

## II. Reaffirming and Explaining the Work-Availability Requirement Under § 826.20, Consistent With Supreme Court Precedent and FMLA Principles

The Department's April 1, 2020 rule stated that an employee is entitled to FFCRA leave only if the qualifying reason is a but-for cause of the employee's inability to work. 85 FR 19329. In other words, the qualifying reason must be the actual reason the employee is unable to work, as opposed to a situation in which the employee would have been unable to work regardless of whether he or she had a FFCRA qualifying reason. This means an employee cannot take FFCRA paid leave if the employer would not have had work for the employee to perform, even if the qualifying reason did not apply. *Id.* This work-availability requirement was explicit in the regulatory text as to three of the six qualifying reasons for leave.[4] As explained below, the Department's intent, despite not explicitly including the work-availability requirement in the regulatory text regarding the other three qualifying reasons, was to apply the requirement to all reasons.

The work-availability requirement and the but-for causation standard that undergirds it were part of the legal challenge to the rule. *New York,* 2020 WL 4462260 at *6–7. The FFCRA uses the words ''because'' and ''due to'' in identifying the reasons for which an employee may take FFCRA leave. *See* FFCRA sections 3102 and 5102(a). The District Court held that the FFCRA's use of ''because'' and ''due to'' in referring to the reasons an employee is unable to work or telework were ambiguous as to the causation standard imposed and further concluded that the work-availability requirement was invalid for

[2] The District Court invalidated § 826.20 because the Department did not sufficiently explain the positions taken in that provision and because the regulatory text explicitly applied the work availability requirement only to three of the six qualifying reasons for taking FFCRA leave, § 826.50 because the Department did not sufficiently explain the positions taken in that provision, and §§ 826.30(c)(1) and .100 as being inconsistent with the statute. *Id.* at *8–12.

[3] The definition of ''health care provider'' under § 825.102 is identical to the definition under § 825.125.

[4] *Compare* § 826.20(a)(2), (6) and (9) (applying requirement to leave due to a government quarantine or isolation order, to care for a person subject to such an order or who has been advised by a health care provider to self-quarantine, and to care for the employee's child whose school or place of care is closed or child care provider is unavailable, respectively) *with* § 826.20(a)(3), (4), and (1)(vi) (no language applying requirement to leave due to being advised by a health care provider to self-quarantine, to having COVID–19 symptoms and seeking a diagnosis, or to other substantially similar conditions defined by the Department of Health and Human Services, respectively).

two reasons. One, the Department's explicit application of the requirement to only three of the six reasons for taking leave was unreasoned and inconsistent with the statutory text; two, the Department did not sufficiently explain the reason for imposing this requirement at all. *Id.* at *7–9.

The Department has carefully considered the District Court's opinion and now provides a fuller explanation for its original reasoning regarding the work-availability requirement. With this revised rule, the Department explains why it continues to interpret the FFCRA to impose a but-for causation standard that in turn supports the work-availability requirement for all qualifying reasons for leave.[5] Further, the Department revises § 826.20 to explicitly include the work-availability requirement in all qualifying reasons for leave.

The FFCRA states that an employer shall provide its employee FFCRA leave to the extent that the employee is unable to work (or telework) due to a need for leave ''because'' of or ''due to'' a qualifying reason for leave under FFCRA sections 3102 and 5102(a).[6] The terms ''because,'' ''due to,'' and similar statutory phrases have been repeatedly interpreted by the Supreme Court to require ''but-for'' causation.[7] ''[A]n act is not a 'but-for' cause of an event if the event would have occurred even in the absence of the act[,]'' [8] including where the event would have occurred due to another sufficient cause.[9] The District Court recognized that the ''traditional meaning of 'because' (and 'due to') implies a but-for causal relationship,'' but concluded that these terms' use in the FFCRA did not necessarily foreclose a different interpretation. *New York,* 2020 WL 4462260, at *7.

After considering the District Court's conclusion that the statute does not necessarily require the traditional result, the Department continues to believe that the traditional meaning of ''because'' and ''due to'' as requiring but-for causation is the best interpretation of the FFCRA leave provisions in this context. This standard is especially compelling in light of Supreme Court precedent applying the ''ordinary meaning'' of but-for causation where the underlying statute did not specify an alternative standard. *Burrage* v. *United States,* 571 U.S. 204, 216 (2014) (''Congress could have written [a statute] to impose a mandatory minimum when the underlying crime 'contributes to' death or serious bodily injury, or adopted a modified causation test tailored to cases involving concurrent causes . . . . It chose instead to use language that imports but-for causality.''). Here too, the Department sees no textual basis or other persuasive reason to deviate from the standard meanings of these terms.[10] The Department's regulations thus interpret the FFCRA to require that an employee may take paid sick leave or expanded family and medical leave only to the extent that a qualifying reason for such leave is a but-for cause of his or her inability to work.

In the FFCRA context, if there is no work for an individual to perform due to circumstances other than a qualifying reason for leave—perhaps the employer closed the worksite (temporarily or permanently)—that qualifying reason could not be a but-for cause of the employee's inability to work.[11] Instead, the individual would have no work from which to take leave. The Department thus reaffirms that an employee may take paid sick leave or expanded family and medical leave only to the extent that any qualifying reason is a but-for cause of his or her inability to work. Because the Department agrees with the District Court that there is no basis, statutory or otherwise, to apply the work-availability requirement only to some of the qualifying reasons for FFCRA leave, and in keeping with the Department's original intent, the Department amends § 826.20(a)(3), (a)(4) to state explicitly, as § 826.20(a)(2), (6), and (9) do, that an employee is not eligible for paid leave unless the employer would otherwise have work for the employee to perform. The Department similarly adds § 826.20(a)(10) to make clear such requirement is likewise needed when an employee requests paid leave for a substantially similar condition as specified by the Secretary of Health and Human Services.[12]

The Department's continued application of the work-availability requirement is further supported by the fact that the use of the term ''leave'' in the FFCRA is best understood to require that an employee is absent from work at a time when he or she would otherwise have been working. As to this point, the District Court concluded that the statute did not mandate such an interpretation. *New York,* 2020 WL 4462260, at *7–8. After reconsideration, the Department now reaffirms that even if ''leave'' could encompass time an employee would not have worked regardless of the relevant qualifying reason, the Department, based in significant part on its experience administering and enforcing other mandatory leave requirements, interprets the FFCRA as allowing employees to take paid leave only if they would have worked if not for the qualifying reason for leave. ''Leave'' is most simply and clearly understood as an authorized absence from work; if an employee is not expected or required to work, he or she is not taking leave. This interpretation is consistent with the Department's long-standing interpretation of the term ''leave'' in the FMLA (which the EFMLEA amended). *See* 29 U.S.C. 2612(a). For instance, the Department's FMLA regulation at

[5] To the extent that the District Court required addition or further explanation of the Department's final action in promulgating this rule, the additional explanation here should be read as a supplement to—and not a replacement of—the discussion of causation included in the April 1 temporary rule.

[6] The statute's use of the mandatory language ''shall,'' in setting forth the employer's obligation, FFCRA section 5102(a), 29 U.S.C. 2612(a), is therefore limited by prerequisites: What the employer is obligated to provide to employees is ''leave'' and the employer's obligation is triggered only when the employee's need for leave is because of one of the qualifying reasons. These *prerequisites,* set forth in the plain text, to employers having an obligation to provide FFCRA leave are unaffected by the fact that the FFCRA elsewhere provides certain *exceptions* to that obligation (*e.g.,* the health care provider exception).

[7] *See, e.g., Burrage* v. *United States,* 571 U.S. 204, 211 (2014) (the phrase ''results from'' in a criminal statute ''requires proof that the harm would not have occurred in the absence of—that is, but for—the defendant's conduct'') (internal citations and quotation marks omitted); *Univ. of Tex. SW. Ctr.* v. *Nassar,* 570 U.S. 338, 346–47 (2013); *Gross* v. *FBL Fin. Servs., Inc.,* 557 U.S. 167, 176 (2009) (''[T]he ordinary meaning of the [Age Discrimination in Employment Act's] requirement that an employer took adverse action 'because of' age is that . . . age was the 'but-for' cause of the employer's adverse decision.''); *Safeco Ins. Co. of Am.* v. *Burr,* 551 U.S. 47, 63 (2007) (''[T]he phrase 'based on' indicates a but-for causal relationship. . . .'').

[8] *In re Fisher,* 649 F.3d 401, 403 (5th Cir. 2011); *see also, e.g., Burrage,* 571 U.S. at 219 (heroin use was not proven to be a cause of death where ''the Government concedes that there is no 'evidence that [the decedent] would have lived but for his heroin use'''').

[9] *See Brandt* v. *Fitzpatrick,* 957 F.3d 67, 76 (1st Cir. 2020) (employer may avoid damages in an employment discrimination case ''if it can show it would have made the same decision even if race hadn't factored in (meaning race wasn't the 'but-for' cause of the failure to hire)'').

[10] This conclusion reflects a fair and natural reading of the FFCRA, and there is no textual basis here to deviate from such a reading. This is so even through the FFCRA may be classified as a remedial statute under which Congress sought to protect workers. *See, e.g., Encino Motorcars, LLC* v. *Navarro,* 138 S. Ct. 1134, 1142 (2018) (statute's remedial purpose did not justify departing from ''a fair reading'' of the plain text). This is particularly true in light of the fact that FFCRA leave is but one part of a wider universe of COVID–19-related government-provided relief. Moreover, the text of the FFCRA demonstrates that Congress was attuned to not only employees' need for leave but also to employers' circumstances. *See, e.g.,* FFCRA 3102(b); 3105, 5102(a).

[11] *See Brandt,* 957 F.3d at 76.

[12] The Department notes that as of the date of this publication, the Secretary of Health and Human Servces had not specified a substantially similar condition in accordance with this subsection.

§ 825.200(h) states that ''if for some reason the employer's business activity has temporarily ceased and employees generally are not expected to report for work,'' the time that ''the employer's activities have ceased do not count against the employee's FMLA leave entitlement.'' Time that an employee is not required to work does not count against an employee's 12 workweek leave entitlement under the FMLA—including any EFMLEA leave—because it is not ''leave.'' [13] In addition, the Department's regulations implementing Executive Order 13706, which require certain federal contractors to provide employees with paid sick leave under certain circumstances, reflect this same understanding. The regulations explicitly define ''paid sick leave'' to mean ''compensated absence *from employment,*'' 29 CFR 13.2 (emphasis added), and explain that ''a contractor must permit an employee to use paid sick leave to be absent from work for that contractor *during time the employee would have been performing work on or in connection with a covered contract* or, [under other specified circumstances], during *any work time* because of [the enumerated qualifying reasons for leave],'' 29 CFR 13.5(c)(1) (emphasis added).

The Department notes that removing the work-availability requirement would not serve one of the FFCRA's purposes: Discouraging employees who may be infected with COVID–19 from going to work. If there is no work to perform, there would be no need to discourage potentially infected employees from coming to work through the provision of paid FFCRA leave. Nor is there a need to protect a potentially infected employee who stays home from an employer's disciplinary actions if the employer has no work for the employee to perform.

Removing the work-availability requirement would also lead to perverse results. Typically, if an employer closes its business and furloughs its workers, none of those employees would receive paychecks during the closure or furlough period because there is no paid work to perform. But if an employee with a qualifying reason could take FFCRA leave even when there is no work, he or she could take FFCRA leave, potentially for many weeks, even when the employer closes its business and furloughs its workers. The employee on FFCRA leave would continue to be paid during this period, while his or her co-workers who do not have a qualifying reason for taking FFCRA leave would not. The Department does not believe Congress intended such an illogical result.

To be clear, the Department's interpretation does not permit an employer to avoid granting FFCRA leave by purporting to lack work for an employee. The work-availability requirement for FFCRA leave should be understood in the context of the applicable anti-retaliation provisions, which prohibit employers from discharging, disciplining, or discriminating against employees for taking such leave. *See* 29 U.S.C. 2615; FFCRA section 5104, as amended by CARES Act section 3611(8); 29 CFR 826.150(a), 826.151(a). Accordingly, employers may not make work unavailable in an effort to deny FFCRA leave because altering an employee's schedule in an adverse manner because that employee requests or takes FFCRA leave may be impermissible retaliation. *See Burlington N. & Santa Fe Ry. Co.* v. *White,* 548 U.S. 53, 69 (2006) (''A schedule change in an employee's work schedule may make little difference to many workers, but may matter enormously to a young mother with school-age children.''); *see also Welch* v. *Columbia Mem'l Physician Hosp. Org., Inc.,* No. 1:13–CV–1079 GLS/CFH, 2015 WL 6855810, at *7 (N.D.N.Y. Nov. 6, 2015) (employee's ''return[ ] from FMLA leave days before her supervisors changed her schedule . . . . suffic[ed] to support an inference of retaliation.''). There must be a legitimate, non-retaliatory reason why the employer does not have work for an employee to perform. This may occur, for example, where the employer has temporarily or permanently ceased operations at the worksite where the employee works or where a downturn in business forces the employer to furlough the employee for legitimate business reasons. *See, e.g., Mullendore* v. *City of Belding,* 872 F.3d 322, 329 (6th Cir. 2017) (no FMLA retaliation where employer ''has demonstrated a legitimate [and non-pretextual] reason for terminating'' the employee). Although an out-of-work employee would not be eligible for FFCRA leave in these scenarios, he or she may be eligible for unemployment insurance and other assistance programs.

New York State has argued that the work-availability requirement would ''insert[] a capacious and unpredictable loophole basing eligibility on the hour-by-hour or day-by-day happenstance that work may not be available.'' Pl's Mem. Of L., *New York* v. *U.S. Dep't of Labor,* 2020 WL 3411251 (S.D.N.Y. filed May 5, 2020). But as discussed above, the requirement is not a loophole but rather a longstanding principle in the Department's employee-leave regulations. It does not operate as an hour-by-hour assessment as to whether the employee would have a task to perform but rather questions whether the employee would have reported to work at all. Moreover, the availability or unavailability of work must be based on legitimate, non-discriminatory and non-retaliatory business reasons.[14]

Furthermore, FFCRA leave is only one form of relief that has been made available during the COVID–19 crisis. Among other things, FFCRA paid leave ensures workers are not forced to choose between their paychecks and the public health measures needed to combat the virus; for example, an employee who may have been exposed to COVID–19 is encouraged not to go to work and thereby risk spreading the virus. Other provisions of the CARES Act assist workers in other circumstances. To encourage employers to maintain employees on the payroll, the Paycheck Protection Program, CARES Act sections 1101–1114, made available low-interest, and potentially forgivable, loans to employers who use those funds to continue to pay employees who might otherwise be laid off. To furnish relief to employees whose employers are not able to maintain them on the payroll, the Relief for Workers Affected by Coronavirus Act, CARES Act sections 2101–2116, expanded the Federal Government's support of unemployment insurance by enlarging the scope of unemployment coverage, the length of time for which individuals were eligible for unemployment payments, and the amount of those payments. And most directly, the CARES Act created a refundable tax credit, advances of which are being paid in 2020, to address the financial stress of the pandemic. The credit is worth up to $1,200 per eligible individual or up to $2,400 for individuals filing a joint return, plus up to $500 per qualifying child. CARES Act

[13] Under the FMLA, a period during which an employer has no work for an employee is not counted against the employee's entitlement to leave. Because FFCRA leave is paid, an added result in the same scenario is that the employee would not receive pay for that period because that period would not count as leave. The introduction of pay, however, does not change the meaning of ''leave.'' Paid leave under the FFCRA provides employees income for time during which they otherwise would have worked and therefore would have otherwise been paid. If an employer has no work for an employee, the employee would not have reported to work (or telework) or been paid, and therefore any payments for FFCRA leave would not, as intended, substitute for wages that he or she would otherwise have received.

[14] Regardless, any economic incentive for private-sector employers to wrongfully deny their employees FFCRA leave is limited by the fact that, for these employers, FFCRA leave is fully funded by the Federal Government through tax credits.

section 2201. All of this was in addition to industry-specific support measures and myriad changes to the Internal Revenue Code. *See, e.g.,* CARES Act sections 2202–2308; 4001–4120. Against this backdrop, the Department interprets the FFCRA's paid sick leave and emergency family and medical leave provisions to grant relief to employers and employees where employees cannot work because of the enumerated reasons for leave, but not where employees cannot work for other reasons, in particular the unavailability of work from the employer.

### III. Reaffirming and Explaining the Employer-Approval Requirement for Intermittent Leave Under § 826.50 in Accordance With FMLA Principles

The Department reaffirms the April 1 temporary rule's position that employer approval is needed to take intermittent FFCRA leave, and explains the basis for this requirement, which is consistent with longstanding FMLA principles governing intermittent leave. Intermittent leave is leave taken in separate blocks of time due to a single qualifying reason, with the employee reporting to work intermittently during an otherwise continuous period of leave taken for a single qualifying reason.[15] Under the FMLA, intermittent leave is specifically defined as ''leave taken in separate periods of time due to a single illness or injury, rather than for one continuous period of time, and may include leave of periods from an hour or more to several weeks.'' 29 CFR 825.102. In the original FMLA statute, Congress expressly authorized employees taking FMLA leave for any qualifying reason to do so intermittently but only under certain circumstances. Depending on the reason for taking FMLA leave, the statute requires a medical need to take intermittent leave or an agreement between the employer and employee before an employee may take intermittent leave. *See* Public Law 103–3, sec. 102(b)(1), codified at 29 U.S.C. 2612(b)(1). In 2008, Congress amended the FMLA to create two new reasons for FMLA leave: Qualifying exigencies due to service in the Armed Forces and to care for injured service members. 29 U.S.C. 2612(a)(1)(E), (a)(3). Like the FMLA in 1993, the 2008 amendments explicitly authorized intermittent leave for these new qualifying FMLA leave reasons. 29 U.S.C. 2612(b)(1).

In contrast to the FMLA, in the FFCRA, Congress said nothing about intermittent leave,[16] but granted the Department broad regulatory authority to effectuate the purposes of the EPLSA and EFMLEA (which amends the FMLA) and to ensure consistency between the two laws.[17] As the District Court acknowledged, because ''Congress did not address intermittent leave at all in the FFCRA[,] it is therefore precisely the sort of statutory gap . . . that DOL's broad regulatory authority empowers it to fill.'' *New York,* 2020 WL 4462260, at *11.

The Department did not interpret the absence of language authorizing intermittent leave under the FFCRA to categorically permit[18] or prohibit[19] intermittent leave. Rather, § 826.50 permits an employee who is reporting to a worksite to take FFCRA leave on an intermittent basis only when taking leave to care for his or her child whose school, place of care, or child care provider is closed or unavailable due to COVID–19, and only with the employer's consent. 29 CFR 826.50(b). Because this is the only qualifying reason for EFMLEA leave, such leave may always be taken intermittently provided that the employer consents. As to EPSLA leave, this constitutes only one of the six potential qualifying reasons. The Department reasoned that the other reasons for taking EPSLA leave correlate to a higher risk of spreading the virus and therefore that permitting intermittent leave would hinder rather than further the FFCRA's purposes.

An employee who is teleworking (and not reporting to the worksite) may take intermittent leave for any of the FFCRA's qualifying reasons as long as the employer consents. 29 CFR 826.50(c). The District Court upheld the rule's prohibition on intermittent leave for employees who are reporting to the worksite when the reason for leave correlates to a higher risk of spreading the virus, *i.e.,* all qualifying reasons except for caring for the employee's child due to school or childcare closure or unavailability. *New York,* 2020 WL 4462260, at *11–12 & n.9; 29 CFR 826.50(b)(2). However, the District Court held that the Department did not adequately explain the rationale for the requirement that intermittent leave, where available, can only be taken with the employer's consent. *New York,* 2020 WL 4462260, at *12. After reconsideration, the Department affirms its earlier interpretation—with additional explanation.[20]

As the April 1 rule explained, the Department ''imported and applied to the FFCRA certain concepts of intermittent leave from its FMLA regulations.'' 85 FR 19336.[21] Under

[15] Intermittent leave occurs only when the employee has periods of leave interrupted with periods of reporting to work (or telework). In contrast, an employee who works a schedule that itself could be characterized as ''intermittent'' or sporadic in which he or she has, for example, several days off in between each shift, is not taking intermittent leave where the periods between the shifts for which leave is used are periods during which the employee is not scheduled to work.

[16] Congress did, however, include temporal language as to leave, which is consistent with a recognition that an employee with a qualifying reason for leave might not need to take his or her full FFCRA leave entitlement of two weeks (up to 80 hours) of EPSLA leave and twelve weeks of EFMLEA leave, ten of which are paid. *See* FFCRA section 3102(b) (''An employer shall provide paid leave for each day of [EFMLEA] leave that an employee takes''); *id.* § 5110(f)(A)(i) (defining ''paid sick time'' as ''an increment of compensated leave that . . . is provided by an employer for use during an absence from employment'' for an EPSLA qualifying reason); *id.* § 7001(b) (referencing days and calendar quarters for tax credit purposes). These provisions do not mention ''intermittent leave,'' a term Congress has previously invoked and therefore could have used but did not.

[17] FFCRA section 5111(3) (delegating to the Secretary of Labor authority to promulgate regulations ''as necessary, to carry out the purposes of this Act, *including to ensure consistency*'' between the EPSLA and the EFMLEA) (emphasis added); *id.* section 3102(b), *amended by* CARES Act section 3611(7) (same).

[18] Permitting employees to take intermittent leave without restriction would create tension with how both Congress and the Department have understood intermittent leave in most of the circumstances for which it is permitted under the FMLA. Further, while the Department recognizes that the FFCRA is intended in part to allow eligible employees to take paid leave for certain COVID–19-related reasons, unrestricted intermittent leave would undermine a statutory purpose of combating the COVID–19 public health emergency. For example, giving employees who take paid sick leave because an individual in their care could be infected with COVID–19, *see* FFCRA section 5102(a)(4), unrestricted flexibility to go to work on days of their choosing could increase the risk of COVID–19 contagion. *See New York,* 2020 WL4462260, at *12. Accordingly, the Department did not interpret the FFCRA to permit unrestricted intermittent leave.

[19] An alternative construction that prohibits employees from intermittently taking paid sick leave and expanded family and medical leave in any circumstance is arguably more consistent with Congress' and the Department's practice of explicitly identifying circumstances in which FMLA leave may be taken intermittently. It also would be more consistent with the FFCRA's public health objectives because employees who take FFCRA leave for some, but not all, qualified reasons may have been infected or exposed to COVID–19, and allowing them to return to work intermittently would exacerbate COVID–19 contagion. Nevertheless, the Department does not believe this is the best interpretation because it would unnecessarily limit employer and employee flexibilities in accommodating work and leave needs in situations that do not as directly implicate public health concerns.

[20] The Department gives the additional explanation here as a supplement to—and not a replacement of—the discussion of intermittent leave included in the April 1 temporary rule.

[21] In so doing, the Department aligned the availability, conditions, and limits of intermittent leave under EPSLA and EFMLEA to the greatest extent possible consistent with 29 U.S.C. 2612(b) and 29 CFR 825.202, while at the same time applying and balancing Congress' broader objectives to contain COVID–19 through furnishing paid leave to employees.

those regulations, ''FMLA leave may be taken intermittently . . . under certain circumstances'' specified in the statute and applied in the regulation. 29 CFR 825.202.[22] In other words, as Congress has previously specified, and as the Department's regulations require, FMLA leave must be taken in a single block of time unless specific conditions are met. These conditions are: (1) A medical need for intermittent leave taken due to the employee's or a family member's serious health condition, which the employer may require to be certified by a health care provider; (2) employer approval for intermittent leave taken to care for a healthy newborn or adopted child; or (3) a qualifying exigency related to service in the Armed Forces. *Id.*

The regulations concerning intermittent leave due to service in the Armed Forces are not relevant in the very different FFCRA context. *See* 29 CFR 825.202(d). The Department further believes certified medical need is not an appropriate condition for FFCRA intermittent leave. As the District Court explained, an employer may not require documentation of any sort as a precondition to taking FFCRA leave, *New York,* 2020 WL 4462260, at *12, so the Department does not believe certification could be required as a precondition for such leave taken intermittently. Moreover, certified medical need is inapplicable where an employee takes expanded family and medical leave or paid sick leave under § 826.20(a)(v) due to the closure or unavailability of his or her child's school, place of care, or child care provider because those qualifying reasons bear no relationship to any medical need.

The remaining qualifying reasons to take paid sick leave under § 826.20(a)(i)–(iv) and (vi) are medically related but do not lend themselves to the allowance of intermittent leave for medical reasons. A COVID–19-related quarantine or isolation order under § 826.20(a)(i) prevents certain employees from going to work because the issuing government authority has determined that allowing such employees to work would exacerbate COVID–19 contagion. Similarly, a health care provider may advise an employee to self-quarantine under § 826.20(a)(ii) because that employee is at particular risk if he or she is infected by the coronavirus or poses a risk of infecting others. In both cases, the government authority and health care provider may be concerned that an individual to whom the order or advice is directed has an elevated risk of having COVID–19.[23] If so, an employee who takes leave under § 826.20(a)(iv) to care for such an individual may have elevated risk of COVID–19 exposure. Finally, an employee who is experiencing COVID–19 symptoms under § 826.20(a)(iii), or other similar symptoms identified by the Secretary of HHS under § 826.20(a)(iii), would also have elevated risk of having COVID–19.

At bottom, the qualifying reasons to take paid sick leave under § 826.20(a)(i)–(iv) are medically related because they include situations where the employee may have an elevated risk of being infected with COVID–19, or is caring for someone who may have an elevated risk of being infected with COVID–19. Rather than justifying intermittent leave, these medical considerations militate against intermittent FFCRA leave where the employee may have an elevated risk of being infected with COVID–19 or is caring for someone who may have such elevated risk. Permitting such an employee to return to work intermittently when he or she is at an elevated risk of transmitting the virus would be incompatible with Congress' goal to slow the spread of COVID–19. *See* 85 FR 19336; *New York,* 2020 WL 4462260, at *12. The same is broadly true where an individual is at higher risk if infected: Permitting an individual who has been ordered or advised to self-isolate due to his or her vulnerability to COVID–19 to return to work intermittently would also undermine the FFCRA's public health objectives. Accordingly, the regulations do not allow employees who take paid sick leave under § 826.20(a)(i)–(iv) and (vi) to return to work intermittently at a worksite.[24] Employees who take paid sick leave for these reasons, however, may telework on an intermittent basis without posing the risk of spreading the contagion at the worksite or being infected themselves.

The Department believes the employer-approval condition for intermittent leave under its FMLA regulation is appropriate in the context of FFCRA intermittent leave for qualifying reasons that do not exacerbate risk of COVID–19 contagion. It is a longstanding principle of FMLA intermittent leave that such leave should, where foreseeable, avoid ''unduly disrupting the employer's operations.'' 29 CFR 825.302(f). It best meets the needs of businesses that this general principle is carried through to the COVID–19 context, by requiring employer approval for such leave. In the context of intermittent leave being required for medical reasons, the FMLA long has recognized certified medical needs for intermittent leave as paramount, unless the leave is for planned medical treatment, in which case the employee must make reasonable efforts to schedule the leave in a manner that does not unduly disrupt operations. 29 U.S.C. 2612(e)(2)(A); 29 CFR 825.302(e). However, when intermittent leave is not required for medical reasons, the FMLA balances the employee's need for leave with the employer's interest in avoiding disruptions by requiring agreement by the employer for the employee to take intermittent leave. 29 CFR 825.120(b); .121(b). The Department's FFCRA regulations already provide that employees may telework only where the employer permits or allows. *See* § 826.10(a). Since employer permission is a precondition under the FFCRA for telework, the Department believes it is also an appropriate condition for teleworking intermittently due to a need to take FFCRA leave.[25] On the other hand, the Department does not believe that an employee should be required to obtain certification of medical need in order to telework intermittently because it may be unduly burdensome in this context for an employee to obtain such certification. Medical certification would also be redundant because the employee must already obtain employer permission to telework in the first place. The Department has thus aligned the employer-agreement requirements to

[22] In 1995, the Department promulgated regulations implementing the intermittent leave provisions as part of its final rule implementing the FMLA, which had been enacted in 1993. *See* 60 FR 2180. The current version of the regulation includes organizational and other minor amendments made in 2008, 2013, and 2015. *See* 29 CFR 825.202; *see also* 80 FR 10001; 78 FR 8902; 73 FR 67934.

[23] This is not the only reasons why a government entity or a health care provider may order or advise an individual to quarantine. For instance, the government entity or health care provider may be concerned that the individual has elevated vulnerability to COVID–19 because that individual falls within a certain age range or has a certain medical condition.

[24] Employees are not required to use up their entire FFCRA leave entitlement the first time they face a qualifying reason for taking FFCRA leave. Depending on their circumstances, employees may not need to take their full FFCRA leave entitlement when taking leave for one of these qualifying reasons. If so, they will be eligible to take the remainder of their FFCRA leave entitlement should they later face a separate qualifying reason for such leave. Taking leave at a later date for a distinct qualifying reason is not intermittent leave.

[25] For example, consider an employee who takes paid sick leave after being advised to self-isolate by a health care provider. If the employer does not permit telework, the employee would be unable to work intermittently at the worksite during the period of paid sick leave. Intermittent leave would be possible only if the employer allows the employee to telework.

apply to both telework and intermittent leave from telework. The Department believes that its approach affords both employers and employees flexibility. In many circumstances, these agreed-upon telework and scheduling arrangements may reduce or even eliminate an employee's need for FFCRA leave by reorganizing work time to accommodate the employee's needs related to COVID–19.

Employer approval is also an appropriate condition for taking FFCRA leave intermittently to care for a child, whether the employee is reporting to the worksite or teleworking. This condition already applies where an employee takes FMLA leave to care for his or her healthy newborn or adopted child, which is similar to where an employee takes FFCRA leave to care for his or her child because the child's school, place of care, or child care provider is closed or unavailable.

The employer-approval condition would not apply to employees who take FFCRA leave in full-day increments to care for their children whose schools are operating on an alternate day (or other hybrid-attendance) basis because such leave would not be intermittent under § 826.50. In an alternate day or other hybrid-attendance schedule implemented due to COVID–19, the school is physically closed with respect to certain students on particular days as determined and directed by the school, not the employee. The employee might be required to take FFCRA leave on Monday, Wednesday, and Friday of one week and Tuesday and Thursday of the next, provided that leave is needed to actually care for the child during that time and no other suitable person is available to do so. For the purposes of the FFCRA, each day of school closure constitutes a separate reason for FFCRA leave that ends when the school opens the next day. The employee may take leave due to a school closure until that qualifying reason ends (*i.e.,* the school opened the next day), and then take leave again when a new qualifying reason arises (*i.e.,* school closes again the day after that). Under the FFCRA, intermittent leave is not needed because the school literally closes (as that term is used in the FFCRA and 29 CFR 826.20) and opens repeatedly. The same reasoning applies to longer and shorter alternating schedules, such as where the employee's child attends in-person classes for half of each school day or where the employee's child attends in-person classes every other week and the employee takes FFCRA leave to care for the child during the half-days or weeks in which the child does not attend classes in person. This is distinguished from the scenario where the school is closed for some period, and the employee wishes to take leave only for certain portions of that period for reasons other than the school's in-person instruction schedule. Under these circumstances, the employee's FFCRA leave is intermittent and would require his or her employer's agreement.

With those explanations and exceptions in mind, the Department reaffirms that employer approval is needed to take FFCRA leave intermittently in all situations in which intermittent FFCRA leave is permitted.

## IV. Revisions to Definition of ''Health Care Provider'' Under § 826.30(c)(1) to Focus on the Employee

Sections 3105 and 5102(a) of the FFCRA, respectively, allow employers to exclude employees who are ''health care provider[s]'' or who are ''emergency responder[s]'' from eligibility for expanded family and medical leave and paid sick leave. The Department understands that the option to exclude health care providers and emergency responders serves to prevent disruptions to the health care system's capacity to respond to the COVID–19 public health emergency and other critical public health and safety needs that may result from health care providers and emergency responders being absent from work. The FFCRA adopts the FMLA definition of ''health care provider,'' FFCRA section 5110(4), which covers (i) licensed doctors of medicine or osteopathy and (ii) ''any other person determined by the Secretary to be capable of providing health care services,'' 29 U.S.C. 2611(6). The FFCRA, however, uses the term ''health care provider'' in two markedly different contexts. Section 5102(a)(2) of the FFCRA uses ''health care provider'' to refer to medical professionals who may advise an individual to self-isolate due concerns related to COVID–19 such that the individual may take paid sick leave to follow that advice. In the Department's April 1 temporary rule implementing the FFCRA's paid leave provisions, the Department used the definition of this term it adopted under the FMLA, 29 CFR 825.125, to define this group of health care providers. § 826.20(a)(3). In the second context, Sections 3105 and 5102(a) of the FFCRA allow employers to exclude employees who are ''health care providers'' or who are ''emergency responders'' from the FFCRA's entitlement to paid leave. The Department promulgated a different definition of ''health care provider'' to identify these employees, § 826.30(c)(1), which the District Court held was overly broad. *See New York,* 2020 WL 4462260, at *9–10.

The District Court explained that because the FFCRA adopted the FMLA's statutory definition of ''health care provider'' in 29 U.S.C. 2611(6), including the portion of that definition permitting the Secretary to determine that additional persons are ''capable of providing health care services,'' any definition adopted by the Department must require ''at least a minimally role-specific determination'' of which persons are ''capable of providing healthcare services.'' *New York,* 2020 WL 4462260, at *10. In other words, the definition cannot ''hinge[ ] entirely on the identity of the *employer,*'' but must depend on the ''skills, role, duties, or capabilities'' of the employee. *Id.* To define the term otherwise would sweep in certain employees of health care facilities ''whose roles bear *no nexus whatsoever* to the provision of healthcare services.'' *Id.* The District Court did not foreclose, however, an amended regulatory definition that is broader than the FMLA's regulatory definition, explaining that there is precedent for the proposition that an agency may define a term shared by two sections of a statute differently ''as long as the different definitions individually are reasoned and do not exceed the agency's authority.'' *Id.* at *10 n.8.

After careful consideration of the District Court's order, this rule adopts a revised definition of ''health care provider,'' to appear at § 826.30(c)(1), for purposes of the employer's optional exclusion of employees who are health care providers from FFCRA leave. First, revised § 826.30(c)(1)(i) defines a ''health care provider'' to include employees who fall within the definition of health care provider under 29 CFR 825.102 and 825.125. Specifically, revised § 826.30(c)(1)(i)(A) cites 29 CFR 825.102 and 825.125—to bring physicians and others who make medical diagnoses within this term. Second, revised § 826.30(c)(1)(i)(B), consistent with the District Court's order, identifies additional employees who are health care providers by focusing on the role and duties of those employees rather than their employers. It expressly states that an employee is a health care provider if he or she is ''capable of providing health care services.'' The definition then further limits the universe of relevant ''health care services'' that the employee must be capable of providing to qualify as a ''health care provider''—*i.e.,* the duties or role of the employee. Specifically, a health care provider must be ''employed to provide diagnostic services, preventive services, treatment services,

or other services that are integrated with and necessary to the provision of patient care.''

Neither the FMLA nor FFCRA defines ''health care services,'' leaving a statutory gap for the Department to fill. When used in the context of determining who may take leave despite a need to respond to a pandemic or to ensure continuity of critical operations within our health care system, the term ''health care services'' is best understood to encompass a broader range of services than, as in the FMLA context, primarily those medical professionals who are licensed to diagnose serious health conditions. To interpret this critical term, the Department is informed by how other parts of Federal law define this term. In one notable example, the Pandemic and All-Hazards Preparedness and Advancing Innovation Act of 2019 (Pandemic Act) defines ''health care service'' in the context of a pandemic response to mean ''any services provided by a health care professional, or by any individual working under the supervision of a health care professional, that relate to (A) the diagnosis, prevention, or treatment of any human disease or impairment; or (B) the assessment or care of the health of human beings.'' 42 U.S.C. 234(d)(2). The services listed in subparagraphs (A) and (B) of this definition reflect Congress's view of health care services that are provided during a pandemic. In the Department's view, the Pandemic Act's description of the categories of services that qualify as ''health care services'' provides a useful baseline for interpretation of ''health care services'' as that term is used in connection with the FFCRA because both statutes focus on pandemic response. Accordingly, for purposes of who may be excluded by their employers from taking FFCRA leave, the revised regulation provides that an employee is ''capable of providing health care services,'' and thus may be a ''health care provider'' under 29 U.S.C. 2611(6)(B), if he or she is employed to provide diagnostic services, preventative services, or treatment services. The Department also includes a fourth category, services that are integrated with and necessary to the provision of patient care and that, if not provided, would adversely impact patient care, which is analogous to but narrower than the Pandemic Act's reference to services ''related to . . . the assessment or care of the health of human beings.'' *See* U.S.C. 234(d)(2)(B). These categories are codified in the revised § 826.30(c)(1)(i)(B).

The Pandemic Act and the FFCRA diverge in an important way, however. The provision of the Pandemic Act cited above limits the liability of ''health care professionals,'' defined to be limited to individuals ''licensed, registered, or certified under Federal or State laws or regulations to provide health care services,'' who provide services as members of the Medical Reserve Corps or in the Emergency System for Advance Registration of Volunteer Health Professionals. 42 U.S.C. 234(d)(1). The FFCRA's optional exclusion from its leave entitlements has a different purpose: Ensuring that the health care system retains the capacity to respond to COVID–19 and other critical health care needs. *See* 85 FR 19335. Congress' optional exclusion of emergency responders in addition to health care providers demonstrates that Congress was intending to provide a safety valve to ensure that critical health and safety services would not be understaffed during the pandemic. Given this context, the Department concluded Congress did not intend to limit the optional health care provider exclusion to only physicians and others who make medical diagnoses, *i.e.* the persons that qualify as a health care provider in the different contexts posed by the FMLA and EPSLA. The Department thus interprets ''health care services'' for the purpose of this definition to encompass relevant services even if not performed by individuals with a license, registration, or certification. For the same reason, the Department has determined that an employee is ''capable'' of providing health care services if he or she is employed to provide those services. That is, the fact that the employee is paid to perform the services in question is, in this context, conclusive of the employee's capability. While a license, registration, or certification may be a prerequisite for the provision of some health care services, the Department's interpretation of ''health care services'' encompasses some services for which license, registration, or certification is not required at all or not universally required.

In any event, Congress defined health care services, listed in 42 U.S.C. 234(d)(2)(A) and (B), in the context of combatting a pandemic. The Department also recognizes that the definition must have limits, as the District Court held. The Department's revised ''health care provider'' definition is thus clear that employees it covers must themselves must be capable of providing, and employed to provide diagnostic, preventative, or treatment services or services that are integrated with and necessary to diagnostic, preventive, or treatment services and, if not provided, would adversely impact patient care. It is not enough that an employee works for an entity that provides health care services. Moreover, the Department has designed the fourth category to encompass only those ''services that are integrated with and necessary to the provision of patient care'' and that, ''if not provided, would adversely impact patient care.'' Health care services that do not fall into any of these categories are outside the Department's definition. Finally, the Department adds descriptions to emphasize that the definition of ''health care provider'' is far from open-ended by identifying specific types of employees who are and are not included within the definition and by describing the types of roles and duties that would make an employee a ''health care provider.''

Revised § 826.30(c)(1)(ii) lists the three types of employees who may qualify as ''health care providers'' under § 826.30(c)(1)(i)(B). First, § 826.30(c)(1)(ii)(A) explains that included within the definition are nurses, nurse assistants, medical technicians, and any other persons who directly provide the services described in § 826.30(c)(1)(i)(B), *i.e.,* diagnostic, preventive, treatment services, or other services that are integrated with and necessary to the provision of patient care are health care providers.

Second, § 826.30(c)(1)(ii)(B) explains that, included within the definition, are employees providing services described in paragraph (c)(1)(i)(B) under the supervision, order, or direction of, or providing direct assistance to, a person described in paragraphs (c)(1)(i)(A) (that is, employees who are health care providers under the usual FMLA definition) or (c)(1)(ii)(A) (that is, nurses or nurse assistants and other persons who directly provide services described in paragraph (c)(1)(i)(B)).

Finally, under § 826.30(c)(1)(ii)(C), ''health care providers'' include employees who may not directly interact with patients and/or who might not report to another health care provider or directly assist another health care provider, but nonetheless provide services that are integrated with and necessary components to the provision of patient care. Health care services reasonably may include services that are not provided immediately, physically to a patient; the term health care *services* may reasonably be understood to be broader than the term *health care.* For example, a laboratory technician who processes test results would be providing diagnostic health care services because,

although the technician does not work directly with the patient, his or her services are nonetheless an integrated and necessary part of diagnosing the patient and thereby determining the proper course of treatment.[26] Processing that test is integrated into the diagnostic process, like performing an x-ray is integrated into diagnosing a broken bone.

Individuals who provide services that affect, but are not integrated into, the provision of patient care are not covered by the definition, because employees who do not provide health care services as defined in paragraph (c)(1)(i)(B) are not health care providers. Accordingly, revised § 826.30(c)(1)(iii) provides examples of employees who are not health care providers. The Department identifies information technology (IT) professionals, building maintenance staff, human resources personnel, cooks, food service workers, records managers, consultants, and billers. While the services provided by these employees may be related to patient care—*e.g.,* an IT professional may enable a hospital to maintain accurate patient records—they are too attenuated to be integrated and necessary components of patient care. This list is illustrative, not exhaustive.

Recognizing that a health care provider may provide services at a variety of locations, and to help the regulated community identify the sorts of employees that may perform these services, § 826.30(c)(2)(iv) provides a non-exhaustive list of facilities where health care providers may work, including temporary health care facilities that may be established in response to the COVID–19 pandemic.[27] This list contains almost the same set of health care facilities listed in the original § 826.30(c)(1)(i) and is drawn from 42 U.S.C. 300jj(3), which also contains a non-exhaustive list of entities that qualify as ''health care providers.''[28] Consistent with the District Court's decision, however, the revised regulatory text explicitly provides that not all employees who work at such facilities are necessarily health care providers within the definition. For example, the categories of employees listed in § 826.30(c)(1)(iii) would not qualify as ''health care providers'' even if they worked at a listed health care facility. On the other hand, employees who do not work at any of the listed health care facilities may be health care providers under FFCRA sections 3105 and 5102(a). Thus, the list is merely meant to be a helpful guidepost, but itself says nothing dispositive as to whether an employee is a health care provider.

Under this revised definition, § 826.30(c)(1)(v) provides specific examples of services that may be considered ''diagnostic services, preventative services, treatment services, or other services that are integrated with and necessary to the provision of patient care'' under § 826.30(c)(1)(i). These examples are non-exhaustive and are meant to be illustrative.

Diagnostic services include, for example, taking or processing samples, performing or assisting in the performance of x-rays or other diagnostic tests or procedures, and interpreting test or procedure results. These services are integrated and necessary because without their provision, patient diagnosis would be undermined and individuals would not get the needed care. To illustrate, a technician or nurse who physically performs an x-ray is providing a diagnostic service and therefore is a health care provider.

Preventative services include, for example, screenings, check-ups, and counseling to prevent illnesses, disease, or other health problems. As with diagnostic services, preventative services are integrated and necessary because they are an essential component of health care. For example, a nurse providing counseling on diabetes prevention or on managing stress would be providing preventative services and therefore would be a health care provider.

Treatment services are the third category of services which make up health care services. Treatment services include, for example, performing surgery or other invasive or physical interventions, administering or providing prescribed medication, and providing or assisting in breathing treatments.

The last category of health care services are those services that are integrated with and necessary to diagnostic, preventive, or treatment services and, if not provided, would adversely impact patient care. This final category is intended to cover other integrated and necessary services that, if not provided, would adversely affect the patient's care. Such services include, for example, bathing, dressing, hand feeding, taking vital signs, setting up medical equipment for procedures, and transporting patients and samples. These tasks must be integrated and necessary to the provision of patient care, which significantly limits this category.

For example, bathing, dressing, or hand feeding a patient who cannot do that herself is integrated into to the patient's care. In another example, an individual whose role is to transport tissue or blood samples from a patient to the laboratory for analysis for the purpose of facilitating a diagnosis would be providing health care services because timely and secure transportation of the samples is integrated with and necessary to provide care to that patient.[29] These tasks also must be something that, if not performed, would adversely affect the patient's care, and they also must be integrated into that patient's care. Thus, tasks that may be merely indirectly related to patient care and are not necessary to providing care are not health care services. Further, the Department notes that some of the exemplar services listed in § 826.30(c)(1)(v)(D) may fit into more than one category.

Finally, § 826.30(c)(1)(vi) explains that the above definition of ''health care

[26] The District Court's opinion noted that ''lab technicians'' do not ''directly provide healthcare services to patients.'' *See New York,* 2020 WL 4462260, at *10. However, the precise question whether any lab technician may be a health care provider was not before or decided by the District Court. The relevant statutory definition does not limit the persons the Secretary may determine capable of providing health care services to only those who provide health care services directly to patients. As explained in this context, the Department concludes some persons who provide health care services will do so indirectly. Importantly, however, the Department's definition includes only persons who themselves provide health care services, whether indirectly or directly. Accordingly, the Department concludes based on the explanation provided above that, while not all lab technicians will necessarily qualify as health care providers, some will. The determination requires a role-specific analysis.

[27] The Javits Center in New York City, for example, was converted into a temporary hospital to treat COVID–19 patients. *See, e.g.,* Adam Jeffery and Hannah Miller, Coronavirus, Gov. Guomo, the National Guard and FEMA transform the Javits Center into a hospital, CNCN, Mar 28, 2020, available at *https://www.cnbc.com/2020/03/27/coronavirus-gov-cuomo-the-national-guard-and-fema-transform-the-javits-center-into-a-hospital.html.*

[28] ''The term 'health care provider' includes a hospital, skilled nursing facility, nursing facility, home health entity or other long term care facility, health care clinic, community mental health center . . ., renal dialysis facility, blood center, ambulatory surgical center . . ., emergency medical services provider, Federally qualified health center, group practice, a pharmacist, a pharmacy, a laboratory, a physician . . ., a practitioner . . ., a rural health clinic, . . . an ambulatory surgical center . . ., a therapist, . . .and any other category of health care facility, entity, practitioner, or clinician determined appropriate by the Secretary [of Health and Human Services].'' 42 U.S.C. 300jj(3).

[29] Again, this requirement operates against the backdrop that a health care provider must be employed to provide the identified health care services. Therefore, a person employed to provide general transportation services that does not, for example, specialize in the transport of human tissue or blood samples is not a health care provider.

provider'' applies only for the purpose of determining whether an employer may exclude an employee from eligibility to take FFCRA leave. This definition does not otherwise apply for the purposes of the FMLA. Nor does it identify health care providers whose advice to self-quarantine may constitute a qualified reason for paid sick leave under FFCRA section 5102(a)(2).

Revised § 826.30(c)(1)'s definition of ''health care provider'' for purposes of FFCRA sections 3105 and 5102(a) remains broader than the definition of ''health care provider'' under § 825.125, which defines the term for the pre-existing parts of FMLA and for purposes of FFCRA section 5102(a)(2). This is because these two definitions serve different purposes. The same term is usually presumed to have the same meaning throughout a single statute. *Brown* v. *Gardner,* 513 U.S. 115, 118 (1994). But ''this presumption . . . yields readily to indications that the same phrase used in different parts of the same statute means different things.'' *Barber* v. *Thomas,* 560 U.S. 474, 484 (2010) (collecting cases). The Department purposefully limited § 825.125's definition of ''health care provider'' to licensed medical professionals because the pre-existing FMLA definition used that term in the context of who could certify the diagnosis of serious health conditions for purposes of FMLA leave.[30] As a result, the definition in 29 CFR 825.125 is narrower than the ordinary understanding of ''health care provider,'' since many ''providers'' of health care services—such as nurses, physical therapists, medical technicians, or pharmacists—do not diagnose serious health conditions. *See* 29 CFR 825.115(a)(1) (defining continuing treatment for incapacity to require ''[t]reatment two or more times, within 30 days of the first day of incapacity, by a health care provider, a *nurse* under direct supervision of a health care provider, or by a *provider of health care services (e.g., physical therapist)* under orders of, or on referral by, a health care provider'') (emphases added); *id.* 825.115(c)(1) (defining continuing treatment for a chronic condition as including ''periodic visits for treatment by a health care provider *or a nurse* under the direct supervision of a health care provider'' (emphasis added)).

In contrast, and as explained above, the term ''health care provider'' serves an entirely different purpose in FFCRA sections 3105 and 5102(a). The Department believes these sections are best understood to have granted employers the option to exclude from paid leave eligibility health care providers whose absence from work would be particularly disruptive because those employees' services are important to combating the COVID–19 public health emergency and are essential to the continuity of operations of our health care system in general.[31] The definition of ''health care provider'' as limited only to diagnosing medical professionals under 29 CFR 825.125 is, in the Department's view, incompatible with this understanding of these sections. For example, nurses provide crucial services, often directly related to the COVID–19 public health emergency or to the continued operations of our health care system in general, but as noted, most nurses are not ''health care providers'' under § 825.125.[32] Nor are laboratory technicians who process COVID–19 or other crucial medical diagnostic tests, or other employees providing the critical services described above. But these workers are vital parts of the health system capacity that the Department believes Congress sought to preserve with the exclusions in FFCRA sections 3105 and 5102(a). A purposefully narrow definition of ''health care providers'' such as that in 29 CFR 825.125 would make excludable only a small class of employees that the Department believes would lack a connection to the identified policy objective. In accord with that understanding, revised § 826.30(c)(1) adopts a broader, but still circumscribed, definition of ''health care provider'' than 29 CFR 825.125.

## V. Revising Notice and Documentation Requirements Under §§ 826.90 and .100 To Improve Consistency

The FFCRA permits employers to require employees to follow reasonable notice procedures to continue to receive paid sick leave after the first workday (or portion thereof) of leave. FFCRA section 5110(5)(E). Section 3102(b) of the FFCRA amends the FMLA to require employees taking expanded family and medical leave to provide their employers with notice of leave as practicable, when the necessity for such leave is foreseeable.

Section 826.100 lists documentation that an employee is required to provide the employer regarding the employee's need to take FFCRA leave, and states that such documentation must be provided ''prior to'' taking paid sick leave or expanded family and medical leave. The District Court held that the requirement that documentation be given ''prior to'' taking leave ''is inconsistent with the statute's unambiguous notice provision,'' which allows an employer to require notice of an employee's reason for taking leave only ''after the first workday (or portion thereof)'' for paid sick leave, or ''as is practicable'' for expanded family and medical leave taken for school, place of care, or child care provider closure or unavailability. *New York,* 2020 WL 4462260, at *12.

In keeping with the District Court's conclusion, the Department amends § 826.100 to clarify that the documentation required under § 826.100 need not be given ''prior to'' taking paid sick leave or expanded family and medical leave, but rather may be given as soon as practicable, which in most cases will be when the employee provides notice under § 826.90. The Department is also revising § 826.90(b) to correct an

[30] Commenters to the 1993 proposed FMLA regulations asked the Department to define ''health care provider'' to include ''providers of a broad range of medical services.'' 58 FR 31800. The Department considered ''such a broad definition . . . inappropriate'' because, at that time, the term ''health care provider'' was used in the FMLA to refer to those who ''will need to indicate their diagnosis in health care certificates.'' *Id.*

[31] Although the statute does not explicitly articulate the purpose of these exceptions, the Department believes it is the only reasonable inference given that FFCRA sections 3015 and 5102(a) each allowed employers to exclude both ''health care providers'' and ''emergency responders'' from FFCRA leave. Moreover, at the time the FFCRA was passed, many people feared that the health system capacity would be strained, and these provisions appear to have been calculated to ameliorate that issue. *See, e.g.,* NYC Mayor urges national enlistment program for doctors, Associated Press, Apr. 3, 2020, available at *https://www.pbs.org/newshour/health/nyc-mayor-urges-national-enlistment-program-for-doctors;* Jack Brewster, Cuomo: 'Any Scenario That Is Realistic Will Overwhelm The Capacity Of The Current Healthcare System,' Forbes, Mar. 26, 2020, available at *https://www.forbes.com/sites/jackbrewster/2020/03/26/cuomo-any-scenario-that-is-realistic-will-overwhelm-the-capacity-of-the-current-healthcare-system/#2570066e7cf1;* Melanie Evans and Stephanie Armour, Hospital Capacity Crosses Tipping Point in U.S. Coronavirus Hot Spots, WSJ.com, Mar. 26, 2020, available at *https://www.wsj.com/articles/hospital-capacity-crosses-tipping-point-in-u-s-coronavirus-hot-spots-11585215006;* Beckers Hospital Review, COVID–19 response requires 'all hands on deck' Atlantic Health System CEO says, Mar. 20, 2020, available at *https://www.beckershospitalreview.com/hospital-management-administration/covid-19-response-requires-all-hands-on-deck-atlantic-health-system-ceo-says.html.* The Department recognizes that this understanding of FFCRA sections 3105 and 5102(a) means that fewer people may receive paid leave. However, as explained, the Department believes this was the balance struck by Congress.

[32] The 1995 FMLA final rule added to § 825.125's definition of health care provider ''nurse practitioners and nurse-midwives (who provide diagnosis and treatment of certain conditions, especially at health maintenance organizations and in rural areas where other health care providers may not be available) if performing within the scope of their practice as allowed by State law.'' 60 FR 2199. Other nurses, however, are not generally considered health care providers under 29 CFR 825.125.

inconsistency regarding the timing of notice for employees who take expanded family and medical leave.

Sections 826.90 and 826.100 complement one another. Section 826.90 sets forth circumstances in which an employee who takes paid sick leave or expanded family and medical leave must give notice to his or her employer. Section 826.100 sets forth information sufficient for the employer to determine whether the requested leave is covered by the FFCRA. Section 826.100(f) also allows the employer to request an employee furnish additional material needed to support a request for tax credits under Division G of the FFCRA.

Section 826.90(b) governs the timing and delivery of notice. Previous § 826.90(b) stated, ''Notice may not be required in advance, and may only be required after the first workday (or portion thereof) for which an Employee takes Paid Sick Leave or Expanded Family and Medical Leave.'' This statement is correct with respect to paid sick leave. FFCRA section 5110(5)(E). However, section 110(c) of the FMLA, as amended by FFCRA section 3102, explicitly states that ''where the necessity for [expanded family and medical leave] is foreseeable, an employee shall provide the employer with such notice of leave as is practicable.'' Thus, for expanded family and medical leave, advance notice is not prohibited; it is in fact typically required if the need for leave is foreseeable. Revised § 826.90(b) corrects this error by stating that advanced notice of expanded family and medical leave is required as soon as practicable; if the need for leave is foreseeable, that will generally mean providing notice before taking leave. For example, if an employee learns on Monday morning before work that his or her child's school will close on Tuesday due to COVID–19 related reasons, the employee must notify his or her employer as soon as practicable (likely on Monday at work). If the need for expanded family and medical leave was not foreseeable—for instance, if that employee learns of the school's closure on Tuesday after reporting for work—the employee may begin to take leave without giving prior notice but must still give notice as soon as practicable.

Section 826.100(a) previously stated that an employee is required to give the employer certain documentation ''prior to taking Paid Sick Leave under the EPSLA or Expanded Family and Medical Leave under the EFMLEA.'' As noted above, the District Court held that the requirement that documentation be provided prior to taking leave ''is inconsistent with the statute's unambiguous notice provision,'' which allows an employer to require notice of an employee's reason for taking leave only ''after the first workday (or portion thereof)'' for paid sick leave, or ''as is practicable'' for expanded family and medical leave taken for school, place of care, or child care provider closure or unavailability. *New York,* 2020 WL 4462260, at *12. Accordingly, the Department is revising § 826.100(a) to require the employee to furnish the listed information as soon as practicable, which in most cases will be when notice is provided under § 826.90. That is to say, an employer may require an employee to furnish as soon as practicable: (1) The employee's name; (2) the dates for which leave is requested; (3) the qualifying reason for leave; and (4) an oral or written statement that the employee is unable to work. The employer may also require the employee to furnish the information set forth in § 826.100(b)–(f) at the same time.

## VI. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.,* and its attendant regulations, 5 CFR part 1320, require the Department to consider the agency's need for its information collections and their practical utility, the impact of paperwork and other information collection burdens imposed on the public, and how to minimize those burdens. The Department has determined that this temporary rule does not add any new information collection requirements. The information collection associated with this temporary rule was previously approved by the Office of Management and Budget (OMB) under OMB control number 1235–0031.

## VII. Administrative Procedure Act

This rule is issued without prior notice and opportunity to comment and with an immediate effective date pursuant to the Administrative Procedure Act (APA). 5 U.S.C. 553(b) and (d).

### *A. Good Cause To Forgo Notice and Comment Rulemaking*

The APA, 5 U.S.C. 553(b)(B), 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.'' The FFCRA authorizes the Department to issue regulations under the EPSLA and the EFMLEA pursuant to the good cause exception of the APA. FFCRA sections 3102(b) (adding FMLA section 110(a)(3)), 5111.

As it did in the initial April 1, 2020 temporary rule, the Department is bypassing advance notice and comment because of the exigency created by the COVID–19 pandemic, the time limited nature of the FFCRA leave entitlement which expires December 31, 2020, the uncertainty created by the August 3, 2020 district court decision finding certain portions of the April 1 rule invalid, and the regulated community's corresponding immediate need for revised provisions and explanations from the Department. A decision to undertake notice and comment rulemaking would likely delay final action on this matter by weeks or months, which would be counter to one of the FFCRA's main purposes in establishing paid leave: enabling employees to leave the workplace immediately to help prevent the spread of COVID–19 and to ensure eligible employees are not forced to choose between their paychecks and the public health measures needed to combat the virus. In sum, the Department determines that issuing this temporary rule as expeditiously as possible is in the public interest and critical to the Federal Government's relief and containment efforts regarding COVID–19.

### *B. Good Cause To Proceed With an Immediate Effective Date*

The APA also authorizes agencies to make a rule effective immediately, upon a showing of good cause, instead of imposing a 30-day delay. 5 U.S.C. 553(d)(3). The FFCRA authorizes the Department to issue regulations that are effective immediately under the EPSLA and the EFMLEA pursuant to the good cause exception of the APA. FFCRA sections 3102(b) (adding FMLA section 110(a)(3)), 5111; CARES Act section 3611(1)–(2). For the reasons stated above, the Department has concluded it has good cause to make this temporary rule effective immediately and until the underlying statute sunsets on December 31, 2020.

## VIII. Executive Order 12866, Regulatory Planning and Review; and Executive Order 13563, Improved Regulation and Regulatory Review

### *A. Introduction*

Under E.O. 12866, OMB's Office of Information and Regulatory Affairs (OIRA) determines whether a regulatory action is significant and therefore, subject to the requirements of the E.O. and OMB review. Section 3(f) of E.O. 12866 defines a ''significant regulatory

action'' as an action that is likely to result in a rule that (1) has an annual effect on the economy of $100 million or more, or adversely affects in a material way a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities (also referred to as economically significant); (2) creates serious inconsistency or otherwise interferes with an action taken or planned by another agency; (3) materially alters the budgetary impacts of entitlement grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the E.O. As described below, this temporary rule is not economically significant. The Department has prepared a Regulatory Impact Analysis (RIA) in connection with this rule, as required under section 6(a)(3) of Executive Order 12866, and OMB has reviewed the rule. OIRA has designated this rule as not a ''major rule,'' as defined by 5 U.S.C. 804(2).

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

*B. Overview of the Rule*

The temporary final rule promulgated by the Department in April 2020 implemented the EPSLA and the EFMLEA, as modified by the CARES Act. The EPSLA requires that certain employers provide two workweeks (up to 80 hours) of paid sick leave to eligible employees who need to take leave from work for specified reasons related to COVID–19. The EFMLEA requires that certain employers provide up to 12 weeks of expanded family and medical leave to eligible employees who need to take leave from work because the employee is caring for his or her son or daughter whose school or place of care is closed or child care provider is unavailable due to COVID–19 related reasons. Payments from employers to employees for such paid leave, as well as allocable costs related to the maintenance of health benefits during the period of the required leave, is to be reimbursed by the Department of the Treasury via tax credits, up to statutory limits, as provided under the FFCRA.

The Department is issuing this revised, new temporary rule, effective immediately, to reaffirm, revise, and clarify its regulations. The Department reaffirms that paid sick leave and expanded family and medical leave may be taken only if the employee has work from which to take leave, and that employees must receive employer approval to take paid sick leave or expanded family and medical leave intermittently. The Department narrows the definition of ''health care provider'' to employees who are health care providers under 29 CFR. 825.125 and employees capable of providing health care services, meaning those who are employed to provide diagnostic services, preventive services, treatment services, or other services that are integrated with and necessary to the provision of patient care. In this rule, the Department also clarifies that the information the employee gives the employer to support the need for leave should be given as soon as practicable, and corrects an inconsistency regarding when an employee may be required to give notice of expanded family and medical leave to their employer.

*C. Economic Impacts*

1. Costs

This rule revises and clarifies the temporary rule implementing the paid sick leave and expanded family and medical leave provisions of the FFCRA. The Department estimates that these revisions will result in additional rule familiarization costs to employers.

The Department noted that according to the 2017 Statistics of U.S. Businesses (SUSB), there are 5,976,761 private firms in the U.S. with fewer than 500 employees.[33] The Department estimates that all 5,976,761 employers with fewer than 500 employees will need to review the rule to determine how and if their responsibilities have changed from the initial temporary rule. The Department estimates that these employers will likely spend fifteen minutes on average reviewing the new rule, and that this will be a one-time rule familiarization cost.

The Department's analysis assumes that the rule would be reviewed by Compensation, Benefits, and Job Analysis Specialists (SOC 13–1141) or employees of similar status and comparable pay. The median hourly wage for these workers is $31.04 per hour.[34] In addition, the Department also assumes that benefits are paid at a rate of 46 percent [35] and overhead costs are paid at a rate of 17 percent of the base wage, resulting in a fully-loaded hourly wage of $50.60.[36] The Department estimates that the total rule familiarization cost to employers with fewer than 500 employees, who spend 0.25 hour reviewing the rule, will be $75,606,027 (5,976,761 firms × 0.25 hour × $50.60) in the first year. This results in a ten-year annualized cost of $10.1 million at 7 percent and $8.6 million at 3 percent.

In the initial rule, the Department estimated the costs to employers of both documentation and of posting a notice, and qualitatively discussed managerial and operating costs and costs to the Department. The Department does not expect these revisions and clarifications to result in additional costs in any of these categories.

ii. Transfers

In the initial temporary rule, the Department estimated that the transfers associated with this rule are the paid sick leave and expanded family and medical leave that employees will receive as a result of the FFCRA. The paid leave will initially be provided by employers, who will then be reimbursed by the Treasury Department through tax credits, up to statutory limits, which is then ultimately paid for by taxpayers. In the economic analysis of the initial temporary rule, the Department noted that it lacked data to determine which employees will need leave, and how many days of leave will ultimately be used. Because the share of employees who will use leave is likely to be only a partial share of those who are eligible, the Department was therefore unable to quantify the transfer of paid leave.

Certain health care providers and emergency responders may be excluded from this group of impacted employees. This new rule limits the definition of health care provider to employees who are health care providers under 29 CFR 825.125 and other employees capable of

[33] Statistics of U.S. Businesses 2017, *https://www.census.gov/data/tables/2017/econ/susb/2017-susb-annual.html,* 2017 SUSB Annual Data Tables by Establishment Industry.

[34] Occupational Employment and Wages, May 2019, *https://www.bls.gov/oes/2019/may/oes_nat.htm.*

[35] The benefits-earnings ratio is derived from the Bureau of Labor Statistics' Employer Costs for Employee Compensation data using variables CMU1020000000000D and CMU1030000000000D.

[36] $31.04 + $31.04(0.46) + $31.04(0.17) = $50.60.

providing health care services, meaning those who are employed to provide diagnostic services, preventive services, treatment services, or other services that are integrated with and necessary to the provision of patient care. As discussed in the initial temporary rule, according to the SUSB data mentioned above, employers with fewer than 500 employees in the health care and social assistance industry employ 9.0 million workers.[37] The Department estimated that this is likely to be the upper bound of potential excluded health care providers, because some of these employees' employers could decide not to exclude them from eligibility to use paid sick leave or expanded family and medical leave. In this new rule, the Department is narrowing the definition of health care provider, which means that fewer employees could potentially be excluded from receiving paid sick leave and expanded family and medical leave. If more employees are able to use this leave, transfers to employees will be higher. Because the Department lacks data on the number of workers who were potentially excluded under the prior definition, and how that number will change under the new definition, the Department is unable to quantify the change in transfers associated with this new rule. However, the Department does not expect that this new temporary rule will result in a transfer at or more than $100 million dollars annually.

iii. Benefits

This new temporary rule will increase clarity for both employers and employees, which could lead to an increase in the use of paid sick leave and expanded family and medical leave. As discussed in the initial rule, the benefits of the paid sick leave and expanded family and medical leave provisions of the FFCRA are vast, and although unable to be quantified, are expected to greatly outweigh any costs of these provisions. With the availability of paid leave, sick or potentially exposed employees will be encouraged to stay home, thereby helping to curb the spread of the virus at the workplace. If employees still receive pay while on leave, they will benefit from being able to cover necessary expenses, and to continue to spend money to help support the economy. This will have spillover effects not only on the individuals who receive pay while on leave, but also to their communities and the national economy as a whole, which is facing unique challenges due to the COVID–19 global pandemic.

## IX. Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121 (March 29, 1996), requires federal agencies engaged in rulemaking to consider the impact of their proposals on small entities, consider alternatives to minimize that impact, and solicit public comment on their analyses. The RFA requires the assessment of the impact of a regulation on a wide range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions. Agencies must perform a review to determine whether a proposed or final rule would have a significant economic impact on a substantial number of small entities. 5 U.S.C. 603 and 604.

As discussed above, the Department calculated rule familiarization costs for all 5,976,761 employers with and fewer than 500 employees. For the 5,755,307 employers with fewer than 50 employees, their one-time rule familiarization cost would be $12.65.[38] The Department calculated this cost by multiplying the 15 minutes of rule familiarization by the fully-loaded wage of a Compensation, Benefits, and Job Analysis Specialist (0.25 hour × $50.60). These estimated costs will be minimal for small business entities, and will be well below one percent of their gross annual revenues, which is typically at least $100,000 per year for the smallest businesses. Based on this determination, the Department certifies that the rule will not have a significant economic impact on a substantial number of small entities.

## X. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (UMRA) requires agencies to prepare a written statement for rules that include any federal mandate that may result in increased expenditures by state, local, and tribal governments, in the aggregate, or by the private sector, of $165 million ($100 million in 1995 dollars adjusted for inflation using the CPI–U) or more in at least one year. This statement must: (1) Identify the authorizing legislation; (2) present the estimated costs and benefits of the rule and, to the extent that such estimates are feasible and relevant, its estimated effects on the national economy; (3) summarize and evaluate state, local, and tribal government input; and (4) identify reasonable alternatives and select, or explain the non-selection, of the least costly, most cost-effective, or least burdensome alternative. Based on the cost analysis in this temporary rule, the Department determined that the rule will not result in Year 1 total costs greater than $165 million.

## XI. Executive Order 13132, Federalism

This rule does 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. Therefore, in accordance with section 6 of Executive Order No. 13132, 64 FR 43255 (Aug. 4, 1999), this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

## XII. Executive Order 13175, Indian Tribal Governments

This rule would not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

## List of Subjects in 29 CFR Part 826

Wages.

Signed at Washington, DC, this 10th day of September, 2020.

**Cheryl M. Stanton,**

*Administrator, Wage and Hour Division.*

For the reasons set out in the preamble, the Department of Labor amends title 29 of the Code of Federal Regulations part 826 as follows:

## PART 826—PAID LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

■ 1. The authority citation for part 826 continues to read as follows:

**Authority:** Pub. L. 116–127 sections 3102(b) and 5111(3); Pub. L. 116–136 section 3611(7).

[37] A few estimates from other third party analyses confirm that this 9 million figure is reasonable. *See* Michelle Long and Matthew Rae, *Gaps in the Emergency Paid Sick Leave Law for Health Care Workers,* KFF, Jun. 17, 2020 (estimating that 8.1 million workers are subject to the exemption), available at *https://www.kff.org/coronavirus-covid-19/issue-brief/gaps-in-emergency-paid-sick-leave-law-for-health-care-workers/;* Sarah Jane Glynn, *Coronavirus Paid Leave Exemptions Exclude Millions of Workers from Coverage,* American Progress (Apr. 17, 2020) (estimating that 8,984,000 workers are subject to the exemption), available at *https://www.americanprogress.org/issues/economy/news/2020/04/17/483287/coronavirus-paid-leave-exemptions-exclude-millions-workers-coverage/.*

[38] Statistics of U.S. Businesses 2017, *https://www.census.gov/data/tables/2017/econ/susb/2017-susb-annual.html,* 2017 SUSB Annual Data Tables by Establishment Industry.

■ 2. Amend § 826.20 by revising paragraphs (a)(3) and (a)(4) and adding paragraph (a)(10), to read as follows:

**§ 826.20 Paid leave entitlements.**

(a) * * *

(3) *Advised by a health care provider to self-quarantine.* For the purposes of this section, the term health care provider has the same meaning as that term is defined in § 825.102 and 825.125 of this chapter. An Employee may take Paid Sick Leave for the reason described in paragraph (a)(1)(ii) of this section only if:

(i) A health care provider advises the Employee to self-quarantine based on a belief that:

(A) The Employee has COVID–19;

(B) The Employee may have COVID–19; or

(C) The Employee is particularly vulnerable to COVID–19; and

(ii) Following the advice of a health care provider to self-quarantine prevents the Employee from being able to work, either at the Employee's normal workplace or by Telework. An Employee who is advised to self-quarantine by a health care provider may not take Paid Sick Leave where the Employer does not have work for the Employee.

(4) *Seeking medical diagnosis for COVID–19.* An Employee may take Paid Sick Leave for the reason described in paragraph (a)(1)(iii) of this section if the Employee is experiencing any of the following symptoms:

(i) Fever;

(ii) Dry cough;

(iii) Shortness of breath; or

(iv) Any other COVID–19 symptoms identified by the U.S. Centers for Disease Control and Prevention.

(v) Any Paid Sick Leave taken for the reason described in paragraph (a)(1)(iii) of this subsection is limited to time the Employee is unable to work because the Employee is taking affirmative steps to obtain a medical diagnosis, such as making, waiting for, or attending an appointment for a test for COVID–19. An Employee seeking medical diagnosis for COVID–19 may not take Paid Sick Leave where the Employer does not have work for the Employee.

* * * * *

(10) *Substantially similar condition.* An Employee may take leave for the reason described in paragraph (a)(1)(vi) of this section if he or she has a substantially similar condition as specified by the Secretary of Health and Human Services, in consultation with the Secretary of the Treasury and the Secretary of Labor. The substantially similar condition may be defined at any point during the Effective Period, April 1, 2020, to December 31, 2020. An Employee may not take Paid Sick Leave for a substantially similar condition as specified by the Secretary of Health and Human Services where the Employer does not have work for the Employee.

* * * * *

■ 3. Amend § 826.30 by revising paragraph (c)(1) to read as follows:

**§ 826.30 Employee eligibility for leave.**

* * * * *

(c) * * *

(1) *Health care provider*—(i) *Basic definition.* For the purposes of Employees who may be exempted from Paid Sick Leave or Expanded Family and Medical Leave by their Employer under the FFCRA, a health care provider is

(A) Any Employee who is a health care provider under 29 CFR 825.102 and 825.125, or;

(B) Any other Employee who is capable of providing health care services, meaning he or she is employed to provide diagnostic services, preventive services, treatment services, or other services that are integrated with and necessary to the provision of patient care and, if not provided, would adversely impact patient care.

(ii) *Types of Employees.* Employees described in paragraph (c)(1)(i)(B) include only:

(A) Nurses, nurse assistants, medical technicians, and any other persons who directly provide services described in (c)(1)(i)(B);

(B) Employees providing services described in (c)(1)(i)(B) of this section under the supervision, order, or direction of, or providing direct assistance to, a person described in paragraphs (c)(1)(i)(A) or (c)(1)(ii)(A) of this section; and

(C) Employees who are otherwise integrated into and necessary to the provision of health care services, such as laboratory technicians who process test results necessary to diagnoses and treatment.

(iii) Employees who do not provide health care services as described above are not health care providers even if their services could affect the provision of health care services, such as IT professionals, building maintenance staff, human resources personnel, cooks, food services workers, records managers, consultants, and billers.

(iv) *Typical work locations.* Employees described in paragraph (c)(1)(i) of this section may include Employees who work at, for example, a doctor's office, hospital, health care center, clinic, medical school, local health department or agency, nursing facility, retirement facility, nursing home, home health care provider, any facility that performs laboratory or medical testing, pharmacy, or any similar permanent or temporary institution, facility, location, or site where medical services are provided. This list is illustrative. An Employee does not need to work at one of these facilities to be a health care provider, and working at one of these facilities does not necessarily mean an Employee is a health care provider.

(v) *Further clarifications.* (A) Diagnostic services include taking or processing samples, performing or assisting in the performance of x-rays or other diagnostic tests or procedures, and interpreting test or procedure results.

(B) Preventive services include screenings, check-ups, and counseling to prevent illnesses, disease, or other health problems.

(C) Treatment services include performing surgery or other invasive or physical interventions, prescribing medication, providing or administering prescribed medication, physical therapy, and providing or assisting in breathing treatments.

(D) Services that are integrated with and necessary to diagnostic, preventive, or treatment services and, if not provided, would adversely impact patient care, include bathing, dressing, hand feeding, taking vital signs, setting up medical equipment for procedures, and transporting patients and samples.

(vi) The definition of *health care provider* contained in this section applies only for the purpose of determining whether an Employer may elect to exclude an Employee from taking leave under the EPSLA and/or the EFMLEA, and does not otherwise apply for purposes of the FMLA or section 5102(a)(2) of the EPSLA.

* * * * *

■ 4. Amend § 826.90 by revising paragraph (b) to read as follows:

**§ 826.90 Employee notice of need for leave.**

* * * * *

(b) *Timing and delivery of notice.* Notice may not be required in advance, and may only be required after the first workday (or portion thereof) for which an Employee takes Paid Sick Leave. After the first workday, it will be reasonable for an Employer to require notice as soon as practicable under the facts and circumstances of the particular case. Generally, it will be reasonable for notice to be given by the Employee's spokesperson (*e.g.,* spouse, adult family member, or other responsible party) if the Employee is unable to do so personally. Notice for taking Expanded

Family and Medical Leave is required as soon as practicable. If the reason for this leave is foreseeable, it will generally be practicable to provide notice prior to the need to take leave.

* * * * *

■ 5. Amend § 826.100 by revising paragraph (a) to read as follows:

**§ 826.100 Documentation of need for leave.**

(a) An Employee is required to provide the Employer documentation containing the following information as soon as practicable, which in most cases will be when the Employee provides notice under § 826.90:

(1) Employee's name;

(2) Date(s) for which leave is requested;

(3) Qualifying reason for the leave; and

(4) Oral or written statement that the Employee is unable to work because of the qualified reason for leave.

* * * * *

[FR Doc. 2020–20351 Filed 9–11–20; 5:00 pm]

BILLING CODE 4510–27–P

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 117

**[Docket No. USCG 2020–0027]**

**RIN 1625–AA09**

## Drawbridge Operation Regulation; Trent River, New Bern, NC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is altering the operating schedule that governs the US 70 (Alfred C. Cunningham) Bridge across the Trent River, mile 0.0, in New Bern, North Carolina. This modification will allow the drawbridge to be maintained in the closed position during peak traffic hours and provide daily scheduled openings to meet the reasonable needs of navigation.

**DATES:** This rule is effective October 16, 2020.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov.* Type USCG–2020–0027 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Mr. Martin A. Bridges, Fifth Coast Guard District (dpb), at (757) 398–6422, email *Martin.A.Bridges@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### Table of Contents for Preamble

I. Abbreviations
II. Basis and Purpose, and Regulatory History
III. Legal Authority and Need for Rule
IV. Discussion of Changes, Comments, and Final Rule
V. Regulatory Analyses
A. Regulatory Planning and Review
B. Impact on Small Entities
C. Assistance for Small Entities
D. Collection of Information
E. Federalism and Indian Tribal Goverment
F. Unfunded Mandates
G. Environment
H. Protest Activities

### I. Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
OMB Office of Proposed Management and Budget
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

### II. Basis and Purpose, and Regulatory History

The purpose of this rule is to alter the operating schedule that governs the US 70 (Alfred C. Cunningham) Bridge across the Trent River, mile 0.0, in New Bern, North Carolina. This modification will allow the drawbridge to be maintained in the closed position during peak traffic hours and provide daily scheduled openings to meet the reasonable needs of navigation. On May 13, 2020, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) entitled ''Drawbridge Operation Regulation; Trent River, New Bern, NC'' in the **Federal Register** (85 FR 28546). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action. During the comment period that ended June 12, 2020, we received one comment and that comment is addressed in Section IV of this Final Rule.

### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority 33 U.S.C. 499. The US 70 (Alfred C. Cunningham) Bridge across the Trent River, mile 0.0, in New Bern, North Carolina, has a vertical clearance of 14 feet above mean high water in the closed position and unlimited vertical clearance above mean high water in the open position. The current operation schedule for the drawbridge is published in 33 CFR 117.843(a)

Trent River is used predominately by recreational vessels, sailing vessels, and pleasure craft. The 16-month average of bridge openings, average number of vessels, and maximum number of bridge openings by month, as drawn from the data contained in the bridge tender logs provided by the North Carolina Department of Transportation, is presented below.

| Month | Average openings | Average vessels | Maximum openings |
|---|---|---|---|
| January | 28 | 24 | 28 |
| February | 36 | 28 | 36 |
| March | 67 | 56 | 67 |
| April | 204 | 212 | 271 |
| May | 236 | 265 | 302 |
| June | 245 | 251 | 306 |
| July | 199 | 185 | 242 |
| August | 261 | 260 | 261 |
| September | 161 | 163 | 161 |
| October | 119 | 106 | 119 |
| November | 122 | 85 | 122 |
| December | 65 | 39 | 65 |
| Monthly | 145 | 139 | 165 |
| Daily | 56 | 54 | 63 |

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

The Coast Guard provided a comment period of 30 days and received one comment. The commenter is in favor of removing the Sunday afternoon opening restrictions from May 24 through September 8, but deems the hour and the half hour opening schedule from 6 a.m. to 10 p.m. as unnecessary, and would like to see the on-demand practice for bridge openings continued. The Coast Guard considered the comment in relation to current and prospective navigation safety and mobility objectives, as well as the purpose of the proposed regulation, and found no basis upon which to amend the proposed regulatory language within the final rule.

## V. Regulatory Analyses

The Coast Guard has 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 protesters.

### *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. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget (OMB) and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the fact that vessels can still transit the bridge on signal from 10 p.m. to 6 a.m., and on the hour and the half hour from 6 a.m. to 10 p.m., except from 7:30 a.m. to 8:30 a.m., and from 4:30 p.m. to 6 p.m., Monday through Friday, except holidays, when the draw shall remain closed. The draw shall open upon request at all times for vessels as defined in 33 CFR 117.31.

### *B. Impact on Small Entities*

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

### *C. Assistance for Small Entities*

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 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 contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this rule of any policy or action of the Coast Guard.

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.

### *D. Collection of Information*

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### *E. Federalism and Indian Tribal Government*

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.

### *F. 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. The Coast Guard received zero comments about money expenditures from any State, local, or tribal government.

### *G. Environment*

We have analyzed this rule under Department of Homeland Security Management Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series) which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f). The Coast Guard has 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 promulgates the operating regulations or procedures for drawbridges and is categorically excluded from further review, under paragraph L49, of Chapter 3, Table3–1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule.

### *H. Protest Activities*

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact 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 117 Bridges.**

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 33 CFR 1.05–1; and Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 117.843(a) to read as follows:

**§ 117.843 Trent River.**

(a) The draw of the U.S. 70 Bridge, mile 0.0, at New Bern:

(1) Shall open on the hour and the half hour from 6 a.m. to 10 p.m., except during the times authorized in accordance with (a) (2) of this section.

(2) Shall remain closed from 7:30 a.m. to 8:30 a.m. and from 4:30 p.m. to 6 p.m., Monday through Friday; except holidays.

(3) Shall open on signal from 10 p.m. to 6 a.m.

(4) Shall open upon request at all times for vessels as defined in § 117.31.

* * * * *

Dated: September 8, 2020.

**K.M. Smith,**

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

[FR Doc. 2020–20269 Filed 9–15–20; 8:45 am]

BILLING CODE 9110–04–P

## DEPARTMENT OF EDUCATION

### 34 CFR Chapter III

**[Docket ID ED–2019–OSERS–0044]**

### Final Waiver and Extension of the Project Period for a Grant that Provides Rehabilitation Short-Term Training to the Client Assistance Program (CAP)

**AGENCY:** Office of Special Education and Rehabilitative Services (OSERS), Department of Education.

**ACTION:** Final waiver and extension of project period.

**SUMMARY:** The U.S. Department of Education (Department) waives the requirements in the Education Department General Administrative Regulations that generally prohibit project periods exceeding five years and project period extensions involving the obligation of additional Federal funds. The waiver and extension enable the Rehabilitation Short-Term Training-CAP under Catalog of Federal Domestic Assistance (CFDA) number 84.246K to receive funding for an additional performance period of one year, not to exceed September 30, 2021.

**DATES:** The waiver and extension of the project period is effective September 16, 2020.

**FOR FURTHER INFORMATION CONTACT:** Felipe Lulli, U.S. Department of Education, 400 Maryland Avenue SW, Room 5101, Potomac Center Plaza, Washington, DC 20202–2800. Telephone: 202–245–7425. Email: *felipe.lulli@ed.gov.*

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

**SUPPLEMENTARY INFORMATION:**

### Background

In September 2015, the Rehabilitation Services Administration (RSA) awarded a 60-month grant to the National Disability Rights Network (NDRN) under the Rehabilitation Short-Term Training Program, authorized under section 302 of the Rehabilitation Act of 1973, as amended (Rehabilitation Act) (29 U.S.C. 772). Under the grant, NDRN provides training and technical assistance to increase the capacity of CAP professionals to fulfill their responsibilities under section 112 of the Rehabilitation Act to inform, advise, and advocate for individuals with disabilities and facilitate their access to services and programs available under the Rehabilitation Act, as amended by the Workforce Innovation and Opportunity Act (WIOA) (29 U.S.C. 3101 *et seq.*). The performance period for that grant ends on September 30, 2020.

On April 27, 2020, the Department published in the **Federal Register** (85 FR 23270) a document proposing an extension of the Rehabilitation Short-Term Training-CAP performance period for an additional budget period, not to exceed September 30, 2021; a waiver of the requirements in 34 CFR 75.250, which prohibit project periods exceeding five years; and a waiver of the requirements in 34 CFR 75.261(a) and (c)(2), which allow the extension of a project period only if the extension does not involve the obligation of additional Federal funds.

We are extending the Rehabilitation Short-Term Training-CAP for an additional year to assess and enhance the Department's CAP training and technical assistance approaches in light of (a) the expanded quality employment opportunities for individuals with disabilities promoted by WIOA; (b) promising employment initiatives advanced by RSA's Vocational Rehabilitation Technical Assistance Centers, consistent with WIOA; and (c) new training delivery platforms and methodologies that could be applied to this CAP training program, including the training that will be developed under the Innovative Rehabilitation Training program, CFDA number 84.263D. In short, the waiver and extension will allow the current Rehabilitation Short-Term Training-CAP grantee to continue providing critical training and technical assistance to CAP personnel, while the Innovative Rehabilitation Training program grantee designs and scales up a new, innovative training program that, consistent with WIOA, maximizes the capacity of CAP personnel to inform, advise, and advocate for individuals with disabilities and facilitate their access to expanded quality employment opportunities in their States.

*Public Comment:* In response to our invitation in the notification of proposed waiver and extension of the project periods, five parties submitted responsive comments. An analysis of the comments follows.

*Comment:* All commenters expressed support for the Rehabilitation Short-Term Training-CAP extension, including support for the Department's stated reason for doing so. None of the commenters recommended changes or provided substantive comments regarding the proposed extension and waiver itself.

*Discussion:* We appreciate commenters' support for this action, which we believe will allow the Department to more effectively support CAP personnel.

*Changes:* None.

*Final Waiver and Extension:*

The Department is extending the Rehabilitation Short-Term Training-CAP for an additional budget period, not to exceed September 30, 2021. The Department has concluded that it would not be in the public interest to end the Rehabilitation Short-Term Training-CAP grant while the new, enhanced CAP training program under the Innovative Rehabilitation Training priority related to CAP (CFDA number 84.263D) is being designed and ramped up during its first year. Doing so would reduce the Department's ability to provide ongoing training and technical assistance that CAP professionals need to fulfill their responsibilities under the Rehabilitation Act in the coming fiscal year (FY).

For this reason, the Department waives the requirements in 34 CFR 75.250, which prohibit project periods exceeding five years, and the requirements in 34 CFR 75.261(a) and (c)(2), which allow the extension of a project period only if the extension does not involve the obligation of additional Federal funds. The waiver would allow the Department to issue a one-time FY 2020 continuation award to the Rehabilitation Short-Term Training-CAP, as follows.

84.246K ..... Rehabilitation Short-Term Training-CAP ..... $200,000

Any activities carried out during the year of this continuation award must be consistent with the scope, goals, and objectives of the grantee's application as approved in the FY 2015 competition. The requirements for continuation awards are set forth in 34 CFR 75.253.

*Waiver of Delayed Effective Date:*

The Administrative Procedure Act requires that a substantive rule must be published at least 30 days before its effective date, except as otherwise provided for good cause (5 U.S.C. 553(d)(3)). A delayed effective date would be contrary to public interest by creating a gap in provision of training and technical assistance that CAP professionals need to effectively fulfill their responsibilities under the Rehabilitation Act. Therefore, the Secretary waives the delayed effective date provision for good cause.

*Regulatory Flexibility Act Certification:*

The Department certifies that the waiver and extension of the project period will not have a significant economic impact on a substantial number of small entities. The only entity that will be affected by the waiver and extension of the project period is the current Rehabilitation Short-Term Training-CAP grantee, because it would receive funding for an additional project period. Additionally, the extension of an existing budget period imposes minimal compliance costs, and the activities required to support the additional year of funding will not impose additional regulatory burdens or require unnecessary Federal supervision.

*Paperwork Reduction Act of 1995:*

This final waiver and extension of the project period does not contain any information collection requirements.

*Intergovernmental Review:*

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

*Accessible Format:* Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

**Mark Schultz,**

*Commissioner, Rehabilitation Services Administration, Delegated the authority to perform the functions and duties of the Assistant Secretary for the Office of Special Education and Rehabilitative Services.*

[FR Doc. 2020–20510 Filed 9–14–20; 4:15 pm]

**BILLING CODE 4000–01–P**

---

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R04–OAR–2020–0071; FRL–10013–22–Region 4]**

## Air Plan Approval; Georgia: Permit Requirements

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve a State Implementation Plan (SIP) revision submitted by the State of Georgia, through the Georgia Environmental Protection Division (GA EPD), on October 18, 2019. This SIP revision makes minor edits to the Georgia rule prescribing permitting requirements. EPA has evaluated Georgia's submittal and determined that it meets the applicable requirements of the Clean Air Act (CAA or Act) and applicable regulations.

**DATES:** This rule is effective October 16, 2020.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2020–0071. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information may not be publicly available, *i.e.,* 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 form. Publicly available docket materials can either be retrieved electronically via *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Pearlene Williams, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Ms. Williams can also be reached via phone at (404) 562–9144 or via electronic mail at *williams.pearlene@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Background

Through a letter dated October 18, 2019,[1] GA EPD submitted a SIP revision for EPA's approval. The revision makes clarifying and ministerial changes to permitting regulations at Rule 391–3–1–.03(8), *Permit Requirements.* This submittal changes the status of five counties under paragraph (e), which specifies counties that are contributing to the ambient air levels of the current nonattainment area for the 2015 8-hour ozone National Ambient Air Quality Standard (NAAQS)[2] and makes other minor typographical edits to other subparagraphs for consistent formatting.

In a notice of proposed rulemaking (NPRM) published on May 22, 2020 (85

[1] EPA notes the Agency received the submittal on October 24, 2019.

[2] The Atlanta nonattainment area for the 2015 8-hour ozone NAAQS consists of the following counties: Bartow, Clayton, Cobb, DeKalb, Fulton, Gwinnett, and Henry.

FR 31116), EPA proposed to approve revisions to Georgia Rule 391–3–1-.03(8), to list Barrow, Carroll, Hall, Spalding, and Walton Counties among those determined by the GA EPD Director to contribute to the ambient air level of ozone in a revised list of metropolitan Atlanta counties. EPA does not believe that the corresponding change to subparagraph (e)1. proposed in the NPRM will substantively impact implementation of Georgia's nonattainment new source review program. EPA provided further analysis of these changes, as well as the Agency's rationale for approving the changes, in its May 22, 2020, NPRM. Comments on the May 22, 2020, NPRM were due on or before June 22, 2020. EPA received no comments on the proposed action. EPA is now taking final action to approve the above-referenced revision.

## II. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Georgia Rule 391–3–1-.03(8), titled ''Permit Requirements,'' effective September 26, 2019, which incorporates minor revisions to the State's permitting requirements. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 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 EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.[3]

## III. Final Action

EPA is approving the Georgia SIP revision to Rule 391–3–1-.03(8) titled ''Permit Requirements,'' submitted on October 18, 2019. This revision updates the status of five counties that are designated as attainment for the 2015 8-hour ozone NAAQS, but which the Director has determined to impact ambient ozone concentrations in the metropolitan Atlanta area. These counties therefore must comply with certain additional permitting requirements under Rule 391–3–1-.03(8), subparagraph (8)(c)15. In addition, the October 18, 2019, submittal makes typographical edits to Rule 391–3–1.03(8). EPA has concluded that the SIP revision is consistent with the CAA and applicable regulations.

## IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP subject to this action is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 16, 2020. 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: August 12, 2020.

**Mary Walker,**

*Regional Administrator, Region 4.*

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

[3] *See* 62 FR 27968 (May 22, 1997).

## 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 L—Georgia

■ 2. In § 52.570, the table in paragraph (c) is amended by revising the entry for ''391–3–1–.03(8)'' to read as follows:

**§ 52.570 Identification of plan.**

* * * * *

(c) * * *

EPA APPROVED GEORGIA REGULATIONS

| State citation | Title/subject | State effective date | EPA approval date | Explanation |
|---|---|---|---|---|
| * | * | * | * | * |
| 391–3–1–.03(8) ..... | Permit Requirements. | 9/26/2019 | 9/16/2020, [Insert citation of publication] | |
| * | * | * | * | * |

* * * * *

[FR Doc. 2020–18108 Filed 9–15–20; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R08–OAR–2020–0110; FRL–10013–30–Region 8]**

### Approval and Promulgation of Air Quality Implementation Plans; Colorado; Revisions to Air Pollution Emission Notice Rules

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

**ACTION:** Final rule.

**SUMMARY:** In accordance with section 110 of the Clean Air Act (CAA), the Environmental Protection Agency (EPA) is taking final action to approve State Implementation Plan (SIP) revisions submitted by the State of Colorado on May 8, 2019. The EPA is taking final action to approve amendments to the State's Stationary Source Permitting and Air Pollution Emission Notice Requirements. The EPA is taking this action pursuant to sections 110 of the CAA.

**DATES:** This final rule is effective on October 16, 2020.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2020–0110. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *http://www.regulations.gov,* or please contact the person identified in the **FOR FURHTER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Kevin Leone, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD–IO, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6227, *leone.kevin@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document ''we,'' ''us,'' and ''our'' means the EPA.

### I. Background

The EPA is taking final action to approve all SIP revisions submitted by the State of Colorado on May 8, 2019. The SIP revisions that we are acting on contain amendments to 5 CCR 1001–5, Regulation Number 3 (Stationary Source Permitting and Air Pollution Emission Notice Requirements). In particular, these amendments would revise Part A, VI.C. (Annual Emissions Fees) and VI.D. (Fee Schedule). The State adopted these revisions on October 18, 2018, and they became state effective on November 30, 2018. We are taking final action to approve of all revisions submitted on May 8, 2019.

The EPA published a proposed rulemaking on June 5, 2020 (85 FR 34559), which contains a detailed summary of the SIP revisions in question and an explanation of the bases for our proposed approval. We invited comment on all aspects of our proposal, and provided a 30-day comment period, which ended on July 6, 2020.

### II. Response to Comments

We received no comments during the public comment period.

### III. Final Action

As outlined in our proposed rulemaking, EPA is taking final action to approve the addition of new and revised rules to Regulation Number 3, Part A, Section VI.C: VI.C.2; Section VI.D: VI.D.1, VI.D.2, and VI.D.3 as submitted on May 8, 2019.

### IV. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the State of Colorado's revisions to its SIP as described in section III. of this preamble. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 8 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 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 CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[1]

### V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action

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

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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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, described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 16, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

**List of Subjects in 40 CFR Part 52**

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

Dated: August 10, 2020.

**Gregory Sopkin,**

*Regional Administrator, Region 8.*

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

## Subpart G—Colorado

■ 2. In § 52.320, the table in paragraph (c) is amended by revising the entry ''VI. Fees'' under the heading ''5 CCR 1001–05, Regulation Number 3, Part A, Concerning General Provisions Applicable to Reporting and Permitting'' to read as follows:

**§ 52.320 Identification of plan.**

* * * * *

(c) * * *

| Title | State effective date | EPA effective date | Final rule citation/date | Comments |
|---|---|---|---|---|
| * | * | * | * | * |
| **5 CCR 1001–05, Regulation Number 3, Part A, Concerning General Provisions Applicable to Reporting and Permitting** | | | |
| * | * | * | * | * |
| VI. Fees ..... | 11/30/2018 | 10/16/2020 | [insert **Federal Register** citation], 9/16/2020. | |
| * | * | * | * | * |

* * * * *

[FR Doc. 2020–17790 Filed 9–15–20; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R07–OAR–2020–0256; FRL–10014–22–Region 7]**

## Air Plan Approval; Missouri; Restriction of Emission of Lead From Specific Lead Smelter-Refinery Installations

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by Missouri on February 5, 2019. Missouri requested that EPA revise its approved plan which restricts emission of lead from specific lead smelter-refinery installations. The revisions remove emission restrictions for a facility that is no longer operating, update a reference to the Federal National Emissions Standard for Hazardous Air Pollutants (NESHAP) for secondary lead smelters, and update incorporation by reference to testing methods. Minor editorial revisions have also been made for clarity. The EPA's approval of this rule revision is being done in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This final rule is effective on October 16, 2020.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2020–0256. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

**FOR FURTHER INFORMATION CONTACT:** Robert F. Webber, Environmental Protection Agency, Region 7 Office, Air Permitting and Standards Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551–7251; email address: *webber.robert@epa.gov.*

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

### Table of Contents

I. What is Being Addressed in this Document?
II. Have the Requirements for Approval of a SIP Revision Been Met?
III. The EPA's Response to Comments
IV. What Action is the EPA Taking?
V. Incorporation by Reference
VI. Statutory and Executive Order Reviews

### I. What is Being Addressed in this Document?

The EPA is approving revisions to 10 Code of State Regulation (CSR) 10–6.120, *Restriction of Emissions of Lead From Specific Lead Smelter-Refinery Installations,* in the Missouri SIP. The EPA received the Missouri Department of Natural Resources' (MoDNR) SIP revision submission on February 15, 2019. The revisions are described in detail in the technical support document (TSD) included in the docket for this action.

The revisions to 10 CSR 10–6.120 eliminate restrictions for a facility that is no longer operational as a primary lead smelter, update the reference to the National Emissions Standards for Hazardous Air Pollutants (NESHAP), subpart X, update the incorporation by reference information, and make editorial changes to the rule for clarity.

Based on a detailed analysis in its TSD of the revisions to the state rule listed above EPA is approving the revisions to this rule because it promotes clarity by removing emission limits no longer needed for the former Herculaneum primary lead smelter, updates references to the NESHAP, subpart X, and test methods. These revisions will not have a negative impact on air quality.

### II. Have the Requirements for Approval of a SIP Revision Been Met?

The State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State placed this rule revision on public notice from June 29 through October 4, 2008. The state received three comments from two sources during the comment period: EPA provided two comments and Doe Run Resource Recycling Facility provided one comment on the rule revisions. MoDNR responded to all three comments received. The revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

### III. The EPA's Response to Comments

The public comment period on the EPA's proposed rule opened June 1, 2020, the date of its publication in the **Federal Register** and closed on July 1, 2020. During this period, the EPA received one adverse comment.

*Comment:* The Commenter expresses opposition to EPA approving Missouri's requested revisions. The commenter expresses concern that the revisions could potentially eliminate or delay regulatory protections if a new facility comes in or the former Herculaneum primary lead smelter refinery reopens. In addition, the commenter states that ''the removal of a numeric emission limit for Doe Run now makes the rule unenforceable'' and refers to Doe Run's comment concerning the numerical limit during Missouri's public comment process.

*Response:* The EPA finds that removal of the emission limits in Table 1 of 10 CSR 10–6.120, which were solely applicable to Doe Run's Herculaneum facility, is appropriate because the limits in the table are less stringent than the limits in the state's attainment plan and supporting Consent Judgment for the 2008 Lead National Ambient Air Quality Standards (NAAQS). The EPA's approval of the state's attainment plan for the 2008 Lead NAAQS was effective on November 19, 2014. See 79 FR 62572. Missouri's removal of the emissions limitations from Table 1 of 10 CSR 10–6.120 does not affect the enforceability of the state's more stringent attainment plan and the emission limits necessary to meet the 2008 Lead NAAQS.

As stated in the TSD for this action, the Herculaneum primary lead smelter ceased lead smelting operations on December 13, 2013 as required by a Consent Decree.[1] Doe Run's current and future operation of the facility is governed by the Consent Decree, which is federally enforceable, and the Consent Judgment, which has been approved into the Missouri SIP and is also federally enforceable. If a new company were to reopen the former primary lead smelter, it would be subject to the requirements of the Consent Decree, federal regulations such as the New Source Performance Standards for Primary Lead Smelters at 40 CFR part 60, subpart R, and the National Emission Standards for Hazardous Air

[1] *U.S. and State of Missouri* v. *Doe Run Resources Corp.*, et al, No. 4:10–cv–01895–JCH, (E.D.Mo. Dec. 21, 2011).

Pollutants for Primary Lead Smelting at 40 CFR part 63, subpart TTT, in addition to the permitting requirements of the Missouri SIP.

Regarding the commenter's concern about removal of the numeric emission limit from 10 CSR 10–6.120 and Doe Run's comment to Missouri concerning a difference of opinion about what the limit should be, the EPA interprets this comment to apply to the Doe Run Resource Recycling Facility in Boss, Missouri, which is a separate facility from the former primary lead smelter in Herculaneum, Missouri. In reviewing the state's submittal to EPA (EPA–R07–2020–0256–002), the EPA notes that the numeric limit that was the subject of the Doe Run Resource Recycling Facility's comment to Missouri is outside of the scope of this action, as the limit is not contained in the version of 10 CSR 6.120 that was previously approved into the SIP, and the limit was not submitted for approval into the SIP in this action. *See* 80 FR 52194.

## IV. What Action is the EPA Taking?

The EPA is taking final action to amend Missouri's SIP to include the revisions to 10 CSR 10–6.120 as requested in its February 15, 2019, submission.

## V. Incorporation by Reference

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

Therefore, these materials have been approved by the EPA for inclusion in the State Implementation Plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[2]

## VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 16, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Lead, Reporting and recordkeeping requirements, Test methods.

Dated: August 27, 2020.

**James Gulliford,**

*Regional Administrator, Region 7.*

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

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

## Subpart AA—Missouri

■ 2. In § 52.1320, the table in paragraph (c) is amended by revising the entry ''10–6.120'' to read as follows:

[2] 62 FR 27968, May 22, 1997.

**§ 52.1320 Identification of plan.**

* * * * *

(c) * * *

EPA—APPROVED MISSOURI REGULATIONS

| Missouri citation | Title | State effective date | EPA approval date | Explanation |
|---|---|---|---|---|
| **Missouri Department of Natural Resources** | | | | |
| * | * | * | * | * * * |
| **Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri** | | | | |
| * | * | * | * | * * * |
| 10–6.120 | Restriction of Emissions of Lead from Specific Lead Smelter-Refinery Installations. | 10/25/18 | 9/16/20, [insert **Federal Register** citation]. | |
| * | * | * | * | * * * |

* * * * *

[FR Doc. 2020–19415 Filed 9–15–20; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R07–OAR–2020–0331; FRL–10014–46–Region 7]**

## Air Plan Approval; Missouri; Removal of Control of Emissions From Manufacture of Polystyrene Resin

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve a revision to the State Implementation Plan (SIP) submitted by the State of Missouri on January 15, 2019, and supplemented by letter on July 11, 2019. In the proposal, EPA proposed removal of a rule related to the control of emissions from the manufacture of polystyrene resin in the St. Louis, Missouri area from its SIP. This removal does not have an adverse effect on air quality. The EPA's approval of this rule revision is in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This final rule is effective on October 16, 2020.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2020–0331. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

**FOR FURTHER INFORMATION CONTACT:** David Peter, Environmental Protection Agency, Region 7 Office, Air Permitting and Standards Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551–7397; email address: *peter.david@epa.gov.*

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

### Table of Contents

I. What is being addressed in this document?
II. Have the requirements for approval of a SIP revision been met?
III. What action is the EPA taking?
IV. Incorporation by Reference
V. Statutory and Executive Order Reviews

### I. What is being addressed in this document?

The EPA is approving the removal of 10 Code of State Regulation (CSR) 10–5.410, *Control of Emissions from Manufacture of Polystyrene Resin,* from the Missouri SIP.

As explained in detail in EPA's proposed rule, Missouri has demonstrated that removal of 10 CSR 10–5.410 will not interfere with attainment of the NAAQS, reasonable further progress [1] or any other applicable requirement of the CAA because the single source subject to the rule ceased manufacturing polystyrene resin in 2009 and the removal of the rule will not cause VOC emissions to increase. (85 FR 43526, July 17, 2020). The EPA solicited but did not receive any comments on this proposed rule. Therefore, the EPA is finalizing its proposal to remove 10 CSR 10–5.410 from the SIP.

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

The State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice on this SIP revision from May 15, 2018, to August 2, 2018, and received twelve comments from the EPA that related to Missouri's lack of an adequate demonstration that the rule could be removed from the SIP in accordance with section 110(l) of the CAA, whether the rule applied to new sources and other implications related to rescinding the rule. Missouri's July 11, 2019 letter and December 3, 2018 response to comments on the state rescission rulemaking addressed the EPA's comments. In addition, the

[1] RFP is not applicable to the St. Louis Area because for marginal ozone nonattainment areas, such as the St. Louis Area, the specific requirements of section 182(a) apply in lieu of the attainment planning requirements that would otherwise apply under section 172(c), including the attainment demonstration and reasonably available control measures (RACM) under section 172(c)(1), reasonable further progress (RFP) under section 172(c)(2), and contingency measures under section 172(c)(9).

revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

**III. What action is the EPA taking?**

The EPA is taking final action to approve Missouri's request to remove 10 CSR 10–5.410 from the SIP.

**IV. Incorporation by Reference**

In this document, the EPA is amending regulatory text that includes incorporation by reference. As described in the amendments to 40 CFR part 52 set forth below, the EPA is removing provisions of the EPA-Approved Missouri Regulation from the Missouri State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51.

**V. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 24, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

**List of Subjects in 40 CFR Part 52**

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

Dated: September 3, 2020.

**James Gulliford,**

*Regional Administrator, Region 7.*

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

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

### Subpart AA—Missouri

**§ 52.1320 [Amended]**

■ 2. In § 52.1320, the table in paragraph (c) is amended by removing the entry ''10–5.410'' under the heading ''Chapter 5—Air Quality Standards and Air Pollution Control Regulations for the St. Louis Metropolitan Area''.

[FR Doc. 2020–20013 Filed 9–15–20; 8:45 am]

BILLING CODE 6560–50–P

---

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R07–OAR–2020–0289; FRL–10013–51–Region 7]**

### Air Plan Approval; Missouri; Control of Emissions From Industrial Surface Coating Operations

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve a revision to the State Implementation Plan (SIP) for the State of Missouri. This final action will amend the SIP to revise a Missouri regulation that restricts emissions of volatile organic compounds (VOCs) from industrial surface coating operations in Clay, Jackson, and Platte Counties in Missouri. Specifically, the revisions to the rule remove restrictive words, adds exemptions, includes definitions specific to the rule, corrects test method references, removes obsolete requirements specific to sources that have closed, changes sections to the standard rule format, and makes minor clarifications and grammatical changes. The exemptions were added to make this rule consistent with the St. Louis version of this rule, *10 Code of State Regulation (CSR) 10–*

*5.330 Industrial Surface Coating Operations.* These exemptions are not expected to result in an emission increase. The other revisions are administrative in nature and do not impact the stringency of the SIP or air quality. The EPA's approval of this rule revision is in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This final rule is effective on October 16, 2020.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2020–0289. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

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

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

## Table of Contents

I. What is being addressed in this document?
II. Have the requirements for approval of a SIP revision been met?
III. What action is the EPA taking?
IV. Incorporation by Reference
V. Statutory and Executive Order Reviews

## I. What is being addressed in this document?

The EPA is approving the revisions to 10 CSR 10–2.230 *Control of Emissions from Industrial Surface Coating Operations* in the Missouri SIP. The revisions to the rule remove restrictive words, adds exemptions, add definitions to the rule rather than referring to definitions in a separate rule, corrects test method references, removes obsolete requirements specific to sources that have closed, changes sections to the standard rule format, and makes minor clarifications and grammatical changes. These revisions are described in detail in the technical support document (TSD) included in the docket for this action. The EPA solicited comments on the proposed revision to Missouri's SIP, and received one comment in support of the action.

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

The State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice of the revisions from August 1, 2018, to October 4, 2018, and held a public hearing on September 27, 2018. The state received and addressed eight comments. In addition, as explained above and in more detail in the technical support document (TSD) which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

## III. What action is the EPA taking?

The EPA is taking final action to approve Missouri's request to amend 10 CSR 10–2.230.

## IV. Incorporation by Reference

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

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

## V. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 16, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Volatile organic compounds.

Dated: August 6, 2020.

**James Gulliford,**

*Regional Administrator, Region 7.*

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

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

### Subpart AA—Missouri

■ 2. In § 52.1320, the table in paragraph (c) is amended by revising the entry ''10–2.230'' to read as follows:

**§ 52.1320 Identification of plan.**

* * * * *

(c) * * *

EPA—APPROVED MISSOURI REGULATIONS

| Missouri citation | Title | State effective date | EPA approval date | Explanation |
|---|---|---|---|---|
| **Missouri Department of Natural Resources** | | | | |
| * | * | * | * | * |
| **Chapter 2—Air Quality Standards and Air Pollution Control Regulations for the Kansas City Metropolitan Area** | | | | |
| * | * | * | * | * |
| 10–2.230 | Control of Emissions from Industrial Surface Coating Operations. | 3/30/2019 | 9/16/2020, [insert **Federal Register** citation]. | |
| * | * | * | * | * |

* * * * *

[FR Doc. 2020–17653 Filed 9–15–20; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R09–OAR–2020–0213; FRL–10013–66–Region 9]**

### Air Plan Approval; California; Consumer Products Regulations

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve revisions to the California Air Resources Board's (CARB's) Consumer Products portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from consumer products and a supporting test method. The EPA is also approving revisions to California's Tables of Maximum Incremental Reactivity (MIR) Values to support its Aerosol Coating Products regulation. We are approving state rules to regulate these emission sources under the Clean Air Act (CAA or the Act).

**DATES:** This rule is effective October 16, 2020.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2020–0213. 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 (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Buss, EPA Region IX, (415) 947–4152, *buss.jeffrey@epa.gov.*

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

**Table of Contents**

I. Proposed Action
II. Public Comments and EPA Responses
III. EPA Action
IV. Incorporation by Reference
V. Statutory and Executive Order Reviews

## I. Proposed Action

The Consumer Products portion of the California SIP consists of rules promulgated in title 17 of the California Code of Regulations (17 CCR), division 3 (''Air Resources''), chapter 1 (''Air Resources Board''), subchapter 8.5 (''Consumer Products''), article 1 (''Antiperspirants and Deodorants''), article 2 (''Consumer Products'') and article 3 (''Aerosol Coating Products''); and subchapter 8.6 (''Maximum Incremental Reactivity''), article 1 (''Tables of Maximum Incremental Reactivity (MIR) Values'').

On May 29, 2020 (85 FR 32324), the EPA proposed to approve the following amendments to the Consumer Products portion of the California SIP.

TABLE 1—SUBMITTED RULES

| Local agency | California code of regulations | Title | Amended [1] | Submitted |
|---|---|---|---|---|
| CARB | Title 17, Division 3, Chapter 1, Subchapter 8.5, Article 1 | Antiperspirants and Deodorants [2]. | 05/25/2018 | 06/04/2019 |
| CARB | Title 17, Division 3, Chapter 1, Subchapter 8.5, Article 2 | Consumer Products [3] | 05/25/2018 | 06/04/2019 |
| CARB | Title 17, Division 3, Chapter 1, Subchapter 8.5, Article 3 | Aerosol Coating Products[4] | 09/17/2014 | 12/01/2016 |
| CARB | Title 17, Division 3, Chapter 1, Subchapter 8.6, Article 1 | Tables of Maximum Incremental Reactivity (MIR) Values [5]. | 09/17/2014 | 12/01/2016 |
| CARB | | Method 310—Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds (ROC) in Aerosol Coating Products. | 05/25/2018 | 06/04/2019 |

The current amendments to article 1 (''Antiperspirants and Deodorants'') of subchapter 8.5 update certain definitions and references. The current amendments to article 2 (''Consumer Products'') of subchapter 8.5 revise certain definitions, lower certain VOC standards, and clarify and update certain administrative and reporting requirements. Current amendments to article 3 (''Aerosol Coating Products'') of subchapter 8.5 clarify applicability, revise certain definitions, delete mass-based VOC limits and add new, lower reactivity-based limits for general and specialty aerosol coatings. Lastly, the current amendments to article 1 (''Tables of Maximum Incremental Reactivity (MIR) Values'') of subchapter 8.6 (''Maximum Incremental Reactivity'') update MIR values for many individual chemical compounds and hydrocarbon solvent groupings. CARB estimates that the current amendments will result in equivalent VOC emission reductions of approximately 4 tons per day (tpd) statewide, of which approximately 1.8 tpd will occur in the area under the jurisdiction of the South Coast Air Quality Management District.

We proposed to approve the amended rules because we determined that they comply with the relevant CAA requirements. We also found that, overall, CARB's rules are the same or more stringent than the corresponding national rules. Our proposed action and the related technical support documents contain more information on the rules and our evaluation.

## II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

## III. EPA Action

Pursuant to section 110(k)(3) of the Act, and for the reasons set forth in the proposed rule and summarized above, the EPA is fully approving the revisions to the CARB's Consumer Products portion of the California SIP as submitted on December 1, 2016 and June 4, 2019.

## IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the California rules described in the amendments to 40 CFR part 52 set forth below. 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 CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[6] The EPA has made, and will continue to make, these documents available through *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).

## V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the 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 action merely approves state law as meeting federal requirements and does not impose

[1] CARB adopted amendments to articles 1, 2 and 3 of subchapter 8.5 and article 1 of subchapter 8.6 on September 26, 2013. The California Office of Administrative Law (OAL) approved the amendments on September 17, 2014, effective January 1, 2015. CARB submitted the September 26, 2013 amendments to the EPA as a SIP revision on December 1, 2016. CARB adopted amendments to Method 310 on May 25, 2018 and submitted Method 310, as amended, to the EPA as a SIP revision on June 4, 2019.

[2] Article 1 of subchapter 8.5 includes sections 94500, 94501, 94502, 94503, 94503.5, 94504, 94505, 94506 and 94506.5. Amendments to a section of Article 1, 17 California Code of Regulations (CCR) section 94506 (''Test Methods''), were adopted by CARB on May 25, 2018, and approved by the California OAL on December 31, 2018, effective January 1, 2019. CARB submitted the May 25, 2018 amendments to the EPA as a SIP revision by letter dated June 4, 2019.

[3] Article 2 of subchapter 8.5 includes sections 94507 through 94517. Amendments to a subset of these rules, 17 CCR sections 94509, 94513 and 94515, were adopted by CARB on May 25, 2018, and approved by the California OAL on December 31, 2018, effective January 1, 2019. CARB submitted the May 25, 2018 amendments to the EPA as a SIP revision by letter dated June 4, 2019.

[4] Article 3 of subchapter 8.5 includes sections 94520 through 94528.

[5] Article 1 of subchapter 8.6 includes sections 94700 and 94701.

[6] 62 FR 27968 (May 22, 1997).

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);
- Is not an Executive Order 13771 (82 FR 9339, February 3, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 16, 2020. 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**

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

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

Dated: August 13, 2020.

**John Busterud,**

*Regional Administrator, Region IX.*

For the reasons stated in the preamble, the EPA amends chapter I, title 40 of the Code of Federal Regulations 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 F—California

■ 2. In § 52.220a:

■ a. In paragraph (c):

■ i. Amend table 1 by revising the entries for ''94500'', ''94501'', ''94502'', ''94503'', ''94503.5'', ''94504'', ''94505'', ''94506'', ''94506.5'', ''94507'', ''94508'', ''94509'', ''94510'', ''94511'', ''94512'', ''94513'', ''94514'', ''94515'', ''94516'', ''94517'', ''94520'', ''94521'', ''94522'', ''94523'', ''94524'', ''94525'', ''94526'', ''94527'' and ''94528''; and

■ ii. Amend table 2 by adding an entry for ''Method 310—Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds (ROC) in Aerosol Coating Products'' at the end of the table.

The revisions and addition read as follows:

**§ 52.220a Identification of plan—in part.**

* * * * *

(c) * * *

TABLE 1—EPA-APPROVED STATUTES AND STATE REGULATIONS [1]

| State citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| * | * | * | * | * |
| 94500 | Applicability | 3/30/1996 | [Insert **Federal Register** citation], 9/16/2020. | Submitted by CARB on December 1, 2016. |
| 94501 | Definitions | 1/1/2015 | [Insert **Federal Register** citation], 9/16/2020. | Submitted by CARB on December 1, 2016. |
| 94502 | Standards for Antiperspirants and Deodorants. | 6/6/2001 | [Insert **Federal Register** citation], 9/16/2020. | Submitted by CARB on December 1, 2016. |
| 94503 | Exemptions | 3/30/1996 | [Insert **Federal Register** citation], 9/16/2020. | Submitted by CARB on December 1, 2016. |
| 94503.5 | Innovative Products | 3/30/1996 | [Insert **Federal Register** citation], 9/16/2020. | Submitted by CARB on December 1, 2016. |

TABLE 1—EPA-APPROVED STATUTES AND STATE REGULATIONS [1]—Continued

| State citation | Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| 94504 | Administrative Requirements | 6/6/2001 | [Insert **Federal Register** citation], 9/16/2020. | Submitted by CARB on December 1, 2016. |
| 94505 | Variances | 3/30/1996 | [Insert **Federal Register** citation], 9/16/2020. | Submitted by CARB on December 1, 2016. |
| 94506 | Test Methods | 1/1/2019 | [Insert **Federal Register** citation], 9/16/2020. | Submitted by CARB on June 4, 2019. |
| 94506.5 | Federal Enforceability | 12/16/1999 | [Insert **Federal Register** citation], 9/16/2020. | Submitted by CARB on December 1, 2016. |
| * | * * | * | * | * * |
| 94507 | Applicability | 11/19/2000 | [Insert **Federal Register** citation], 9/16/2020. | Submitted by CARB on December 1, 2016. |
| 94508 | Definitions | 1/1/2015 | [Insert **Federal Register** citation], 9/16/2020. | Submitted by CARB on December 1, 2016. |
| 94509 | Standards for Consumer Products. | 1/1/2019 | [Insert **Federal Register** citation], 9/16/2020. | Submitted by CARB on June 4, 2019. |
| 94510 | Exemptions | 12/10/2011 | [Insert **Federal Register** citation], 9/16/2020. | Submitted by CARB on December 1, 2016. |
| 94511 | Innovative Products | 10/20/2010 | [Insert **Federal Register** citation], 9/16/2020. | Submitted by CARB on December 1, 2016. |
| 94512 | Administrative Requirements | 1/1/2015 | [Insert **Federal Register** citation], 9/16/2020. | Submitted by CARB on December 1, 2016. |
| 94513 | Reporting Requirements | 1/1/2019 | [Insert **Federal Register** citation], 9/16/2020. | Submitted by CARB on June 4, 2019. |
| 94514 | Variances | 12/8/2007 | [Insert **Federal Register** citation], 9/16/2020. | Submitted by CARB on December 1, 2016. |
| 94515 | Test Methods | 1/1/2019 | [Insert **Federal Register** citation], 9/16/2020. | Submitted by CARB on June 4, 2019. |
| 94516 | Severability | 10/21/1991 | [Insert **Federal Register** citation], 9/16/2020. | Submitted by CARB on December 1, 2016. |
| 94517 | Federal Enforceability | 11/18/1997 | [Insert **Federal Register** citation], 9/16/2020. | Submitted by CARB on December 1, 2016. |
| * | * * | * | * | * * |
| 94520 | Applicability | 1/1/2015 | [Insert **Federal Register** citation], 9/16/2020. | Submitted by CARB on December 1, 2016. |
| 94521 | Definitions | 1/1/2015 | [Insert **Federal Register** citation], 9/16/2020. | Submitted by CARB on December 1, 2016. |
| 94522 | Reactivity Limits and Requirements. | 1/1/2015 | [Insert **Federal Register** citation], 9/16/2020. | Submitted by CARB on December 1, 2016. |
| 94523 | Exemptions | 1/1/2015 | [Insert **Federal Register** citation], 9/16/2020. | Submitted by CARB on December 1, 2016. |
| 94524 | Administrative Requirements | 1/1/2015 | [Insert **Federal Register** citation], 9/16/2020. | Submitted by CARB on December 1, 2016. |
| 94525 | Variances | 1/1/2015 | [Insert **Federal Register** citation], 9/16/2020. | Submitted by CARB on December 1, 2016. |
| 94526 | Test Methods and Compliance Verification. | 1/1/2015 | [Insert **Federal Register** citation], 9/16/2020. | Submitted by CARB on December 1, 2016. |
| 94527 | Severability | 1/8/1996 | [Insert **Federal Register** citation], 9/16/2020. | Submitted by CARB on December 1, 2016. |
| 94528 | Federal Enforceability | 1/1/2015 | [Insert **Federal Register** citation], 9/16/2020. | Submitted by CARB on December 1, 2016. |
| * | * * | * | * | * * |
| 94700 | MIR Values for Compounds | 1/1/2015 | [Insert **Federal Register** citation], 9/16/2020. | Submitted by CARB on December 1, 2016. |
| 94701 | MIR Values for Hydrocarbon Solvents. | 10/2/2010 | [Insert **Federal Register** citation], 9/16/2020. | Submitted by CARB on December 1, 2016. |

[1] Table 1 lists EPA-approved California statutes and regulations incorporated by reference in the applicable SIP. Table 2 of paragraph (c) lists approved California test procedures, test methods and specifications that are cited in certain regulations listed in table 1. Approved California statutes that are nonregulatory or quasi-regulatory are listed in paragraph (e).

TABLE 2—EPA-APPROVED CALIFORNIA TEST PROCEDURES, TEST METHODS, AND SPECIFICATIONS

| Title/subject | State effective date | EPA approval date | Additional explanation |
|---|---|---|---|
| * * * | * | * | * * |
| Method 310—Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds (ROC) in Aerosol Coating Products. | 5/25/2018 | [Insert **Federal Register** citation], 9/16/2020. | Submitted by CARB on June 4, 2019. |

* * * * *

[FR Doc. 2020–18113 Filed 9–15–20; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R04–OAR–2020–0177; FRL–10014–29–Region 4]**

## Air Plan Approval; FL; GA; KY; MS; NC; SC: Definition of Chemical Process Plants Under State Prevention of Significant Deterioration Regulations

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving revisions to the State Implementation Plans (SIP) for Florida, Georgia, the Jefferson County portion of Kentucky, Mississippi, North Carolina, and South Carolina. The SIP revisions incorporate changes to the definition of chemical process plants under the States' Prevention of Significant Deterioration (PSD) regulations. Consistent with an EPA regulation completed in 2007, EPA is approving the rules for Florida, Georgia, the Jefferson County portion of Kentucky, Mississippi, North Carolina, and South Carolina that modify the definition of chemical process plant to exclude ethanol manufacturing facilities that produce ethanol by natural fermentation processes. Approving these modified definitions clarifies that the PSD major source applicability threshold in the SIPs for these ethanol plants is 250 tons per year (tpy) (rather than 100 tpy) and removes the requirement to include fugitive emissions when determining if the source is major for PSD. EPA concludes that the changes to the state and local rules are approvable because the Agency believes that they are consistent with EPA regulations governing state PSD programs and will not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171 of the Clean Air Act (CAA or Act)), or any other applicable requirement of the CAA.

**DATES:** This rule is effective October 16, 2020.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2020–0177. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information may not be publicly available, *i.e.,* 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 form. Publicly available docket materials can either be retrieved electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** D. Brad Akers, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Mr. Akers can be reached via electronic mail at *akers.brad@epa.gov* or via telephone at (404) 562–9089.

**SUPPLEMENTARY INFORMATION:**

### I. What is being addressed in this notice?

EPA is approving the following revisions to SIPs received by EPA from Florida, Georgia, Kentucky, Mississippi, North Carolina, and South Carolina: (1) A portion of a SIP revision provided to EPA through the Florida Department of Environmental Protection (FL DEP) via a letter dated December 12, 2011;[1] [2] (2) a SIP revision provided to EPA through the Georgia Environmental Protection Division (GA EPD) via a letter dated September 15, 2008;[3] (3) a SIP revision to the Jefferson County portion of the Kentucky SIP that was provided to EPA through the Kentucky Division for Air Quality (KDAQ) via a letter dated July 1, 2009;[4] (4) a SIP revision provided to

[1] Florida's definition of ''major stationary source'' at 62–210.200 is also cross-referenced in the portion of its SIP-approved nonattainment new source review (NA NSR) regulation, 62–212.500, *Preconstruction Review in Nonattainment Areas,* that sets the fugitive emissions exclusion for determining rule applicability. *See* Rule 62–212.500(2)(b). If the definition of ''chemical process plants'' within the term of ''major stationary source'' were updated to exclude these ethanol producing facilities for the purposes of NA NSR, then fugitive emissions would not need to be considered in determining whether the source is major. All sources in nonattainment areas are major at 100 tpy, and certain classifications of nonattainment areas for ozone and $PM_{2.5}$ establish lower thresholds for major source applicability. *See* 40 CFR 51.165(b)(iv)(A). However, Florida's December 12, 2011, submittal did not seek to revise, nor ask EPA to revise, the State's SIP-approved NA NSR program. Therefore, EPA is not approving the revision to the definition of ''chemical process plant'' within the term ''major stationary source'' to apply to the NA NSR program. Accordingly, the ethanol production facility exclusion within the definition of ''major stationary source'' at 62–210.200 will not apply in the SIP for the purposes of determining applicability in Rule 62–212.500, and EPA is noting this in the list of SIP-approved Florida regulations at 40 CFR 52.520(c). There are currently no nonattainment areas in Florida.

[2] In EPA's July 20, 2020, notice of proposed rulemaking (NPRM), EPA stated that the entire State of Florida had been designated as attainment/unclassifiable for the 2015 8-hour ozone NAAQS. *See* 85 FR 43788. While the entire State has this designation, in 2018, Duvall County, Florida was designated unclassifiable for the 2015 8-hour ozone NAAQS and was subsequently redesignated to attainment/unclassifiable on November 21, 2019. *See* 84 FR 64206. EPA has also amended the accompanying technical support document for the State of Florida to correct this historical note. The amended version of the TSD is included in the docket of this action as ''Florida TSD_Amended.''

[3] EPA received the submittal on September 29, 2008.

[4] In 2003, the City of Louisville and Jefferson County governments merged and the ''Jefferson County Air Pollution Control District'' was renamed the ''Louisville Metro Air Pollution Control District.'' *See* The History of Air Pollution Control in Louisville, available at *https://louisvilleky.gov/government/air-pollution-control-district/history-air-pollution-control-louisville.* However, each of the regulations in the Jefferson County portion of

Continued

EPA through the Mississippi Department of Environmental Quality (MDEQ) via a letter dated November 28, 2007; (5) a SIP revision provided to EPA through the North Carolina Department of Environmental Quality (NC DEQ) [5] [6] [7] via a letter dated June 20, 2008; [8] and (6) a portion of a SIP revision provided to EPA through the South Carolina Department of Health and Environmental Control (SC DHEC) via a letter dated April 14, 2009,[9] as updated in a portion of SIP revision provided to EPA via letter dated April 10, 2014.

These revisions conform the State rules to changes to EPA regulations reflected in EPA's final rule entitled ''Prevention of Significant Deterioration, Nonattainment New Source Review, and Title V: Treatment of Certain Ethanol Production Facilities Under the ''Major Emitting Facility'' Definition'' (hereinafter referred to as the ''2007 Ethanol Rule'') as published in the **Federal Register** on May 1, 2007 (72 FR 24060). The 2007 Ethanol Rule amended the PSD definition of ''major stationary source'' to exclude certain ethanol facilities from the ''chemical process plant'' source category and clarified that the PSD major source applicability threshold for certain ethanol plants is 250 tpy (rather than 100 tpy). The 2007 Ethanol Rule also removed the requirement to include fugitive emissions when determining if an ethanol facility is a major source for PSD.

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

In its NPRM published on July 20, 2020 (85 FR 43788), EPA identified and evaluated the state and local regulations in the aforementioned SIP revisions that were revised in response to the Ethanol Rule. EPA also explained how these SIP revisions satisfy the completeness criteria of 40 CFR part 51, appendix V and meet the substantive SIP requirements of the CAA, including section 110 and implementing regulations. EPA included technical analyses in separate technical support documents (TSDs) included in the docket for this rulemaking. See these TSDs and the NPRM for further detail on the SIP revisions and EPA's rationale for approving them. EPA did not receive any relevant public comments on the NPRM.[10]

## III. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference the following regulations: Florida Rule 62–210.200, F.A.C., ''Definitions,'' state effective October 23, 2013; [11] [12] Florida Rule 62–212.400, ''Prevention of Significant Deterioration,'' state effective October 23, 2013; [13] Georgia Rule 391–3–1–.02(7), ''Prevention of Significant Deterioration of Air Quality (PSD),'' state effective July 20, 2017; [14] Jefferson County Regulation 2.05, ''Prevention of Significant Deterioration of Air Quality,'' version 13, state effective January 17, 2018 [15] [16] for the Jefferson County portion of the Kentucky SIP; Mississippi Rule 11 MAC Part 2, Rule 5.2, ''Adoption of Federal Rules by Reference,'' state effective May 28, 2016; [17] [18] North Carolina Rule 02D .0530, ''Prevention of Significant Deterioration,'' state effective September 1, 2017; [19] and South Carolina Rule 61–

the Kentucky SIP still has the subheading ''Air Pollution Control District of Jefferson County.'' Thus, to be consistent with the terminology used in the SIP, EPA refers throughout this notice to regulations contained in the Jefferson County portion of the Kentucky SIP as the ''Jefferson County'' regulations.

[5] At the time of the 2008 submittal, NC DEQ was the North Carolina Department of Environment and Natural Resources. Throughout this rulemaking, EPA will refer to the State Agency as NC DEQ.

[6] In EPA's July 20, 2020, NPRM, EPA erroneously cited North Carolina's PSD regulation as ''15 North Carolina Administrative Code (NCAC) 02D .0530, *Prevention of Significant Deterioration. See* 85 FR 43788 at 43790 (July 20, 2020). The citation should read ''15A North Carolina Administrative Code (NCAC) 02D .0530, *Prevention of Significant Deterioration*.''

[7] In EPA's July 20, 2020, NPRM, EPA erroneously stated that North Carolina incorporates portions of ''40 CFR 52.21'' by reference, which includes the 2007 Ethanol Rule provisions. *See* 85 FR 43788 at 43790 and 43791. These citations should read as ''40 CFR 51.166'' throughout Section III.E. of the NPRM, including the citations ''40 CFR 51.166(b)(1)(i)(*a*)'' and ''40 CFR 51.166(b)(1)(iii)'' in lieu of ''40 CFR 52.21(b)(1)(i)(*a*)'' and ''40 CFR 52.21(b)(1)(iii),'' respectively. EPA has also amended the accompanying technical support document for the State of North Carolina to correct these references. The amended version of the TSD is included in the docket of this action as ''North Carolina TSD_Amended.''

[8] EPA received the submission on June 25, 2008.

[9] In EPA's July 20, 2020, NPRM, EPA erroneously omitted the reference to South Carolina's revision to Rule 61–62.5, Standard No. 7 at (i)(1)(vii)(t) in the State's SIP revision that includes the same ethanol exclusion in the definition of ''chemical process plant''. *See* 85 FR 43788 at 43791. Section III.E of the NPRM should have contained the following statement: 'Finally, paragraph (i) for exemptions was revised at (i)(1)(vii) to read: ''The source or modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the following categories (i)(1)(vii): . . . (t) Chemical process plants—The term chemical processing plant shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS codes 325193 or 312140 . . .' '' EPA has amended the accompanying technical support document for the State of South Carolina to correct this omission. The amended version of the TSD is included in the docket of this action as ''South Carolina TSD_Amended.''

[10] EPA received one comment that did not pertain to the July 20, 2020, NPRM. This comment is posted in the docket for this action.

[11] Except for the purposes of determining applicability in Rule 62–212.500, ''Preconstruction Review for Nonattainment Areas.'' See footnote 1 for additional information.

[12] The effective date of the change to Florida Rule 62–210.200 made in Florida's December 12, 2011, SIP revision is December 4, 2011. However, for purposes of the state effective date included at 40 CFR 52.520(c), that change to Florida's rule is captured and superseded by Florida's update in a December 19, 2013, SIP revision, state effective on October 23, 2013, which EPA previously approved on May 19, 2014. *See* 79 FR 28607. Accordingly, EPA is also revising the state effective version for entry 62–210.200 at 40 CFR 52.520(c) to read ''October 23, 2013,'' as this state effective version captures and supersedes the previously listed March 28, 2012, state effective version.

[13] The effective date of the change to Florida Rule 62–212.400 made in Florida's December 12, 2011, SIP revision is December 4, 2011. However, for purposes of the state effective date included at 40 CFR 52.520(c), that change to Florida's rule is captured and superseded by Florida's update in a February 27, 2013, SIP revision, state effective on March 28, 2012, which EPA previously approved on September 19, 2012. *See* 77 FR 58027.

[14] The effective date of the change to Georgia Rule 391–3–1–.02(7) made in Georgia's September 15, 2008, SIP revision is September 11, 2008. However, for purposes of the state effective date included at 40 CFR 52.570(c), that change to Georgia's rule is captured and superseded by Georgia's update in a November 29, 2017, SIP revision, state effective on July 20, 2017, which EPA previously approved on December 4, 2018. *See* 83 FR 62466.

[15] The effective date of the change to Jefferson County Regulation 2.05 made in Kentucky's July 1, 2009, SIP revision is June 20, 2009. However, for purposes of the state effective date included at 40 CFR 52.920(c), that change to Jefferson County's rule is captured and superseded by Kentucky's update in a March 15, 2018, SIP revision, state effective on January 17, 2018, which EPA previously approved on April 10, 2019. *See* 84 FR 14268.

[16] EPA is also correcting an inadvertent error for the entry at Jefferson County Regulation 2.05 at 40 CFR part 52.920(c), Table 2 in the ''Title/subject'' column to read ''Prevention of Significant Deterioration.'' EPA erroneously revised the entry to read ''Permits'' in an April 10, 2019, final rule. *See* 84 FR 14268.

[17] The effective date of the change to Mississippi Rule APC–S–5, ''Regulations for the Prevention of Significant Deterioration of Air Quality'' made in Mississippi's November 28, 2007, SIP revision is August 23, 2007. However, for purposes of the state effective date included at 40 CFR 52.1270(c), that change to Mississippi's rule is captured and superseded by Mississippi's update in a June 7, 2016, SIP revision, state effective on May 28, 2016, which EPA previously approved on August 8, 2017. *See* 82 FR 37015. Furthermore, Mississippi has recodified previous Rule APC–S–5 as 11 MAC Part 2, Rule 5, with the relevant part from the November 28, 2007, SIP revision now included in Rule 5.2.

[18] EPA is also revising the entry for 11 MAC Part 2—Chapter 5, Rule 5.1 at 40 CFR 52.1270(c) to remove related explanatory notes that are not applicable to this Rule. EPA is not revising Rule 5.1 in a substantive manner.

[19] The effective date of the change to North Carolina Rule 02D .0530 made in North Carolina's June 20, 2008, SIP revision is May 1, 2008. However, for purposes of the state effective date

62.5, Standard No. 7, ''Prevention of Significant Deterioration,'' state effective August 25, 2017.[20] EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 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 EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[21]

## IV. Final Action

EPA is approving revisions to the Florida SIP, Georgia SIP, the Jefferson County portion of the Kentucky SIP, Mississippi SIP, North Carolina SIP, and South Carolina SIP. The revisions to the state and local rules that EPA is approving change the definition of ''major stationary source'' under the States' and local agency's PSD regulations. These changes make clear that the PSD applicability threshold for certain ethanol plants is 250 tpy and remove the requirement to include fugitive emissions when determining if an ethanol plant is a major source for PSD (see section III for the rules being revised). EPA has determined that these revisions are consistent with EPA's PSD regulations and that approval of these revisions is consistent with the requirements of CAA section 110(l) and will not adversely impact air quality. EPA's analysis is available in the NPRM and the TSDs that were prepared for each SIP revision and are in the docket for this action. Approval of the revisions to these SIPs will ensure consistency between the State and federally approved rules and ensure federal enforceability of the State's revised air program rules.

## V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. 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, these actions:

- Are not significant regulatory actions 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);
- Are not Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory actions because SIP approvals are exempted under Executive Order 12866;
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are 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.*);
- Do 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);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are 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
- Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIPs subject to these actions, with the exception of the South Carolina SIP, are not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rules regarding SIPs do not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will they impose substantial direct costs on tribal governments or preempt tribal law. With respect to the South Carolina SIP, because this final action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law, this final action for the State of South Carolina does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Therefore, this action will not impose substantial direct costs on Tribal governments or preempt Tribal law. The Catawba Indian Nation (CIN) Reservation is located within the boundary of York County, South Carolina. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27–16–120 (Settlement Act), ''all state and local environmental laws and regulations apply to the [Catawba Indian Nation] and Reservation and are fully enforceable by all relevant state and local agencies and authorities.'' The CIN also retains authority to impose regulations applying higher environmental standards to the Reservation than those imposed by state law or local governing bodies, in accordance with the Settlement Act.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 16, 2020. 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

included at 40 CFR 52.1770(c), that change to North Carolina's rule is captured and superseded by North Carolina's update in a October 17, 2017, SIP revision, state effective on September 1, 2017, which EPA previously approved on September 11, 2018. *See* 82 FR 45827.

[20] The effective date of the change to South Carolina Rule 61–62.1, Standard No. 7 made in South Carolina's April 10, 2014, SIP revision is December 27, 2013. However, for purposes of the state effective date included at 40 CFR 52.2120(c), that change to South Carolina's rule is captured and superseded by South Carolina's update in a September 5, 2017, SIP revision, state effective on August 25, 2017, which EPA previously approved on February 13, 2019. *See* 84 FR 3705.

[21] *See* 62 FR 27968 (May 22, 1997).

shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

**List of Subjects in 40 CFR Part 52**

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

Dated: August 27, 2020.

**Mary Walker,**

*Regional Administrator, Region 4.*

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 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 K—Florida

■ 2. In § 52.520, amend the table in paragraph (c) by:

■ a. Under ''Chapter 62–210 Stationary Sources—General Requirements'', revising the entry for ''62–210.200'' and;

■ b. Under ''Chapter 62–212 Stationary Sources—Preconstruction Review'', revising the entries for ''62–212.400'' and ''62–212.500''.

The revisions read as follows:

**§ 52.520 Identification of plan.**

* * * * *

(c) * * *

EPA APPROVED FLORIDA REGULATIONS

| State citation (section) | Title/subject | State effective date | EPA approval date | Explanation |
|---|---|---|---|---|
| * | * | * | * | * |
| **Chapter 62–210 Stationary Sources—General Requirements** | | | | |
| 62–210.200 | Definitions | 10/23/2013 | 9/16/2020, [Insert citation of publication]. | The ethanol production facility exclusion within the definition of ''major stationary source'' at 62–210.200 does not apply to 62–212.500. Except the following definitions: ''animal crematory''; ''biological waste''; ''biological waste incinerator''; ''biomedical waste''; ''capture efficiency''; ''cast polymer operation''; ''human crematory''; ''major source of air pollution,'' ''major source,'' or ''title V source''; ''printed interior panels''; ''unit-specific applicable requirement''; and ''waste-to-energy facility''. |
| * | * | * | * | * |
| **Chapter 62–212 Stationary Sources—Preconstruction Review** | | | | |
| * | * | * | * | * |
| 62–212.400 | Prevention of Significant Deterioration. | 3/28/2012 | 9/16/2020, [Insert citation of publication]. | Except the provisions for the $PM_{2.5}$ significant impact levels at (5)(b). |
| 62–212.500 | Preconstruction Review for Nonattainment Areas. | 2/2/2006 | 6/27/2008, 73 FR 36435. | The ethanol production facility exclusion within the definition of ''major stationary source'' at 62–210.200 does not apply to 62–212.500. |
| * | * | * | * | * |

* * * * *

## Subpart L—Georgia

■ 3. In § 52.570 amend the table in paragraph (c) by revising the entry for ''391–3–1–.02(7)'' to read as follows:

**§ 52.570 Identification of plan.**

* * * * *

(c) * * *

EPA APPROVED GEORGIA REGULATIONS

| State citation | Title/subject | State effective date | EPA approval date | Explanation |
|---|---|---|---|---|
| * | * | * | * | * |
| 391–3–1–.02(7). | Prevention of Significant Deterioration of Air Quality (PSD). | 7/20/2017 | 9/16/2020, [Insert citation of publication]. | Except for the automatic rescission clause at 391–3–1–.02(7)(a)(2)(iv), which EPA disapproved on March 4, 2016. Except for portions of Rule 391–3–1–.02(7) incorporating by reference 40 CFR 52.21(b)(2)(v), and 40 CFR 52.21(b)(3)(iii)(*c*), because those CFR provisions were indefinitely stayed by the Fugitive Emissions Rule in the March 30, 2011 rulemaking and have not been approved into the Georgia SIP. |

EPA APPROVED GEORGIA REGULATIONS—Continued

| State citation | Title/subject | State effective date | EPA approval date | Explanation |
|---|---|---|---|---|
| * | * | * | * | * * * |

* * * * *

## Subpart S—Kentucky

■ 4. In § 52.920 amend Table 2 in paragraph (c), Table 2 by revising the entry for ''2.05'' under ''Reg 2—Permit Requirements'' to read as follows:

**§ 52.920 Identification of plan.**

* * * * *

(c) * * *

TABLE 2—EPA-APPROVED JEFFERSON COUNTY REGULATIONS FOR KENTUCKY

| Reg | Title/subject | EPA approval date | **Federal Register** notice | District effective date | Explanation |
|---|---|---|---|---|---|
| * | * | * | * | * | * * * |
| **Reg 2—Permit Requirements** | | | | | |
| * | * | * | * | * | * * * |
| 2.05 ..... | Prevention of Significant Deterioration of Air Quality. | 9/16/2020 | [Insert citation of publication]. | 1/17/2018 | This approval does not include Jefferson County's revisions to incorporate by reference the Fugitive Emissions Rule (December 19, 2008). |
| * | * | * | * | * | * * * |

* * * * *

## Subpart Z—Mississippi

■ 5. In § 52.1270 amend the table in paragraph (c) by revising the heading for ''11 MAC Part 2—Chapter 5'' and the entries for ''Rule 5.1'' and ''Rule 5.2'' to read as follows:

**§ 52.1270 Identification of plan.**

* * * * *

(c) * * *

EPA-APPROVED MISSISSIPPI REGULATIONS

| State citation | Title/subject | State effective date | EPA approval date | Explanation |
|---|---|---|---|---|
| * | * | * | * | * * * |
| **11 MAC Part 2—Chapter 5 Regulations for the Prevention of Significant Deterioration of Air Quality** | | | | |
| Rule 5.1 .. | Purpose of this Regulation. | 5/28/2016 | 8/8/2017, 82 FR 37015. | |
| Rule 5.2 .. | Adoption of Federal Rules by Reference. | 5/28/2016 | 9/16/2020, [Insert citation of publication]. | The version of Rule 5.2 in the SIP does not incorporate by reference the provisions at § 52.21(b)(2)(v) and (b)(3)(iii)(c) that were stayed indefinitely by the Fugitive Emissions Interim Rule (published in the **Federal Register** March 30, 2011). |

* * * * *

## Subpart II—North Carolina

■ 6. In § 52.1770 amend Table (1) in paragraph (c) by revising the entries for ''Section .0530'' and ''Section .0531'' under Subchapter 2D, ''Air Pollution Control Requirements'' under Section .0500, ''Emission Control Standards'' to read as follows:

**§ 52.1770 Identification of plan.**

* * * * *

(c) * * *

EPA-APPROVED NORTH CAROLINA REGULATIONS

| State citation | Title/subject | State effective date | EPA approval date | Explanation |
|---|---|---|---|---|
| **Subchapter 2D Air Pollution Control Requirements** | | | | |
| * | * | * | * | * * * |
| **Section .0500 Emission Control Standards** | | | | |
| * | * | * | * | * * * |
| Section .0530. | Prevention of Significant Deterioration. | 9/1/2017 | 9/16/2020, [Insert citation of publication]. | |
| Section .0531. | Sources in Nonattainment Areas. | 9/1/2013 | 9/14/2016, 81 FR 63107. | The version of Section .0531 in the SIP does not incorporate by reference the provisions amended in the Ethanol Rule (published in the **Federal Register** on May 1, 2007) that excludes facilities that produce ethanol through a natural fermentation process from the definition of "chemical process plants" at § 52.21(b)(1)(i)(a) and (b)(1)(iii)(t). |
| * | * | * | * | * * * |

* * * * *

## Subpart PP—South Carolina

■ 7. In § 52.2120 amend the table in paragraph (c) by revising the entry for ''Standard No. 7'' under ''Regulation No. 62.5'' to read as follows:

**§ 52.2120 Identification of plan.**

* * * * *

(c) * * *

EPA-APPROVED SOUTH CAROLINA REGULATIONS

| State citation | Title/subject | State effective date | EPA approval date | Explanation |
|---|---|---|---|---|
| * | * | * | * | * * * |
| Regulation No. 62.5. | Air Pollution Control Standards.. | ..... | ..... | |
| * | * | * | * | * * * |
| *Standard No. 7.* | Prevention of Significant Deterioration. | 8/25/2017 | 9/16/2020, [Insert citation of publication]. | Except Standard No. 7, paragraphs (b)(30)(v) and (b)(34)(iii)(d), which the state withdrew from EPA's consideration for approval on December 20, 2016.<br>Except Standard No. 7, paragraph (b)(34)(iii)(c), approved conditionally on June 2, 2008, and approved fully on June 23, 2011, with a state effective date of June 25, 2005. |
| * | * | * | * | * * * |

* * * * *

[FR Doc. 2020–19341 Filed 9–15–20; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R09–OAR–2020–0180; FRL–10012–89–Region 9]**

## Air Plan Approval; California; Feather River Air Quality Management District

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve a revision to the Feather River Air Quality Management District (FRAQMD) portion of the California State Implementation Plan (SIP). This revision concerns emissions of volatile organic compounds (VOCs) from vehicle and mobile equipment coating operations. We are approving a local rule that regulates these emission sources under the Clean Air Act (CAA or the Act).

**DATES:** This rule will be effective on October 16, 2020.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2020–0180. 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 (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact

the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Christine Vineyard, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947–4125 or by email at *vineyard.christine@epa.gov.*

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

**Table of Contents**

I. Proposed Action
II. Public Comments and EPA Responses
III. EPA Action
IV. Incorporation by Reference
V. Statutory and Executive Order Reviews

## I. Proposed Action

On May 8, 2020 (85 FR 27344), the EPA proposed to approve the following rule into the California SIP.

| Local agency | Rule No. | Rule Title | Amended | Submitted |
|---|---|---|---|---|
| FRAQMD | 3.19 | Vehicle and Mobile Equipment Coating Operations | 08/01/2016 | 01/24/2017 |

We proposed to approve this rule because we determined that it complies with the relevant CAA requirements. Our proposed action contains more information on the rule and our evaluation.

## II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received one comment from Mr. Evan Stull, New Jersey:

Comment: Mr. Stull believes VOC levels in paint can be forcibly cut down under the EPA's authority. Further, he believes that the contamination of the air under the Clean Air Act is grounds to expand the EPA's role in the spread of VOCs and their toxic fumes.

Response: EPA appreciates the comment, but believes it is not germane to our action.

## III. EPA Action

No comments were submitted that change our assessment of the rule as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is fully approving this rule into the California SIP.

## IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the FRAQMD rules described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents available through *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).

## V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the 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 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);
- Is not an Executive Order 13771 (82 FR 9339, February 3, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. 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).

## List of Subjects in 40 CFR Part 52

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

Dated: August 17, 2020.

**John Busterud,**

*Regional Administrator, Region IX.*

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 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 F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(442)(i)(E)(*5*) and (c)(497)(i)(E) to read as follows:

**§ 52.220 Identification of plan-in part.**

* * * * *

(c) * * *

(442) * * *

(i) * * *

(E) * * *

(*5*) Previously approved on June 11, 2015 in paragraph (c)(442)(i)(E)(*4*) of this section and now deleted with replacement in (c)(497)(i)(E)(*1*), Rule 3.19, ''Vehicle and Mobile Equipment Coating Operations,'' amended on August 1, 2016.

* * * * *

(497) * * *

(i) * * *

(E) Feather River Air Quality Management District

(*1*) Rule 3.19, ''Vehicle and Mobile Equipment Coating Operations,'' amended on August 1, 2016.

(*2*) [Reserved]

* * * * *

[FR Doc. 2020–18407 Filed 9–15–20; 8:45 am]

**BILLING CODE 6560–50–P**

---

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R09–OAR–2019–0241; FRL–10014–24–Region 9]**

## Approval of Air Quality Implementation Plans; California; Coachella Valley; 2008 8-Hour Ozone Nonattainment Area Requirements

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve portions of two state implementation plan (SIP) revisions submitted by the State of California to meet Clean Air Act requirements for the 2008 8-hour ozone national ambient air quality standards (NAAQS or ''standards'') in the Coachella Valley ozone nonattainment area (''Coachella Valley''). The two SIP revisions include the portions of the ''Final 2016 Air Quality Management Plan'' and the ''2018 Updates to the California State Implementation Plan'' that address ozone in the Coachella Valley. These submittals address the nonattainment area requirements for the 2008 8-hour ozone NAAQS, including the requirements for an emissions inventory, emissions statements, attainment demonstration, reasonable further progress, reasonably available control measures, contingency measures, and motor vehicle emissions budgets. The EPA is taking final action to approve these submittals as meeting all the applicable ozone nonattainment area requirements except for the contingency measure requirements, for which the EPA is deferring action.

**DATES:** This rule will be effective on October 16, 2020.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2019–0241. 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 (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. 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:** John Ungvarsky, Air Planning Office (AIR–2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 972–3963 or *ungvarsky.john@epa.gov.*

### Table of Contents

I. Summary of the Proposed Action
II. Public Comments and EPA Responses
III. Final Action
IV. Statutory and Executive Order Reviews

### I. Summary of the Proposed Action

On January 17, 2020 (85 FR 2949), the EPA proposed to approve, under Clean Air Act (CAA) section 110(k)(3), and to conditionally approve, under CAA section 110(k)(4), portions of submittals from the California Air Resources Board (CARB) and the South Coast Air Quality Management District (SCAQMD or ''District'') as revisions to the California SIP for the Coachella Valley ozone nonattainment area.[1] The relevant SIP revisions include the SCAQMD's Final 2016 Air Quality Management Plan (''2016 AQMP'') and CARB's 2018 Updates to the California State Implementation Plan (''2018 SIP Update''). Collectively, we refer to the relevant portions of the two SIP revisions as the ''2016 Coachella Valley Ozone SIP,'' and we refer to our January 17, 2020 proposed rule as the ''proposed rule.''

In our proposed rule, we provided background information on the ozone standards,[2] area designations, and related SIP revision requirements under the CAA, and the EPA's implementing regulations for the 2008 ozone standards, referred to as the 2008 Ozone SIP Requirements Rule (''2008 Ozone SRR''). To summarize, the Coachella Valley ozone nonattainment area is classified as Severe for the 2008 ozone standards, and the 2016 Coachella Valley Ozone SIP was developed to address the requirements for this Severe nonattainment area for the 2008 ozone NAAQS.

In our proposed rule, we also discussed a decision issued by the D.C. Circuit Court of Appeals in *South Coast Air Quality Management Dist.* v. *EPA* (''*South Coast II*'')[3] that vacated certain portions of the EPA's 2008 Ozone SRR. The only aspect of the *South Coast II* decision that affects this action is the vacatur of the provision in the 2008 Ozone SRR that allowed states to use an alternative baseline year for demonstrating reasonable further progress (RFP). To address this, in the 2018 SIP Update, CARB submitted an updated RFP demonstration that relied

---

[1] The Coachella Valley is located within Riverside County, and its boundaries generally align with the Riverside County portion of the Salton Sea Air Basin. For a precise description of the geographic boundaries of the Coachella Valley, see 40 CFR 81.305.

[2] Ground-level ozone pollution is formed from the reaction of volatile organic compounds (VOC) and oxides of nitrogen ($NO_X$) in the presence of sunlight. The 1-hour ozone NAAQS is 0.12 parts per million (ppm) (one-hour average), the 1997 ozone NAAQS is 0.08 ppm (eight-hour average), and the 2008 ozone NAAQS is 0.075 ppm (eight-hour average). CARB refers to reactive organic gases (ROG) in some of its ozone-related submittals. The CAA and the EPA's regulations refer to VOC, rather than ROG, but both terms cover essentially the same set of gases. In this final rule, we use the term (VOC) to refer to this set of gases.

[3] *South Coast Air Quality Management Dist.* v. *EPA,* 882 F.3d 1138 (D.C. Cir. 2018). The term ''*South Coast II*'' is used in reference to the 2018 court decision to distinguish it from a decision published in 2006 also referred to as ''*South Coast.*'' The earlier decision involved a challenge to the EPA's Phase 1 implementation rule for the 1997 ozone standard. *South Coast Air Quality Management Dist.* v. *EPA,* 472 F.3d 882 (D.C. Cir. 2006).

on a 2011 baseline year as required, along with updated motor vehicle emissions budgets (MVEBs) associated with the new RFP milestone years.[4]

For our proposed rule, we reviewed the various SIP elements contained in the 2016 Coachella Valley Ozone SIP, evaluated them for compliance with statutory and regulatory requirements, and concluded that they meet all applicable requirements, with the exception of the attainment contingency measure element. More specifically, in our proposal rule, we determined the following:

- CARB and the District met all applicable procedural requirements for public notice and hearing prior to the adoption and submittal of the 2016 AQMP and 2018 SIP Update (see 85 FR 2953 from the proposed rule);
- The 2012 base year emissions inventory from the 2016 AQMP[5] is comprehensive, accurate, and current and thereby meets the requirements of CAA sections 172(c)(3) and 182(a)(1) and 40 CFR 51.1115 for the 2008 ozone NAAQS. Additionally, the future year baseline projections reflect appropriate calculation methods and the latest planning assumptions and are properly supported by the SIP-approved stationary and mobile source measures (see 85 FR 2953–2955 from the proposed rule);
- The emissions statement element of the 2016 AQMP, including District Rule 301 (specifically, paragraphs (e)(1)(A) and (B), (e)(2), (e)(5) and (e)(8)), meets the requirements for emissions statements under CAA section 182(a)(3)(B) and 40 CFR 51.1102 for the 2008 ozone NAAQS (see 85 FR 2955 from the proposed rule);
- The process followed by the District to identify reasonably available control measures (RACM) is generally consistent with the EPA's recommendations; the District's rules and commitments made to adopt certain additional measures provide for the implementation of RACM for stationary and area sources of oxides of nitrogen ($NO_X$) and volatile organic compounds (VOC); CARB and the Southern California Association of Governments (SCAG) provide for the implementation of RACM for mobile sources of $NO_X$ and VOC; there are no additional RACM that would advance attainment of the 2008 ozone NAAQS in the Coachella Valley by at least one year; and therefore, the 2016 AQMP and 2016 State Strategy[6] provide for the implementation of all RACM as required by CAA section 172(c)(1) and 40 CFR 51.1112(c) for the 2008 ozone NAAQS (see 85 FR 2955–2959 from the proposed rule);
- The photochemical modeling in the 2016 AQMP shows that existing CARB and District control measures, plus CARB and District commitments to achieve additional emissions reductions in the South Coast as described in the 2016 AQMP and 2016 State Strategy, are sufficient to attain the 2008 ozone NAAQS by the applicable attainment dates in the Coachella Valley; given the extensive documentation in the 2016 AQMP of modeling procedures and good model performance, the modeling is adequate to support the attainment demonstrations for the 2008 ozone NAAQS; and therefore, the 2016 Coachella Valley Ozone SIP meets the attainment demonstration requirements of CAA section 182(c)(2)(A) and 40 CFR 51.1108 (see 85 FR 2959–2963 from the proposed rule);
- As provided in our SRR, the previously-approved 15 percent rate-of-progress (ROP) demonstration for the Coachella Valley[7] meets the ROP requirements of CAA section 182(b)(1) for the Coachella Valley for the 2008 ozone (see 85 FR 2963–2965 from the proposed rule);
- The RFP demonstration in the 2018 SIP Update provides for emissions reductions of VOC or $NO_X$ of at least 3 percent per year on average for each three-year period from a 2011 baseline year through the attainment year and thereby meets the requirements of CAA sections 172(c)(2), 182(b)(1), and 182(c)(2)(B), and 40 CFR 51.1110(a)(2)(ii) for the 2008 ozone NAAQS (see 85 FR 2963–2965 from the proposed rule);
- The 2016 AQMP (specifically, Chapter 7 and Appendix VI–E (''VMT Offset Demonstration'')) demonstrates that CARB and SCAG have adopted sufficient transportation control strategies to offset the growth in emissions from growth in vehicle-miles-traveled (VMT) and vehicle trips in the Coachella Valley, and thereby complies with the VMT emissions offset requirement in CAA section 182(d)(1)(A) and 40 CFR 51.1102 for the 2008 ozone NAAQS (see 85 FR 2965–2968 from the proposed rule);[8]
- The MVEBs for the 2020 and 2023 RFP milestone years and the 2026 attainment year from the 2018 SIP Update are consistent with the RFP and attainment demonstrations, are clearly identified and precisely quantified, and meet all other applicable statutory and regulatory requirements in 40 CFR 93.118(e), including the adequacy criteria in 40 CFR 93.118(e)(4) and (5) (see 85 FR 2970–2971 from the proposed rule);[9] and
- Through previous EPA approvals of California's vehicle inspection and maintenance (I/M) program, the 1994 ''Opt-Out Program'' SIP revision, the 1993 Photochemical Assessment Monitoring Station SIP revision, and the 2016 annual monitoring network plan for the South Coast and Coachella Valley, the 2016 AQMP adequately addresses the 2008 ozone NAAQS; the enhanced I/M requirements in CAA section 182(c)(3) and 40 CFR 51.1102; the clean fuels fleet program in CAA sections 182(c)(4) and 246 and 40 CFR 51.1102; and the enhanced ambient air monitoring requirements in CAA section 182(c)(1) and 40 CFR 51.1102

[4] In a letter dated December 18, 2019, from Richard W. Corey, Executive Officer, CARB, to Michael Stoker, Regional Administrator, EPA Region 9, CARB requested withdrawal of the RFP demonstration included in the 2016 AQMP submitted in April 2017. The RFP demonstration in the 2018 SIP Update replaced the demonstration in the 2016 AQMP.

[5] The District provided the EPA with supplemental documentation (''2016 AQMP Inventory Supplement'') for the 2012 and 2026 ozone season inventories relied on in the 2016 AQMP. See email dated June 28, 2019, from Zorik Pirveysian, SCAQMD, to John Ungvarsky, EPA, Subject: ''RE: Coachella Valley ozone inventory clarification and update on possible contingency measures.'' The 2016 AQMP Inventory Supplement consists of two attachments to this email, which provide the detailed 2012 and 2026 ozone season inventories that were used for the summary in the 2016 AQMP. The inventories were generated on November 30, 2016.

[6] CARB's RACM assessment and their 2016 State Strategy collectively contain CARB's evaluation of mobile source and other statewide control measures that reduce emissions of $NO_X$ and VOC in California, including the Coachella Valley. On October 1, 2019, the EPA approved the 2016 State Strategy (84 FR 52005). Chapter 3 of 2016 State Strategy includes a commitment to take action on new measures and to achieve aggregate emissions reductions in the South Coast. Because the Coachella Valley's attainment of the 2008 ozone NAAQS is dependent on progress made in the upwind South Coast, this commitment will contribute to attainment in the Coachella Valley.

[7] 82 FR 26854 (June 12, 2017).

[8] As discussed in section III.C.2.b and C.3 of the proposed rule (see 85 FR 2957–2959), because of the significant influence of pollutant transport from the South Coast Air Basin on ozone conditions in the Coachella Valley, no transportation control measures (TCMs) are reasonably available for implementation in the Coachella Valley for the purposes of meeting the RACM requirement and neither the District nor CARB relies on implementation of any TCMs in the Coachella Valley to demonstrate implementation of RACM in the 2016 Coachella Valley Ozone SIP. Similarly, no TCMs are included in the VMT emissions offset demonstration for the Coachella Valley.

[9] In light of CARB's request to limit the duration of the approval of the budgets in the 2018 SIP Update and in anticipation of the EPA's approval, in the near term, of an updated version of CARB's EMFAC (short for EMission FACtor) model for use in SIP development and transportation conformity in California to include updated vehicle mix and emissions data, we proposed to limit the duration of our approval of the budgets until replacement budgets have been found adequate. See 85 FR 2971 from the proposed rule.

(see 85 FR 2971–2973 from the proposed rule).

With respect to the RFP contingency measure element of the 2016 Coachella Valley Ozone SIP, we proposed to conditionally approve the element as meeting the requirements of CAA sections 172(c)(9) and 182(c)(9) for the 2008 ozone NAAQS, based on commitments by CARB and the District to supplement the element through submission of a SIP revision within one year of final conditional approval action that will include a revised or new District rule or rules. In the proposed rule, we did not propose action on the attainment contingency measure. See 85 FR 2968–2970 from the proposed rule.

Please see our proposed rule for more information concerning the background for this action and for a more detailed discussion of the rationale for approval or conditional approval of the above-listed elements of the 2016 Coachella Valley Ozone SIP.

## II. Public Comments and EPA Responses

The public comment period on the proposed rule opened on January 17, 2020, the date of its publication in the **Federal Register**, and closed on February 18, 2020. During this period, the EPA received one comment letter submitted by a private individual and one comment letter submitted by Air Law for All on behalf of the Center for Biological Diversity and the Center for Environmental Health (collectively referred to herein as ''CBD'').[10]

*Comment #1:* The private individual expresses overall support for the proposed action. The commenter has experienced and witnessed the effects of air pollution in the Coachella Valley and describes incidences of asthma and breathing problems in the area. The commenter states that the measures established in the proposed rule allow for a better understanding and stronger analysis of the factors that affect air quality in the Coachella Valley, and cites examples of the health and environmental benefits of reduced air pollution. The commenter supports the proposed rule because it will help address those factors. The commenter also suggests that a localized analysis of air quality in desert cities in the Coachella Valley would be appreciated, and questions whether there is a study available regarding gas absorption by the Salton Sea and whether pollutants might be emanating from the Salton Sea.

*Response to Comment #1:* The EPA thanks the commenter for their support for the proposed action. We agree with the commenter that this rule will lead to air quality improvements in the Coachella Valley. Regarding the commenter's suggestion for a localized analysis of air quality in desert cities of the Coachella Valley, we direct the commenter's attention to the District's ''Annual Air Quality Monitoring Network Plan,'' which contains additional information and analysis on the District's monitoring sites and instrumentation, including in the Coachella Valley.[11] This analysis reflects the federal monitoring requirements for ambient ozone,[12] which are based on populations and monitored ozone concentrations for a Metropolitan Statistical Area (MSA). The Coachella Valley is located within the Riverside-San Bernardino-Ontario, CA (''RSBO'') MSA. Based on population and monitored ozone concentrations in the RSBO MSA, a minimum of three ozone monitoring sites are required.[13] The SCAQMD operates 13 monitoring sites in the RSBO MSA, including the Palm Springs and Indio monitors located near significant population centers in the Coachella Valley. The Palm Springs and Indio ozone monitoring sites are ''neighborhood scale'' sites that characterize concentrations within a few kilometers, which is an appropriate spatial scale for identifying maximum ozone concentrations for the Coachella Valley.[14] In addition, the SCAQMD is required to submit to the EPA a network assessment every 5 years that includes a determination of whether the network meets monitoring objectives, such as compliance with ambient air quality standards and providing air pollution data to the public in a timely manner, and whether any new sites are needed to meet these objectives.[15] This regular evaluation ensures that the existing SCAQMD ozone monitoring network provides an adequate measure of ozone air quality in the Coachella Valley, including desert cities in the area, to serve as the basis for the control strategy and other planning elements of the Coachella Valley Ozone SIP. Localized analysis of other potential pollutants is beyond the scope of this rulemaking.

Regarding the comments pertaining to the Salton Sea, we note that efforts are ongoing to study and address the anticipated dust impacts associated with greater exposure of playa as the Salton Sea shoreline recedes. For example, the Salton Sea Task Force established in 2015 has developed a 10-year plan that endeavors to expedite wildlife habitat construction and to suppress dust from playa that will be exposed in the future. In 2013, the District established a new monitoring station in the community of Mecca, closer to the Salton Sea in the southeastern portion of the Coachella Valley. It is measuring coarse particulate matter continuously, as well as hydrogen sulfide ($H_2S$), a gas that smells like rotten eggs and is associated with natural processes occurring in the Salton Sea. An additional monitoring station measuring only $H_2S$ was also established in 2013 near the shore of the Salton Sea. However, concerns and efforts regarding $H_2S$ are not germane to the EPA's Coachella Valley proposed action relating to the 2008 ozone NAAQS. $H_2S$ is not a contributor to ambient ozone formation, and thus, not addressed in our proposed action on the 2016 Coachella Valley ozone SIP. The SCAQMD has issued odor advisories for the Coachella Valley due to elevated levels of $H_2S$. Health information on $H_2S$ is available from the Agency for Toxic Substances and Disease Registry (ATSDR).[16] Additionally, the SCAQMD maintains a website with current $H_2S$ monitored values in the Salton Sea area

[10] The EPA's proposed rule for this action (85 FR 2949) noted that the U.S. Department of Transportation and the EPA issued a notice of final rulemaking on September 27, 2019 (84 FR 51310) that withdrew the EPA's waiver of preemption of CARB's zero-emission vehicle sales mandate and greenhouse gas (GHG) standards. The EPA also noted that if the federal fuel economy and GHG standards were finalized prior to our final rulemaking on the 2016 Coachella Valley Ozone SIP, we would evaluate and address, as appropriate, the impact of the Safer Affordable Fuel-Efficient (SAFE) rule on the proposed rule (85 FR 2949, 2955). The EPA finalized SAFE on April 30, 2020 (85 FR 24174). The EPA did not receive any comments on the 2016 Coachella Valley Ozone SIP proposed rule regarding the impact of SAFE. The EPA believes that any potential adverse ozone impacts arising from SAFE, within the context of this SIP action, are inconsequential for reasons similar to those described in the EPA's June 2020 ''Response to Comments Document for the EPA's Final Action on the San Joaquin Valley Serious Area Plan for the 2006 $PM_{2.5}$ NAAQS'' (''Response to Comments Document'') associated with the EPA's final rule, ''Clean Air Plans; 2006 Fine Particulate Matter Nonattainment Area Requirements, San Joaquin Valley, California,'' 85 FR 44192 (July 22, 2020). See Response 4 on page 56 in the Response to Comments Document included in the docket for today's final rule.

[11] SCAQMD, Annual Air Quality Monitoring Network Plan, July 1, 2019 (''Monitoring Network Plan''). This is the most recent version reviewed by the EPA. The District recently prepared a 2020 update to this plan, available at *http://www.aqmd.gov/docs/default-source/clean-air-plans/air-quality-monitoring-network-plan/annual-air-quality-monitoring-network-plan-v2.pdf.*

[12] 40 CFR part 58, Appendix D, section 4.1.

[13] Monitoring Network Plan, 26.

[14] Monitoring Network Plan, Appendix B.

[15] 40 CFR 58.10(d).

[16] See ATSDR, ''ToxGuide™ for Hydrogen Sulfide $H_2S$,'' December 2016, available at *http://www.atsdr.cdc.gov/toxguides/toxguide-114.pdf.*

where visitors can sign up for $H_2S$ alerts.[17]

*Comment #2:* CBD comments that the submittal fails to show that the substitute $NO_X$ emissions reductions will ''result in a reduction of ozone concentrations at least equivalent'' to the required 3 percent per annum VOC emissions reductions, and as a result, the EPA's proposed approval is arbitrary and capricious and contrary to law.

The commenter describes the relative roles of VOC and $NO_X$ in ozone formation, including the existence of an ''optimum'' VOC to $NO_X$ ratio for a given level of VOC (*i.e.,* a $NO_X$ concentration at which the maximum amount of ozone is produced). As explained by the commenter, in a ''$NO_X$ saturated'' situation where $NO_X$ levels exceed this optimum ratio, a reduction in $NO_X$ levels can lead to increases in ozone levels and in a ''$NO_X$ limited'' situation with $NO_X$ levels below the optimum ratio, VOC reductions toward the optimum ratio may have little effect on ozone levels. As a result, the commenter says, ozone response to precursor control can vary greatly between areas. The commenter argues that language in the CAA, including CAA sections 185B, 182(f), and 182(c)(2)(C), indicates that Congress was aware of these issues, including that in some scenarios $NO_X$ reductions may not decrease ozone concentrations.

The commenter also points to the EPA's consideration of the relative effectiveness of $NO_X$ and VOC controls for interpollutant offset trading under the new source review (NSR) permitting program and in applying requirements for major stationary sources of VOC to $NO_X$ sources under CAA 182(f), noting that in these situations EPA guidance indicates that photochemical grid modeling of multiple scenarios should be conducted to support demonstrations related to the relative effectiveness of controls. Through these comparisons, the commenter suggests that the Coachella Valley submittal should have included similar photochemical grid modeling to determine whether the substitute $NO_X$ emission reductions result in equivalent ozone reductions. In a footnote, the commenter acknowledges that the submittal includes photochemical grid modeling for the attainment demonstration, but asserts that the results of this modeling ''do not rationally relate'' to the required demonstration for section 182(c)(2)(C), citing arguments that the attainment demonstration modeling addresses only a single data point rather than multiple scenarios, and that the underlying control strategy reflects other factors such as politics.

*Response to comment #2:* We disagree with the commenter's characterization of the District's submittal and the EPA's proposed approval. As described below, we find that the analysis included with the modeling and control strategy in the 2016 Coachella Valley Ozone SIP and 2016 South Coast Ozone SIP adequately demonstrates that annual and cumulative $NO_X$ reductions in the South Coast and Coachella Valley will result in a reduction in ozone concentrations that is at least equivalent to the ozone reductions that would be achieved by VOC emission reductions alone. We therefore agree with the District's use of $NO_X$ substitution in the RFP demonstration for the Coachella Valley.

In general, we agree with the commenter's descriptions of (1) the relative roles of VOC and $NO_X$ in ozone formation; (2) the potential to calculate an ''optimum'' VOC to $NO_X$ ratio for a given level of VOC; and (3) geographic differences in the ozone response to precursor control, depending on whether an area is ''$NO_X$ saturated'' or ''$NO_X$ limited.'' We also agree with the commenter that Congress was aware of these issues and provided for the EPA to address them under provisions of the CAA. We find that the District's submittal adequately accounts for these issues, and that the District's control strategy and use of $NO_X$ substitution is consistent with the needs of the Coachella Valley.

The modeling and control strategy included in the 2016 Coachella Valley Ozone SIP and 2016 South Coast Ozone SIP demonstrate that significant $NO_X$ reductions are needed for these areas to attain the 2008 ozone standards in 2026 and 2031, respectively. During development of the 2016 AQMP, the District evaluated the relative role of VOC and $NO_X$ reductions at 24 monitoring stations throughout the South Coast and Coachella Valley nonattainment areas, with each station representing the region surrounding the station site. The District ran a set of simulations with incremental VOC and $NO_X$ emissions reductions. This information is presented in graphs, called ozone isopleths, of ozone levels resulting from various levels of emission reductions for each monitoring station.[18] Each ozone isopleth provides a visual reference to evaluate hypothetical scenarios for reducing VOC and $NO_X$ emissions in sufficient amounts to reach attainment by showing the relative change in ozone concentration that would result from reductions in VOC and $NO_X$.[19]

These isopleths illustrate that a $NO_X$-limited scenario persists throughout both areas, indicating that $NO_X$ reductions will be generally more effective than VOC reductions in reducing ozone concentrations. The isopleths for the two Coachella Valley monitoring sites (Indio-Jackson Street and Palm Springs-Fire Station) show that ozone concentrations are more sensitive to reductions in $NO_X$ than reductions in VOC across a wide range of VOC emissions quantities.[20] These graphs represent ozone concentrations at various levels of VOC emissions (shown on the horizontal x-axis) and $NO_X$ emissions (shown on the vertical y-axis). The graphs show that when $NO_X$ emissions are reduced, the level of ozone decreases substantially, and that, in contrast, reducing the level of VOC emissions results in much less reduction in the level of ozone. The curve of the line on the graph indicates that reductions in $NO_X$ emissions will be considerably more effective than VOC reductions in reducing ozone concentrations on both a mass and percentage basis, and that VOC reductions will achieve only minor reductions in ozone concentrations even under scenarios involving large VOC reductions relative to current levels.[21]

Based on the modeling and evaluation of attainment strategy options, the District determined that the most effective strategy in the South Coast for the 1997 and 2008 ozone standards would be to reduce $NO_X$ emissions at a greater rate than VOC emissions, equal to roughly two tons of $NO_X$ for every ton of VOC.[22] Specifically, the District determined that an additional 65.3 tons

[17] *https://saltonseaodor.org.*

[18] See 2016 AQMP, Appendix V, Attachments 4 (2031 8-Hour Ozone Isopleths) and Attachment 5 (2023 8-Hour Ozone Isopleths). Isopleths for the 1-hour ozone NAAQS are included as Attachment 6 (22 1-Hour Ozone Isopleths).

[19] Contrary to the commenter's characterization of the District's modeling as representing only a single data point, these isopleths represent the results of the photochemical modeling of multiple scenarios across a range of VOC and $NO_X$ emission reduction levels, and allow for a comparison of the relative effectiveness of reducing one precursor or the other, or both, in greater or lesser quantities.

[20] 2016 AQMP, Appendix V, Attachment 4 at 9 and 16; Attachment 5 at 10 and 17.

[21] In the South Coast air basin, the Fontana-Arrow Highway site (''Fontana site'') has the highest ozone design value and is a key site used in the modeling of attainment. The Fontana site isopleths for the 1997 and 2008 ozone standards demonstrate that relying on VOC reductions alone would not reduce ozone levels as quickly as a strategy aimed at $NO_X$ reductions. The isopleths for the Fontana site show a similar pattern to those for the two Coachella Valley monitoring sites. Id.; 2016 AQMP, Appendix V, Attachment 4 at 7; Attachment 5 at 8.

[22] 2016 AQMP, Appendix V, Draft CEPA Source Level Emissions Reduction Summary, 2031 8-hour Ozone Attainment Scenario and 2023 8-hour Ozone Attainment Scenario, 1–8.

per day (tpd) of VOC and 116.6 tpd of $NO_X$ beyond projected 2023 baseline emissions would be needed to attain the 1997 ozone standards, and that an additional 71.0 tpd of VOC and 118.7 tpd of $NO_X$ beyond projected 2031 baseline emissions would be needed to attain the 2008 ozone standards. Accordingly, the District's control strategy for the 2008 ozone NAAQS in the South Coast and Coachella Valley areas relies on reductions of both pollutants, while prioritizing $NO_X$ reductions.[23] The EPA agrees with this approach, based on the District's modeling and the isopleths included in the 2016 AQMP, and the accompanying analysis included in the submittal. Similarly, we find that this modeling and analysis adequately demonstrates that the $NO_X$ emissions reductions in the District's RFP demonstration will result in a reduction in ozone concentrations that is at least equivalent to what would result from an equal percentage of VOC emission reductions, based on the $NO_X$-limited condition in the area and the relative effectiveness of reductions of each pollutant in reducing ozone concentrations.

We disagree with the commenter's suggestion that section 182(c)(2)(C) would require the District to provide additional photochemical grid modeling to demonstrate that the substituted $NO_X$ reductions are at least as effective as the VOC reductions that would otherwise be required under 182(c)(2)(B). Further, we believe that the commenter's comparison to the EPA's requirements and recommendations for interpollutant trading and exemption from $NO_X$ requirements under CAA 182(f) misunderstands the purpose of and requirements for $NO_X$ substitution under CAA 182(c)(2)(B) relative to these other examples. The guidance documents cited by the commenter for these examples are non-binding and do not constrain the EPA's discretion to adopt a different approach where appropriate.[24] The documents recommend photochemical grid modeling in some scenarios, but do not require this approach or any other specific demonstration. This reflects the EPA's acknowledgement that the level of analysis required for any particular demonstration related to $NO_X$ and VOC reductions will differ based on context and local conditions, such as those noted by the commenter regarding the relative effectiveness of controlling each. In the context of CAA 182(c)(2)(C), in an area where isopleths generated through photochemical grid modeling and accompanying analysis indicate that the VOC reductions required under CAA 182(c)(2)(B) will be less effective for reducing ozone concentrations than a corresponding percentage reduction in $NO_X$ emissions, no additional modeling or demonstration is required.

For the reasons addressed above, we find that the District has provided ample evidence to demonstrate that $NO_X$ reductions will be more effective at reducing ozone concentrations in the South Coast and Coachella Valley. In this context, we find that the photochemical grid modeling conducted for the attainment demonstration, in combination with the supporting analysis accompanying the control strategy and other demonstrations, is sufficient to support the District's use of $NO_X$ substitution.

*Comment #3:* CBD says that the EPA fails to give notice of how the submittal addresses the demonstration required under CAA 182(c)(2)(C) and thus the EPA's proposal is not in accordance with procedure required by law. In particular, the commenter says that EPA has failed to give adequate notice of its proposed interpretation of section 182(c)(2)(C).

The commenter observes that Table 5 of the proposed rule treats a percentage of $NO_X$ reductions as equivalent to an equal percentage of VOC reductions, but says that the proposed rule does not explain why a percentage reduction in $NO_X$ emissions results in equivalent ozone reductions to an equal reduction in VOC emissions, as required by section 182(c)(2)(C). The commenter suggests that the proposed rule may have used the procedure recommended in a December 1993 guidance document from the EPA's Office of Air Quality Planning and Standards entitled ''$NO_X$ Substitution Guidance,'' but notes that the $NO_X$ Substitution Guidance is not cited in the notice and is not listed in the docket index. The commenter argues that because the $NO_X$ Substitution Guidance is non-binding, the notice must indicate whether the EPA intends to adopt the Guidance's interpretation of the CAA, and that if the EPA instead believes that the Coachella Valley calculation is a legitimate demonstration for other reasons, it must re-propose the action.

*Response to Comment #3:* The EPA disagrees with the commenter that the proposed rulemaking fails to give adequate notice regarding our proposed approval of the District's use of $NO_X$ substitution, or that we would be required to re-propose with additional justification prior to taking final action on this portion of the proposal. As described in Response #1 above, the modeling and analysis submitted to support the District's control strategy and attainment and RFP demonstrations highlight the need for significant $NO_X$ reductions in the Coachella Valley and South Coast Basin for the Coachella Valley to attain the 2008 ozone NAAQS, and demonstrate that these $NO_X$ reductions will be more effective on a percentage basis than VOC reductions at reducing ozone concentrations in the nonattainment area. As described below, our proposal includes a summary and analysis of all relevant portions of the District's submittal, including $NO_X$ substitution in the RFP demonstration.

Section III.E of the proposed rulemaking describes our proposed approval of the District's RFP demonstration.[25] This section describes the statutory and regulatory requirements for an RFP demonstration, including the option under CAA 182(c)(2)(C) to substitute $NO_X$ emissions reductions for VOC reductions, and the reasons for the EPA's approval of this demonstration. The discussion includes citations to CAA 182(c)(2)(C) and the implementing regulations for the 2008 ozone NAAQS, as well as relevant portions of the preamble to the 2008 Ozone SRR that address the applicable requirements.[26] The proposal explains that the District's RFP demonstration

[23] See, *e.g.,* 2016 AQMP at ES–8 (''In order to meet ozone standards, both $NO_X$ and [VOC] emissions need to be addressed. However, air quality modeling demonstrates that $NO_X$ reductions prove to be much more effective in reducing ozone levels and will also lead to significant improvement in $PM_{2.5}$ concentrations.''); 7–27 (''As mentioned a number of times in this chapter, poor ozone air quality in the Coachella Valley is primarily due to transport of ozone and its precursors from the upwind source region of the Basin and attainment in Coachella Valley is only possible with substantial emission reductions in the Basin. With this in mind, the proposed control strategy consists of two components: (1) An aggressive control strategy for $NO_X$ emission sources in the Basin; and (2) control of locally generated emissions via proposed state-wide or nationally-applied control measures implemented by state and federal actions.''). In contrast, for attaining the 1-hour ozone standard, the District determined that VOC reductions would be as effective as $NO_X$ reductions. See 2016 AQMP at 5–13.

[24] See EPA, ''Guideline for Determining the Applicability of Nitrogen Oxide Requirements under Section 182(f)'' (Dec. 16, 1993), 1; Memorandum dated January 14, 2005, from Stephen D. Page, Director, Office of Air Quality Planning and Standards, U.S. EPA, to EPA Regional Air Directors, Regions I–X, Subject: ''Guidance on Limiting Nitrogen Oxides ($NO_X$) Requirements Related to 8-Hour Ozone Implementation,'' 3; EPA–454/R–18–004, ''Technical Guidance for Demonstration of Inter-Precursor Trading (IPT) for Ozone in the Nonattainment New Source Review Program,'' Office of Air Quality Planning and Standards (May 2018) (''IPT Guidance''), 2. The IPT Guidance specifically excludes applicability to RFP demonstrations. IPT Guidance at 2, n.1.

[25] 85 FR 2949, 2963–2965.

[26] Id. at 2964 (see footnotes 98 and 103).

substitutes $NO_X$ reductions for VOC reductions beginning in milestone year 2020, and the RFP demonstration, including the District's substitution of $NO_X$ reductions for VOC reductions on a percentage basis, is summarized in Table 5.[27]

As the commenter notes, the proposed rulemaking does not include a specific justification in support of the District's use of $NO_X$ substitution on a percentage basis. However, the discussion and analysis are consistent with and supportive of this approach. For example, the discussion of the District's control strategy in section III.D.2.b of the proposed rulemaking explains that already-adopted measures are expected to achieve approximately 66 percent of the $NO_X$ reductions needed from the 2012 base year for the South Coast to attain the NAAQS in 2023, and tables 2, 3, and 4 show the remaining additional $NO_X$ reductions needed to show continued progress and attainment in the Coachella Valley. The discussion and tables in this section document the need for additional $NO_X$ reductions far exceeding the necessary additional VOC reductions, and show that ongoing $NO_X$ reductions are linked with the downward trend in ozone concentrations leading to attainment, consistent with the District's control strategy. As addressed above, given this need for $NO_X$ reductions and the modeled anticipated impact on the Coachella Valley, substituting $NO_X$ for VOC on a percentage-reduction basis represents a conservative approach that will result in considerably lower ozone concentrations than would result through the VOC reductions required under CAA 182(c)(2)(B).

As the commenter notes, this approach is consistent with the procedures outlined in the EPA's 1993 $NO_X$ Substitution Guidance. However, as the commenter notes, the $NO_X$ Substitution Guidance is non-binding, and the EPA must ensure that any use of $NO_X$ substitution is reasonable in light of local conditions and needs.[28] In this case, our approval is supported by the $NO_X$-limited conditions in the area and the need for $NO_X$ reductions as set out in the District's control strategy. For this reason, we find that the proposed rulemaking and associated supporting documents included in the docket for that action provide sufficient documentation that the $NO_X$ substitution used in the District's RFP demonstration is consistent with CAA section 182(c)(2)(C), and we disagree that the EPA would be required to re-propose with additional analysis or justification.

*Comment #4:* CBD provides numerous comments directed at the EPA's $NO_X$ Substitution Guidance, contending that if the EPA intended to adopt the positions set forth in the $NO_X$ Substitution Guidance, the proposal would be arbitrary and capricious and contrary to law because of problems with the $NO_X$ Substitution Guidance. These comments assert generally that the $NO_X$ Substitution Guidance contradicts CAA 182(c)(2)(C) by recommending a procedure that fails to demonstrate any equivalence between VOC and $NO_X$ reductions, relies on incorrect policy assumptions, and gives legal justifications that are without merit.

*Response to Comment #4:* Comments relating solely to the $NO_X$ Substitution Guidance are outside the scope of this rulemaking action. As noted in our response to Comment #3 above, our approval of the District's use of $NO_X$ substitution is supported by local conditions and needs as documented in the modeling and analysis included in the 2016 Coachella Valley Ozone SIP, and is consistent with the requirements in CAA 182(c)(2)(C).

*Comment #5:* CBD challenges the EPA's proposed conditional approval of RFP contingency measures as arbitrary and capricious, and contrary to law based on CAA requirements and interpreting case law. The commenter also argues that the District's commitment does not qualify for conditional approval.

*Response to Comment #5:* Because the EPA is not finalizing our proposed conditional approval of the District's RFP contingency measures at this time, comments on this issue are outside the scope of this action and we are not providing specific responses to these comments.

## III. Final Action

For the reasons discussed in detail in the proposed rule and summarized herein, under CAA section 110(k)(3), the EPA is taking final action to approve as a revision to the California SIP the following portions of the Final 2016 Air Quality Management Plan submitted by CARB on April 27, 2017, and the 2018 SIP Update submitted on December 5, 2018, that compose the 2016 Coachella Valley Ozone SIP.

- Base year emissions inventory element in the 2016 AQMP as meeting the requirements of CAA sections 172(c)(3) and 182(a)(1) and 40 CFR 51.1115 for the 2008 ozone NAAQS;
- RACM demonstration element in the 2016 AQMP as meeting the requirements of CAA section 172(c)(1) and 40 CFR 51.1112(c) for the 2008 ozone NAAQS;
- Attainment demonstration element for the 2008 ozone NAAQS in the 2016 AQMP as meeting the requirements of CAA section 182(c)(2)(A) and 40 CFR 51.1108;
- ROP demonstration element in the 2016 AQMP as meeting the requirements of CAA 182(b)(1) and 40 CFR 51.1110(a)(2) for the 2008 ozone NAAQS;
- RFP demonstration element in the 2018 SIP Update as meeting the requirements of CAA sections 172(c)(2), 182(b)(1), and 182(c)(2)(B), and 40 CFR 51.1110(a)(2)(ii) for the 2008 ozone NAAQS;
- VMT emissions offset demonstration element in the 2016 AQMP as meeting the requirements of CAA section 182(d)(1)(A) and 40 CFR 51.1102 for the 2008 ozone NAAQS;
- Motor vehicle emissions budgets in the 2018 SIP Update for the 2020 and 2023 RFP milestone years and the 2026 attainment year, as shown below, because they are consistent with the RFP and attainment demonstrations for the 2008 ozone NAAQS finalized for approval herein and meet the other criteria in 40 CFR 93.118(e);

TRANSPORTATION CONFORMITY BUDGETS FOR THE 2008 OZONE NAAQS IN THE SOUTH COAST

[Summer planning inventory, tpd]

| Budget year | VOC | $NO_X$ |
|---|---|---|
| 2020 | 3.7 | 8.4 |
| 2023 | 3.3 | 4.6 |
| 2026 | 3.0 | 4.2 |

[27] Id. at 2964–2965.

[28] See $NO_X$ Substitution Guidance at 3 (noting that the EPA approves substitution proposals on a case-by-case basis, including any reasonable substitution proposal).

• Enhanced vehicle I/M program element in the 2016 AQMP as meeting the requirements of CAA section 182(c)(3) and 40 CFR 51.1102 for the 2008 ozone NAAQS;

• Clean fuels fleet program element in the 2016 AQMP as meeting the requirements of CAA sections 182(c)(4)(A) and 246 and 40 CFR 51.1102 for the 2008 ozone NAAQS; and

• Enhanced monitoring element in the 2016 AQMP as meeting the requirements of CAA section 182(c)(1) and 40 CFR 51.1102 for the 2008 ozone NAAQS.[29]

With respect to the MVEBs, we are taking final action to limit the duration of the approval of the MVEBs to last only until the effective date of the EPA's adequacy finding for any subsequently submitted budgets. We are doing so at CARB's request and in light of the benefits of using EMFAC2017-derived budgets[30] prior to our taking final action on the future SIP revision that includes the updated budgets.

We are taking final action to determine that paragraphs (e)(1)(A) and (B), (e)(2), (e)(5) and (e)(8) of District Rule 301 (''Permitting and Associated Fees''), submitted to the EPA on August 5, 2019, and approved on October 1, 2019, at 84 FR 52005, meet the emission statement requirements of CAA section 182(a)(3)(B) and 40 CFR 51.1102 for the 2008 ozone NAAQS.

Lastly, we are deferring final action on the contingency measures element of the 2016 Coachella Valley Ozone SIP as meeting the requirements of CAA sections 172(c)(9) and 182(c)(9) for RFP and attainment contingency measures.

## 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 action merely approves state plans 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);

• Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 16, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

### List of Subjects in 40 CFR Part 52

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

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

Dated: August 25, 2020.

**John Busterud,**

*Regional Administrator, Region IX.*

For the reasons stated in the preamble, the EPA amends chapter I, title 40 of the Code of Federal Regulations 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 F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(514)(ii)(A)(*7*) and (c)(517)(ii)(B)(*6*) to read as follows:

[29] Regarding other applicable requirements for the 2008 ozone NAAQS in the Coachella Valley, the EPA has previously approved SIP revisions that address the nonattainment area requirements for new source review (NSR) and for implementation of reasonably available control technology (RACT) for the South Coast, including the Coachella Valley, for the 2008 ozone NAAQS. See 83 FR 64026 (December 13, 2018) (for NSR) and 82 FR 43850 (September 20, 2017) (for RACT). SIP revisions for the Coachella Valley addressing the penalty fee requirements under CAA sections 181(b)(4) and 185 are not yet due for the 2008 ozone NAAQS.

[30] On August 15, 2019, the EPA approved and announced the availability of EMFAC2017, the latest update to the EMFAC model for use by State and local governments to meet CAA requirements. See 84 FR 41717.

**§ 52.220 Identification of plan—in part.**

* * * * *

(c) * * *

(514) * * *

(ii) * * *

(A) * * *

(*7*) 2018 Updates to the California State Implementation Plan, adopted on October 25, 2018, chapter VII (''SIP Elements for the Coachella Valley''), excluding section VII.D (''Contingency Measures''); and pages A–23 through A–26 of appendix A (''Nonattainment Area Inventories'').

* * * * *

(517) * * *

(ii) * * *

(B) * * *

(*6*) Final 2016 Air Quality Management Plan (March 2017), Chapter 7 (''Current and Future Air Quality—Desert Nonattainment Areas''), adopted on March 3, 2017, excluding the portions of pages 7–13 to 7–22 regarding particulate matter and other criteria pollutants, and excluding the portions of pages 7–26 to 7–30 regarding reasonable further progress.

* * * * *

■ 3. Section 52.244 is amended by adding paragraph (a)(11) to read as follows:

**§ 52.244 Motor vehicle emissions budgets.**

(a) * * *

(11) Coachella Valley, approved October 16, 2020.

* * * * *

[FR Doc. 2020–19162 Filed 9–15–20; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R07–OAR–2020–0339; FRL–10014–32–Region 7]**

## Air Plan Approval; Missouri; Control of Emissions from Industrial Surface Coating Operations

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve a revision to the State Implementation Plan (SIP) for the State of Missouri. This final action will amend the SIP to revise a Missouri regulation that restricts emissions of volatile organic compounds (VOCs) from industrial surface coating operations in St. Louis City and Jefferson, St. Charles, Franklin, and St. Louis Counties in Missouri.

Specifically, the revisions to the rule add a new surface coating category for the decorative coating of foam products, establish an appropriate emission limit for this type of surface coating operation, remove obsolete provisions that were applicable prior to March 1, 2012, remove a reference to a rule that is being rescinded, remove restrictive words, add definitions specific to this rule, change rule language to be consistent with defined terms, and update incorporations by reference. The new emission limit for decorative coating of foam products is SIP strengthening and will not adversely impact the air quality in the St. Louis area. The remaining revisions are administrative in nature and do not impact the stringency of the SIP or air quality. The EPA's approval of this rule revision is in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This final rule is effective on October 16, 2020.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2020–0339. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

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

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

### Table of Contents

I. What is Being Addressed in this Document?
II. Have the Requirements for Approval of a SIP Revision Been Met?
III. What Action is the EPA Taking?
IV. Incorporation by Reference
V. Statutory and Executive Order Reviews

### I. What is being addressed in this document?

The EPA is approving the revisions to 10 CSR 10–5.330 *Control of Emissions From Industrial Surface Coating Operations* in the Missouri SIP. The revisions to the rule add a new surface coating category for the decorative coating of foam products, establish an appropriate emission limit for this type of surface coating operation, remove obsolete provisions that were applicable prior to March 1, 2012, remove a reference to a rule that is being rescinded, remove restrictive words, add definitions specific to this rule, change rule language to be consistent with defined terms, and update incorporations by reference. These revisions are described in detail in the technical support document (TSD) included in the docket for this action. The EPA solicited comments on the proposed revision to Missouri's SIP, and received two comments unrelated to the proposed action.

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

The State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice of the revisions from August 1, 2018, to October 4, 2018, and held a public hearing on September 27, 2018. The state received and addressed three comments. As explained in more detail in the TSD which is part of this docket, the SIP revision submission meets the substantive requirements of the CAA, including section 110 and implementing regulations.

### III. What action is the EPA taking?

The EPA is taking final action to approve Missouri's request to amend 10 CSR 10–5.330.

### IV. Incorporation by Reference

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

Therefore, these materials have been approved by the EPA for inclusion in the State Implementation Plan, have been incorporated by reference by EPA into that plan, are fully federally

enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[1]

## V. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 16, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Volatile organic compounds.

Dated: August 28, 2020.

**James Gulliford,**

*Regional Administrator, Region 7.*

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

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

## Subpart AA—Missouri

■ 2. In § 52.1320, the table in paragraph (c) is amended by revising the entry ''10–5.330'' to read as follows:

### § 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA—APPROVED MISSOURI REGULATIONS

| Missouri citation | Title | State effective date | EPA approval date | Explanation |
|---|---|---|---|---|
| **Missouri Department of Natural Resources** | | | | |
| * | * | * | * | * |
| **Chapter 5—Air Quality Standards and Air Pollution Control Regulations for the St. Louis Metropolitan Area** | | | | |
| * | * | * | * | * |
| 10–5.330 | Control of Emissions from Industrial Surface Coating Operations. | 3/30/2019 | 9/16/2020, [insert **Federal Register** citation]. | |

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

EPA—APPROVED MISSOURI REGULATIONS—Continued

| Missouri citation | Title | State effective date | EPA approval date | Explanation |
|---|---|---|---|---|
| * | * | * | * | * * |

* * * * *

[FR Doc. 2020–19418 Filed 9–15–20; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R10–OAR–2018–0766, FRL–10012–38–Region 10]**

## Air Plan Approval; Idaho: Infrastructure Requirements for the 2015 Ozone Standard

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

**ACTION:** Final rule.

**SUMMARY:** Whenever the Environmental Protection Agency (EPA) promulgates a new or revised National Ambient Air Quality Standard (NAAQS), the Clean Air Act requires each State to make a State Implementation Plan (SIP) submission to establish that its SIP provides for the implementation, maintenance, and enforcement of the revised NAAQS. This type of SIP submission is commonly referred to as an infrastructure SIP submission. The EPA is approving the State of Idaho's September 27, 2018, SIP submission as meeting applicable infrastructure requirements for the 2015 ozone NAAQS.

**DATES:** The final rule is effective October 16, 2020.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2018–0766. 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.,* CBI 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 is publicly available only in hard copy form. Publicly available docket materials are available at *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Matthew Jentgen at (206) 553–0340, or *jentgen.matthew@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, it is intended to refer to the EPA.

### I. Background Information

On April 9, 2019, the EPA proposed to approve Idaho's September 27, 2018, SIP submission as meeting certain infrastructure requirements of the Clean Air Act (CAA) for the 2015 ozone NAAQS (84 FR 14067). The initial public comment period for this proposed action ended on May 9, 2019. Due to an administrative error, the EPA omitted certain documents relevant to the proposed action from the docket during the initial comment period, open from April 9, 2019 to May 9, 2019. The EPA corrected the administrative error and on May 28, 2019, we provided an additional 30 days for public comment on the proposed action (84 FR 24420). The public comment period ended on June 27, 2019. The EPA received adverse comments on the proposal.

### II. Response to Comments

The EPA received adverse comments during the initial comment period related to our administrative docket error that left out documents relevant to the proposed action. The EPA addressed these comments by including the relevant documents in the docket and providing an additional 30-day comment period. The EPA received one comment during the second comment period. We have summarized and responded to the remaining adverse comments below. The full text of the submitted comments may be found in the docket for this action.

*Comment—Ozone NAAQS Violations*

*Summary* – The Idaho Conservation League (ICL) asserted that monitoring data indicates Idaho's efforts to prevent a violation of the 2015 ozone NAAQS are ineffective. ICL further asserted that the EPA's approval of the 2015 ozone infrastructure SIP submission should be contingent upon the State's ''creation and implementation of new management strategies to address ozone in Idaho.''

Specifically, ICL pointed to Idaho's infrastructure SIP submission, at appendix B, Table B–1, indicating the 2015–2017 design value for ozone measured at the Boise—White Pine air monitoring station was 0.070 parts per million (ppm), equal to the 2015 ozone NAAQS. Moreover, ICL stated that in more recent years the monitor has shown exceedances and that the 2016–2018 design value is likely to violate the 2015 ozone NAAQS. ICL concluded that the laws, rules, and regulations referenced by Idaho in its 2015 ozone infrastructure SIP submission do not appear adequate. Thus, the commenter advocated that the EPA's approval of this SIP submission should be contingent upon Idaho's creation and implementation of new emissions management strategies to address ozone in Idaho.

*Response*—The EPA agrees that that the monitor data identified by the commenter indicates that there may be violations of the 2015 ozone NAAQS at this monitor, but disagrees that this is an issue that the State should address in the context of an infrastructure SIP submission. We have reviewed monitoring data at the Boise—White Pine Elementary monitor (Site ID: 160010017) and the design value for the most recent three-year period (2016–2018) is 0.072 ppm, which is over the 2015 ozone NAAQS of 0.070 ppm. At this point in time, all areas of Idaho are designated attainment for the 2015 ozone NAAQS. The EPA designated the entire State of Idaho as attainment/unclassifiable for the 2015 ozone NAAQS, based on 2013–2015 design value data (82 FR 54232, at page 54243). Each of the three monitors in Idaho that rely on Federal Reference Method (FRM) ozone monitoring data (Boise-White Pine, Meridian-St Luke's, and Craters of the Moon) had 2013–2015 design values below the 0.070 ppm ozone NAAQS. If there are now violations of the 2015 ozone NAAQS at any monitors, then either Idaho or the EPA may need to consider the need for a redesignation under section 107(d)(3), or other proactive actions to address the ambient ozone concentrations in the area.

The existence of possible violations of the NAAQS does not, however, directly affect Idaho's September 27, 2018, infrastructure SIP submission. As stated in the proposal, the EPA's longstanding position is that infrastructure SIP submissions are intended to address basic SIP requirements to implement, maintain, and enforce a NAAQS in

general, and are not intended to address nonattainment plan requirements for individual areas of a state that may be violating the NAAQS.[1] Infrastructure SIPs are due within three years of adoption or revision of a particular NAAQS, according to CAA sections 110(a)(1) and (2). The separate nonattainment plan SIP submissions to address the emission limits and other control measures needed to attain a particular NAAQS in an area designated nonattainment are due on a separate schedule, pursuant to CAA section 172 and the various pollutant-specific subparts 2 through 5 of part D.[2]

*Comment—Adequacy of Idaho's ozone monitoring network*

*Summary*—ICL stated that the EPA's approval of Idaho's SIP is inconsistent with EPA's previous comments regarding Idaho's ambient air monitoring network and compliance with CAA 110(a)(2)(B).

Specifically, for the Idaho Falls metropolitan statistical area (MSA), ICL cited the EPA's November 8, 2017, Air Monitoring Network Plan approval letter that noted monitoring network deficiencies, including a lack of a state and local air monitoring station (SLAMS) for ozone in Idaho Falls. Additionally, ICL stated that, pursuant to 40 CFR part 58, appendix D, Table D–2, cities with a population size greater than 50,000 with 3-year average ozone concentrations exceeding 85 percent of the NAAQS are required to have, at a minimum, one ozone monitor. ICL asserted that Idaho Falls meets this criterion.

ICL also referenced 40 CFR part 58, appendix D, Table D–2 and asserted that the Pocatello MSA, with a population of 54,441 and 3-year average ozone concentrations exceeding 85 percent of the NAAQS, is required to have, at a minimum, one ozone monitor. ICL also stated that Pocatello particularly needs a dedicated ozone monitor because the EPA's Environmental Justice Screening and Mapping tool, EJSCREEN, shows that the city of Pocatello is in the 90th percentile for ozone concentrations relative to the rest of the State.

ICL also cited the EPA's November 8, 2017, Air Monitoring Network Plan approval letter that noted a lack of ozone monitoring in the Logan, UT–ID MSA. ICL also noted that another developing metropolitan area in Idaho, Twin Falls (population: 47,468), needs an ozone monitor based on the criteria in 40 CFR part 58, appendix D, Table D–2.

*Response*—The EPA disagrees that there are current deficiencies in the ozone monitoring network in Idaho that require disapproval of the State's infrastructure SIP submission for the 2015 ozone NAAQS. First, in the context of an infrastructure SIP submission, the EPA interprets CAA section 110(a)(2)(B) to require states to have SIP provisions that provide for the establishment and operation of ambient air quality monitors, collecting and analyzing ambient air quality data, and making these data available to the EPA upon request. In our proposed action, we stated that Idaho has a comprehensive air quality monitoring network plan, originally approved by the EPA into the Idaho SIP on July 28, 1982 (40 CFR 52.670). We also determined that the plan includes statutory and regulatory authority to establish and operate an air quality monitoring network, including ozone monitoring (84 FR 14067, April 9, 2019, at page 14068). The EPA recently approved Idaho's comprehensive monitoring network plan, further discussed in this document, on January 16, 2020. In practice, Idaho operates an ozone monitoring network, compiles and analyzes collected data, and submits the data to the EPA's Air Quality System on a quarterly basis.

Second, in the context of infrastructure SIP submissions, the EPA considers whether the State has met the monitoring requirements for the NAAQS at issue. With respect to monitor siting, Idaho regularly assesses the adequacy of the State monitoring network for each NAAQS pollutant and submits that assessment to the EPA for review (''Annual Network Plan''). The Annual Network Plan provides details of the State's air quality monitor system and evaluates whether the State's ambient air quality monitoring network is achieving its monitoring objectives, along with a discussion of any needed modifications. The commenter pointed to specific ozone monitoring network issues identified by the EPA in its November 2017 Annual Network Plan response letter. We will explain further in this document how the State has recently addressed each of the issues identified by the EPA concerning the adequacy of the State's ozone monitoring network and cited in ICL's comments on the proposed rulemaking. As a result, the EPA concludes here that the State has satisfactorily addressed the issues that the agency identified in the November 8, 2017, letter and do not present a basis for a finding that Idaho's SIP does not meet the requirements of CAA 110(a)(2)(B). These recent updates to Idaho's monitoring network system are described as follows:

The commenter expressed concerns about the potential need for additional ozone monitors in various locations in Idaho. With respect to the commenter's concerns about ozone monitoring in Idaho Falls, the EPA likewise disagrees that this is necessary at this time. In the 2019 Annual Network Plan response letter, included in this docket, the EPA granted a waiver of the requirement to install a State and Local Air Monitoring Stations (SLAMS) ozone monitor in Idaho Falls through the end of 2023. The EPA and Idaho will review the available eastern Idaho ozone monitoring data for calendar years 2020 and 2021 to re-assess the potential need to establish an ozone monitoring station in this MSA in 2023.

With respect to ozone monitoring in Pocatello, the EPA notes that the State has already addressed this concern. In Idaho's 2019 Annual Network Plan, Idaho DEQ acknowledged, based on recent modeling, the need to install an ozone monitor in Pocatello, ID. In accordance with appendix D to 40 CFR part 58, Idaho has since installed a monitor in that location.[3] The EPA notes that while the commenter cited information derived from the agency's EJSCREEN tool that combines environmental and demographic indicators for a particular area, the fact that Pocatello is in the 90th percentile for ozone concentrations relative to the rest of the State, that statistical comparison is not a monitor siting criteria under 40 CFR part 58, appendix D.[4] The relevant factors for ozone monitor siting are population size and estimated ambient level relative to the ozone NAAQS (greater than or equal to 85 percent of the ozone NAAQS), see 40 CFR part 58, appendix D, Table D–2.

With respect to the commenter's concerns about monitoring in the Logan, UT–ID area, the EPA disagrees with the commenter concerning the need for an

[1] *See* 84 FR 14067, April 9, 2019, at page 14068.

[2] *See* 2013 infrastructure guidance: Stephen D. Page, Director, Office of Air Quality Planning and Standards. ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2).'' Memorandum to EPA Air Division Directors, Regions 1–10, September 13, 2013.

[3] DEQ expands air quality monitoring in Pocatello, Idaho Department of Environmental Quality, news release, April 28, 2020, *https://www.deq.idaho.gov/news-archives/air-ozone-monitoring-pocatello-0420/*.

[4] EJSCREEN is an environmental justice mapping and screening tool that provides the EPA with a nationally consistent dataset and approach for combining environmental and demographic indicators. EJSCREEN users choose a geographic area; the tool then provides demographic and environmental information for that area. See *https://www.epa.gov/ejscreen/what-ejscreen#:~:text=EJSCREEN%20is%20an%20environmental%20justice,environmental%20information%20for%20that%20area.*

ozone monitor at this point in time. Idaho recently requested, and the EPA approved in a letter dated May 12, 2020, an agreement, consistent with 40 CFR. part 58, appendix D, Section 2(e), to waive the requirement to locate an ozone monitor in the Idaho portion of the Logan, UT–ID MSA. This May 12, 2020, letter is included in the docket for this action. Idaho demonstrated that monitoring by the State of Utah currently meets the monitoring requirements for the Logan, UT–ID MSA. This waiver is effective for five years (CY–2020 through CY–2024) and is supported by modeling that demonstrates the location of maximum ozone concentrations is expected to be in Cache County, Utah and not in Franklin County, Idaho. Accordingly, the EPA agreed that additional monitoring performed by Idaho Department of Environmental Quality (DEQ) in Franklin County would not be necessary at this time to ensure the adequacy of the Logan UT–ID MSA ozone monitoring network.

Finally, with respect to the commenter's concerns about monitoring in Twin Falls, Idaho, the EPA disagrees with the need for such a monitor for purposes of the 2015 ozone NAAQS at this time. The ozone design criteria for state and local air monitors, 40 CFR part 58, appendix D, Section 4.1, directs states to operate ozone monitoring sites for various locations depending upon area size (in terms of population and geographic characteristics) and typical peak concentrations. The MSAs that meet these criteria are discussed above. Contrary to the commenter's assertions, Idaho is not required to locate an additional monitor in the Twin Falls area because its population does not exceed 50,000.

Based on the resolution of the monitoring issues identified by the commenter as described above, the EPA concludes that Idaho has met the infrastructure SIP monitoring requirement of CAA section 110(a)(2)(B) for the 2015 ozone NAAQS, and is finalizing the proposed approval with respect to this requirement.

*Comment—Idaho's $SO_2$ monitoring network and data*

*Summary*—An anonymous commenter stated that EPA guidance requires that Idaho must have a fully approved monitoring network for all pollutants for the EPA to approve the monitoring network requirements in section 110(a)(2)(B). In particular, the commenter asserted that sulfur dioxide ($SO_2$) monitors in the State are not sited correctly, and until monitor siting issues are addressed, the EPA should not approve the Idaho infrastructure SIP submission for the 2015 ozone NAAQS for purposes of CAA section 110(a)(2)(F). The commenter cited EPA statements related to $SO_2$ NAAQS designations in which the agency indicated that it did not have sufficient information to determine whether existing monitors were located in an area of maximum concentration around specific $SO_2$ sources. The commenter stated it was for this reason the EPA could not designate the entire State as attainment for the $SO_2$ NAAQS. The commenter further asserted that by designating the State as ''unclassifiable/attainment'' for the $SO_2$ NAAQS, the EPA had determined that Idaho does not have an adequate $SO_2$ monitoring network.

*Response*—The EPA disagrees with the commenter's interpretation of the EPA's 2013 Guidance as it pertains to monitoring network requirements. The EPA's Guidance does not interpret CAA section 110(a)(2)(B) to require consideration of the adequacy of an $SO_2$ NAAQS monitoring network in the context of evaluating the State's infrastructure SIP submission for the ozone NAAQS.

When the EPA promulgates a new or revised NAAQS, it triggers the requirement for each state to submit an infrastructure SIP submission that addresses basic SIP requirements for the implementation, maintenance, and enforcement of such standard. The infrastructure SIP submission must meet the requirements of CAA section 110(a)(1) and (2), as applicable. The ozone NAAQS was revised on October 1, 2015, thus triggering the requirement for Idaho to submit an infrastructure SIP with respect to the 2015 ozone NAAQS, including addressing the monitoring requirement of CAA section 110(a)(2)(B).

Although some infrastructure SIP elements are not NAAQS specific, *e.g.,* CAA section 110(a)(2)(C) with respect to PSD permitting programs, many other elements are NAAQS specific. The EPA interprets CAA section 110(a)(2)(B) to be such a NAAQS specific requirement, and thus only requires states to address the relevant NAAQS in an infrastructure SIP submission, which in this action is the 2015 ozone NAAQS.[5]

In addition, the EPA notes that it most recently revised the $SO_2$ NAAQS in 2010. Idaho submitted an infrastructure SIP submission for purposes of the 2010 $SO_2$ NAAQS, and the EPA approved the submission as meeting CAA section 110(a)(2)(B) for the 2010 $SO_2$ NAAQS on August 11, 2014 (79 FR 46707). Because the comments pertain to the $SO_2$ NAAQS, they are outside of the scope of this action, given that the EPA is not revisiting its prior approval of the Idaho $SO_2$ infrastructure SIP for CAA section 110(a)(2)(B).

The commenter also expressed concern that Idaho has incorrectly sited $SO_2$ monitors and therefore they must be corrected in order to comply with CAA section 110(a)(2)(F). CAA section 110(a)(2)(F) requires owners or operators of stationary sources to monitor emissions from such sources, provide periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and correlate those reports with any emission limitations or standards established pursuant to the CAA. The CAA further requires that those reports shall be available at reasonable times for public inspection. As previously explained, however, the infrastructure SIP submission at issue in this action addresses the 2015 ozone NAAQS. As with CAA section 110(a)(2)(B), however, the EPA interprets CAA section 110(2)(F) in the context of infrastructure SIP submissions to pertain only to the NAAQS at issue in such SIP submission, *i.e.,* in this case with respect to the 2015 ozone NAAQS. Moreover, the EPA previously approved the Idaho SIP for purposes of CAA section 110(a)(2)(F) for the 2010 $SO_2$ NAAQS on August 11, 2014, (79 FR 46707). The comment is, thus, outside the scope of the present action.

The EPA has considered the concerns raised by this commenter with respect to CAA section 110(a)(2)(B) and section 110(a)(2)(F), but has concluded that approval of Idaho's September 27, 2018, SIP submission is appropriate for the reasons explained above.

*Comment—Adequate resources*

*Summary*—An anonymous commenter stated that, in its proposed approval of CAA section 110(a)(2)(E), the EPA failed to evaluate adequate funding and resources necessary to carry out the functions delegated to the State and required by the State to carry out the functions of the SIP. The commenter asserts that the EPA must audit Idaho's finances and accounting to make an affirmative determination as to whether the State has the necessary funding and resources. The anonymous commenter also stated that the EPA should affirmatively determine whether Idaho actually has the necessary

[5] *See* 2013 infrastructure guidance: Stephen D. Page, Director, Office of Air Quality Planning and Standards. ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2).'' Memorandum to EPA Air Division Directors, Regions 1—10, September 13, 2013. Page 6.

personnel to carry out and operate programs required under the SIP, rather than solely relying on the Idaho director's ability to hire personnel.

*Response*—CAA section 110(a)(2)(E)(i) requires each state to provide necessary assurances that the state will have adequate personnel, funding, and authority under state law to carry out the SIP. CAA section 110 does not mandate a specific methodology for the EPA to evaluate the adequacy of resources to implement the SIP. See 76 FR 42549 (July 19, 2011), at 42554. The commenter did not identify a specific factual basis for concerns that Idaho lacks adequate personnel, funding, and authority under State law to carry out the SIP. The EPA disagrees with the commenter's assertion that an audit of the State's finances and accounting practices is required in order to satisfy the requirements of 110(a)(2)(E)(i). The EPA's role in approving a SIP submission is to determine whether the submission addresses the necessary requirements of the Act, not to evaluate the way in which a SIP is being implemented. *See Montana Envtl. Info. Ctr.* v. *Thomas,* 902 F.3d 971, 978 (9th Cir. 2018).

In our proposed action, we identified Idaho Code 39–106 as providing the Idaho DEQ Director authority to hire personnel to carry out duties of the department. According to Idaho DEQ's Fiscal Year 2019 Performance Report, Idaho DEQ received $56 million overall to perform its core functions ($23 million from federal funds, $20 million from State funds, and $13 million from other permit and fee programs). Specifically, Idaho receives CAA sections 103 and 105 grant funds from the EPA and provides State matching funds necessary to carry out SIP requirements.

The EPA finds that Idaho has provided the necessary assurances of adequate sources of personnel, funding, and authority under State law to implement its SIP for purposes of the 2015 ozone NAAQS. Therefore, it is appropriate to finalize the proposed finding that Idaho's SIP satisfies the requirements of CAA section 110(a)(2)(E).

## III. Final Action

The EPA is approving Idaho's September 27, 2018, infrastructure SIP submission as meeting specific infrastructure requirements of the CAA. We find that the Idaho SIP meets the following CAA section 110(a)(2) infrastructure elements for the 2015 ozone NAAQS: (A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M), as applicable.

## IV. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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 (Public Law 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 it does not involve technical standards; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 16, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

## List of Subjects in 40 CFR Part 52

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

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

Dated: August 26, 2020.

**Christopher Hladick,**

*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 N—Idaho

■ 2. In § 52.670, the table in paragraph (e) is amended by adding an entry at the end of the table for ''Section 110(a)(2) Infrastructure Requirements—2015 ozone NAAQS.'' to read as follows:

**§ 52.670 Identification of plan.**

* * * * *

(e) * * *

EPA—APPROVED IDAHO NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

| Name of SIP provision | Applicable geographic or non-attainment area | State submittal date | EPA approval date | Comments |
|---|---|---|---|---|
| * | * | * | * | * |
| Section 110(a)(2) Infrastructure Requirements—2015 ozone NAAQS. | State-wide | 9/27/2018 | 9/16/2020, [Insert **Federal Register** citation]. | Approves SIP for purposes of CAA sections 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M) for the 2015 ozone NAAQS. |

[FR Doc. 2020–19207 Filed 9–15–20; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R09–OAR–2019–0449; FRL–10013–14–Region 9]**

## Approval and Limited Approval and Limited Disapproval of California Air Plan Revisions; San Diego County Air Pollution Control District; Stationary Source Permits

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action on 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). We are finalizing a limited approval and limited disapproval of one rule and approval of the remaining three rules. 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). This action updates the SDAPCD's applicable SIP with revised rules that the District has amended to address deficiencies identified in a previous conditional approval action.

**DATES:** This rule is effective on October 16, 2020.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2019–0449. 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 (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Sheila Tsai, EPA Region IX, Air–3–1, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972–3328 or by email at *Tsai.Ya-Ting@epa.gov.*

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

### Table of Contents

I. Proposed Action
II. Public Comments and EPA Responses
III. EPA Action
IV. Incorporation by Reference
V. Statutory and Executive Order Reviews

### I. Proposed Action

On May 15, 2020 (85 FR 29377) the EPA proposed to finalize a limited approval and limited disapproval and full approval of the following rules into the California SIP.

TABLE 1—SUBMITTED RULES

| Rule No. | Rule title | Adopted date | Submitted date |
|---|---|---|---|
| 20.1 | New Source Review—General Provisions | 06/26/2019 | 07/19/2019 |
| 20.2 * | New Source Review—Non-Major Stationary Sources | 06/26/2019 | 07/19/2019 |
| 20.3 * | New Source Review—Major Stationary Sources and PSD Stationary Sources | 06/26/2019 | 07/19/2019 |
| 20.4 * | New Source Review—Portable Emission Units | 06/26/2019 | 07/19/2019 |

* The following subsections of the Rules 20.2–20.4 were not submitted to the EPA for inclusion in the San Diego SIP: Rule 20.2 Subsections (d)(2)(i)(B), (d)(2)(v), (d)(2)(vi)(B) and (d)(3); 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).

The District submitted these rules to address deficiencies that the EPA identified in a conditional approval of prior versions of Rules 20.1–20.4 at 83 FR 50007 (October 4, 2018). The 2018 action also included a conditional approval of Rule 20.6 and a full approval of Rules 11, 20, and 24. In our May 15, 2020 proposal, we proposed to approve the submitted rules because we determined that they satisfy the District's commitment to remedy the deficiencies identified in our conditional approval of the Rules 20.1–20.4 and Rule 20.6, and generally comply with most applicable CAA requirements. However, we also determined that Rule 20.1(a) does not

satisfy the requirements related to 40 CFR 51.160(a) and (b) and CAA section 173(a). The District revised Rule 20.1(a) to specify that the rule applies to a permit application based on the requirements in the rule as in effect on the date that the application is determined to be complete. By specifying the rule's applicability based on the date of application completeness, this language may limit the Air Pollution Control Officer's ability to ensure a source will comply with applicable NSR program requirements at the time the permit is issued. This deficiency is the basis for the EPA's final limited approval and limited disapproval of Rule 20.1. In order to correct this deficiency, we recommend that SDAPCD remove or revise the language added in the revised Rule 20.1(a).

## II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received one comment, which is included in the docket for this action. We do not consider this comment to be germane or relevant to this action and therefore not adverse to this action. Moreover, the comment lacks the required specificity to the proposed SIP revision and the relevant CAA requirements, and does not address any specific regulation or provision in question or recommend a different action on the SIP submission from what EPA proposed. Therefore, we are finalizing our action as proposed.

## III. EPA Action

No comments were submitted that change our assessment of the rules as described in our proposed action. Therefore, as authorized in section 110(k)(3) and 301(a) of the Act, the EPA is finalizing full approval of Rules 20.2–20.4 and finalizing a limited approval and limited disapproval of Rule 20.1. This action incorporates the submitted rules into the California SIP, including those provisions identified as deficient. Because the submitted rules address the deficiencies identified in our October 4, 2018 conditional approval, the EPA is removing from the SIP the conditional approval of Rules 20.1–20.4 and Rule 20.6 at 40 CFR 52.248(e).

This approval is limited because EPA is simultaneously finalizing a limited disapproval of the rule under section 110(k)(3). Our limited disapproval action triggers an obligation for the EPA to promulgate a Federal Implementation Plan (FIP) unless the State corrects the deficiencies, and the EPA approves the related plan revisions, within two years of this final action. Additionally, because the deficiency relates to Nonattainment NSR requirements under part D of title I of the Act, sanctions will be imposed unless the EPA approves subsequent SIP revisions that correct the rule deficiencies within 18 months of the effective date of this action. These sanctions will be imposed under section 179 of the Act and 40 CFR 52.31. The EPA intends to work with the SDAPCD to correct the deficiency in a timely manner.

Note that Rule 20.1 has been adopted by the SDAPCD, and the EPA's final limited disapproval does not prevent the local agency from enforcing it. The limited disapproval would also 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.*

## IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the SDAPCD rules described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through *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).

## V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at *http://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. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs*

This action is not an Executive Order 13771 regulatory action because SIP approvals, including limited approvals, are exempted under Executive Order 12866.

### *C. 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.

### *D. 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.

### *E. 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.

### *F. 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.

### *G. 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.

### *H. 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.

*I. 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.

*J. 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.

*K. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*

The EPA lacks the discretionary authority to address environmental justice in this rulemaking.

*L. Congressional Review Act (CRA)*

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

*M. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 16, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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**

Administrative practice and procedure, Environmental protection, 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: August 18, 2020

**John Busterud,**

*Regional Administrator, Region IX.*

For the reasons stated in the preamble, the EPA amends part 52, Chapter I, Title 40 of the Code of Federal Regulations 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 F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(508)(i)(A)(*6*), (*7*), (*8*), (*9*) and (c)(539) to read as follows:

**§ 52.220 Identification of plan-in part.**

* * * * *

(c) * * *

(508) * * *

(i) * * *

(A) * * *

(*6*) Previously approved on October 4, 2018 in paragraph (c)(508)(i)(A)(*1*) of this section and now deleted with replacement in (c)(539)(i)(A)(1), Rule 20.1, ''New Source Review—General Provisions,'' revision adopted on April 27, 2016.

(*7*) Previously approved on October 4, 2018 in paragraph (c)(508)(i)(A)(*2*) of this section and now deleted with replacement in (c)(539)(i)(A)(*2*), Rule 20.2, ''New Source Review—Non-Major Stationary Sources'' (except paragraphs (d)(2)(i)(B), (d)(2)(v), (d)(2)(vi)(B) and (d)(3)), revision adopted on April 27, 2016.

(*8*) Previously approved on October 4, 2018 in paragraph (c)(508)(i)(A)(*3*) of this section and now deleted with replacement in (c)(539)(i)(A)(*3*), Rule 20.3, ''New Source Review—Major Stationary Sources and PSD Stationary Sources'' (except paragraphs (d)(1)(vi), (d)(2)(i)(B), (d)(2)(v), (d)(2)(vi)(B) and (d)(3)), revision adopted on April 27, 2016.

*(9)* Previously approved on October 4, 2018 in paragraph (c)(508)(i)(A)(*4*) of this section and now deleted with replacement in (c)(539)(i)(A)(*4*), Rule 20.4, ''New Source Review—Portable Emission Units'' (except paragraphs (b)(2), (b)(3), (d)(1)(iii), (d)(2)(i)(B), (d)(2)(iv), (d)(2)(v)(B), (d)(3) and (d)(5)), revision adopted on April 27, 2016.

* * * * *

(539) The following regulations were submitted on July 19, 2019 by the Governor's designee as an attachment to a letter dated July 18, 2019.

(i) *Incorporation by reference.*

(A) San Diego County Air Pollution Control District.

(*1*) Rule 20.1 ''New Source Review—General Provisions,'' revision adopted on June 26, 2019.

(*2*) Rule 20.2 ''New Source Review—Non-Major Stationary Sources,'' (except paragraphs (d)(2)(i)(B), (d)(2)(v), (d)(2)(vi)(B) and (d)(3)), revision adopted on June 26, 2019.

(*3*) Rule 20.3 ''New Source Review—Major Stationary Sources and PSD Stationary Sources,'' (except paragraphs (d)(1)(vi), (d)(2)(i)(B), (d)(2)(v), (d)(2)(vi)(B) and (d)(3)), revision adopted on June 26, 2019.

(*4*) Rule 20.4 ''New Source Review—Portable Emission Units,'' (except paragraphs (b)(2), (b)(3), (d)(1)(iii), (d)(2)(i)(B), (d)(2)(iv), (d)(2)(v)(B), (d)(3) and (d)(5)), revision adopted on June 26, 2019.

(B) [Reserved]

(ii) [Reserved]

* * * * *

**§ 52.248 [Amended]**

■ 3. Section 52.248 is amended by removing and reserving paragraph (e).

[FR Doc. 2020–18425 Filed 9–15–20; 8:45 am]

BILLING CODE 6560–50–P

---

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R05–OAR–2020–0030; EPA–R05–OAR–2020–0101; FRL–10011–74–Region 5]**

## Air Plan Approval; Wisconsin; VOC RACT for the Wisconsin Portion of the Chicago-Naperville, Illinois-Indiana-Wisconsin Area

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving the volatile organic compounds (VOC) reasonably available control technology (RACT) State Implementation Plan (SIP) revision, submitted by the Wisconsin Department of Natural Resources (WDNR or Wisconsin) on January 21, 2020 and February 12, 2020. The Clean Air Act (CAA) requires states to implement RACT in ozone nonattainment areas classified as moderate (and higher). EPA finds Wisconsin's two VOC RACT SIP submissions to be approvable as meeting the moderate VOC RACT requirements of the CAA.

**DATES:** This final rule is effective October 16, 2020.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Nos. EPA–R05–OAR–2020–0030 and EPA–R05–OAR–2020–0101. All documents in the docket are listed in the *http://www.regulations.gov* website. Although listed in the index, some information is not 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 form. Publicly available docket materials are available through *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Michael Leslie, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–6680, *leslie.michael@epa.gov.* The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID 19.

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

## I. What is being addressed in this document?

This rule approves the January 21, 2020 and February 12, 2020 submissions from Wisconsin for the VOC RACT SIP revision. The background for this action is discussed in detail in EPA's proposal, dated April 17, 2020 (85 FR 21351). EPA is not taking final action on any other elements included in our April 17, 2020 proposal (85 FR 21351).

## II. What comments did we receive on the proposed rule?

EPA provided a 30-day review and comment period for the April 17, 2020, proposed rule. The comment period ended on May 18, 2020. We received adverse comments, which are summarized and addressed below.

*Comment 1a:* The commenter argues that RACT for Insinkerator cannot be implemented by way of administrative order and meet the VOC RACT requirements of the CAA. The commenter contends that EPA should not allow a state to use an administrative order to implement RACT requirements in place of duly enacted regulatory provisions under the state's rulemaking process. The commenter also alleges that the administrative order is problematic because it has a section that allows the state to unilaterally terminate the order at a point in the future.

*Response 1a:* Section 182(b)(2) of the CAA requires states to submit to EPA a SIP revision including ''provisions to require the implementation of reasonably available control technology. . . .'' This can be accomplished in a variety of ways. Often, as noted by the commenter, states have adopted regulations through a state rulemaking process and submitted those regulations to EPA to be approved into the SIP. However, the state can choose to submit any permanent and enforceable limits for approval into the SIP to satisfy the CAA's RACT requirement. Wisconsin has legal authority under ss. 285.11(6) and 285.13(2), Wis. Stats., to issue administrative orders that establish stationary source emission limitations for the purpose of demonstrating and maintaining attainment for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS or standard). Wisconsin submitted Administrative Order AM–20–01, which establishes source-specific limits at the Insinkerator facility that are equivalent to emission reductions achieved through the 2008 Miscellaneous Metal and Plastic Parts Coatings Control Techniques Guidelines (CTG). The effective date for Administrative Order AM–20–01 was January 9, 2020. As part of the SIP, the requirements of this Administrative Order may not be terminated until Wisconsin submits a SIP revision that demonstrates the requirements could be removed from the SIP in accordance with section 110(l) of the CAA.

*Comment 1b:* The commenter argues that the order has legal vulnerabilities which make it improper to approve into the SIP. Namely, the order prevents third party litigants from enforcing the requirements of the order. *See* the Waiver and Stipulation section of the order: ''This stipulation and waiver does not affect the right of Insinkerator to assert any equitable or legal defense or to challenge the interpretation or application of this Administrative Order in any challenge or alleging of violation brought by a party other than the department or EPA.''

*Response 1b:* The language in the ''Waiver and Stipulation'' does not prevent third parties from taking legal action against Insinkerator. However, the source can defend itself against third party challenges to the administrative order. Administrative Order AM–20–01 establishes, through permanent and enforceable emission limits and other requirements, a RACT equivalency demonstration for the Insinkerator facility. This language says that Insinkerator will comply with the order and not challenge issues brought about by EPA or WNDR. Nothing in the order precludes EPA or WNDR from enforcing the terms of the order. For these reasons, the order can be approved as RACT in the SIP.

*Comment 1c:* The commenter asserts that EPA is attempting to redesignate the area before all applicable RACT rules for the area are in place. EPA must follow the rules and wait to approve the Redesignation Request until Wisconsin promulgates a rule meeting the CTG and submits it to EPA for approval into the SIP.

*Response 1c:* The September 4, 1992, Calcagni memorandum (*see* ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992) notes that approval action on SIP elements and the redesignation request may occur simultaneously. EPA acknowledged in its proposed redesignation at 85 FR 21351 that approval of Wisconsin's VOC RACT submittal is a prerequisite for approval of the redesignation of the Kenosha portion of the Chicago area to attainment of the 2008 8-hour ozone standard. This simply requires that EPA approve Wisconsin's VOC RACT SIP at the same time or before finalizing approval of the redesignation. EPA is only approving Wisconsin's VOC RACT SIP in this action. EPA is not taking final action on any other elements included in our April 17, 2020 proposal (85 FR 21351). Therefore, this requirement for redesignation has been met.

## III. What action is EPA taking?

EPA is approving the VOC RACT SIP revisions included in Wisconsin's January 21, 2020 and February 12, 2020 submittals. EPA finds Wisconsin's VOC RACT SIP submittals to be approvable as meeting the moderate VOC RACT requirements of section 182(b)(2) of the CAA.

## IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Wisconsin Administrative Order described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue

to make, these documents generally available through *www.regulations.gov,* and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

**V. Statutory and Executive Order Reviews**

Under the 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, 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because it is not a significant regulatory action under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 16, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Volatile organic compounds.

Dated: August 19, 2020.

**Cheryl Newton,**

*Deputy Regional Administrator, Region 5.*

For the reasons stated in the preamble, the EPA amends title 40 CFR part 52 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.*

■ 2. Section 52.2570 is amended by adding paragraph (c)(140) to read as follows:

**§ 52.2570 Identification of plan.**

* * * * *

(c) * * *

(140) On February 12, 2020, The Wisconsin Department of Natural Resources submitted a request to incorporate Administrative Order AM–20–01 into the Wisconsin State Implementation Plan (SIP). This order establishes, through permanent and enforceable emission limits and other requirements, a Reasonably Available Control Technology (RACT) equivalency demonstration for the Insinkerator facility located in Kenosha, Wisconsin. The effective date for the Administrative Order is January 9, 2020.

(i) Incorporation by reference. Wisconsin Administrative Order AM–20–01, issued by the Wisconsin Department of Natural Resources on January 9, 2020, to Insinkerator for its facility located in Kenosha, Wisconsin.

(ii) [Reserved]

* * * * *

[FR Doc. 2020–18627 Filed 9–15–20; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R08–OAR–2019–0643; FRL–10013–92–Region 8]**

## Air Quality State Implementation Plans; Approval and Promulgation of Implementation Plans; Utah; Infrastructure Requirements for the 2015 Ozone National Ambient Air Quality Standards

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving multiple elements of the infrastructure State Implementation Plan (SIP) requirements for the 2015 ozone National Ambient Air Quality Standard (NAAQS) for Utah, along with taking no action on three Utah infrastructure SIP elements. The EPA is approving Utah's January 29, 2020 SIP submission for the following Clean Air Act (CAA) section 110(a)(2)

infrastructure elements for the 2015 ozone NAAQS: (A), (B), (C), (D)(i)(II) Prong 3, (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). The EPA is not proposing any action in this rule on elements (D)(i)(I) (Prongs 1 and 2), and (D)(i)(II) (Prong 4). The EPA is taking this action pursuant to the CAA.

**DATES:** This rule is effective on October 16, 2020.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2019–0643. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Kate Gregory, telephone number: (303) 312–6175, email address: *gregory.kate@epa.gov.* Mail can be directed to the Air and Radiation Division, U.S. EPA, Region 8, Mail-code 8ARD–QP, 1595 Wynkoop Street, Denver, Colorado 80202–1129.

**SUPPLEMENTARY INFORMATION:** Throughout this document ''we,'' ''us,'' and ''our'' means the EPA.

## I. Background

On March 12, 2008, the EPA promulgated a new NAAQS for ozone, revising the levels of primary and secondary 8-hour ozone standards from 0.08 parts per million (ppm) to 0.075 ppm.[1] More recently, on October 1, 2015, the EPA revised the NAAQS for ozone, further strengthening the primary and secondary 8-hour standards to 0.070 ppm.[2] The October 1, 2015 standards are known as the 2015 ozone NAAQS.

Section 110(a)(1) of the CAA directs each state to make an infrastructure SIP submission to the EPA within 3 years of promulgation of a new or revised NAAQS. Infrastructure requirements for SIPs are provided in section 110(a)(1) and (2) of the CAA. Section 110(a)(2) lists the specific infrastructure elements that a SIP must contain or satisfy. The elements that are the subject of this action are described in detail in our notice of proposed rulemaking (NPRM) published on June 1, 2020 for the State of Utah's infrastructure SIP revision, which was submitted to the EPA on January 29, 2020.[3]

Comments on our June 1, 2020 NPRM were due on or before July 1, 2020. We received no comments on the proposal.

## II. Final Action

In this rulemaking, we are approving multiple elements of the infrastructure SIP requirements for the 2015 ozone NAAQS for Utah; we are taking no action here on three infrastructure SIP elements. The actions we are approving are contained in Table 1 below. The EPA is approving Utah's January 29, 2020 SIP submission for the following CAA section 110(a)(2) infrastructure elements for the 2015 ozone NAAQS: (A), (B), (C), (D)(i)(II) Prong 3, (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). The EPA is taking no action in this rule on elements (D)(i)(I) (Prongs 1 and 2) and (D)(i)(II) (Prong 4).

TABLE 1—INFRASTRUCTURE ELEMENTS THAT THE EPA IS ACTING ON

| 2015 Ozone NAAQS Infrastructure SIP Elements: Utah | |
|---|---|
| (A): Emission Limits and Other Control Measures | A |
| (B): Ambient Air Quality Monitoring/Data System | A |
| (C): Program for Enforcement of Control Measures | A |
| (D)(i)(I): Prong 1 Interstate Transport—significant contribution | NA |
| (D)(i)(I): Prong 2 Interstate Transport—interference with maintenance | NA |
| (D)(i)(II): Prong 3 Interstate Transport—prevention of significant deterioration | A |
| (D)(i)(II): Prong 4 Interstate Transport—visibility | NA |
| (D)(ii): Interstate and International Pollution Abatement | A |
| (E): Adequate Resources | A |
| (F): Stationary Source Monitoring System | A |
| (G): Emergency Episodes | A |
| (H): Future SIP revisions | A |
| (J): Consultation with Government Officials, Public Notification, PSD and Visibility Protection | A |
| (K): Air Quality and Modeling/Data | A |
| (L): Permitting Fees | A |
| (M): Consultation/Participation by Affected Local Entities | A |

Key:[4]
[4] A—*Approve.*
D—*Disapprove.*
NA—*No Action.*

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

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

[1] Final rule, National Ambient Air Quality Standards for Ozone, 73 FR 16436, 16483.

[2] Final rule, National Ambient Air Quality Standards for Ozone, 80 FR 65292, 65362.

[3] *See* Proposed Rule, Promulgation of State Implementation Plan Revisions; Infrastructure Requirements for the 2015 Ozone National Ambient Air Quality Standards; Utah, 85 FR 33052, 33053–33058.

• Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;

• 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, described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

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

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

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

• Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 16, 2020. 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, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 20, 2020.

**Gregory Sopkin,**

*Regional Administrator, Region 8.*

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 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 TT—Utah

■ 2. Amend § 52.2355 by adding paragraph (e) to read as follows:

**§ 52.2355 Section 110(a)(2) infrastructure requirements.**

* * * * *

(e) Gary R. Herbert, Governor, State of Utah, provided submissions to meet the infrastructure requirements for the State of Utah for the 2015 ozone NAAQS on January 29, 2020. The State's Infrastructure SIP is approved with respect to the 2015 ozone NAAQS for the following CAA section 110(a)(2) infrastructure elements: (A), (B), (C), (D)(i)(II) Prong 3, (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).

[FR Doc. 2020–18780 Filed 9–15–20; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Parts 52 and 81

**[EPA–R09–OAR–2020–0309; FRL–10014–44–Region 9]**

## Finding of Failure To Attain the 2006 24-Hour Fine Particulate Matter Standards; California; Los Angeles-South Coast Air Basin

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) has determined that the Los Angeles-South Coast Air Basin nonattainment area failed to attain the 2006 24-hour fine particulate matter (''$PM_{2.5}$'') national ambient air quality standards by the December 31, 2019 ''Serious'' area attainment date. This determination is based on ambient air quality monitoring data from 2017 through 2019. As a result of this determination, the State of California is required to submit a revision to the California State Implementation Plan (SIP) that, among other elements, provides for expeditious attainment within the time limits prescribed by regulation and provides for a five percent annual reduction in the emissions of direct $PM_{2.5}$ or a $PM_{2.5}$ plan precursor pollutant. We are also correcting an error in the table of California area designations for the 2006 $PM_{2.5}$ national ambient air quality standards.

**DATES:** This rule is effective October 16, 2020.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2020–0309. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information may not be publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *http://www.regulations.gov.* Please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. 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:** Ginger Vagenas, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone at 415–972–3964, or by email at *Vagenas.Ginger@epa.gov.*

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

## Table of Contents

I. Background
II. Public Comments and Responses
III. Final Action
IV. Statutory and Executive Order Reviews

## I. Background

On July 10, 2020 (85 FR 41479), the EPA proposed to determine that the Los Angeles-South Coast Air Basin (''South Coast'') Serious nonattainment area failed to attain the 2006 $PM_{2.5}$ national ambient air quality standards (NAAQS) [1] by the applicable attainment date of December 31, 2019. Our proposed determination was based on complete, quality-assured, and certified ambient air quality date for the 2017 to 2019 monitoring period. The South Coast 2006 $PM_{2.5}$ NAAQS nonattainment area includes Orange County, the southwestern two-thirds of Los Angeles County, southwestern San Bernardino County, and western Riverside County.[2]

Our proposed rule provided background information on the effects of exposure to elevated levels of $PM_{2.5}$, the designation and classification of the South Coast under the Clean Air Act (CAA) for the 2006 $PM_{2.5}$ NAAQS, the plans developed by California to address nonattainment area requirements for the South Coast, the reclassification of the area from ''Moderate'' to ''Serious,'' and the related extension of the applicable attainment date to December 31, 2019.[3]

In our July 10, 2020 proposed rule, we also described the following: the statutory basis (*i.e.,* CAA sections 179(c)(1) and 188(b)(2)) for the obligation on the EPA to determine whether an area's air quality meets the 2006 $PM_{2.5}$ NAAQS; the EPA regulations establishing the specific methods and procedures to determine whether an area has attained the 2006 $PM_{2.5}$ NAAQS; and the $PM_{2.5}$ monitoring networks operated in the South Coast by the South Coast Air Quality Management District and the Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation and related monitoring network plans.[4] We also documented our previous review of the networks and network plans, the agencies' annual certifications of ambient air monitoring data, and our determination that 17 of the 18 monitoring sites within the South Coast produced valid design values for purposes of comparison with the 2006 $PM_{2.5}$ NAAQS.[5]

Under EPA regulations in 40 CFR 50.13 and in accordance with 40 CFR part 50, Appendix N, the 2006 $PM_{2.5}$ NAAQS is met when the design value is less than or equal to 35.0 μg/m³. More specifically, the design value is the 3-year average of annual 98th percentile 24-hour average values recorded at each eligible monitoring site, and the 2006 $PM_{2.5}$ NAAQS are met when the design value for the 24-hour standards at each such monitoring site is less than or equal to 35 μg/m³.

In our proposed rule, to evaluate whether the South Coast attained the 2006 $PM_{2.5}$ NAAQS by the December 31, 2019 attainment date, we determined the 2017–2019 design values at each of the 18 $PM_{2.5}$ monitoring sites for the 24-hour $PM_{2.5}$ standard. See Table 1 of our July 10, 2020 proposed rule.[6] Based on the valid design values at 17 of the sites, we found that two sites did not meet the 2006 $PM_{2.5}$ NAAQS of 35 μg/m³ by the December 31, 2019 attainment date: the Compton site in Los Angeles County and the Mira Loma site in Riverside County. The 2019 24-hour design value site, *i.e.,* the site with the highest design value based on 2017–2019 data, is the Compton site with a 2019 24-hour $PM_{2.5}$ design value of 38 μg/m³.

For the South Coast to attain the 2006 $PM_{2.5}$ NAAQS by December 31, 2019, the 2019 design value (reflecting data from 2017–2019) at each eligible monitoring site in the South Coast must be equal to or less than 35 μg/m³. Because at least one site had 2019 design values greater than 35 μg/m³, we proposed to determine that the South Coast failed to attain the 2006 $PM_{2.5}$ standard by the December 31, 2019 attainment date and described the CAA requirements that would apply if the EPA were to finalize the proposed finding of failure to attain.[7] With today's action, we finalize this determination.

In addition to our proposed finding of failure to attain, we proposed under CAA section 110(k)(6) to correct an error that we introduced into the table for California designations for the 2006 $PM_{2.5}$ NAAQS in 40 CFR 81.305.[8] In 2016, we reclassified the South Coast from Moderate to Serious for the 2006 $PM_{2.5}$ standard, but we erroneously considered the lands of the Santa Rosa Band of Cahuilla Mission Indians in Riverside County to be part of the South Coast Moderate nonattainment area and revised the designation for those lands from unclassifiable/attainment to Serious nonattainment. We are finalizing our correction of this error by revising the table for California area designations for the 24-hour $PM_{2.5}$ NAAQS to indicate the designation is unclassifiable/attainment for the lands of the Santa Rosa Band of Cahuilla Mission Indians in Riverside County.

Please see our July 10, 2020 proposed rule for more information about the topics summarized above.

Since our proposed rule, we have discovered that $PM_{2.5}$ data excluded from the design values calculated at certain monitoring sites, and presented in Table 1 of our proposed rule, should not have been excluded.[9] The monitoring sites for which 2019 design values may change once this issue is resolved include Rubidoux, Anaheim, South Long Beach, Los Angeles (Main Street), Mira Loma, Long Beach Route 710, and Ontario Route 60. This issue does not affect our determination that the South Coast failed to attain the 2006 $PM_{2.5}$ NAAQS by the applicable attainment date because our determination needs only a single violating monitor over the relevant time period to be adequately supported, and the violating monitor at the Compton site is not affected by this issue. We will continue to work with the District on this issue as they develop the SIP revision triggered by the determination that we are finalizing today.

## II. Public Comments and Responses

Our July 10, 2020 proposed rule provided a 30-day public comment period that closed on August 10, 2020. During this period, one anonymous

[1] In October 2006, the EPA revised the 24-hour NAAQS for fine particulate matter (particles with a diameter of 2.5 microns or less or $PM_{2.5}$) (''2006 $PM_{2.5}$ NAAQS'') to provide increased protection of public health by lowering its level from 65 micrograms per cubic meter (μg/m³) to 35 μg/m³. 71 FR 61144 (October 17, 2006). The EPA established both primary and secondary standards for the 2006 24-hour $PM_{2.5}$ NAAQS. Primary standards provide public health protection, including protecting the health of ''sensitive'' populations such as asthmatics, children, and the elderly. Secondary standards provide public welfare protection, including protection against decreased visibility and damage to animals, crops, vegetation, and buildings. Since the primary and secondary standards for 24-hour $PM_{2.5}$ are set at the same level, we refer to them herein using the singular ''2006 $PM_{2.5}$ NAAQS'' or ''2006 $PM_{2.5}$ standard.''

[2] A precise description of the South Coast $PM_{2.5}$ nonattainment area is contained in 40 CFR 81.305.

[3] 85 FR 41479, 41480.

[4] Id. at 41480–41481.

[5] Id. at 41481.

[6] Id. at 41482.

[7] Id. at 41483.

[8] Id.

[9] See email from Jennifer Williams, EPA Region IX, to Rene Bermudez, SCAQMD, dated August 5, 2020.

comment letter was submitted by a member of the public. The comments in the letter are generally supportive of the proposed determination, but also raise issues that are outside of the scope of this rulemaking, including suggestions to the State and local governments in the South Coast for use in developing the revised plan. The beyond-the-scope comments do not relate to any of the specific topics discussed in the proposal, nor do they address the EPA's rationale for the proposed determination of failure to attain. Consequently, the EPA is not responding to the comments and is finalizing the action as proposed. The comment letter we received is included in the docket for this action.

## III. Final Action

Under CAA sections 179(c)(1) and 188(b)(2), the EPA is taking final action to determine that the South Coast ''Serious'' $PM_{2.5}$ nonattainment area has failed to attain the 2006 $PM_{2.5}$ NAAQS by the applicable attainment date of December 31, 2019. In response to this determination, the State of California is required under 40 CFR 51.1003(c) to submit a revision to the SIP for the South Coast that, among other elements, demonstrates expeditious attainment of the NAAQS within the time period prescribed by 40 CFR 51.1004(a)(3) and that provides for annual reduction in the emissions of direct $PM_{2.5}$ or a $PM_{2.5}$ plan precursor pollutant within the area of not less than five percent until attainment.[10] The SIP revision required under 40 CFR 51.1003(c) is due for submittal to the EPA no later than December 31, 2020.

We are also correcting an error in a previous rulemaking and restoring the designation of ''Unclassifiable/Attainment'' for the 2006 $PM_{2.5}$ NAAQS for the lands of the Santa Rosa Band of Cahuilla Mission Indians in Riverside County in the appropriate table in 40 CFR 81.305.

## IV. Statutory and Executive Order Reviews

This action in and of itself establishes no new requirements; it merely documents that air quality in the South Coast did not meet the 2006 $PM_{2.5}$ NAAQS by the applicable attainment date. 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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 (Public Law 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, this action does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP obligations discussed herein do not apply to Indian tribes and thus this action will not impose substantial direct costs on tribal governments or preempt tribal law. Nonetheless, the EPA notified the tribes within the South Coast $PM_{2.5}$ nonattainment area of the proposed action and offered formal consultation. No tribe requested formal consultation.

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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 16, 2020. 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

*40 CFR Part 52*

Environmental protection, Air pollution control, Ammonia, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

*40 CFR Part 81*

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: August 28, 2020.

**John Busterud,**

*Regional Administrator, Region IX.*

For the reasons stated in the preamble, the EPA amend chapter I, title 40 of the Code of Federal Regulations 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 F—California

■ 2. Section 52.247 is amended by adding paragraph (n) to read as follows:

### § 52.247 Control strategy and regulations: Fine Particle Matter.

* * * * *

(n) *Determination of Failure to Attain:* Effective October 16, 2020, the EPA has

[10] 40 CFR 51.1003(c). The EPA defines $PM_{2.5}$ plan precursor as those $PM_{2.5}$ precursors required to be regulated in the applicable attainment plan and/or nonattainment new source review program. 40 CFR 51.1000.

determined that the Los Angeles-South Coast Air Basin Serious $PM_{2.5}$ nonattainment area failed to attain the 2006 24-hour $PM_{2.5}$ NAAQS by the applicable attainment date of December 31, 2019. This determination triggers the requirements of CAA sections 179(d) and 189(d) for the State of California to submit a revision to the California SIP for the Los Angeles-South Coast Air Basin to the EPA by December 31, 2020. The SIP revision must, among other elements, demonstrate expeditious attainment of the 2006 24-hour $PM_{2.5}$ NAAQS within the time period provided under CAA section 179(d) and that provides for annual reduction in the emissions of direct $PM_{2.5}$ or a $PM_{2.5}$ plan precursor pollutant within the area of not less than five percent until attainment.

## PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 3. The authority citation for part 81 continues to read as follows:

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

### Subpart C—Section 107 Attainment Status Designations

■ 4. In § 81.305 amend the table entitled ''California—2006 24-Hour $PM_{2.5}$ NAAQS [Primary and Secondary]'' under the heading ''Los Angeles-South Coast Air Basin, CA'' by revising the entry for ''That part of the lands of the Santa Rosa Band of Cahuilla Mission Indians which is excluded from the Riverside County (part) nonattainment area'' to read as follows:

**§ 81.305 California.**

* * * * *

CALIFORNIA—24-HOUR 2006 $PM_{2.5}$ NAAQS

[Primary and Secondary]

| Designated area | Designation [a] | | Classification | |
|---|---|---|---|---|
| | Date [1] | Type | Date [2] | Type |
| * * * | * | * | * | * |
| Los Angeles-South Coast Air Basin, CA: | | | | |
| * * * | * | * | * | * |
| That part of the lands of the Santa Rosa Band of Cahuilla Mission Indians which is excluded from the Riverside County (part) nonattainment area. | ..... | Unclassifiable/ Attainment. | | |
| * * * | * | * | * | * |

[a] Includes Indian County located in each county or area, except as otherwise specified.
[1] This date is 30 days after November 13, 2009, unless otherwise noted.
[2] This date is July 2, 2014, unless otherwise noted.

* * * * *

[FR Doc. 2020–19588 Filed 9–15–20; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

**[EPA–R05–OAR–2019–0590; FRL–10014–25–Region 5]**

## Air Plan Approval; Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of the Morgan County Sulfur Dioxide Nonattainment Area

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

**ACTION:** Final rule.

**SUMMARY:** In accordance with the Clean Air Act (CAA), the Environmental Protection Agency (EPA) is redesignating the Morgan County nonattainment area, which consists of Clay and Washington Townships in Morgan County, Indiana, to attainment for the 2010 sulfur dioxide ($SO_2$) National Ambient Air Quality Standards (NAAQS). EPA is also approving Indiana's maintenance plan for the Morgan County $SO_2$ nonattainment area. Indiana submitted the request for approval of the Morgan County area redesignation and maintenance plan on October 10, 2019, and a clarification letter on May 5, 2020. EPA has previously approved Indiana's attainment plan for Morgan County. EPA proposed to approve this action on July 14, 2020 and received no comments.

**DATES:** This final rule is effective on September 16, 2020.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2019–0590. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through *www.regulations.gov* or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID 19. We recommend that you telephone Anthony Maietta, Environmental Protection Specialist, at (312) 353–8777 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Anthony Maietta, Environmental Protection Specialist, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8777, *maietta.anthony@epa.gov.*

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

### I. Background Information

On July 14, 2020, EPA proposed to approve the redesignation of the Morgan County $SO_2$ nonattainment area to attainment of the 2010 $SO_2$ NAAQS and to approve Indiana's maintenance plan for the nonattainment area (85 FR

42337). An explanation of the CAA requirements, a detailed analysis of the revisions, and EPA's reasons for proposing approval were provided in the notice of proposed rulemaking and will not be restated here. The public comment period for the proposed action ended on August 13, 2020. EPA received no comments on the proposal.

## II. Final Action

EPA is redesignating the Morgan County nonattainment area to attainment of the 2010 $SO_2$ NAAQS. Indiana has demonstrated that the area is attaining the 2010 $SO_2$ NAAQS and that the improvement in air quality is due to permanent and enforceable $SO_2$ emission reductions in the nonattainment area. EPA is also approving Indiana's maintenance plan, which is designed to ensure that the area will continue to maintain the 2010 $SO_2$ NAAQS.

In accordance with 5 U.S.C. 553(d) of the Administrative Procedure Act (APA), EPA finds there is good cause for these actions to become effective immediately upon publication. The immediate effective date for this action is authorized under both 5 U.S.C. 553(d)(1) and U.S.C. 553(d)(3).

Section 553(d)(1) of the APA provides that final rules shall not become effective until 30 days after publication in the **Federal Register** ''except . . . a substantive rule which grants or recognizes an exemption or relieves a restriction.'' The purpose of this provision is to ''give affected parties a reasonable time to adjust their behavior before the final rule takes effect.'' *Omnipoint Corp.* v. *Fed. Commc'n Comm'n,* 78 F.3d 620, 630 (D.C. Cir. 1996); *see also United States* v. *Gavrilovic,* 551 F.2d 1099, 1104 (8th Cir. 1977) (quoting legislative history). However, when the agency grants or recognizes an exemption or relieves a restriction, affected parties do not need a reasonable time to adjust because the effect is not adverse. EPA has determined that this rule relieves a restriction because this rule relieves sources in the area of Nonattainment New Source Review (NNSR) permitting requirements; instead, upon the effective date of this action, sources will be subject to less restrictive Prevention of Significant Deterioration (PSD) permitting requirements.

Section 553(d)(3) of the APA provides that final rules shall not become effective until 30 days after publication in the **Federal Register** ''except . . . as otherwise provided by the agency for good cause.'' The purpose of this provision is to ''give affected parties a reasonable time to adjust their behavior before the final rule takes effect.'' *Omnipoint Corp.* v. *Fed. Commc'n Comm'n,* 78 F.3d 620, 630 (D.C. Cir. 1996); *see also United States* v. *Gavrilovic,* 551 F.2d 1099, 1104 (8th Cir. 1977) (quoting legislative history). Thus, in determining whether good cause exists to waive the 30-day delay, an agency should ''balance the necessity for immediate implementation against principles of fundamental fairness which require that all affected persons be afforded a reasonable amount of time to prepare for the effective date of its ruling.'' *Gavrilovic,* 551 F.2d at 1105. EPA has determined that there is good cause for making this final rule effective immediately because this rule does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. On balance, EPA finds affected parties would benefit from the immediate ability to comply with PSD requirements, instead of delaying by 30 days the transition from NNSR to PSD.

For these reasons, EPA finds good cause under both 5 U.S.C. 553(d)(1) and U.S.C. 553(d)(3) for these actions to become effective on the date of publication of these actions.

## III. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, 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, 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because it is not a significant regulatory action under Executive Order 12866;
- 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 EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of $SO_2$ national ambient air quality standards in tribal lands.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must

submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 16, 2020. 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**

*40 CFR Part 52*

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

*40 CFR Part 81*

Environmental protection, Air pollution control, National parks, Sulfur oxides, Wilderness areas.

Dated: August 26, 2020.

**Kurt Thiede,**

*Regional Administrator, Region 5.*

For the reasons stated in the preamble, the EPA amends 40 CFR parts 52 and 81 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.*

■ 2. In § 52.770, the table in paragraph (e) is amended by adding an entry for ''Morgan County 2010 Sulfur Dioxide ($SO_2$) Maintenance Plan'' following the entry ''Morgan County 2010 Sulfur Dioxide ($SO_2$) Attainment Plan'' to read as follows:

**§ 52.770 Identification of plan.**

* * * * *

(e) * * *

EPA—APPROVED INDIANA NONREGULATORY AND QUASI-REGULATORY PROVISIONS

| Title | Indiana date | EPA approval | Explanation |
|---|---|---|---|
| * * | * | * * | * * |
| Morgan County 2010 Sulfur Dioxide ($SO_2$) Maintenance Plan. | 10/10/2019, 5/5/2020 | 9/16/2020, [Insert **Federal Register** citation]. | |
| * * | * | * * | * * |

* * * * *

## PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 3. The authority citation for part 81 continues to read as follows:

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

■ 4. Section 81.315 is amended by revising the entry ''Morgan County, IN'' in the table entitled ''Indiana—2010 Sulfur Dioxide NAAQS [Primary]'' to read as follows:

**§ 81.315 Indiana.**

* * * * *

INDIANA—2010 SULFUR DIOXIDE NAAQS

[Primary]

| Designated area[1 3] | Designation | |
|---|---|---|
| | Date[2] | Type |
| * * * | * * | * * |
| Morgan County, IN | September 16, 2020 | Attainment. |
| Morgan County (part) | | |
| Clay Township, Washington Township | | |
| * * * | * * | * * |

[1] Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

[2] This date is April 9, 2018, unless otherwise noted.

[3] Porter County will be designated by December 31, 2020.

* * * * *

[FR Doc. 2020–19159 Filed 9–15–20; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 60, 61, and 63

**[EPA–R06–OAR–2019–0615; FRL–10013–04–Region 6]**

## New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to Albuquerque-Bernalillo County Air Quality Control Board

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

**ACTION:** Direct final rule; delegation of authority.

**SUMMARY:** The Albuquerque-Bernalillo County Air Quality Control Board (ABCAQCB) has submitted updated regulations for receiving delegation and approval of a program for the implementation and enforcement of certain New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) for all sources (both Title V and non-Title V sources). These updated regulations apply to certain NSPS promulgated by the EPA, as amended between September 14, 2013, and January 23, 2017; certain NESHAP promulgated by the EPA, as amended between September 14, 2013, and January 23, 2017; and other NESHAP promulgated by the EPA, as amended between September 14, 2013, and January 23, 2017, as adopted by the ABCAQCB. The EPA is providing notice that it is updating the delegation of certain NSPS to ABCAQCB and taking final action to approve the delegation of certain NESHAP to ABCAQCB. The delegation of authority under this action does not apply to sources located in areas defined as Indian Country.

**DATES:** This rule is effective on December 15, 2020 without further notice, unless the EPA receives relevant adverse comment by October 16, 2020. If the EPA receives such comment, the EPA will publish a timely withdrawal in the **Federal Register** informing the public that the updated NESHAP delegation will not take effect; however, the NSPS delegation will not be affected by such action.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R06–OAR–2019–0615, at *http://www.regulations.gov* or via email to *barrett.richard@epa.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 Rick Barrett, (214) 665–7227; email: *barrett.richard@epa.gov.* For 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.*

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

**FOR FURTHER INFORMATION CONTACT:** Mr. Rick Barrett, EPA Region 6 Office, Air Permits Section, 214–665–7227; email: *barrett.richard@epa.gov.* Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office will be closed to the public to reduce the risk of transmitting COVID–19. We encourage the public to submit comments via *https://www.regulations.gov,* as there will be a delay in processing mail and no courier or hand deliveries will be accepted. Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.

**SUPPLEMENTARY INFORMATION:** Throughout this document ''we,'' ''us,'' and ''our'' means the EPA.

### Table of Contents

I. What does this action do?
II. What is the authority for delegation?
III. What criteria must ABCAQCB's programs meet to be approved?
IV. How did ABCAQCB meet the NSPS and NESHAP program approval criteria?
V. What is being delegated?
VI. What is not being delegated?
VII. How will statutory and regulatory interpretations be made?
VIII. What authority does the EPA have?
IX. What information must ABCAQCB provide to the EPA?
X. What is the EPA's oversight role?
XI. Should sources submit notices to the EPA or ABCAQCB?
XII. How will unchanged authorities be delegated to ABCAQCB in the future?
XIII. Final Action
XIV. Statutory and Executive Order Reviews

### I. What does this action do?

The EPA is providing notice that it is updating the delegation for the implementation and enforcement of certain NSPS. The EPA is also taking direct final action to approve the delegation of certain NESHAP to ABCAQCB. With this delegation, ABCAQCB has the primary responsibility to implement and enforce the delegated standards. See sections VII and VIII, below, for a discussion of which standards are being delegated and which are not being delegated.

### II. What is the authority for delegation?

Upon the EPA's finding that the procedures submitted by a state or local agency for the implementation and enforcement of standards of performance for new sources located in the state or local agency are adequate, Section 111(c)(1) of the Clean Air Act (CAA) authorizes the EPA to delegate its authority to implement and enforce such standards. The NSPS are codified at 40 CFR part 60.

Section 112(l) of the CAA and 40 CFR part 63, subpart E, authorize the EPA to delegate authority for the implementation and enforcement of NESHAP to a state or local agency that satisfies the statutory and regulatory requirements in subpart E. The NESHAP are codified at 40 CFR parts 61 and 63.

### III. What criteria must ABCAQCB's programs meet to be approved?

In order to receive delegation of NSPS, a state must develop and submit to the EPA a procedure for implementing and enforcing the NSPS in the state, or in the local agency's jurisdiction as discussed above, and their regulations and resources must be adequate for the implementation and enforcement of the NSPS. The EPA initially approved ABCAQCB's program for the delegation of NSPS on December 20, 1989 (54 FR 52031). The EPA reviewed the rules and regulations of the ABCAQCB and determined ABCAQCB's procedures, regulations and resources adequate for the implementation and enforcement of the Federal standards. The NSPS delegation was most recently updated on February 19, 2015 (80 FR 8799). This action notifies the public that the EPA is updating ABCAQCB's delegation to

implement and enforce certain additional NSPS since the last update.

Section 112(l)(5) of the CAA requires the EPA to disapprove any program submitted by a state for the delegation of NESHAP if the EPA determines that:

(A) The authorities contained in the program are not adequate to assure compliance by the sources within the state with respect to each applicable standard, regulation, or requirement established under section 112;

(B) Adequate authority does not exist, or adequate resources are not available, to implement the program;

(C) The schedule for implementing the program and assuring compliance by affected sources is not sufficiently expeditious; or

(D) The program is otherwise not in compliance with the guidance issued by the EPA under section 112(l)(2) or is not likely to satisfy, in whole or in part, the objectives of the CAA.

In carrying out its responsibilities under section 112(l), the EPA promulgated regulations at 40 CFR part 63, subpart E setting forth criteria for the approval of submitted programs. For example, in order to obtain approval of a program to implement and enforce Federal section 112 rules as promulgated without changes (straight delegation), a state must demonstrate that it meets the criteria of 40 CFR 63.91(d). 40 CFR 63.91(d)(3) provides that interim or final Title V program approval will satisfy the criteria of 40 CFR 63.91(d).[1]

The NESHAP delegation for ABCAQCB, as it applies to both Title V and non-Title V sources, was most recently approved on February 19, 2015 (80 FR 8799).

## IV. How did ABCAQCB meet the NSPS and NESHAP program approval criteria?

As to the NSPS in 40 CFR part 60, ABCAQCB adopted the Federal standards via incorporation by reference into State regulations. The ABCAQCB regulations are, therefore, at least as stringent as the EPA's rules. See 40 CFR 60.10(a). Also, in the EPA initial approval of NSPS delegation, we determined that the State developed procedures for implementing and enforcing the NSPS in the State, and that the State's regulations and resources are adequate for the implementation and enforcement of the Federal standards. See 54 FR 52031 (December 20, 1989).

As to the NESHAP in 40 CFR parts 61 and 63, ABCAQCB's Title V program submission dated April 4, 1994, stated that it intended to use the mechanism of incorporation by reference to adopt unchanged Federal section 112 standards into its regulations. See 60 FR 2527 (January 10, 1995). This commitment applied to both existing and future standards as they applied to part 70 sources. The EPA's final interim approval of ABCAQCB's Title V operating permits program delegated the authority to implement certain NESHAP. See 60 FR 13046 (March 10, 1995). On November 26, 1996, the EPA promulgated final full approval of ABCAQCB's operating permits program, effective January 27, 1997 (61 FR 60032). These interim and final Title V program approvals satisfy the upfront approval criteria of 40 CFR 63.91(d). Under 40 CFR 63.91(d)(2), once a state has satisfied the up-front approval criteria, it needs only to reference the previous demonstration and reaffirm that it still meets the criteria for any subsequent submittals for delegation of the section 112 standards. As stated in its May 24, 2017, submittal, ABCAQCB has affirmed that it still meets the up-front approval criteria. With respect to non-Title V sources, the EPA has previously approved delegation of NESHAP authorities to ABCAQCB after finding adequate authorities to implement and enforce the NESHAP for non-Title V sources. See 70 FR 73138 (December 9, 2005).

## V. What is being delegated?

By letter dated May 24, 2017, the EPA received a request from ABCAQCB to update its NSPS delegation and NESHAP delegation. With certain exceptions noted in section VI below, ABCAQCB's request includes certain NSPS promulgated by the EPA at 40 CFR part 60, as amended between September 13, 2013, and January 23, 2017; certain NESHAP promulgated by the EPA at 40 CFR part 61, as amended between September 13, 2013, and January 23, 2017; and other NESHAP promulgated by the EPA at 40 CFR part 63, as amended between September 13, 2013, and January 23, 2017, as adopted by the ABCAQCB.

## VI. What is not being delegated?

All authorities not affirmatively and expressly delegated by this action are not delegated. These include the following part 60, 61 and 63 authorities listed below:

- 40 CFR part 60, subpart AAA (Standards of Performance for New Residential Wood Heaters);
- 40 CFR part 60, subpart QQQQ (Standards of Performance for New Residential Hydronic Heaters and Forced-Air Furnaces);
- 40 CFR part 61, subpart B (National Emission Standards for Radon Emissions From Underground Uranium Mines);
- 40 CFR part 61, subpart H (National Emission Standards for Emissions of Radionuclides Other Than Radon From Department of Energy Facilities);
- 40 CFR part 61, subpart I (National Emission Standards for Radionuclide Emissions From Federal Facilities Other Than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H);
- 40 CFR part 61, subpart K (National Emission Standards for Radionuclide Emissions From Elemental Phosphorus Plants);
- 40 CFR part 61, subpart Q (National Emission Standards for Radon Emissions From Department of Energy facilities);
- 40 CFR part 61, subpart R (National Emission Standards for Radon Emissions From Phosphogypsum Stacks);
- 40 CFR part 61, subpart T (National Emission Standards for Radon Emissions From the Disposal of Uranium Mill Tailings);
- 40 CFR part 61, subpart W (National Emission Standards for Radon Emissions From Operating Mill Tailings).

In addition, the EPA regulations provide that we cannot delegate to a state any of the Category II authorities set forth in 40 CFR 63.91(g)(2). These include the following provisions: § 63.6(g), Approval of Alternative Non-Opacity Standards; § 63.6(h)(9), Approval of Alternative Opacity Standards; § 63.7(e)(2)(ii) and (f), Approval of Major Alternatives to Test Methods; § 63.8(f), Approval of Major Alternatives to Monitoring; and § 63.10(f), Approval of Major Alternatives to Recordkeeping and Reporting. Also, some Part 61 and Part 63 standards have certain provisions that cannot be delegated to the states. Furthermore, no authorities are delegated that require rulemaking in the **Federal Register** to implement, or where Federal overview is the only way to ensure national consistency in the application of the standards or requirements of CAA section 112. Finally, this action does not delegate any authority under section 112(r), the accidental release program.

[1] Some NESHAP do not require a source to obtain a Title V permit (*e.g.,* certain area sources that are exempt from the requirement to obtain a Title V permit). For these non-Title V sources, the EPA believes that the state must assure the EPA that it can implement and enforce the NESHAP for such sources. *See* 65 FR 55810, 55813 (Sept. 14, 2000).

All inquiries and requests concerning implementation and enforcement of the excluded standards in Albuquerque-Bernalillo County should be directed to the EPA Region 6 Office.

In addition, this delegation to ABCAQCB to implement and enforce certain NSPS and NESHAP authorities does not extend to sources or activities located in Indian country, as defined in 18 U.S.C. 1151.

## VII. How will statutory and regulatory interpretations be made?

In approving the NSPS delegation, ABCAQCB will obtain concurrence from the EPA on any matter involving the interpretation of section 111 of the CAA or 40 CFR part 60 to the extent that implementation or enforcement of these provisions have not been covered by prior EPA determinations or guidance. See FR 52031 (December 20, 1989).

In approving the NESHAP delegation, ABCAQCB will obtain concurrence from the EPA on any matter involving the interpretation of section 112 of the CAA or 40 CFR parts 61 and 63 to the extent that implementation or enforcement of these provisions have not been covered by prior EPA determinations or guidance.

## VIII. What authority does the EPA have?

The EPA retains the right, as provided by CAA section 111(c)(2), to enforce any applicable emission standard or requirement under section 111.

We retain the right, as provided by CAA section 112(l)(7) and 40 CFR 63.90(d)(2), to enforce any applicable emission standard or requirement under section 112. In addition, the EPA may enforce any federally approved state rule, requirement, or program under 40 CFR 63.90(e) and 63.91(c)(1)(i). The EPA also has the authority to make certain decisions under the General Provisions (subpart A) of parts 61 and 63. We are delegating ABCAQCB some of these authorities, and retaining others, as explained in sections V and VI above. In addition, the EPA may review and disapprove determinations made by state and local authorities and subsequently require corrections. *See* 40 CFR 63.91(g)(1)(ii). EPA also has the authority to review ACBAQCB's implementation and enforcement of approved rules or programs and to withdraw approval if we find inadequate implementation or enforcement. *See* 40 CFR 63.96.

Furthermore, the EPA retains any authority in an individual emission standard that may not be delegated according to provisions of the standard. Also, listed in footnote 2 of the part 63 delegation table at the end of this rule are the authorities that cannot be delegated to any state or local agency which we therefore retain.

Finally, the EPA retains the authorities stated in the initial notice of delegation of authority. See 54 FR 52031 (December 20, 1989).

## IX. What information must ABCAQCB provide to the EPA?

ABCAQCB must provide any additional compliance related information to the EPA, Region 6, Office of Enforcement and Compliance Assurance, within 45 days of a request under 40 CFR 63.96(a). In receiving delegation for specific General Provisions authorities, ABCAQCB must submit to EPA Region 6, on a semi-annual basis, copies of determinations issued under these authorities. *See* 40 CFR 63.91(g)(1)(ii). For 40 CFR part 63 standards, these determinations include: Section 63.1, Applicability Determinations; Section 63.6(e), Operation and Maintenance Requirements—Responsibility for Determining Compliance; Section 63.6(f), Compliance with Non-Opacity Standards—Responsibility for Determining Compliance; Section 63.6(h), Compliance with Opacity and Visible Emissions Standards—Responsibility for Determining Compliance; Sections 63.7(c)(2)(i) and (d), Approval of Site-Specific Test Plans; Section 63.7(e)(2)(i), Approval of Minor Alternatives to Test Methods; Section 63.7(e)(2)(ii) and (f), Approval of Intermediate Alternatives to Test Methods; Section 63.7(e)(iii), Approval of Shorter Sampling Times and Volumes When Necessitated by Process Variables or Other Factors; Sections 63.7(e)(2)(iv), (h)(2), and (h)(3), Waiver of Performance Testing; Sections 63.8(c)(1) and (e)(1), Approval of Site-Specific Performance Evaluation (Monitoring) Test Plans; Section 63.8(f), Approval of Minor Alternatives to Monitoring; Section 63.8(f), Approval of Intermediate Alternatives to Monitoring; Section 63.9 and 63.10, Approval of Adjustments to Time Periods for Submitting Reports; Section 63.10(f), Approval of Minor Alternatives to Recordkeeping and Reporting; and Section 63.7(a)(4), Extension of Performance Test Deadline.

## X. What is the EPA's oversight role?

The EPA oversees the ABCAQCB's decisions to ensure the delegated authorities are being adequately implemented and enforced. We will integrate oversight of the delegated authorities into the existing mechanisms and resources for oversight currently in place. If, during oversight, we determine that the ABCAQCB made decisions that decreased the stringency of the delegated standards, then the ABCAQCB shall be required to take corrective actions and the source(s) affected by the decisions will be notified. *See* 40 CFR 63.91(g)(1)(ii) and 63.91(b). Our oversight authorities allow us to initiate withdrawal of the program delegation if the corrective actions taken are insufficient. See 51 FR 20648 (June 6, 1986).

## XI. Should sources submit notices to the EPA or ABCAQCB?

All the information required pursuant to the Federal NSPS and NESHAP (40 CFR parts 60, 61 and 63) should be submitted by sources located inside the boundaries of Bernalillo County and areas outside of Indian country directly to the ABCAQCB at the following address: City of Albuquerque, Albuquerque Environmental Health Department, P.O. Box 1293, Albuquerque, New Mexico 87103. The ABCAQCB is the primary point of contact with respect to delegated NSPS and NESHAP authorities. Sources do not need to send a copy to the EPA. The EPA Region 6 waives the requirement that copies of notifications and reports for delegated authorities be submitted to the EPA in addition to ABCAQCB in accordance with 40 CFR 63.9(a)(4)(ii) and 63.10(a)(4)(ii).[2] For those authorities not delegated, sources must continue to submit all appropriate information to the EPA.

## XII. How will unchanged authorities be delegated to ABCAQCB in the future?

In the future, ABCAQCB will only need to send a letter of request to update their delegation to EPA, Region 6, for those NSPS which they have adopted by reference. The EPA will amend the relevant portions of the Code of Federal Regulations showing which NSPS standards have been delegated to ABCAQCB. Also, in the future, ABCAQCB will only need to send a letter of request for approval to EPA, Region 6, for those NESHAP regulations that ABCAQCB has adopted by reference. The letter must reference the previous up-front approval demonstration and reaffirm that it still meets the up-front approval criteria. We will respond in writing to the request stating that the request for delegation is either granted or denied. A **Federal Register** action will be published to

[2] This waiver only extends to the submission of *copies* of notifications and reports; EPA does not waive the requirements in delegated standards that require notifications and reports be submitted to an electronic database (*e.g.,* 40 CFR part 63, subpart HHHHHHH).

inform the public and affected sources of the delegation, indicate where source notifications and reports should be sent, and to amend the relevant portions of the Code of Federal Regulations showing which NESHAP standards have been delegated to ABCAQCB.

## XIII. Final Action

The public was provided the opportunity to comment on the proposed interim approval (60 FR 2570) and direct final interim approval (60 FR 2527) of ABCAQCB's Title V operating permit program, and mechanism for delegation of section 112 standards as they apply to part 70 sources, on January 10, 1995. On March 10, 1995, EPA published an informational notice in the **Federal Register** informing the public that the direct final interim approval would remain final. (60 FR 13046). In today's action, the public is given the opportunity to comment on the approval of ABCAQCB's request for delegation of authority to implement and enforce certain section 112 standards for all sources (both part 70 and non-part 70 sources) which have been adopted by reference into ABCAQCB's regulations. However, the Agency views the approval of these requests as a noncontroversial action and anticipates no adverse comments. Therefore, EPA is publishing this rule without prior proposal. However, in the ''Proposed Rules'' section of today's **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the program and NESHAPs delegation of authority described in this action if adverse comments are received. This action will be effective December 15, 2020 without further notice unless the Agency receives relevant adverse comments by December 15, 2020.

If the EPA receives relevant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public the rule will not take effect with respect to the updated NESHAPs delegation. We will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if we receive relevant adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of a relevant adverse comment.

## XIV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866. This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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). 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).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the delegation is not approved to apply in Indian country located in the State, and the EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

This action also does not have federalism implications because it does 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state request to receive delegation of certain Federal standards and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing delegation submissions, EPA's role is to approve submissions, provided that they meet the criteria of the Clean Air Act. This action is not subject to the 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. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this 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**. 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 November 16, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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* CAA section 307(b)(2).

## List of Subjects

*40 CFR Part 60*

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

*40 CFR Part 61*

Environmental protection, Administrative practice and procedure, Air pollution control, Arsenic, Benzene, Beryllium, Hazardous substances, Mercury, Intergovernmental relations,

Reporting and recordkeeping requirements, Vinyl chloride.

*40 CFR Part 63*

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

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

Dated: July 30, 2020.

**David Garcia,**

*Director, Air & Radiation Division, Region 6.*

For the reasons stated in the preamble, the Environmental Protection Agency amends 40 CFR parts 60, 61, and 63 as follows:

## PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

■ 1. The authority citation for part 60 continues to read as follows:

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

### Subpart A—General Provisions

■ 2. Section 60.4 is amended by revising paragraph (e)(3) to read as follows:

**§ 60.4 Address.**

* * * * *

(e) * * *

(3) *Albuquerque-Bernalillo County Air Quality Control Board.* The Albuquerque-Bernalillo County Air Quality Control Board has been delegated all part 60 standards promulgated by the EPA, except subpart AAA of this part and subpart QQQQ of this part as amended through January 23, 2017.

## PART 61—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS

■ 3. The authority citation for part 61 continues to read as follows:

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

### Subpart A—General Provisions

■ 4. Section 61.04 is amended by revising paragraph (c)(6)(vi) to read as follows:

**§ 61.04 Address.**

* * * * *

(c) * * *

(6) * * *

(vi) *Albuquerque-Bernalillo County, New Mexico.* The Albuquerque-Bernalillo County Air Quality Control Board (ABCAQCB) has been delegated the following part 61 standards promulgated by EPA, as amended through January 23, 2017. The (X) symbol is used to indicate each subpart that has been delegated.

DELEGATION STATUS FOR NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS (PART 61 STANDARDS) FOR ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

[Excluding Indian country] [1]

| Subpart | Source category | ABCAQCB |
|---|---|---|
| A | General Provisions | X |
| B | Radon Emissions From Underground Uranium Mines. | |
| C | Beryllium | X |
| D | Beryllium Rocket Motor Firing | X |
| E | Mercury | X |
| F | Vinyl Chloride | X |
| G | (Reserved). | |
| H | Emissions of Radionuclides Other Than Radon From Department of Energy Facilities. | |
| I | Radionuclide Emissions From Federal Facilities Other Than Nuclear Regulatory Commission Licensees and Not Covered by Subpart H. | |
| J | Equipment Leaks (Fugitive Emission Sources) of Benzene | X |
| K | Radionuclide Emissions From Elemental Phosphorus Plants. | |
| L | Benzene Emissions From Coke By-Product Recovery Plants | X |
| M | Asbestos | X |
| N | Inorganic Arsenic Emissions From Glass Manufacturing Plants | X |
| O | Inorganic Arsenic Emissions From Primary Copper Smelters | X |
| P | Inorganic Arsenic Emissions From Arsenic Trioxide and Metallic Arsenic Production Facilities | X |
| Q | Radon Emissions From Department of Energy Facilities. | |
| R | Radon Emissions From Phosphogypsum Stacks. | |
| S | (Reserved). | |
| T | Radon Emissions From the Disposal of Uranium Mill Tailings. | |
| U | (Reserved). | |
| V | Equipment Leaks (Fugitives Emission Sources) | X |
| W | Radon Emissions From Operating Mill Tailings. | |
| X | (Reserved). | |
| Y | Benzene Emissions From Benzene Storage Vessels | X |
| Z–AA | (Reserved). | |
| BB | Benzene Emissions From Benzene Transfer Operations | X |
| CC–EE | (Reserved). | |
| FF | Benzene Waste Operations | X |

[1] Program delegated to Albuquerque-Bernalillo County Air Quality Control Board (ABCAQCB).

* * * * *

## PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

■ 5. The authority citation for part 63 continues to read as follows:

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

## Subpart E—Approval of State Programs and Delegation of Federal Authorities

■ 6. Section 63.99 is amended by revising paragraph (a)(32)(i) to read as follows:

**§ 63.99 Delegated Federal authorities.**

(a) * * *

(32) * * *

(i) The following table lists the specific part 63 standards that have been delegated unchanged to State and local air pollution agencies in New Mexico. The ''X'' symbol is used to indicate each subpart that has been delegated. The delegations are subject to all of the conditions and limitations set forth in Federal law and regulations. Some authorities cannot be delegated and are retained by the EPA. These include certain General Provisions authorities and specific parts of some standards. Any amendments made to these rules after January 23, 2017 are not delegated.

DELEGATION STATUS FOR PART 63 STANDARDS

[Excluding Indian country]

| Subpart | Source category | NMED [1 2] | ABCAQCB [1 3] |
|---|---|---|---|
| A | General Provisions | X | X |
| D | Early Reductions | X | X |
| F | Hazardous Organic NESHAP (HON)—Synthetic Organic Chemical Manufacturing Industry (SOCMI). | X | X |
| G | HON—SOCMI Process Vents, Storage Vessels, Transfer Operations and Wastewater | X | X |
| H | HON—Equipment Leaks | X | X |
| I | HON—Certain Processes Negotiated Equipment Leak Regulation | X | X |
| J | Polyvinyl Chloride and Copolymers Production | (4) | (4) |
| K | (Reserved). | | |
| L | Coke Oven Batteries | X | X |
| M | Perchloroethylene Dry Cleaning | X | X |
| N | Chromium Electroplating and Chromium Anodizing Tanks | X | X |
| O | Ethylene Oxide Sterilizers | X | X |
| P | (Reserved). | | |
| Q | Industrial Process Cooling Towers | X | X |
| R | Gasoline Distribution | X | X |
| S | Pulp and Paper Industry | X | X |
| T | Halogenated Solvent Cleaning | X | X |
| U | Group I Polymers and Resins | X | X |
| V | (Reserved). | | |
| W | Epoxy Resins Production and Non-Nylon Polyamides Production | X | X |
| X | Secondary Lead Smelting | X | X |
| Y | Marine Tank Vessel Loading | X | X |
| Z | (Reserved). | | |
| AA | Phosphoric Acid Manufacturing Plants | X | X |
| BB | Phosphate Fertilizers Production Plants | X | X |
| CC | Petroleum Refineries | X | X |
| DD | Off-Site Waste and Recovery Operations | X | X |
| EE | Magnetic Tape Manufacturing | X | X |
| FF | (Reserved). | | |
| GG | Aerospace Manufacturing and Rework Facilities | X | X |
| HH | Oil and Natural Gas Production Facilities | X | X |
| II | Shipbuilding and Ship Repair Facilities | X | X |
| JJ | Wood Furniture Manufacturing Operations | X | X |
| KK | Printing and Publishing Industry | X | X |
| LL | Primary Aluminum Reduction Plants | X | X |
| MM | Chemical Recovery Combustion Sources at Kraft, Soda, Sulfide, and Stand-Alone Semichemical Pulp Mills. | X | X |
| NN | Wool Fiberglass Manufacturing Area Sources | X | X |
| OO | Tanks—Level 1 | X | X |
| PP | Containers | X | X |
| QQ | Surface Impoundments | X | X |
| RR | Individual Drain Systems | X | X |
| SS | Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process. | X | X |
| TT | Equipment Leaks—Control Level 1 | X | X |
| UU | Equipment Leaks—Control Level 2 Standards | X | X |
| VV | Oil—Water Separators and Organic—Water Separators | X | X |
| WW | Storage Vessels (Tanks)—Control Level 2 | X | X |
| XX | Ethylene Manufacturing Process Units Heat Exchange Systems and Waste Operations | X | X |
| YY | Generic Maximum Achievable Control Technology Standards | X | X |
| ZZ–BBB | (Reserved). | | |
| CCC | Steel Pickling—HCl Process Facilities and Hydrochloric Acid Regeneration | X | X |
| DDD | Mineral Wool Production | X | X |
| EEE | Hazardous Waste Combustors | X | X |

DELEGATION STATUS FOR PART 63 STANDARDS—Continued

[Excluding Indian country]

| Subpart | Source category | NMED [1 2] | ABCAQCB [1 3] |
|---|---|---|---|
| FFF | (Reserved). | | |
| GGG | Pharmaceuticals Production | X | X |
| HHH | Natural Gas Transmission and Storage Facilities | X | X |
| III | Flexible Polyurethane Foam Production | X | X |
| JJJ | Group IV Polymers and Resins | X | X |
| KKK | (Reserved). | | |
| LLL | Portland Cement Manufacturing | X | X |
| MMM | Pesticide Active Ingredient Production | X | X |
| NNN | Wool Fiberglass Manufacturing | X | X |
| OOO | Amino/Phenolic Resins | X | X |
| PPP | Polyether Polyols Production | X | X |
| QQQ | Primary Copper Smelting | X | X |
| RRR | Secondary Aluminum Production | X | X |
| SSS | (Reserved). | | |
| TTT | Primary Lead Smelting | X | X |
| UUU | Petroleum Refineries—Catalytic Cracking Units, Catalytic Reforming Units and Sulfur Recovery Plants. | X | X |
| VVV | Publicly Owned Treatment Works (POTW) | X | X |
| WWW | (Reserved). | | |
| XXX | Ferroalloys Production: Ferromanganese and Silicomanganese | X | X |
| AAAA | Municipal Solid Waste Landfills | X | X |
| CCCC | Nutritional Yeast Manufacturing | X | X |
| DDDD | Plywood and Composite Wood Products | [5] X | [5] X |
| EEEE | Organic Liquids Distribution | X | X |
| FFFF | Misc. Organic Chemical Production and Processes (MON) | X | X |
| GGGG | Solvent Extraction for Vegetable Oil Production | X | X |
| HHHH | Wet Formed Fiberglass Mat Production | X | X |
| IIII | Auto and Light Duty Truck (Surface Coating) | X | X |
| JJJJ | Paper and other Web (Surface Coating) | X | X |
| KKKK | Metal Can (Surface Coating) | X | X |
| MMMM | Misc. Metal Parts and Products (Surface Coating) | X | X |
| NNNN | Surface Coating of Large Appliances | X | X |
| OOOO | Fabric Printing Coating and Dyeing | X | X |
| PPPP | Plastic Parts (Surface Coating) | X | X |
| QQQQ | Surface Coating of Wood Building Products | X | X |
| RRRR | Surface Coating of Metal Furniture | X | X |
| SSSS | Surface Coating for Metal Coil | X | X |
| TTTT | Leather Finishing Operations | X | X |
| UUUU | Cellulose Production Manufacture | X | X |
| VVVV | Boat Manufacturing | X | X |
| WWWW | Reinforced Plastic Composites Production | X | X |
| XXXX | Rubber Tire Manufacturing | X | X |
| YYYY | Combustion Turbines | X | X |
| ZZZZ | Reciprocating Internal Combustion Engines (RICE) | X | X |
| AAAAA | Lime Manufacturing Plants | X | X |
| BBBBB | Semiconductor Manufacturing | X | X |
| CCCCC | Coke Ovens: Pushing, Quenching and Battery Stacks | X | X |
| DDDDD | Industrial/Commercial/Institutional Boilers and Process Heaters | [6] X | [6] X |
| EEEEE | Iron Foundries | X | X |
| FFFFF | Integrated Iron and Steel | X | X |
| GGGGG | Site Remediation | X | X |
| HHHHH | Miscellaneous Coating Manufacturing | X | X |
| IIIII | Mercury Cell Chlor-Alkali Plants | X | X |
| JJJJJ | Brick and Structural Clay Products Manufacturing | [7] X | [7] X |
| KKKKK | Clay Ceramics Manufacturing | [7] X | [7] X |
| LLLLL | Asphalt Roofing and Processing | X | X |
| MMMMM | Flexible Polyurethane Foam Fabrication Operation | X | X |
| NNNNN | Hydrochloric Acid Production, Fumed Silica Production | X | X |
| OOOOO | (Reserved). | | |
| PPPPP | Engine Test Facilities | X | X |
| QQQQQ | Friction Products Manufacturing | X | X |
| RRRRR | Taconite Iron Ore Processing | X | X |
| SSSSS | Refractory Products Manufacture | X | X |
| TTTTT | Primary Magnesium Refining | X | X |
| UUUUU | Coal and Oil-Fired Electric Utility Steam Generating Units | [8] X | [8] X |
| VVVVV | (Reserved). | | |
| WWWWW | Hospital Ethylene Oxide Sterilizers | X | X |
| XXXXX | (Reserved). | | |
| YYYYY | Electric Arc Furnace Steelmaking Area Sources | X | X |
| ZZZZZ | Iron and Steel Foundries Area Sources | X | X |
| AAAAAA | (Reserved). | | |

DELEGATION STATUS FOR PART 63 STANDARDS—Continued

[Excluding Indian country]

| Subpart | Source category | NMED [1 2] | ABCAQCB [1 3] |
|---|---|---|---|
| BBBBBB | Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities | X | X |
| CCCCCC | Gasoline Dispensing Facilities | X | X |
| DDDDDD | Polyvinyl Chloride and Copolymers Production Area Sources | X | X |
| EEEEEE | Primary Copper Smelting Area Sources | X | X |
| FFFFFF | Secondary Copper Smelting Area Sources | X | X |
| GGGGGG | Primary Nonferrous Metals Area Source: Zinc, Cadmium, and Beryllium | X | X |
| HHHHHH | Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources | X | X |
| IIIIII | (Reserved). | | |
| JJJJJJ | Industrial, Commercial, and Institutional Boilers Area Sources | X | X |
| KKKKKK | (Reserved). | | |
| LLLLLL | Acrylic and Modacrylic Fibers Production Area Sources | X | X |
| MMMMMM | Carbon Black Production Area Sources | X | X |
| NNNNNN | Chemical Manufacturing Area Sources: Chromium Compounds | X | X |
| OOOOOO | Flexible Polyurethane Foam Production and Fabrication Area Sources | X | X |
| PPPPPP | Lead Acid Battery Manufacturing Area Sources | X | X |
| QQQQQQ | Wood Preserving Area Sources | X | X |
| RRRRRR | Clay Ceramics Manufacturing Area Sources | X | X |
| SSSSSS | Glass Manufacturing Area Sources | X | X |
| TTTTTT | Secondary Nonferrous Metals Processing Area Sources | X | X |
| UUUUUU | (Reserved). | | |
| VVVVVV | Chemical Manufacturing Area Sources | X | X |
| WWWWWW | Plating and Polishing Operations Area Sources | X | X |
| XXXXXX | Metal Fabrication and Finishing Area Sources | X | X |
| YYYYYY | Ferroalloys Production Facilities Area Sources | X | X |
| ZZZZZZ | Aluminum, Copper, and Other Nonferrous Foundries Area Sources | X | X |
| AAAAAAA | Asphalt Processing and Asphalt Roofing Manufacturing Area Sources | X | X |
| BBBBBBB | Chemical Preparation Industry Area Sources | X | X |
| CCCCCCC | Paints and Allied Products Manufacturing Area Sources | X | X |
| DDDDDDD | Prepared Feeds Areas Sources | X | X |
| EEEEEEE | Gold Mine Ore Processing and Production Area Sources | X | X |
| FFFFFFF–GGGGGGG. | (Reserved). | | |
| HHHHHHH | Polyvinyl Chloride and Copolymers Production Major Sources | X | X |

[1] Authorities which may not be delegated include: § 63.6(g), Approval of Alternative Non-Opacity Emission Standards; § 63.6(h)(9), Approval of Alternative Opacity Standards; § 63.7(e)(2)(ii) and (f), Approval of Major Alternatives to Test Methods; § 63.8(f), Approval of Major Alternatives to Monitoring; § 63.10(f), Approval of Major Alternatives to Recordkeeping and Reporting; and all authorities identified in the subparts (*e.g.,* under ''Delegation of Authority'') that cannot be delegated.

[2] Program delegated to New Mexico Environment Department (NMED) for standards promulgated by the EPA, as amended in the FEDERAL REGISTER through January 15, 2017.

[3] Program delegated to Albuquerque-Bernalillo County Air Quality Control Board (ABCAQCB) for standards promulgated by the EPA, as amended in the FEDERAL REGISTER through January 23, 2017.

[4] The NMED was previously delegated this subpart on February 9, 2004 (68 FR 69036). The ABCAQCB has adopted the subpart unchanged and applied for delegation of the standard. The subpart was vacated and remanded to the EPA by the United States Court of Appeals for the District of Columbia Circuit. See *Mossville Environmental Action Network* v. *EPA,* 370 F. 3d 1232 (D.C. Cir. 2004). Because of the D.C. Court's holding this subpart is not delegated to NMED or ABCAQCB at this time.

[5] This subpart was issued a partial vacatur by the United States Court of Appeals for the District of Columbia Circuit. *See* 72 FR 61060 (October 29, 2007).

[6] Final Rule. *See* 76 FR (March 21, 2011), as amended at 78 FR 7138 (January 31, 2013); 80 FR 72807 (November 20, 2015).

[7] Final promulgated rule adopted by the EPA. *See* 80 FR 65470 (October 26, 2015). Note that Part 63 Subpart KKKKK was amended to correct minor typographical errors. *See* 80 FR 75817 (December 4, 2015).

[8] Final Rule. *See* 77 FR 9304 (February 16, 2012), as amended 81 FR 20172 (April 6, 2016). Final Supplemental Finding that it is appropriate and necessary to regulate HAP emissions from Coal-and Oil-fired EUSGU Units. *See* 81 FR 24420 (April 25, 2016).

* * * * *

[FR Doc. 2020–17063 Filed 9–15–20; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[EPA–HQ–OPP–2019–0549; FRL–10003–65]**

## 2-propenoic acid, 2-methyl-, polymer with 2,5-furandione and 2,4,4-trimethyl-1-pentene, potassium salt; Pesticide Tolerance Exemption

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an exemption from the requirement of a tolerance for residues of 2-propenoic acid, 2-methyl-, polymer with 2,5-furandione and 2,4,4-trimethyl-1-pentene, potassium salt; when used as an inert ingredient in a pesticide chemical formulation. Solvay USA, 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 2-propenoic acid, 2-methyl-, polymer with 2,5-furandione

and 2,4,4-trimethyl-1-pentene, potassium salt on food or feed commodities.

**DATES:** This regulation is effective September 16, 2020. Objections and requests for hearings must be received on or before November 16, 2020, 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–2019–0549, is available at *http://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 is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805.

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

**FOR FURTHER INFORMATION CONTACT:** Marietta Echeverria, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *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 40 CFR part 180 through the Government Publishing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

### *C. 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 number EPA–HQ–OPP–2019–0549 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 November 16, 2020. 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–2019–0549, by one of the following methods.

- *Federal eRulemaking Portal: http://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 *http://www.epa.gov/dockets/contacts.html.*

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

## II. Background and Statutory Findings

In the **Federal Register** of October 28, 2019 (84 FR 57685) (FRL–10001–11), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the receipt of a pesticide petition (PP IN–11342) filed by SciReg Inc., on behalf of Solvay USA, Inc., 12733 Director's Loop, Woodbridge, VA 22192. The petition requested that 40 CFR 180.960 be amended by establishing an exemption from the requirement of a tolerance for residues of 2-propenoic acid, 2-methyl-, polymer with 2,5-furandione and 2,4,4-trimethyl-1-pentene, potassium salt; CAS Reg. No. 1802325–28–5. That document included a summary of the petition prepared by the petitioner and solicited comments on the petitioner's request. The Agency received one comment. The commenter expressed concern for ensuring that the pesticide use on crops does not cause negative health and environmental impact. Although the Agency recognizes that some individuals believe that pesticides should be limited on agricultural crops, the existing legal framework provided by section 408 of the Federal Food, Drug and Cosmetic Act (FFDCA) authorizes EPA to establish tolerances when it determines that the tolerance is safe. Upon consideration of the validity, completeness, and reliability of the available data as well as other factors the FFDCA requires EPA to consider, EPA has determined that this exemption from the requirement of a tolerance is safe. The commenter provided no information to indicate that the exemption was not safe.

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 use 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 an exemption from the requirement of 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 . . .'' and specifies factors EPA is to consider in establishing an exemption.

## III. Risk Assessment and Statutory Findings

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be shown that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify categories of polymers expected to present minimal or no risk. The definition of a polymer is given in 40 CFR 723.250(b) and the exclusion criteria for identifying these low-risk polymers are described in 40 CFR 723.250(d). 2-propenoic acid, 2-methyl-, polymer with 2,5-furandione and 2,4,4-trimethyl-1-pentene, potassium salt conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low-risk polymers.

1. The polymer is not a cationic polymer nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. The polymer does contain as an integral part of its composition at least two of the atomic elements carbon, hydrogen, nitrogen, oxygen, silicon, and sulfur.

3. The polymer does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).

4. The polymer is neither designed nor can it be reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. The polymer is manufactured or imported from monomers and/or reactants that are already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. The polymer is not a water absorbing polymer with a number average molecular weight (MW) greater than or equal to 10,000 daltons.

7. The polymer does not contain certain perfluoroalkyl moieties consisting of a CF3- or longer chain length as listed in 40 CFR 723.250(d)(6).

Additionally, the polymer also meets as required the following exemption criteria specified in 40 CFR 723.250(e).

The polymer's number average MW of 6,000 is greater than 1,000 and less than 10,000 daltons. The polymer contains less than 10% oligomeric material below MW 500 and less than 25% oligomeric material below MW 1,000, and the polymer does not contain any reactive functional groups.

Thus, 2-propenoic acid, 2-methyl-, polymer with 2,5-furandione and 2,4,4-trimethyl-1-pentene, potassium salt meets the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on its conformance to the criteria in this unit, no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure to 2-propenoic acid, 2-methyl-, polymer with 2,5-furandione and 2,4,4-trimethyl-1-pentene, potassium salt.

## IV. Aggregate Exposures

For the purposes of assessing potential exposure under this exemption, EPA considered that 2-propenoic acid, 2-methyl-, polymer with 2,5-furandione and 2,4,4-trimethyl-1-pentene, potassium salt could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The number average MW of 2-propenoic acid, 2-methyl-, polymer with 2,5-furandione and 2,4,4-trimethyl-1-pentene, potassium salt is 6,000 daltons. Generally, a polymer of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since 2-propenoic acid, 2-methyl-, polymer with 2,5-furandione and 2,4,4-trimethyl-1-pentene, potassium salt conforms to the criteria that identify a low-risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect the public health.

## V. 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 2-propenoic acid, 2-methyl-, polymer with 2,5-furandione and 2,4,4-trimethyl-1-pentene, potassium salt to share a common mechanism of toxicity with any other substances, and 2-propenoic acid, 2-methyl-, polymer with 2,5-furandione and 2,4,4-trimethyl-1-pentene, potassium salt does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that 2-propenoic acid, 2-methyl-, polymer with 2,5-furandione and 2,4,4-trimethyl-1-pentene, potassium salt 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 *http://www.epa.gov/pesticides/cumulative.*

## VI. Additional Safety Factor for the Protection of Infants and Children

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold 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 data base unless EPA concludes that a different margin of safety will be safe for infants and children. Due to the expected low toxicity of 2-propenoic acid, 2-methyl-, polymer with 2,5-furandione and 2,4,4-trimethyl-1-pentene, potassium salt, EPA has not used a safety factor analysis to assess the risk. For the same reasons the additional tenfold safety factor is unnecessary.

## VII. Determination of Safety

Based on the conformance to the criteria used to identify a low-risk polymer, EPA concludes that there is a reasonable certainty of no harm to the U.S. population, including infants and children, from aggregate exposure to residues of 2-propenoic acid, 2-methyl-, polymer with 2,5-furandione and 2,4,4-trimethyl-1-pentene, potassium salt.

## VIII. 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. 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 Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established an MRL for 2-propenoic acid, 2-methyl-, polymer with 2,5-furandione and 2,4,4-trimethyl-1-pentene, potassium salt.

## IX. Conclusion

Accordingly, EPA finds that exempting residues of 2-propenoic acid, 2-methyl-, polymer with 2,5-furandione and 2,4,4-trimethyl-1-pentene, potassium salt from the requirement of a tolerance will be safe.

## X. Statutory and Executive Order Reviews

This action establishes 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).

## XI. Congressional Review Act (CRA)

Pursuant to the CRA (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: August 10, 2020.

**Marietta Echeverria,**

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

Therefore, for the reasons stated in the preamble, EPA amends 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. In § 180.960, amend the table by adding, in alphabetical order, ''2-propenoic acid, 2-methyl-, polymer with 2,5-furandione and 2,4,4-trimethyl-1-pentene, potassium salt, with a minimum number average molecular weight (in amu) of 6,000'' to read as follows:

**§ 180.960 Polymers; exemptions from the requirement of a tolerance.**

* * * * *

| Polymer | CAS No. |
|---|---|
| * * * * * * * | |
| 2-propenoic acid, 2-methyl-, polymer with 2,5-furandione and 2,4,4-trimethyl-1-pentene, potassium salt, with a minimum number average molecular weight (in amu) of 6,000 | 1802325–28–5 |
| * * * * * * * | |

[FR Doc. 2020–18650 Filed 9–15–20; 8:45 am]
**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 180

**[EPA–HQ–OPP–2017–0312; FRL–10003–75]**

## 1-Octanamine, N, N-dimethyl-, N-oxide; 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 1-octanamine, N,N-dimethyl-, N-oxide (CAS Reg. No. 2605–78–9) when used as an inert ingredient (surfactant) in pesticide formulations applied to growing crops and raw agricultural commodities after harvest, at a concentration of not more than 15% by weight in pesticide formulations. The Spring Trading Company, on behalf of Oxiteno USA, LLC, submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of 1-octanamine, N,N-dimethyl-, N-oxide when used in accordance with the terms of the exemption.

**DATES:** This regulation is effective September 16, 2020. Objections and requests for hearings must be received on or before November 16, 2020 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–2017–0312, is available at *http://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 is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

Please note that due to the public health emergency, the EPA Docket Center (EPA/DC) and Reading Room was closed to public visitors on March 31, 2020. Our EPA/DC staff will continue to provide customer service via email, phone, and webform. For further information on EPA/DC services, docket contact information and the current status of the EPA/DC and Reading Room, please visit *https://www.epa.gov/dockets.*

**FOR FURTHER INFORMATION CONTACT:** Marietta Echeverria, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *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 40 CFR part 180 through the Government Publishing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

*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 number EPA–HQ–OPP–2017–0312 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 November 16, 2020. 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–2017–0312, by one of the following methods:

- *Federal eRulemaking Portal: http://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 *http://www.epa.gov/dockets/contacts.html.*

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

### II. Petition for Exemption

In the **Federal Register** of September 15, 2017 (82 FR 43352) (FRL–9965–43), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the filing of a pesticide petition (PP IN–11046) by the Spring Trading Company on behalf of Oxiteno USA, LLC, 9801 Bay Area Blvd., Pasadena, TX 77507. The petition requested that 40 CFR 180.910 be amended by establishing an exemption from the requirement of a tolerance for residues of 1-octanamine, N,N-dimethyl-, N-oxide (CAS Reg. No. 2605–78–9) when used as an inert ingredient (surfactant) in pesticide formulations applied to growing crops and raw agricultural commodities after harvest. That document referenced a summary of the petition prepared by the Spring Trading Company on behalf of Oxiteno USA, LLC, the petitioner, which is available in the docket, *http://www.regulations.gov.* Comments were received on the notice of filing. EPA's

response to these comments is discussed in Unit V.C.

Based upon review of the data supporting the petition, EPA is establishing the requested exemption but with a limitation that the end-use product not contain 1-octanamine, N,N-dimethyl-, N-oxide in a concentration that exceeds 15% by weight. The reasons for this limitation are explained in the Agency's risk assessment which can be found at *http://www.regulations.gov* in document ''IN–11046; 1-Octanamine, N,N-dimethyl-, N-oxide—Human Health Risk and Ecological Effects Assessment of Request for Food Use Inert Ingredient in docket ID number EPA–HQ–OPP–2017–0312.''

## III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

## IV. 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 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. . . .''

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 appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, 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 1-octanamine, N,N-dimethyl-, N-oxide including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with 1-octanamine, N,N-dimethyl-, N-oxide follows.

### *A. Toxicological Profile*

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Specific information on the studies received and the nature of the adverse effects caused by 1-octanamine, N,N-dimethyl-, N-oxide as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in the document entitled ''IN–11046; 1-Octanamine, N,N-dimethyl-, N-oxide—Human Health Risk and Ecological Effects Assessment of Request for Food Use Inert Ingredient'' at pages 3–5 in docket ID number EPA–HQ–OPP–2017–0312.

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

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

The toxicity endpoint selected for use in risk assessment is taken from the 28-day, repeat-dose toxicity study of 1-octanamine, N,N-dimethyl-, N-oxide in which a NOAEL was established at 150 mg/kg/day based on decreases in body weight, food consumption, mortality, clinical signs of toxicity, decreased motor activity, histopathology of the kidney and spleen, and effects on hematology and clinical chemistry parameters seen at 750 mg/kg/day. The uncertainty factors include 10X for interspecies extrapolation, 10X for intraspecies variation, and a 1X for the FQPA Safety Factor, bringing the combined uncertainty factor to 100. The resultant chronic Population Adjusted Dose (cPAD) is 1.5 mg/kg/day.

### *C. Exposure Assessment*

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to 1-octanamine, N,N-dimethyl-, N-oxide, EPA considered exposure under the proposed exemption from the requirement of a tolerance. EPA assessed dietary exposures from 1-

octanamine, N,N-dimethyl-, N-oxide in food as follows:

Because no acute endpoint of concern was identified, a quantitative acute dietary exposure assessment is unnecessary. In conducting the chronic dietary exposure assessment using the Dietary Exposure Evaluation Model (DEEM)—FCID™, Version 3.16, EPA used food consumption information from the U.S. Department of Agriculture's National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). This dietary survey was conducted from 2003 to 2008. Dietary exposure is estimated using the Agency's Dietary Exposure Estimate Model (DEEM). The Inert Dietary Exposure Evaluation Model (I–DEEM) is a highly conservative model with the assumption that the residue level of the inert ingredient would be no higher than the highest tolerance for a given commodity. Implicit in this assumption is that there would be similar rates of degradation between the active and inert ingredient (if any) and that the concentration of inert ingredient in the scenarios leading to these highest of tolerances would be no higher than the concentration of the active ingredient. The model assumes 100 percent crop treated (PCT) for all crops and that every food eaten by a person each day has tolerance-level residues. In the case of1-octanamine, N,N-dimethyl-, N-oxide, a 15% by weight limitation in formulation was incorporated into the model.

A complete description of the general approach taken to assess inert ingredient risks in the absence of residue data is contained in the memorandum entitled ''Alkyl Amines Polyalkoxylates (Cluster 4): Acute and Chronic Aggregate (Food and Drinking Water) Dietary Exposure and Risk Assessments for the Inerts,'' (D361707, S. Piper, 2/25/09) and can be found at *http://www.regulations.gov* in docket ID number EPA–HQ–OPP–2008–0738.

2. *Dietary exposure from drinking water.* For the purpose of the screening-level dietary risk assessment to support this request for an exemption from the requirement of a tolerance for 1-octanamine, N,N-dimethyl-, N-oxide, a conservative drinking water concentration value of 100 ppb based on screening-level modeling was used to assess the contribution to drinking water for the chronic dietary risk assessments for parent compound. These values were directly entered into the dietary exposure model.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* textiles (clothing and diapers), carpets, swimming pools, and hard surface disinfection on walls, floors, tables).

1-Octanamine, N,N-dimethyl-, N-oxide may be used as an inert ingredient in pesticide products that are registered for specific uses that may result in residential exposure, such as pesticides used in and around the home, and in non-pesticide products such as household products, personal care products and cosmetics. In a conservative effort to assess residential exposure, EPA has conducted a screening-level assessment using high-end residential exposure scenarios, such as pesticides used on lawns/turn, as antimicrobial cleaning products and in pet spot on applications.

4. *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 1-octanamine, N,N-dimethyl-, N-oxide to share a common mechanism of toxicity with any other substances, and 1-octanamine, N,N-dimethyl-, N-oxide does do not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that 1-octanamine, N,N-dimethyl-, N-oxide 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 *http://www.epa.gov/pesticides/cumulative.*

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

1. *In general.* FFDCA Section 408(b)(2)(c) provides that EPA shall apply 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.

2. *Prenatal and postnatal sensitivity.* No evidence of increased quantitative or qualitative susceptibility was seen in developmental toxicity studies in rats and rabbits with 1-octanamine, N,N-dimethyl-, N-oxide. No adverse effects on reproductive parameters were observed in a 2-generation rat reproductive study.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The database for 1-octanamine, N,N-dimethyl-, N-oxide is considered adequate for FQPA assessment.

ii. A combined repeated dose toxicity study with a reproduction/developmental toxicity screening test showed no effect on reproductive parameters of fertility in the absence of maternal toxicity.

iii. Although no neurotoxicity studies are available, no clinical signs of neurotoxicity were observed. Therefore, there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iv. Immunotoxicity studies were not available. However, there were no test-item related signs of immunotoxicity noted in the repeat-dose study.

v. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100% CT and incorporated a limitation of 15% by weight in pesticide formulation. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to 1-octanamine, N,N-dimethyl-, N-oxide in drinking water. EPA used similarly conservative assumptions to assess post-application exposure of children. These assessments will not underestimate the exposure and risks posed by 1-octanamine, N,N-dimethyl-, N-oxide.

### *E. 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 PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate

PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, no adverse effects were attributed to a single exposure of the acute dietary exposure from food and water to -octanamine, N,N-dimethyl-, N-oxide. Therefore, 1-octanamine, N,N-dimethyl-, N-oxide is not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to 1-octanamine, N,N-dimethyl-, N-oxide, from food and water will utilize 14.1% of the cPAD for all infants less than 1 year old, the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of 1-octanamine, N,N-dimethyl-, N-oxide is not expected.

3. *Short-term risk.* Short-term aggregate exposure considers short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). 1-Octanamine, N,N-dimethyl-, N-oxide is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to 1-octanamine, N,N-dimethyl-, N-oxide.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 1978 for adults and 589 for children. Because EPA's level of concern for 1-octanamine, N,N-dimethyl-, N-oxide is an MOE of 100 or below, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level exposure. Because there is no intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess intermediate-term risk), no further assessment of intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating intermediate-term risk for 1-octanamine, N,N-dimethyl-, N-oxide.

5. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in a rodent carcinogenicity study, 1-octanamine, N,N-dimethyl-, N-oxide is not expected to pose a cancer risk to humans.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to 1-octanamine, N,N-dimethyl-, N-oxide residues.

## V. Other Considerations

### *A. Analytical Enforcement Methodology*

An analytical method is not required for enforcement purposes since the Agency is not establishing a numerical tolerance for residues of 1-octanamine, N,N-dimethyl-, N-oxide in or on any food commodities. EPA is establishing limitations on the amount of 1-octanamine, N,N-dimethyl-, N-oxide that may be used in pesticide formulations applied pre- and post-harvest. These limitations will be enforced through the pesticide registration process under the Federal Insecticide, Fungicide, and Rodenticide Act (''FIFRA''), 7 U.S.C. 136 *et seq.* EPA will not register any pesticide formulation for food use that exceeds 15% by weight of 1-octanamine, N,N-dimethyl-, N-oxide in the final pesticide formulation.

### *B. Response to Comments*

Two comments were received concerning the safety and impact of pesticides on food and human health. Although the Agency recognizes that some individuals believe that no residue of pesticides should be allowed in or on food, the existing legal framework provided by section 408 of the Federal Food, Drug and Cosmetic Act (FFDCA) authorizes the establishment of pesticide tolerances or exemptions where the Agency determines that tolerance or exemption meets the safety standard imposed by the statute. EPA has sufficient data to support a safety determination for the exemption from the requirement of a tolerance for 1-octanamine, N,N-dimethyl-, N-oxide. The commenters have provided no additional information supporting a determination that the exemption is not safe.

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

Based upon an evaluation of the data included in the petition, EPA is establishing an exemption from the requirement of a tolerance for residues of 1-octanamine, N,N-dimethyl-, N-oxide when used in pesticide formulations as an inert ingredient (surfactant), not to exceed 15% by weight of the formulation, instead of the unlimited use requested. Because unlimited use of 1-Octanamine, N,N-dimethyl-, N-oxide resulted in aggregate risks of concern, EPA is establishing a 15% limitation in formulation to support the safety finding of these tolerance exemptions. The concern for unlimited use of theses inert ingredients is documented on page 4 of the Agency's risk assessment documents ''IN–11046; 1-Octanamine, N,N-dimethyl-, N-oxide—Human Health Risk and Ecological Effects Assessment of Request for Food Use Inert Ingredient'' which can be found at *http://www.regulations.gov* in docket ID number EPA–HQ–OPP–2017–0312.

## VI. Conclusions

Therefore, an exemption from the requirement of a tolerance is established under 40 CFR 180.910 for 1-octanamine, N,N-dimethyl-, N-oxide when used as an inert ingredient (surfactant) limited to 15% by weight in pesticide formulations applied to growing crops or raw agricultural commodities after harvest.

## VII. 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 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), nor is it considered a regulatory action under Executive Order 13771, entitled ''Reducing Regulations and Controlling Regulatory Costs'' (82 FR 9339, February 3, 2017). 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 (CRA)

Pursuant to the CRA (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: August 26, 2020.

**Marietta Echeverria,**

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

Therefore, for the reasons stated in the preamble, the EPA amends 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. In § 180.910, add alphabetically the inert ingredient ''1-Octanamine, N,N-dimethyl-,N-oxide (CAS Reg. No. 2605–78–9)'' to the table to read as follows:

**§ 180.910 Inert ingredients used pre- and post-harvest; exemptions from the requirement of a tolerance.**

* * * * *

TABLE 1 TO 180.910

| Inert ingredients | Limits | Uses |
|---|---|---|
| * * * | * * * | * |
| 1-Octanamine, N,N-dimethyl-, N-oxide (CAS Reg. No. 2605–78–9). | Not to exceed 15% of pesticide formulation | Surfactant. |
| * * * | * * * | * |

[FR Doc. 2020–19347 Filed 9–15–20; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 281

**[EPA–R04–UST–2020–0248; FRL–10013–46–Region 4]**

## Commonwealth of Kentucky: Final Approval of State Underground Storage Tank Program

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

**ACTION:** Final rule.

**SUMMARY:** The Commonwealth of Kentucky (Commonwealth or State) has applied to the Environmental Protection Agency (EPA) for final approval of its Underground Storage Tank (UST) program under Subtitle I of the Resource Conservation and Recovery Act (RCRA or Act). The EPA has reviewed the Commonwealth's application (State Application) and has made a final determination that the Commonwealth's UST program (UST Program) described in the State Application satisfies all the requirements necessary to qualify for final approval. Thus, the EPA is granting final approval to the State to operate its UST Program for petroleum and hazardous substances. On July 1, 2020, the EPA provided notification and an opportunity for comment on the Agency's tentative determination to approve the State's UST Program. No comments were received on the Agency's tentative determination and no further opportunity for comment will be provided.

**DATES:** This final determination and approval for the State's UST Program is effective September 16, 2020.

**ADDRESSES:** The documents that form the basis for this action are available electronically through *www.regulations.gov* (Docket ID No. EPA–R04–UST–2020–0248).

**FOR FURTHER INFORMATION CONTACT:** Ben Singh, RCRA Programs and Cleanup Branch, Land, Chemicals and Redevelopment Division, U.S. Environmental Protection Agency, Region 4, Atlanta Federal Center, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960; Phone number: (404) 562–8922; email address: *singh.ben@epa.gov*. Please contact Ben Singh by phone or email for further information.

**SUPPLEMENTARY INFORMATION:**

### I. Background

Section 9004 of RCRA, 42 U.S.C. 6991c, authorizes the EPA to approve state UST programs to operate in lieu of the Federal UST program. Pursuant to RCRA section 9004(b), approval may be granted if the state program provides for adequate enforcement of compliance with the UST standards of RCRA section 9004(a); is ''no less stringent'' than the

Federal program for the seven elements set forth at RCRA section 9004(a)(1) through (7); and includes the notification requirements of RCRA section 9004(a)(8). Note that RCRA sections 9005 (on information-gathering) and 9006 (on Federal enforcement) by their terms apply even in states with programs approved by the EPA under RCRA section 9004. Thus, the Agency retains its authority under RCRA sections 9005 and 9006, and other applicable statutory and regulatory provisions, to undertake inspections and enforcement actions in approved states. With respect to such an enforcement action, the Agency will rely on Federal sanctions, Federal inspection authorities, and Federal procedures, rather than the State analogues to these provisions.

## II. Commonwealth of Kentucky

The Kentucky Department for Environmental Protection (KYDEP) within the Energy and Environment Cabinet is the lead implementing agency for the UST Program in the Commonwealth. The most recent amendments to the State UST regulations became effective April 5, 2019, and include revisions which correspond to the EPA final rule published on July 15, 2015 (80 FR 41566), which revised the 1988 UST regulations and the 1988 state program approval (SPA) regulations. The KYDEP has broad statutory and regulatory authority to regulate the installation, operation, maintenance, and closure of USTs, as well as UST releases, under Title XVIII of the Kentucky Revised Statutes (KRS), Chapter 224, Subchapter 60, and Title 401 of the Kentucky Administrative Regulations (KAR), Chapter 42 (2019).

In accordance with 40 CFR 281.50, the Commonwealth submitted a State Application to the EPA on October 7, 2019. On March 13, 2020, the EPA notified the Commonwealth that the State Application was complete. On July 1, 2020 (85 FR 39517), the EPA published a tentative determination announcing its intent to grant the Commonwealth final approval of its UST Program. Along with the tentative determination, the EPA announced the opportunity for public comment, and provided notice that a public hearing would be held if significant public interest was expressed. Because the EPA did not receive any comments or requests for a public hearing, no public hearing was held. In accordance with the requirements of 40 CFR 281.50(b), the State previously provided an opportunity for public notice and comment during the development of its UST Program regulations.

## III. Final Approval Determination

The EPA specifies the requirements that state UST programs must meet for approval under section 9004 of RCRA, and the procedures for approving, revising and withdrawing approval of state programs, in 40 CFR part 281. In order to be approved, in accordance with section 9004 of RCRA, each state program application must meet the general requirements in 40 CFR part 281, subpart A, and the specific requirements in 40 CFR part 281, subpart B (Components of a Program Application), subpart C (Criteria for No Less Stringent), and subpart D (Adequate Enforcement of Compliance).

As more fully described below, the EPA has determined that the Commonwealth's UST Program satisfies the general and specific requirements for approval, is no less stringent than the Federal UST program, and will provide for adequate enforcement of compliance as required by 40 CFR part 281, subparts A, C, and D, after this approval. Following approval, the KYDEP will continue to be the lead implementing agency for the UST Program in the Commonwealth, and will regulate the installation, operation, maintenance and closure of USTs, as well as releases from USTs.

As required by 40 CFR part 281, subpart B, the State Application contains the following: a transmittal letter from the Governor requesting approval; a description of the program and operating procedures; a demonstration of the State's procedures to ensure adequate enforcement; a Memorandum of Agreement outlining the roles and responsibilities of the EPA and the implementing agency; a General Counsel Statement; and copies of all relevant State statutes and regulations. As part of the State Application, the Kentucky Energy and Environment Cabinet General Counsel, signing in lieu of the State Attorney General pursuant to 40 CFR 281.24,[1] has certified that the State regulations provide for adequate enforcement of compliance and meet the no less stringent criteria in 40 CFR 281, and the EPA is relying on this certification in approving the State Program.

The State Application demonstrates that the KYDEP has adequate authorities for enforcement of compliance, as described at 40 CFR part 281, subpart D (281.40–43), including requirements for the UST compliance monitoring program; requirements for the UST compliance enforcement program; requirements for public participation; and the sharing of information.

As part of the State Application, the Commonwealth has identified the following specific statutory and regulatory compliance monitoring program authorities, required pursuant to 40 CFR 281.40: KRS 224.1–400, KRS 224.10–100, KRS 224.60–105, KRS 224.60–155, and 401 KAR 42:020.

As part of the State Application, the Commonwealth has identified the following specific statutory and regulatory compliance enforcement program authorities, required pursuant to 40 CFR 281.41: KRS 224.1–400, KRS 224.10–410, KRS 224.10–420, KRS 224.10–440, KRS 224.60–155, KRS 224.99–010, 401 KAR 42:020, 400 KAR 1:090, and 400 KAR 1:100.

As part of the State Application, the Commonwealth has identified the following specific authorities enabling public participation in the State enforcement process, required pursuant to 40 CFR 281.42: KRS 224.10–420 and 400 KAR 1:090 Section 14. Further, through a Memorandum of Agreement between the Commonwealth and the EPA, effective September 16, 2020, the State maintains procedures for receiving and ensuring proper consideration of information about violations submitted by the public, and the Commonwealth will not oppose citizen intervention when permissive intervention is allowed by statute, rule or regulation. As required pursuant to 40 CFR 281.43, through the Memorandum of Agreement between the State and the EPA, the State agrees to furnish the EPA, upon request, any information in State files obtained or used in the administration of the State program. Therefore, the EPA is approving the Commonwealth to operate the State UST Program as described in the State Application. The EPA is hereby concluding that the State Application for the Commonwealth's UST Program approval meets all of the statutory and regulatory requirements established by Subtitle I of RCRA. Accordingly, the Commonwealth's UST Program will operate in lieu of the Federal program. The Commonwealth will have primary enforcement authority and responsibility for its State UST Program. This action does not impose additional requirements on the

[1] 40 CFR 281.24(a) requires an Attorney General's statement, but allows it *to be signed by independent legal counsel for the state rather than the Attorney General, provided that such counsel has full authority to independently represent the State agency in court on all matters pertaining to the State UST Program.* The Kentucky Energy and Environment Cabinet General Counsel has represented that it has such authority and has submitted such statement in the form of a General Counsel Statement.

regulated community because the regulations being approved by this rule are already in effect in the Commonwealth, and are not changed by this determination. This action merely approves the existing State regulations as meeting the Federal requirements, thus rendering them federally enforceable. This final determination to approve the State UST Program applies to all areas within the State. Though the Commonwealth has primary enforcement responsibility, the EPA retains the right to conduct inspections under section 9005 of RCRA and to take enforcement actions under section 9006 of RCRA.

States may enact laws that are more stringent than their Federal counterparts. *See* RCRA section 9008, 42 U.S.C. 6991g. When an approved state program includes requirements that are considered more stringent than those required by Federal law, the more stringent requirements become part of the federally approved program in accordance with 40 CFR 281.12(a)(3)(i). The EPA has determined that some of the Commonwealth's regulations are considered more stringent than the Federal program, and upon approval, they will become part of the federally approved State UST Program and therefore federally enforceable. In addition, states may enact laws which have a greater scope of coverage than the Federal program. These provisions are considered broader in scope and are not part of the federally approved program and are therefore not federally enforceable. *See* 40 CFR 281.12(a)(3). Although these requirements are enforceable by the Commonwealth as a matter of State law, they are not RCRA requirements. The statutory and regulatory provisions the Agency has decided to approve are found generally at KRS 224.60–100 *et seq.* and 401 KAR 42:005 *et seq.* However, the EPA has determined that the following State UST Program requirements are broader in scope than the Federal program.[2]

*Statutory Broader in Scope Provisions*

- KRS 224.60–130 to 140, insofar as these relate to UST registration requirements, the establishment of a Petroleum Environmental Assurance Fee, and the administration of the State Petroleum Storage Tank Environmental Assurance Fund.
- KRS 224.60–150, insofar as it relates to the authority to levy and collect an annual fee of thirty (30) dollars per tank from owners or operators of USTs for the purpose of funding the administration of the UST Program.

*Regulatory Broader in Scope Provisions*

- 401 KAR 42:020, section 2, insofar as it relates to the establishment of UST registration requirements and the collection of annual fees.
- 401 KAR 42:250, insofar as it relates to eligibility requirements and administrative procedures for the Petroleum Storage Tank Environmental Assurance Fund.
- 401 KAR 42:330, insofar as it relates to the eligibility requirements and rates for reimbursement from the Small Owners Tank Removal Account.
- 401 KAR 42:060, insofar as it relates to the UST Corrective Action Manual for site investigations and corrective action activities for releases from UST systems.

**D. Statutory and Executive Order (E.O.) Reviews**

This final action merely approves Kentucky's UST Program requirements pursuant to RCRA section 9004 and does not impose additional requirements other than those imposed by State law. For further information on how this action complies with applicable executive orders and statutory provisions, please see the EPA's tentative determination published in the July 1, 2020 **Federal Register** at 85 FR 29517. 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 document 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 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). This final action will be effective September 16, 2020.

**List of Subjects in 40 CFR Parts 281**

Environmental protection, Administrative practice and procedure, Petroleum, Hazardous substances, State program approval, Underground storage tanks, and Reporting and recordkeeping requirements.

**Authority:** This action is issued under the authority of Sections 2002(a), 7004(b), 9004, 9005 and 9006 of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6974(b), 6991c, 6991d, and 6991e.

Dated: August 18, 2020.

**Mary Walker,**

*Regional Administrator, Region 4.*

[FR Doc. 2020–18567 Filed 9–15–20; 8:45 am]

BILLING CODE 6560–50–P

[2] If a statutory or regulatory provision is not identified in the following analysis as being broader in scope, then the provision is part of the approved UST Program and federally enforceable.

---

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 721

**[EPA–HQ–OPPT–2019–0495; FRL–10013–95]**

**RIN 2070–AB27**

## Significant New Use Rules on Certain Chemical Substances (19–5.B); Technical Correction for PMN P-19-24

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

**ACTION:** Final rule; technical correction.

**SUMMARY:** EPA issued final significant new use rules (SNURs) in the August 3, 2020 **Federal Register** for chemical substances that were the subject of premanufacture notices (PMNs). EPA incorrectly identified the Chemical Abstracts Service Registry Number (CASRN) for the chemical substance that was the subject of PMN P-19-24. This technical correction is being issued to correct this error.

**DATES:** This technical correction is effective October 2, 2020. For purposes of judicial review, this rule shall be promulgated at 1 p.m. (e.s.t.) on September 30, 2020.

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2019–0495, is available at *http://www.regulations.gov.* Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

**FOR FURTHER INFORMATION CONTACT:** *For technical information contact:* William Wysong, Chemical Control Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–4163; email address: *wysong.william@epa.gov.*

*For general information contact:* The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. What does this technical correction do?

EPA issued a final rule (referred to as SNUR Batch 19–5.B) in the August 3, 2020 **Federal Register** (85 FR 46550) (FRL–10009–78) on significant new uses for chemical substances that were the subject of PMNs. EPA subsequently determined that the final rule incorrectly identified the CASRN associated with the chemical substance silsesquioxanes, 3-(dimethyloctadecylammonio)propyl Me Pr, polymers with silicic acid (H4SiO4) tetra-Et ester, (2-hydroxyethoxy)- and methoxy-terminated, chlorides (PMN P-19-24) codified at 40 CFR 721.11380. This action corrects the error as follows:

• Paragraph (a)(1) of the SNUR at 40 CFR 721.11380 is corrected to identify the CASRN for the substance that was the subject of PMN P-19-24 as 2231249–14–0.

## II. Why is this correction issued as a final rule?

Section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(3)(B)) provides that, when an Agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the Agency may issue a final rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making this technical correction final without prior proposal and opportunity for comment. Correcting the CASRN specified in the August 3, 2020 final rule is necessary for the proper identification of the chemical substance which is the subject of the SNUR at 40 CFR 721.11380. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

## III. Do any of the statutory and Executive Order reviews apply to this action?

No. For a detailed discussion concerning the statutory and Executive Order review, refer to Unit XII. of the August 3, 2020 final rule.

## IV. Congressional Review Act (CRA)

Pursuant to the CRA (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 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: August 20, 2020.

**Tala Henry,**

*Deputy Director, Office of Pollution Prevention and Toxics.*

Therefore, for the reasons stated in the preamble, 40 CFR part 721 is corrected as follows:

## PART 721—[AMENDED]

■ 1. The authority citation for part 721 continues to read as follows:

**Authority:** 15 U.S.C. 2604, 2607, and 2625(c).

■ 2. In § 721.11380, revise paragraph (a)(1) to read as follows:

**§ 721.11380 Silsesquioxanes, 3-(dimethyloctadecylammonio)propyl Me Pr, polymers with silicic acid (H4SiO4) tetra-Et ester, (2-hydroxyethoxy)- and methoxy-terminated, chlorides.**

(a) * * * (1) The chemical substance identified as silsesquioxanes, 3-(dimethyloctadecylammonio)propyl Me Pr, polymers with silicic acid (H4SiO4) tetra-Et ester, (2-hydroxyethoxy)- and methoxy-terminated, chlorides. (P-19-24, CASRN 2231249–14–0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

* * * * *

[FR Doc. 2020–18885 Filed 9–15–20; 8:45 am]

BILLING CODE 6560–50–P

---

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 46 CFR Part 11

**[Docket No. USCG–2017–1025]**

**RIN 1625–AC42**

## Crediting Recent Sea Service of Personnel Serving on Vessels of the Uniformed Services

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is extending the period, from 3 years to 7 years, in which sea service aboard vessels of the uniformed services can be used to satisfy the requirement for recent sea service to qualify for a Merchant Mariner Credential with a national officer endorsement.

**DATES:** This final rule is effective September 16, 2020.

**ADDRESSES:** To view comments on the notice of proposed rulemaking and documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2017–1025 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** For information about this document call or email Cathleen Mauro, Office of Merchant Mariner Credentialing (CG–MMC–1), Coast Guard; telephone 202–372–1449, email *Cathleen.B.Mauro@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

## Table of Contents for Preamble

I. Abbreviations
II. Basis and Purpose
III. Background
IV. Discussion of Comments
V. Discussion of the Rule
VI. Regulatory Analyses
A. Regulatory Planning and Review
B. Small Entities
C. Assistance for Small Entities
D. Collection of Information
E. Federalism
F. Unfunded Mandates
G. Taking of Private Property
H. Civil Justice Reform
I. Protection of Children
J. Indian Tribal Governments
K. Energy Effects
L. Technical Standards
M. Environment

## I. Abbreviations

BLS Bureau of Labor Statistics
CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
ICR Information Collection Request
MMC Merchant Mariner Credential
MMLD Merchant Mariner Licensing and Documentation System
NMC National Maritime Center
NOAA National Oceanic and Atmospheric Administration
NPRM Notice of Proposed Rulemaking
PHS Public Health Service
RA Regulatory Analysis
RFA Regulatory Flexibility ACT
§ Section
U.S.C. United States Code

## II. Basis and Purpose

Under 46 CFR 11.201(c)(2), an applicant for a national officer endorsement on a Merchant Mariner Credential (MMC) must have at least 3 months of required service on vessels of appropriate tonnage or horsepower within the 3 years immediately

preceding the date of application. Section 305 of the Howard Coble Coast Guard and Maritime Transportation Act of 2014 [1] amended 46 U.S.C. 7101 to specifically authorize the Coast Guard to extend the period from 3 years to 7 years for individuals whose 3 months of qualifying sea service was aboard vessels of the uniformed services. Such individuals must also satisfy all other requirements for a national officer endorsement on an MMC. In this final rule, consistent with the statutory authorization, we establish in regulation a 7-year period within which the attainment of 3 months of qualifying sea service aboard vessels of the uniformed services can be used to satisfy the requirement for recent sea service to qualify for an MMC with a national officer endorsement.[2] This regulatory change affects only 46 CFR part 11, ''Requirements for officer endorsements,'' and, specifically, only 46 CFR 11.201(c)(2).

In accordance with 5 U.S.C. 553(d)(1) and (3), this rule will become effective upon the date of publication in the **Federal Register**. Under 5 U.S.C. 553(d)(1), an agency is permitted to make ''a substantive rule which grants or recognizes an exemption or relieves a restriction . . .'' to become immediately effective. This rule relieves a restriction by extending the period, from 3 years to 7 years, in which sea service aboard vessels of the uniformed services can be used to satisfy the requirement for recent sea service to qualify for a Merchant Mariner Credential with a national officer endorsement.

## III. Background

Individuals serving on vessels of the uniformed services represent a population who may qualify for an MMC. When these individuals spend the final years of their careers assigned to shoreside units, the requirement in 46 CFR 11.201(c)(2) to have at least 3 months of qualifying sea service within 3 years of application for an officer endorsement poses an obstacle to meeting the requirement for recent sea service. This rule will update the recent sea service requirements for a person to qualify for a national officer endorsement based on sea service aboard vessels of the uniformed services.

On December 18, 2014, Congress amended 46 U.S.C. 7101 by adding paragraph (j), which authorized the Coast Guard to extend the period from 3 years to 7 years for individuals whose 3 months of qualifying sea service was aboard vessels of the uniformed services. Subsequent to enactment of 46 U.S.C. 7101(j)(1), the Coast Guard issued CG–CVC Policy Letter 15–03, ''Crediting Recent Service of Uniformed Service Personnel,'' [3] on October 16, 2015, to implement 46 U.S.C. 7101(j)(1) until a rulemaking could be completed.

## IV. Discussion of Comments

In the 2019 Notice of proposed rulemaking (NPRM),[4] the Coast Guard requested comments on our proposal to extend, from 3 years to 7 years, the period for qualifying sea service that is the subject of this final rule. The Coast Guard received no comments on that proposal. Accordingly, the Coast Guard has made no changes from the proposed rule in response to public comment.

In the same NPRM, the Coast Guard asked for public input on two related questions that were not part of the proposal. The Coast Guard received input from two commenters in response to these questions. The questions were:

(1) Should the period for ''recent'' service be extended to 7 years for all national officer endorsements?; and

(2) Is it necessary to have a requirement for recent sea service for an original, renewal, or raise of grade of an MMC with a national officer endorsement?

The responses to these questions do not impact this rulemaking, but may be used to inform future Coast Guard decisions on regulatory initiatives regarding the requirement for recent sea service. We summarize the comments here.

The Coast Guard asked if the period for recent sea service should be extended to 7 years for all national officer endorsements. The Coast Guard received input from two commenters in response to this question. The first commenter does not support extending the period of recent sea service to 7 years for all national officer endorsements. This commenter discusses the rapid changes in technology that make it critical for mariners to have recent service in order to maintain familiarization with current equipment, associated practices, and safe shipboard operations. Further, this commenter notes the importance of recent service on vessels of appropriate horsepower and tonnage so that mariners will have experience on vessels with handling characteristics, navigation equipment, and firefighting equipment relevant to the endorsement they are seeking.

The second commenter supports extending to 7 years the period of recent service for all original national officer endorsements, not just those for uniformed service members. This commenter believes extending the period within which recent service can be obtained to all mariners would create an even standard regardless of how they obtained their qualifying sea service, and would provide an equitable option within the industry without a negative impact to safety. This same commenter does not support extending the period for required service to 7 years in the case of renewing an MMC officer endorsement or raising the grade of an existing officer endorsement.

The Coast Guard also asked if a recent sea service requirement is necessary for an original, renewal, or raise of grade of an MMC with a national officer endorsement. The Coast Guard received input from two commenters in response to this question. Both commenters support the requirement for recent sea service to obtain a national officer endorsement. The commenters emphasized the importance of ensuring the competency of mariners who make operational decisions that could impact the safety of life, cargo, and the marine environment. The second commenter supported the recent sea service requirement as a means of ensuring competency within the maritime workforce, believing it is important for mariners to have experience on the job before serving in positions of authority where safety could be adversely affected by a lack of experience. With respect to renewals, both commenters believe the existing regulatory requirements for renewing an officer endorsement provide reasonable options for mariners who do not have recent sea service to renew a credential and return to employment within the industry. See 46 CFR 10.227(e) for the available options a mariner may use, other than recent sea service, to meet the professional requirements for renewal. The commenters also state that the renewal options allowed under 46 CFR 10.227(e) should not be extended for raising the grade of an officer endorsement due to the nature of taking on increased responsibility and, therefore, having an increased role in ensuring the safety of a vessel.

The first commenter also expressed concern over the training of Coast Guard

[1] Public Law 113–281, 128 Stat. 3022 (2014).

[2] The change is also consistent with Executive Order 13860, Supporting the Transition of Active Duty Service Members and Military Veterans Into the Merchant Marine, 84 FR 8407 (Mar. 7, 2019). *See also* Public Law 113–281, § 305(c), 46 U.S.C. 7302 note.

[3] CG–CVC Policy Letter 15–03 can be accessed at: *https://www.dco.uscg.mil/Portals/9/DCO%20Documents/5p/CG-5PC/CG-CVC/Policy%20Letters/2015/CG-CVC_pol15-03.pdf.*

[4] 84 FR 48842, September 17, 2019.

personnel evaluating MMC applications, specifically with regard to the tonnage and horsepower portion of the recent service requirements. However, the training of Coast Guard personnel evaluating MMC applications is outside the scope of this rulemaking.

## V. Discussion of the Rule

As specifically authorized by 46 U.S.C. 7101(j)(1), and consistent with existing policy, the Coast Guard is amending 46 CFR 11.201(c)(2) to allow individuals who have attained qualifying sea service aboard vessels of the uniformed services within 7 years preceding the date of application for a national officer endorsement to use this service to satisfy the requirement for recent sea service. The Coast Guard is also amending the regulation to allow applicants to use a combination of sea service obtained on vessels of appropriate tonnage or horsepower within 3 years preceding the date of application with sea service obtained on vessels of the uniformed services within 7 years preceding the date of application to meet the requirement for 3 months of recent sea service. Allowing for a combination of service provides maximum flexibility for applicants in meeting the service requirements for a for a national officer endorsement. This rule uses, without change, the regulatory text proposed in the NPRM.

## VI. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on these statutes or Executive Orders.

*Regulatory Planning and Review*

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) 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 (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs) directs agencies to reduce regulation and control regulatory costs and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.''

The OMB has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. Because this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. *See* the OMB Memorandum titled ''Guidance Implementing Executive Order 13771, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (April 5, 2017). A regulatory analysis (RA) follows.

We did not receive public comments regarding the regulatory analysis of the proposed rule; therefore, we adopt the preliminary regulatory analysis of the proposed rule as final. However, we have updated this analysis using 2018 wage rate estimates, which are reflected in the revised analysis below.

This final rule will revise existing regulations related to the requirement for recent sea service to qualify for an MMC with a national officer endorsement. Specifically, it will amend 46 CFR 11.201(c)(2) by establishing a 7-year period within which the attainment of 3 months of qualifying sea service aboard vessels of the uniformed services would satisfy the requirement for recent sea service. This change will apply to original and raise of grade national officer endorsement applicants who have served on vessels of the uniformed services. Under 10 U.S.C. 101(a)(5), ''uniformed services'' means the armed forces, the commissioned corps of the National Oceanic and Atmospheric Administration (NOAA), and the commissioned corps of the Public Health Service (PHS). To estimate the impact of the increased timeframe to attain the 3 months of qualifying sea service that is necessary to satisfy the requirement for recent sea service, we examined data on officer endorsement applications provided by the National Maritime Center (NMC).

This final rule intends to update the regulatory requirements with the service standard authorized under 46 U.S.C 7101(j)(I). This service standard was implemented by the Coast Guard through CG–CVC Policy Letter 15–03 on an interim basis until a rulemaking could be completed.

CG–CVC Policy Letter 15–03 intended to increase the number of qualified applicants for a national officer endorsement, which will subsequently increase the pool of credentialed mariners supporting U.S. commerce and the growth of the marine transportation system. However, after examining the existing data, it was not possible to estimate the extent of any increases. Information provided by the NMC from the Merchant Mariner Licensing and Documentation (MMLD) system was used to estimate the number of mariners that may be affected by this rule. The data available from 2016–2018 indicates that applicants for an original endorsement or raise of grade to an existing endorsement may be able to utilize previous sea service on vessels of the uniformed services to meet the professional requirements for a national officer endorsement. Meeting the requirements for an original officer endorsement may allow a mariner to be employed at a higher initial wage rate. We present an analysis of the potential positive distributional impacts (qualitative) on mariners in the benefits section.

This final rule will increase the period from 3 years to 7 years within which qualifying sea service aboard vessels of the uniformed services can be used to satisfy the requirement for recent sea service to qualify for an MMC with a national officer endorsement. Although this final rule will provide increased flexibility to applicants for an MMC, the Coast Guard cannot conclusively determine how many individuals will take advantage of this flexibility or estimate the impact of increasing the period from 3 years to 7 years on the number of total qualified merchant mariners—therefore, we did not estimate costs. Although the annual average number of original and raise of grade national officer endorsements is decreasing, the number of individuals using prior service on vessels of the uniformed services is increasing based on data between 2016–2018. The Coast Guard did not receive any public comments to supplement this analysis and no additional data has become available. Therefore, we are unable to determine the source of the increase in national officer endorsements issued with sea service on vessels of the uniformed services (see table 1).

TABLE 1—SUMMARY OF THE IMPACTS OF THE FINAL RULE

| Category | Summary |
|---|---|
| Applicability | Amend requirement in 46 CFR 11.201(c)(2) to 3 months of qualifying sea service within 7 years of application for a national officer endorsement for individuals who have service on vessels of the uniformed services. |
| Potentially Affected Population. | Based on a historical estimate of the proportion of individuals who used prior service on vessels of the uniformed services to the number of original and raise of grade national officer endorsements issued between 2016 and 2018, we estimate that about 516 prospective mariners may apply annually for an MMC with a national officer endorsement utilizing service on vessels of the uniformed services. However, the data did not allow us to conclusively estimate the increase in mariners due to annual fluctuations in the applications as a result of factors external to this rule. |
| Costs | No costs estimated because this final rule will only provide increasing flexibility for qualified merchant mariners. |
| Unit Fee and Wage estimates (these are no costs for the final rule). | Unit costs for individuals who will take advantage of the flexibility provided by the rule include the evaluation, examination, and issuance fees for an MMC—that ranges from $45–$110 for a total unit cost of $255 for each individual—and the labor time it takes to fill out the forms at the respective loaded mean hourly wage rates and submission to the NMC that ranges from 5 to 18 minutes. The loaded mean hourly wage rates for individuals range from $26.99 to $57.95. |
| Unquantified Benefits | • Potential for an increased pool of qualified mariners supporting U.S. commerce and the growth of the marine transportation system.<br>• Potential for an increase in the number of job opportunities for individuals who have served on vessels of the uniformed services.<br>• Potential for an increase in the starting wage rate for mariners who will now qualify for a national officer endorsement. |

**Note:** Please see the benefit section of this analysis for the wage rates in this table.

*Affected Population*

Section 7101(j)(1) of 46 U.S.C. applies to applicants that have 3 months of qualifying service on vessels of the uniformed services within the 7 years immediately preceding the date of application. The pool of applicants who will be affected by this final rule are current and former members of the U.S. armed forces,[5] the commissioned corps of NOAA and PHS, and civilians who attained qualifying sea service aboard vessels of the uniformed services within 7 years preceding the date of application for a national officer endorsement. There are approximately 1.34 million military personnel serving in the U.S. armed forces, 683,063 personnel serving in the Reserve,[6] and approximately 727,000 civilians employed by the uniformed services.[7 8 9] To estimate the number of people potentially affected by this final rule, we examined data provided by the NMC. The NMC evaluates MMC applications and issues credentials to qualified mariners. As noted in section IV, on December 18, 2014, Congress amended 46 U.S.C. 7101 to authorize the Coast Guard to extend the period by which a mariner can obtain 3 months of qualifying sea service aboard vessels of the uniformed services from 3 years to 7 years to satisfy the requirement for recent sea service. Following that, in October 2015, CG–CVC Policy Letter 15–03 was published to implement 46 U.S.C. 7101(j)(1) on an interim basis until the Coast Guard could complete a rulemaking. This analysis utilized Coast Guard data from the MMLD database on all original and raise of grade national officer endorsements issued beginning in 2010, and original and raise of grade national officer endorsements issued utilizing prior sea service on vessels of the uniformed services beginning in 2016. In 2016, the NMC began identifying applications utilizing prior service aboard vessels of the uniformed services to meet the requirement for recent sea service under 46 CFR 11.201(c)(2). The data spans from January 2016 through December 2018 to include 36 months (unless otherwise noted). Therefore, given the data availability, we use the statistical baseline of 2016 for this analysis. The observations are as follows:

(1) The annual average number of original and raise of grade national officer endorsements issued is 7,203 (as observed from 2010–2018). In Figure 1, we show the results of our observation of historical data indicating that the number of annual officer endorsements issued from 2010–2018 is on a downward trend.

(2) In 2016, there were 7,165 original and raise of grade national officer endorsements issued, of which 356 used prior service on vessels of the uniformed services to meet the requirements for the endorsement.[10] This is equivalent to approximately 5.0 percent (356 ÷ 7,165). In 2017, there were 6,330 original and raise of grade national officer endorsements issued, of which 495 used prior service on vessels of the uniformed services to meet the requirements for the endorsement. This is equivalent to approximately 7.8 percent (495 ÷ 6,330). In 2018, there were 5,748 original and raise of grade national officer endorsements issued, of which 501 used prior service on vessels of the uniformed services to meet the requirements for the endorsement. This is equivalent to approximately 8.7 percent (501 ÷ 5,748).

[5] Under 10 U.S.C. 101(a)(4), the U.S. armed forces includes the Air Force, Army, Coast Guard, Navy, and Marines Corps.

[6] The Reserve consists of the Army National Guard, the Army Reserve, the Navy Reserve, the Marine Corps Reserve, the Air National Guard, the Coast Guard Reserve, and the Air Force Reserve.

[7] Armed forces civilian personnel data from *https://www.census.gov/library/publications/2011/compendia/statab/131ed/national-security-veterans-affairs.html,* accessed March 26, 2019.

Armed forces and Reserves population data from *https://www.cna.org/pop-rep/2017/summary/summary.pdf,* accessed March 24, 2020. Readers can find the data in Table 1. U.S. armed forces is 1.34 million (1,294,520 + 41,553). The Reserve is 683,063 (677,892 + 5,171).U.S. Public Health Service (PHS) public data, accessed 24 March 2020, *https://usphs.gov/aboutus/leadership.aspx.*

NOAA public data, accessed July 14, 2018, *https://www.fedscope.opm.gov/ibmcognos/cgi-bin/cognosisapi.dll.* To access, use the following path: FSe—Employment Generic, Employment—March 2018 Generic, Agency—All Agencies, CM54—National Oceanic and Atmospheric Administration. This link is only accessible by a government computer.

[8] As stated in CG–CVC Policy Letter No. 15–03, section (4)(a)(3), this will also apply to civilian mariners working aboard vessels of the uniformed services. For example, the more-than 5000 civil servant mariners who work aboard Military Sealift Command vessels, the union contract mariners who sail aboard NOAA vessels, and the Navy-owned prepositioning vessels.

[9] There are approximately 709,265 DoD civilian personnel, 6,500 PHS personnel, and 11,268 NOAA personnel. 709,265 + 6,500 + 11,268 = 727,033, which is rounded to 727,000.

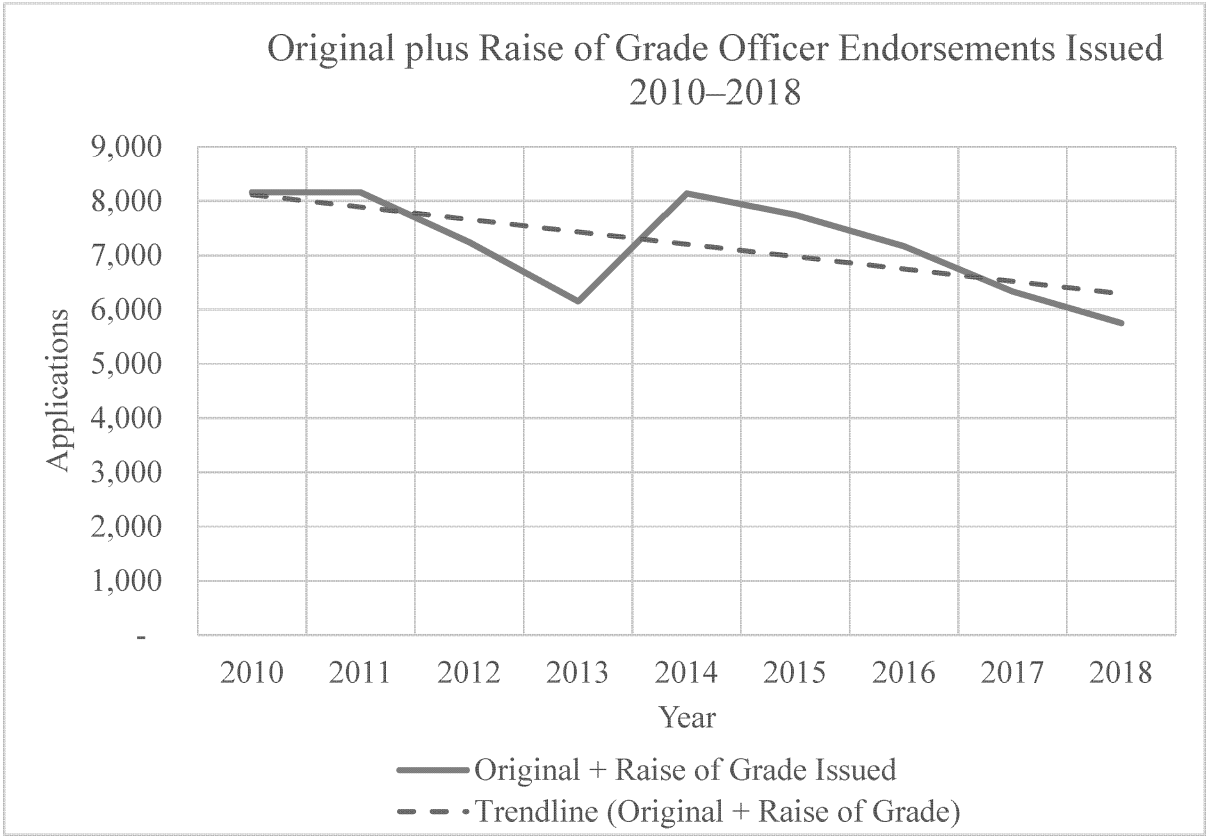
[10] Qualification meaning prior service on vessels of the uniformed services to meet the requirement for recent sea service to qualify for a national officer endorsement.

(3) The average percentage of original and raise of grade national officer endorsements issued using prior sea service aboard vessels of the uniformed services is about 7.2 percent ([0.05 + 0.078 + 0.087] ÷ 3 = 0.072 or 7.2 percent).

(4) Using the figure derived in (1) and the figure derived in (3), the Coast Guard found the average number of (estimated) national officer endorsements using prior sea service aboard vessels of the uniformed services to be 516 per year (7,203 average annual number of national officer endorsements issued × 0.072 percentage of national officer endorsements issued using prior sea service on vessels of the uniformed services).[11]

**Figure 1. Annual Number of Original and Raise of Grade National Officer**

Endorsements Issued by Year




*Costs Analysis*

This final rule will amend 46 CFR 11.201(c)(2) and establish a 7-year period within which the attainment of 3 months of qualifying sea service aboard vessels of the uniformed services could be used to satisfy the requirement for recent sea service to qualify for a national officer endorsement, which is the current industry practice. Therefore, we expect the rule to generate no cost to industry and the Federal Government. Following the publication of CG–CVC Policy Letter 15–03, the Coast Guard anticipated an increase in the total number of MMCs issued with original or raise of grade national officer endorsements. In 2016, the NMC began collecting data on the number of applicants using prior sea service aboard vessels of the uniformed service.[12] As shown in table 2, the total number of national officer endorsements issued, either original or raise of grade, decreased approximately 20 percent from 2016–2018. However, the number of national officer endorsements issued, either original or raise of grade, that utilized sea service on vessels of the uniformed services increased approximately 41 percent [(501 − 356) ÷ 356].

[11] Slight errors may be due to rounding.

[12] The data is available for years 2016–2018, which leads to a baseline year of 2016.

TABLE 2—NATIONAL OFFICER ENDORSEMENTS ISSUED
[2016–2018]

| National Officer Endorsements Issued—Original and Raise of Grade | | | |
|---|---|---|---|
| Year | 2016 | 2017 | 2018 |
| Applications | 7,165 | 6,330 | 5,748 |
| **National Officer Endorsements Issued with Service on Vessels of the Uniformed Services—Original and Raise of Grade** | | | |
| Year | 2016 | 2017 | 2018 |
| Applications | 356 | 495 | 501 |

As stated previously, this rule expects to increase the number of qualified applicants for a national officer endorsements that will ultimately lead to an increase in the number of credentialed mariners. However, even with the increase in the national officer endorsements issued utilizing sea service on vessels of the uniformed services, the decrease in national officer endorsements issued from 2010–2018 is significant enough to conclude that the population of credentialed mariners is decreasing.

In addition, due to data limitations described above, we cannot ascertain if the increase in national officer endorsements issued with sea service on vessels of the uniformed services from 2016–2018 was due to applicants utilizing sea service on vessels of the uniformed services resulting from CG–CVC Policy Letter 15–03 or if it was just part of the annual fluctuations in applications.

As a result, we are unable to estimate the impact of CG–CVC Policy Letter 15–03 on the number of original or raise of grade national officer endorsements issued, and we are also unable to conclusively estimate the impact of this rule on the number of total qualified merchant mariners. Without being able to estimate the increase in the number of original or raise of grade national officer endorsements issued utilizing prior service on vessels of the uniformed services as directly related to CG–CVC Policy Letter 15–03, we are unable to assign costs to this rule.

Although there are no costs for this rule, we present a unit cost estimate for a mariner to obtain an MMC. The fees associated with an application for an MMC are established in 46 CFR 10.219. The fees for an original or raise of grade national officer endorsement include evaluation, examination, and issuance fees ranging from $45–$110. We also estimate it takes a mariner between 5 and 18 minutes (based on NMC's OMB-approved Information Collection Request (ICR), with a control number of 1625–0040), at a respective mariner's loaded hourly wage rate (see table 3) to fill out the MMC application for submission to the NMC. However, because this rule will extend the period of time a mariner has to attain 3 months of qualifying sea service aboard vessels of the uniformed services from 3 years to 7 years, which has been the industry practice since 2015 when CG–CVC Policy Letter 15–03 went into effect, there is no cost associated with this change.

Because we cannot determine the impact on the number of national officer endorsements issued related to CG–CVC Policy Letter 15–03, we also cannot estimate the government costs associated with this rulemaking. However, we are able to provide the following assessment of government costs for clarification purposes only. It normally takes a Coast Guard evaluator at the GS–8 level with a loaded mean hourly wage of $49 approximately 45 minutes to review the MMC application and associated documentation for a unit cost of about $36.75.[13] Government costs would result if there were an increase in applications for MMCs or if the time to evaluate the application changed from the estimated time in the ICR with a control number of 1625–0040. This would be realized at the NMC where applications for MMCs are evaluated and credentials are issued.

*Benefits*

This final rule will align the regulations in 46 CFR 11.201(c) with the authority granted in 46 U.S.C. 7101(j)(1) with no negative economic impact on the affected population. As mentioned earlier in this document, the Coast Guard issued CG–CVC Policy Letter 15–03 to implement 46 U.S.C. 7101(j)(1) on an interim basis until a rulemaking could be completed. Without the regulatory change made by this final rule, our regulations would not reflect the most up-to-date sea service standard specifically authorized under 46 U.S.C. 7101(j)(1). Accordingly, this final rule helps avoid confusion by ensuring the most up-to-date applicable standard is incorporated in the regulation.

The Coast Guard has identified several qualitative benefits for this rule. The final rule will improve the pathways to qualify for an MMC with a national officer endorsement and increase the number of job opportunities for individuals with experience aboard vessels of the uniformed services. This also provides the ability for a larger pool of mariners to enter the workforce at a higher pay rate than they would have realized prior to CG–CVC Policy Letter 15–03. Although there is also a potential for an increase in the pool of applicants, at this time the data does not allow us to estimate this impact. While there was a 41 percent increase in the number of original and raise of grade national officer endorsements issued utilizing prior sea service on vessels of the uniformed services, there was also a corresponding 20 percent decrease (see table 2) in the number of original and raise of grade national officer endorsements issued that did not utilize prior sea service from 2016–2018. The 20 percent decrease is a more significant indication of the annual credentialing trend as compared to the 41 percent increase to the population that did use prior sea service as part of their application. At this time, the data is not robust enough to allow us to estimate the impact of CG–CVC Policy Letter 15–03 on the number of original and raise of grade national officer endorsements issued.

Providing a method for individuals to use recent sea service on vessels of the uniformed services to qualify for an MMC with a national officer endorsement could result in the opportunity for them to be initially employed at a higher pay rate, which leads to the possibility of favorable wage impacts to the mariner. Below, we describe the potential increase in wages to the mariner resulting from having previous service on vessels of the uniformed services.

To estimate the potential wage impacts to the mariner, we compared

[13] Information provided by the NMC. The mean hourly wage rate for a GS–8 employee is $49, ''Outside Government Rate'', per Commandant Instruction 7310.1T, November 2018.

the shipboard wage rates for an individual with an MMC with an officer endorsement to that of an individual with an MMC with a rating endorsement. The job categories for individuals with an officer endorsement as defined by the Bureau of Labor Statistics (BLS) are as follows: (1) Deck Officers, to include captains, mates, and pilots for water vessels; and (2) Engine Officers, to include ship engineers. The job categories for ratings are as follows: (1) Deck, including sailors; and (2) Engine, including marine oilers. If an applicant was unable to meet the existing 3-year requirement for recent sea service to qualify for an MMC with a national officer endorsement, they may seek employment as a rating to obtain recent sea service.[14] [15] Ratings are employed at a lower wage rate than officers. Tables 3 and 4 show the calculation for the loaded wage factor and the loaded wage rate for each personnel category. As described in table 4, individuals who do not hold an officer endorsement are classified as a rating paid at a lower wage than those that have an officer endorsement aboard a vessel. To meet the requirement for 3 months of recent sea service for an MMC with a national officer endorsement, an individual would have to spend that time employed as a rating aboard a vessel.

TABLE 3—LOADED WAGE FACTOR CALCULATION

| Personnel category | Data source | Total compensation | Wage & salaries | Loaded wage factor |
|---|---|---|---|---|
| All Workers Private Industry. | BLS Employer Costs for Employee Compensation, all workers private industry, service providing, production, transportation and materials moving. | $27.83 | $18.84 | 1.477 |

TABLE 4—LOADED WAGE CALCULATION

| Personnel category | Data source | Mean hourly wage | Loaded wage factor | Loaded wage ($2018) |
|---|---|---|---|---|
| Deck Officers | Wage Rate: 2018 mean hourly wage for Captains, Mates, and Pilots of Water Vessels. | $39.61 | 1.477 | $58.50 |
| Engine Officers | Wage Rate: 2018 mean hourly wage for Ship Engineers | 36.40 | 1.477 | 53.76 |
| Deck and Engine Ratings. | Wage Rate: 2018 mean hourly wage for Sailors and Marine Oilers | 22.20 | 1.477 | 32.79 |

* Numbers may not sum due to independent rounding.

We estimate the loaded hourly wage rate [16] to be $58.50 for Deck Officers and $53.76 for Engine Officers, respectively. This equates to an average loaded mean hourly wage rate for officers of $56.13.[17] We estimate the loaded mean hourly wage rate of Deck and Engine ratings to be $32.79.[18] [19]

To obtain the wage difference for the period a person would need to work as a rating on board a vessel to obtain recent sea service to qualify for a national officer endorsement, we must first calculate the 3-month wage for a rating, then calculate the 3-month wage for an officer, and then calculate the difference. We estimated the working hours in a 3-month, or 90-day period, to be 720 hours (90 working days, including weekends, multiplied by 8-hour working days).[20]

Using the calculated loaded mean hourly wage rate for Deck and Engine ratings, the Coast Guard calculated the total wages for a 3-month time period to be $23,608.80 ($32.79 × 720). Using the calculated average loaded mean hourly wage rate for officers, we calculated the total wages for a 3-month time period to be $40,413.60 ($56.13 × 720).[21] We can then calculate the loss in wages from being unable to qualify for an MMC with a national officer endorsement for a 3-month period. The difference in wages totals $16,804.80 ($40,413.60 − $23,608.80) per mariner. See table 5 below.

TABLE 5—90-DAY WAGE DIFFERENCE

| Personnel category | Loaded mean hourly wage | 90 Days in hours | 90 Days in wages [22] |
|---|---|---|---|
| Deck and Engine Officers | $56.13 | 720 | $40,413.60 |
| Deck and Engine Ratings | 32.79 | 720 | $23,608.80 |
| Individual Difference (Impact) | | | ($16,804.80) |

[14] For officers: *https://www.bls.gov/oes/2018/may/oes535021.htm* and *https://www.bls.gov/oes/2018/may/oes535031.htm;* for ratings: *https://www.bls.gov/oes/2018/may/oes535011.htm.* The mean hourly wage figure is what is used in the Coast Guard calculation.

[15] Currently, there are 45 types of officer endorsements and 12 types of rating endorsements available for an MMC. Because the BLS does not have wage information on all of these endorsement types, these categories were chosen as the best categories to encompass the endorsement types.

[16] Employer Costs for Employee Compensation provides information on the employer compensation and can be found at *https://data.bls.gov/cgi-bin/dsrv?cm.* To obtain the load factor, we used the multi-screen database and searched for ''private industry workers'' under ''total compensation'' and then for ''Service providing'' in the category ''Production, transportation and materials moving Occupations'', within the United States. Similarly, we followed the same steps to get the value for ''wages and salaries'' to calculate the load factor, we used the series ID CMU201S000500000D and CMU202S000500000D and 2019 quarter 3. The loaded wage factor is equal to the total compensation of $27.83 divided by the wages and salary of $18.84 ($27.83 ÷ $18.84) = 1.477.

[17] To get the average loaded hourly labor rate for ratings, the calculation is ($58.50 + $53.76) ÷ 2 = $56.13.

[18] All wage rates are in 2018 dollars.

[19] Slight calculation adjustments may occur due to rounding.

[20] Per the subject matter expert, the working hours is 7 days a week, 8 hours per day.

[21] Slight calculation adjustments may occur due to rounding.

In summary, although we were unable to estimate the impact of this rule on the number of merchant mariners available for employment on commercial vessels, we provide an estimate of the potential wage increases to the mariner if they are initially credentialed as an officer versus a rating. By increasing the period to meet the requirement for recent sea service to qualify for an MMC with a national officer endorsement, an individual forgoes having to work at a lower pay rate to obtain the prerequisite service for an officer endorsement. A potential increase in the entry wage rate for the applicant, if they are able to take advantage of this opportunity, could lead to an improved quality of life for the mariners who will now qualify for an MMC with a national officer endorsement.

*Regulatory Alternative Considered*

In developing this rule, the Coast Guard considered the following alternative to this rule: Continuing to allow the extended period for recent sea service as provided in CG–CVC Policy Letter 15–03. We rejected this alternative. In enacting Section 305 of the Howard Coble Coast Guard and Maritime Transportation Act of 2014, Congress expressly authorized the Secretary to extend the period for recent sea service from 3 years to 7 years for individuals whose sea service was aboard vessels of the uniformed services. Accordingly, the Coast Guard is taking action, through rulemaking, to make the regulatory language consistent with the Secretary's authority provided in 46 U.S.C. 7101(j)(1).

There are no other feasible alternatives that would be consistent with the policy goals of this rule. The existing regulatory language in 46 CFR 11.201(c)(2) requires qualifying sea service to be attained within a 3-year period preceding the date of application for all applicants.

*B. Small Entities*

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, we have considered whether this rule will have a significant economic impact on a substantial number of small entities. 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 rule affects individuals and not companies who employ these individuals. The RFA does not consider individuals to be small entities. Additionally, this rule does not impose any costs on non-Federal entities. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

*C. Assistance for Small Entities*

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we offer to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. 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.

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).

*D. Collection of Information*

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520. As defined in 5 CFR 1320.3(c), ''collection of information'' comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. Because the data indicates that this rule will not result in an increase in the number of applicants, it will not add respondents for recording and recordkeeping to the existing collection (OMB Control Number 1625–0040), ''Application for Merchant Mariner Credential (MMC), Application for Merchant Mariner Medical Certificate, Application for Merchant Mariner Medical Certificate for Entry Level Ratings, Small Vessel Sea Service Form, DOT/USCG Periodic Drug Testing Form, Disclosure Statement for Narcotics, DWI/DUI, and/or Other Convictions, Merchant Mariner Medical Certificate, Recognition of Foreign Certificate.''

*E. Federalism*

A rule has implications for federalism under Executive Order 13132 (Federalism) if it has a substantial direct effect on 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 final rule under Executive Order 13132 and have determined that it is consistent with the fundamental federalism principles and preemption requirements as described in Executive Order 13132. Our analysis follows.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled that the subject matter in 46 U.S.C. 7101 concerning the issuance and classification of merchant marine officer credentials by the United States Coast Guard is to be given pre-emptive effect over any conflicting state laws. *See, e.g., United States* v. *Locke,* 529 U.S. 89 (2000) (finding that the states are foreclosed from regulating tanker vessels) *see also Ray* v. *Atlantic Richfield Co.,* 435 U.S. 151, 157 (1978) (state regulation is preempted where ''the scheme of federal regulation may be so pervasive as to make reasonable the inference that Congress left no room for the States to supplement it [or where] the Act of Congress may touch a field in which the federal interest is so dominant that the federal system will be assumed to preclude enforcement of state laws on the same subject.'' (citations omitted)). Because this final rule involves the credentialing of mariners under 46 U.S.C. 7101, it relates to personnel qualifications for vessels subject to a pervasive scheme of federal regulation and is therefore foreclosed from regulation by the States. Because the States may not regulate within this category, this final rule is consistent with the fundamental federalism principles and preemption requirements in Executive Order 13132.

*F. Unfunded Mandates*

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. Although this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

*G. Taking of Private Property*

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (Governmental Actions and Interference with Constitutionally Protected Property Rights).

[22] Figures may not add due to rounding.

*H. Civil Justice Reform*

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform) to minimize litigation, eliminate ambiguity, and reduce burden.

*I. Protection of Children*

We have analyzed this rule under Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks). This rule is not an economically significant rule and will not create an environmental risk to health or risk to safety that might disproportionately affect children.

*J. Indian Tribal Governments*

This rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), because it will 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.

*K. Energy Effects*

We have analyzed this rule under Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use). We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. We have determined that it is not a ''significant energy action'' under Executive Order 13211, because although it is a ''significant regulatory action'' under Executive Order 12866, it is not likely to have a significant adverse effect on the supply, distribution, or use of energy, and the Administrator of OMB's Office of Information and Regulatory Affairs has not designated it as a significant energy action.

*L. Technical Standards and Incorporation by Reference*

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

*M. Environment*

We have analyzed this rule under Department of Homeland Security Management 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 made a determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. This rule is categorically excluded under paragraph L56 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. Paragraph L56 pertains to the training, qualifying, licensing, and disciplining of maritime personnel. This rule involves amending the period within which qualifying sea service aboard vessels of the uniformed services can be used to satisfy the requirement for recent sea service to qualify for a Merchant Mariner Credential with a national officer endorsement.

**List of Subjects in 46 CFR Part 11**

Penalties, Reporting and recordkeeping requirements, Schools, Seamen.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR part 11 as follows:

## PART 11—REQUIREMENTS FOR OFFICER ENDORSEMENTS

■ 1. The authority citation for part 11 continues to read as follows:

**Authority:** 14 U.S.C. 503; 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, and 2110; 46 U.S.C. chapter 71; 46 U.S.C. 7502, 7505, 7701, 8906, and 70105; Executive Order 10173; Department of Homeland Security Delegation No. 0170.1. Section 11.107 is also issued under the authority of 44 U.S.C. 3507.

■ 2. Amend § 11.201 by redesignating paragraph (c)(1) through (c)(6) as paragraph (c) introductory text through (c)(5) and revising newly redesignated (c)(1) to read as follows;

**§ 11.201 General requirements for national and STCW officer endorsements.**

* * * * *

(c) * * *

(1) An applicant for a national officer endorsement must meet one of the following:

(i) Have at least 3 months of required service on vessels of appropriate tonnage or horsepower within the 3 years immediately preceding the date of application; or

(ii) Have at least 3 months of required service on vessels of the uniformed services as defined in 10 U.S.C. 101(a)(5) of appropriate tonnage or horsepower within the 7 years immediately preceding the date of application; or

(iii) Have at least 3 months of required service attained through a combination of service established under paragraphs (c)(1)(i) or (ii) of this section.

* * * * *

Dated: August 12, 2020.

**R.V. Timme,**

*Rear Admiral, U.S. Coast Guard, Assistant Commandant for Prevention Policy.*

[FR Doc. 2020–18298 Filed 9–15–20; 8:45 am]

BILLING CODE 9110–04–P

## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 27

**[GN Docket No. 18–122; FCC 20–22; FRS 17058]**

## Expanding Flexible Use of the 3.7 to 4.2 GHz Band

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; announcement of compliance date.

**SUMMARY:** In this document, the Commission announces that the Office of Management and Budget has approved the information collection requirements associated with the rules adopted in the Federal Communications Commission's *3.7 GHz Report and Order,* FCC 20–22, requiring the Relocation Payment Clearinghouse, the Relocation Coordinator, and the Space Station Operators to disclose status reports and other information regarding costs and procedures of the transition process and its clearing efforts. This document is consistent with the *3.7 GHz Report and Order,* FCC 20–22, which states that the Commission will publish a document in the **Federal Register**

announcing a compliance date for the new rule sections.

**DATES:** Compliance with 47 CFR 27.1412(b)(3)(i), (d)(2), and (f) through (h); 27.1413(a)(2) and (3), (b), and (c)(3); 27.1414(b)(3), (b)(4)(iii), and (c)(1) through (3) and (6) and (7); 27.1415; 27.1416(a); 27.1417; 27.1421; and 27.1422(c), published at 85 FR 22804 on April 23, 2020, is required on September 16, 2020.

**FOR FURTHER INFORMATION CONTACT:** Anna Gentry, Mobility Division, Wireless Telecommunications Bureau, at (202) 418–7769 or *Anna.Gentry@fcc.gov.*

**SUPPLEMENTARY INFORMATION:** This document announces that the Office of Management and Budget (OMB) approved the information collection requirements in 47 CFR 27.1412(b)(3)(i), (d)(2), and (f) through (h); 27.1413(a)(2) and (3), (b), and (c)(3); 27.1414(b)(3), (b)(4)(iii), and (c)(1) through (3) and (6) and (7); 27.1415; 27.1416(a); 27.1417; 27.1421; and 27.1422(c), on August 28, 2020. These rules were adopted in the *3.7 GHz Report and Order,* FCC 20–22, published at 85 FR 22804 on April 23, 2020. The Commission publishes this document as an announcement of the compliance date for these new rules. OMB approval for all other new or amended rules for which OMB approval is required will be requested, and compliance is not yet required for those rules. Compliance with all new or amended rules adopted in the *3.7 GHz Report and Order* that do not require OMB approval is required as of June 22, 2020, *see* 85 FR 22804 (Apr. 23, 2020). If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street SW, Washington, DC 20554, regarding OMB Control Number 3060–1275. Please include the OMB Control Number in your correspondence. The Commission will also accept your comments via email at *PRA@fcc.gov.*

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

## Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the Commission is notifying the public that it received final OMB approval on August 28, 2020, for the information collection requirements contained in 47 CFR 27.1412(b)(3)(i), (d)(2), and (f) through (h); 27.1413(a)(2) and (3), (b), and (c)(3); 27.1414(b)(3), (b)(4)(iii), and (c)(1) through (3) and (6) and (7); 27.1415; 27.1416(a); 27.1417; 27.1421; and 27.1422(c) . Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number for the information collection requirements in 47 CFR 27.1412(b)(3)(i), (d)(2), and (f) through (h); 27.1413(a)(2) and (3), (b), and (c)(3); 27.1414(b)(3), (b)(4)(iii), and (c)(1) through (3) and (6) and (7); 27.1415; 27.1416(a); 27.1417; 27.1421; and 27.1422(c) is 3060–1275.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Pub. L. 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

*OMB Control Number:* 3060–1275.

*OMB Approval Date:* August 28, 2020.

*OMB Expiration Date:* August 31, 2023.

*Title:* 3.7 GHz Band Relocation Payment Clearinghouse; 3.7 GHz Band Relocation Coordinator; 3.7 GHz Band Space Station Operators.

*Form Number:* N/A.

*Respondents:* Business or other for-profit entities; Not for profit institutions; State, Local or Tribal Government.

*Number of Respondents and Responses:* 3,007 respondents; 9,362 responses.

*Estimated Time per Response:* 0.5 hours to 600 hours.

*Frequency of Response:* Recordkeeping requirement; on occasion, weekly, monthly, quarterly, semi-annul, and annual reporting requirements; third party disclosure requirement.

*Obligation to Respond:* Required to obtain or retain benefits. Statutory authority for this information collection is contained in sections 1, 2, 4(i), 4(j), 5(c), 201, 302, 303, 304, 307(e), 309, 316 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 155(c), 201, 302, 303, 304, 307(e), 309, 316.

*Total Annual Burden:* 77,754 hours.

*Total Annual Cost:* $10,705,353.

*Privacy Act Impact Assessment:* No impact(s).

*Nature and Extent of Confidentiality:* The information collected under this collection will be made publicly available. However, to the extent information submitted pursuant to this information collection is determined to be confidential, it will be protected by the Commission. If a respondent seeks to have information collected pursuant to this information collection withheld from public inspection, the respondent may request confidential treatment pursuant to § 0.459 of the Commission's rules for such information.

*Needs and Uses:* On February 28, 2020, in furtherance of the goal of releasing more mid-band spectrum into the market to support and enable next-generation wireless networks, the Commission adopted a Report and Order, FCC 20–22 (*3.7 GHz Report and Order*) in which it reformed the use of the 3.7–4.2 GHz band, also known as the C-Band. The 3.7–4.2 GHz band currently is allocated in the United States exclusively for non-Federal use on a primary basis for Fixed Satellite Service (FSS) and Fixed Service. Domestically, space station operators use the 3.7–4.2 GHz band to provide downlink signals of various bandwidths to licensed transmit-receive, registered receive-only, and unregistered receive-only earth stations throughout the United States. The *3.7 GHz Report and Order* calls for the relocation of existing FSS operations in the band into the upper 200 megahertz of the band (4.0–4.2 GHz) and making the lower 280 megahertz (3.7–3.98 GHz) available for flexible-use throughout the contiguous United States through a Commission-administered public auction of overlay licenses in the 3.7 GHz Service that is scheduled to occur later this year, with the 20 megahertz from 3.98–4.0 GHz reserved as a guard band. The Commission adopted a robust transition schedule to achieve an expeditious relocation of FSS operations and ensure that a significant amount of spectrum is made available quickly for next-generation wireless deployments, while also ensuring effective accommodation of relocated incumbent users. The *3.7 GHz Report and Order* establishes a deadline of December 5, 2025, for full relocation to ensure that all FSS operations are cleared in a timely manner, but provides an opportunity for accelerated clearing of the band by allowing incumbent space station operators, as defined in the *3.7 GHz Report and Order,* to commit to voluntarily relocate on a two-phased accelerated schedule (with additional obligations and incentives for such operators), with a Phase I deadline of December 5, 2021, and a Phase II deadline of December 5, 2023.

The Commission concluded in the *3.7 GHz Report and Order* that a neutral,

independent third-party Relocation Payment Clearinghouse (RPC) should be established to administer the cost-related aspects of the transition in a fair, transparent manner, mitigate financial disputes among stakeholders, and collect and distribute payments in a timely manner to transition incumbent space station operators out of the 3.7–3.98 GHz band. The Commission also concluded that a Relocation Coordinator (RC) should be appointed to ensure that all incumbent space station operators are relocating in a timely manner, and to be responsible for receiving notice from earth station operators or other satellite customers of any disputes related to comparability of facilities, workmanship, or preservation of service during the transition and notify the Commission of disputes and recommendations for resolution.

To ensure that 3.7–4.2 GHz band stakeholders adopt practices and standards in their operations to ensure an effective, efficient, and streamlined transition, the RPC, the RC, and the Space Station Operators (SSOs) are required to disclose status reports and other information regarding costs and procedures of the transition process and its clearing efforts.

The information required in this collection will be used to ensure that the process of clearing the lower portion of the band is efficient and timely, so that the spectrum can be auctioned for flexible-use service licenses and deployed for next-generation wireless services, including 5G, as quickly as possible. The collection is also necessary for the Commission to satisfy its oversight responsibilities and/or agency specific/government-wide reporting obligations. Under this new information collection, the RPC, the RC, and the SSOs will make the required disclosures of status reports and other information required by the Commission.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary.*

[FR Doc. 2020–19947 Filed 9–15–20; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 52

**[WC Docket No. 18–336; FCC 20–100; FRS 16962]**

### Implementation of the National Suicide Hotline Improvement Act of 2018

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communications Commission designates 988 as a simple, easy-to-remember, 3-digit dialing code for a national suicide prevention and mental health crisis hotline. All covered providers are required to implement 988 in their networks by July 16, 2022.

**DATES:** Effective October 16, 2020.

**FOR FURTHER INFORMATION CONTACT:** Michelle Sclater, Competition Policy Division, Wireline Competition Bureau, at (202) 418–0388, *Michelle.Sclater@fcc.gov.*

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Report and Order* in WC Docket No. 18–336, adopted on July 16, 2020 and released on July 17, 2020. The document is available for download at *https://docs.fcc.gov/public/attachments/FCC-20-100A1.pdf.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *FCC504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

## Synopsis

### I. Report and Order

1. In this *Report and Order,* we designate 988 as the 3-digit number for the Lifeline. We also address implementation of 988 in detail. In particular, based on the record, we require all covered providers to fully implement 988 in their networks by July 16, 2022. We conclude that the benefits of implementing 988 far exceed the costs.

#### *A. Designation of 988 as the 3-Digit Dialing Code for the National Suicide Prevention Lifeline*

2. We first adopt our proposal to designate a 3-digit dialing code for a national suicide prevention and mental health crisis hotline system. The record reflects that Americans in crisis are in need of an easy-to-remember number to access the Lifeline's potentially life-saving resources. And the record overwhelmingly reflects support from a wide variety of stakeholders and from many members of the public for designating a 3-digit dialing code for this important purpose. Indeed, over 1,100 commenters expressed support for our proposal. We agree with LGBT Technology Partnership that ''[t]he establishment of this number will undoubtedly help individuals in crisis get access to help and resources more efficiently and with less barriers than current systems.'' Commenters, including mental health organizations and crisis/counseling centers, agree that designating a 3-digit dialing code will increase, simplify, and improve access to the Lifeline; enhance public awareness of mental health services; and reduce the stigma surrounding suicide and mental health issues. As SAMHSA explains, designating a 3-digit code to reach the Lifeline would send ''the message that mental health crises and suicide prevention are of equivalent importance to medical emergencies,'' and ''would, over time, bring needed parity and could result in additional attention and resources to improve typical local psychiatric crisis services throughout the nation.'' Further, the record reflects that a 3-digit dialing code has the potential to ''become as ubiquitous as 911'' and align the importance and level of care of crisis services with the same urgency as 911 emergency services. For all of these reasons, we adopt our proposal to designate a 3-digit dialing code for a national suicide prevention and mental health crisis hotline system. We also note that no commenter opposes designation of a 3-digit number for this important purpose.

3. We next adopt our proposal to specifically designate 988 as the 3-digit dialing code for a national suicide prevention and mental health crisis hotline system, and to require that service providers transmit all calls initiated by an end user dialing 988 to the current toll free access number for the Lifeline. The record reflects widespread support in favor of 988, and we conclude that designating 988 is preferable to other 3-digit numbers and is the easiest and fastest path to ubiquitous deployment of a short, easy-to-remember dialing code for the Lifeline.

##### 1. Designating a Wholly Unique 3-Digit Dialing Code vs. an Existing N11 Code

4. We find that designating a wholly unique 3-digit number such as 988 is superior to designating an existing N11 number. *First,* a unique 3-digit code obviates the need to ''age'' an existing N11 code. As NCTA and GCI explain, repurposing an existing N11 code would involve a ''significant delay'' because ''these numbers would have to be taken out of service and aged for some period of time before they could begin to be used for the suicide prevention hotline.'' Aging an existing N11 code would be necessary ''to avoid system and consumer confusion'' and ''provide time for educational efforts to be implemented'' for the code's new purpose. 988 does not require aging and

thus its use will reduce the overall implementation timeline. *Second,* consumer education campaigns for 988 will be simpler and likely more effective than those needed for repurposing or expanding an existing N11 code. The record reflects that consumer education campaigns would likely need to be longer if we were to repurpose an existing N11 code instead of designating 988 because, among other things, ''in addition to informing the public about the new, shorter number for the Lifeline, ''existing callers of the [N11] number would also have to be informed that it is no longer available for its current purpose.'' By contrast, consumer education campaigns for 988 will be simplified because such campaigns will be *exclusively* focused on the suicide prevention and mental health crisis hotline, thereby expediting 3-digit access to the hotline. *Third,* we find that using a wholly unique 3-digit code like 988 will be less disruptive to existing users and service providers. All of the existing N11 codes receive at least 1.6 million or more calls per year, and most receive tens of millions of calls or more annually. Repurposing any of these heavily used numbers would thus require significant time and resources. As Mental Health America explains, given that existing N11 numbers ''are being utilized for other national, state, and local priorities . . . repurposing those numbers for crisis use will cause confusion or delays to needed services, depending on the existing utilization of the [N]11 number.'' At the same time, the crisis hotline would be inundated with misdirected callers seeking other information, causing confusion and delay for those callers, and potentially lost lives if a caller in need cannot speak with a counselor quickly. *Finally,* we find that designating a wholly unique 3-digit code such as 988 is preferable to any of the specific N11 codes, as discussed below.

5. *Expanding 211.* Based on the record, we decline to expand 211 beyond providing community information and referral services to include suicide prevention and mental health crisis services. We find that establishing a single-purpose 3-digit code will be more effective and easier to implement than expanding 211. In particular, the record reflects widespread support for a code dedicated *solely* for the purpose of a national suicide prevention and mental health crisis hotline system instead of a multi-purpose code, such as 211, that risks callers in crisis navigating a complex phone tree and experiencing confusion and delay to access trained crisis counselors. As SAMHSA explains:

> First, the national suicide prevention number should have a single purpose, as does the current number 800–273–TALK (8255). . . . Utilizing the same number for both round-the-clock suicidal crisis response, as well as for non-crisis information and referral, would be problematic . . . Second, not all 211 centers have crisis center capacity. . . . This would mean in order to avoid 211 callers in suicidal crisis from being directed to a 211 center that did not have the capacity to respond to their crisis, it would be necessary to have a recorded response tree where callers would first have to press 1 or 2 to be connected to the Lifeline and then press one again to be connected to the veteran crisis line. This could potentially mean a 10–15 second delay in response time for millions of calls. The alternative would be a longer and more confusing single recorded message that could lead to the Veterans Crisis Line being flooded with non-[V]eterans crisis calls.

The record indicates that expanding 211, or other N11 codes, will cause ''confusion or delays[,]'' inhibiting ''the ability of callers in crisis to access the help that they need.'' Vibrant Emotional Health, which administers the Lifeline for SAMHSA, asserts that an expansion of 211 would be ineffective for such a hotline, explaining that a single-purpose, 3-digit dialing code would ''provide a platform that can be more easily integrated in society and enhance public awareness about the different functions of each distinct three-digit number.''

6. We find that expanding 211 would lead to unnecessary complications, delaying implementation and risking confusion by Americans seeking urgent help. SAMHSA has previously explained that although ''the number 211 is associated with information and referral, [it] does not communicate that this number is a number that suicidal people or their families can call at any time of the day or night for immediate crisis intervention.'' Moreover, as the NANC explained, even with 20 years of operation, 211 ''is not ubiquitously deployed across networks, is not managed by a sole operator, and the services offered may not be consistent among operators.'' Additionally, as The Trevor Project points out, ''a 211 designation would require re-training of 211 operators.'' Further, SAMHSA's past experience using one hotline for a dual purpose is instructive here. Specifically, in the aftermath of Hurricane Katrina, SAMHSA used the Lifeline for disaster relief efforts in addition to suicide prevention, and SAMHSA observed that the callers trying to obtain disaster relief were confused as to why they were directed to call a suicide hotline.

7. For all of these reasons, we find unpersuasive assertions from some commenters that because 211 already offers community services, including crisis and suicide prevention services in some areas, it would allow for an easier and faster nationwide implementation than 988. We similarly reject legacy carriers' arguments that we should designate 211 because (1) legacy switches can already accommodate all N11 codes, including 211, which would minimize the number of switches these carriers would need to upgrade or replace; (2) software for 211 already exists; and (3) expanding 211 would not require transition to 10-digit dialing. As discussed below, we estimate that only 12% of switches nationwide will need to be upgraded or replaced to accommodate software and programming changes to implement 988 routing. Further, a transition to 10-digit dialing is necessary to accommodate 988 in less than 27% (87 out of 329) of geographic area codes nationwide. While technical implementation of 211 likely would be easier and faster for carriers with legacy switches in areas where seven-digit dialing presents a barrier to 988 implementation, the serious problems arising from expanding 211's role undercut these technical advantages. More importantly, expanding 211's role risks confusion and delay for callers to the Lifeline, putting Americans' lives at avoidable risk. We see no purpose in designating a 3-digit code that would likely undermine, rather than improve, the Lifeline's effectiveness. As discussed above, we are concerned that expanding 211 would lead to significant delays in establishing a ubiquitous system capable of handling both calls of the utmost importance from those in suicidal distress as well as existing 211 calls. And as discussed below, there is no record support for expanding or repurposing any other N11 number.

8. *Repurposing or Expanding Other N11 Codes.* We also decline to repurpose or expand any of the other existing N11 codes (311, 411, 511, 611, 711, 811, 911) for a national suicide prevention and mental health crisis hotline. In the *Notice,* we sought comment on the findings in the FCC Staff Report that (1) repurposing 511 would endanger public safety because the code enables drivers to receive information on road conditions during emergencies and information relating to AMBER and other public-safety alerts; (2) repurposing 611—an N11 code that receives at least 297 million calls annually—could result in a hotline

inundated with misdirected calls and increased risk of caller confusion, delay, and loss of life if access to a counselor is not readily available; and (3) expanding or repurposing 311, 411, 711, 811, and 911, is not feasible and/or desirable. The record reflects no arguments suggesting that we should expand or repurpose any of these N11 codes, and the few commenters who address the issue suggest the opposite. We thus affirm the FCC Staff Report's findings that repurposing or expanding other N11 codes is not feasible, and would create confusion and significant delays to callers in crisis, as each code is widely-used and already serves an important purpose.

2. Designating 988 vs. Other Non-N11 Codes

9. Consistent with the NANC and FCC Staff Reports, we find that 988 has technical advantages over other non-N11 3-digit numbers. As we explained in the *Notice,* 988 is not currently assigned as a geographic area code and therefore does not suffer the same problems as repurposing an existing area code. Moreover, for a switch to detect a new, non-N11 3-digit code, it helps if the code is not comprised of the leading digits (often called the ''prefix'') of a local number, and 988 has fewer corresponding central office code assignments across the U.S. than other codes the NANC considered, making it less disruptive to adopt than those other codes. None of the comments we received on the *Notice* cause us to depart from these views. For example, while ATIS points out that designating 988 as the 3-digit dialing code for the Lifeline bars it from being used as an area code and therefore ''results in millions of numbers being made unavailable'' for use by consumers, this is surely no reason to forego choosing 988. The NANC, in consultation with North American Numbering Plan Administrator, has already found that one area code such as 988 going unused is unlikely to materially affect number exhaust. In fact, excluding 988, there are 248 currently unassigned area codes, representing *billions* of potentially available phone numbers.

10. For all of the foregoing reasons, we find that 988 remains the best choice as the 3-digit dialing code for the Lifeline.

*B. Implementation of 988*

1. Providers Subject to 988 Implementation Requirements

11. In the *Notice,* we proposed requiring that *all* telecommunications carriers and interconnected VoIP providers implement 988 by transmitting all calls initiated by an end user dialing 988 to the current toll free access number for the Lifeline. We also specifically sought comment on including one-way VoIP providers. As we explained, our proposed requirement would thus apply to those providers that access the public switched telephone network (PSTN) on an interconnected basis to reach all Americans. While the *Notice* used the term ''one-way interconnected VoIP,'' here we use the term ''one-way VoIP'' with the same intended meaning. While there is no substantive difference in meaning, we expect ''one-way VoIP' to be clearer and more precise because we have only expanded the definition of interconnected VoIP to include one-way VoIP in the specific context of our 911 rules and because, outside of the 911 context, we have most typically used the term ''one-way VoIP.'' No party opposed our proposal to require implementation by all telecommunications carriers and interconnected VoIP providers, and no commenter directly addressed our proposal to include one-way VoIP providers.

12. We adopt our proposal to require all telecommunications carriers and interconnected VoIP providers to implement 988 in their networks. We also require one-way VoIP providers to implement 988. We do not require one-way VoIP providers to add the capacity to dial 988 if their customers cannot initiate any calls using telephone numbers. We note that as a practical matter, the requirement to direct calls made to 988 to the Lifeline is relevant only for customers who can make calls to 988. One-way VoIP services differ from their two-way counterparts in that they can either initiate outbound calls terminating to PSTN or receive calls originating from the PSTN, but not both. Applying our rules here to one-way VoIP aligns with our application of our rules to one-way VoIP providers in a number of other contexts, including the recent *Caller ID Authentication Report and Order.* As is true for the caller ID authentication framework, the 988 dialing code must be ubiquitously deployed to maximize its benefits. The FCC Staff Report, for example, observed, ''suicide does not discriminate by geographic region, and to be effective, any code designated for a national suicide and mental health crisis hotline must be ubiquitously deployed.'' SAMHSA, USTelecom, and other commenters have echoed this finding, arguing that 988 should be deployed ''ubiquitously across all networks.''

13. Requiring one-way VoIP providers to implement 988 is also consistent with our recent expansion of the scope of our 911 rules to include one-way VoIP services. We observed that, ''from a 911 perspective, outbound-only interconnected VoIP services are functionally equivalent to landlines and other interconnected devices that connect to the PSTN and are 911-capable,'' and therefore treating them differently would ''breed consumer confusion, particularly when a caller is seeking help in a time of crisis.'' These same consumer expectations and the exigent nature of a call made to the Lifeline inform our decision to obligate one-way VoIP service providers to implement 988. Suicide and mental health crises are an emergency like any other. An individual in crisis capable of calling 911 via a one-way VoIP service should similarly expect that a call to 988 will go through.

14. We find that section 251(e)(1) of the Act provides authority for us to apply the requirements we adopt today to all covered providers. In the *Notice,* we proposed that section 251(e)(1) gives us the authority to ''designate 988 as the 3-digit dialing code for a national suicide and mental health crisis hotline system, and to require providers of telecommunications and interconnected Voice over internet Protocol (VoIP) services to take appropriate and timely action to implement this requirement.'' No commenter appears to dispute these conclusions. Section 251(e)(1) of the Act grants the Commission ''exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States'' and provides that numbers must be made ''available on an equitable basis.'' This provision gives the Commission ''authority to set policy with respect to all facets of numbering administration in the United States'' and has been invoked by the Commission in previous rulemakings designating national 3-digit dialing codes. In addition, as we explained in the *Notice,* our numbering authority allows us to apply numbering-related requirements to interconnected VoIP providers using telephone numbers. We also find that section 251(e)(1) equally gives us authority to extend our 988 rules to one-way VoIP services that provide callers with access to the PSTN. One-way VoIP services connect to the PSTN and therefore make use of numbering resources in a manner similar to two-way interconnected VoIP providers, which brings them within the scope of our section 251(e) authority.

2. Routing 988 Calls

15. In the *Notice,* we raised the issue of whether to route calls made to the 988 dialing code to a centralized destination or to localized call centers. Specifically, we proposed requiring covered providers to route 988 calls to 1–800–273–8255 (TALK), the current toll free access number for the Lifeline and the Veterans Crisis Line. Alternatively, we sought comment on requiring covered providers to route 988 calls directly to a local Lifeline or Veterans Crisis Line call center.

16. We adopt our proposal to require all covered providers to route 988 calls to 1–800–273–8255 (TALK). We note that covered providers are required to transmit the calling party number when routing calls to 988 in accordance with our call delivery requirements. We decline to adopt a proposal to require multi-line telephone systems (MLTS) to allow callers to reach the Lifeline by dialing 988 and no other digits. As Metaswitch correctly observes, the Commission recently adopted a similar requirement for 911 calls, based on authority granted to the Commission by Kari's Law. While we appreciate the concerns raised by Metaswitch, we note that Kari's Law pertains specifically to 911 calls, and we lack a similar grant of statutory authority over equipment to apply these requirements to 988 calls. In the *Notice,* we explained that routing 988 calls to the existing toll free number for the Lifeline was likely to ''provide the most efficient means to establish 988 as a national suicide prevention hotline.'' The record overwhelmingly supports this conclusion. Our centralized routing approach has considerable benefits both for the covered providers that must route 988 calls and for the Lifeline itself. The record shows that together, these benefits will allow for faster implementation of the 988 dialing code, lower costs to maintain 988 routing, and better Lifeline service. For example, USTelecom states that ''routing [988] calls to one, national number will ease the burden of routing calls once the network switches are programmed'' and will also ''allow the Lifeline platform provider with the flexibility to modify the underlying routing based upon the resource demand of their call centers.'' AT&T further explains that not only does centralized routing present a more streamlined solution to directing 988 calls, it will also ''present a lower risk of misdirected calls than routing to different numbers for individual calls centers,'' resulting in greater system reliability for the Lifeline. Similarly, Vibrant Emotional Health, the administrator of the Lifeline, explains that centralized routing ''will optimize service cost efficiencies and effectiveness'' of the Lifeline, including improving network resilience, data collection, and quality control, and providing the Lifeline with the ''flexibility to design specialized routing for self-identifying groups, such as veterans, Spanish speakers, or LGBTQ youth.'' And PRS CrisisLink, a Lifeline crisis center in Virginia, states that ''a centralized routing structure increases the capacity of the Lifeline when compared to a response provided only at a local level.''

17. We also find that routing calls to one number will help ensure that callers who are deaf, hard of hearing, deafblind, or who have speech disabilities can access the Lifeline consistent with sections 225 and 255 of the Act. The Lifeline is currently available to users of telecommunications relay services (TRS) through 1–800–273–8255 (TALK), and TRS users will continue to be able to access the Lifeline through these services upon implementation of the 988 dialing code. In addition, the Lifeline maintains a separate TTY number, as well as an online chat portal, which will likewise remain available. Similarly, existing Commission rules require internet-based TRS providers to ensure that callers using Video Relay Service, internet Protocol Relay, and internet Protocol Captioned Telephone Service reach the Lifeline by dialing 988 upon its implementation. VRS and IP Relay providers are required to route and deliver all calls, which will include calls to 988. IP CTS providers are subject to the routing obligation when such providers are the underlying VoIP provider for their service. Upon implementation of the 988 dialing code by covered providers, TRS and internet-based TRS users will be able to substitute 988 for 1–800–273–8255 (TALK) and continue to reach the services they need. Users of speech-to-speech services and TTY-based TRS will still dial 711 first to connect to a communications assistant who will complete the call to the Lifeline. TTY users may also dial 800–799–4889 for a TTY-to-TTY direct connection to the Lifeline.

18. Although some commenters note that the alternative approach of routing calls directly to local crisis centers may have some benefits as well, we find that the benefits of centralized routing greatly exceed those of localized routing. In particular, we believe that centralized routing to a single number will be far faster to implement and will simplify the administration of the Lifeline.

19. Finally, we address the Telecommunications Bureau of Puerto Rico's request that we require calls to 988 originating in Puerto Rico to be routed directly to the current suicide prevention call center in Puerto Rico as opposed to 1–800–273–8255 (TALK). In support of its request, the Telecommunications Bureau of Puerto Rico explains that for local residents, ''the ability to converse in Puerto Rican Spanish, including the use of particular idioms unique to Puerto Rico, will facilitate . . . crisis call counselors in assisting those calling for help,'' and that while the Lifeline uses an interactive voice response system to direct calls either to the Veterans Crisis Line or the Spanish Line, ''[d]ialing through an automatic system that is in English is not the preferred method to help the at-risk population in Puerto Rico.'' Although we are sympathetic to the concerns raised by the Telecommunications Bureau of Puerto Rico, we decline to require direct local routing to the current suicide prevention call center in Puerto Rico at this time. We find that the benefits that the Telecommunications Bureau of Puerto Rico identifies could be achieved without the added costs (including likely delays in 988 implementation) that non-centralized routing would entail. In particular, while the Lifeline does not currently have a crisis center in Puerto Rico, SAMSHA invites crisis centers to seek certification to participate in the Lifeline network. If SAMHSA were to approve a local crisis center located in Puerto Rico, then under the Lifeline's current routing procedures, calls to 988 originating from a Puerto Rico area code could be directed to that local crisis center rather than to a Lifeline crisis center outside of Puerto Rico. We therefore encourage stakeholders in Puerto Rico to work with SAMHSA to bring a local crisis center in Puerto Rico into the Lifeline network.

3. Dialing in Certain Geographic Areas

20. In the *Notice,* we sought comment on how to address 988 implementation in areas of the country that currently permit 7-digit dialing and also use 988 as a central office code. In these areas, 988 are the first three digits of some 7-digit local phone numbers (988–XXXX), meaning that ''a switch would need to distinguish between calls made to the suicide prevention and mental health crisis hotline and the assigned 988 central office code.'' This issue primarily affects wireline networks with legacy switching infrastructure since most wireless and VoIP services already require 10-digit dialing and tend to use

newer switch hardware and software. The *Notice* estimated that, as of September 2019, there were ''95 area codes that both still use 7-digit dialing and have assigned 988 as an NXX prefix,'' and sought comment on mandatory 10-digit dialing and use of a dialing delay as two solutions for implementing 988 as a 3-digit dialing code in these areas. However, we note that ATIS, in its comments in response to the *Notice,* states that ''[a]s of February 5, 2020, there are 92 affected area codes in which there is 7-digit dialing and 988 is in use as an NXX code . . . .'' According to current information, there are 90 areas codes that both still use 7-digit dialing and have assigned 988 as an NXX prefix, three of which are already in transition to 10-digit dialing and will complete implementation by the end of 2021.

21. As we explained in the *Notice,* ''[o]ne solution is the introduction of a dialing delay after 988 is entered—the switch would recognize that the caller is dialing 988 rather than a local 988–XXXX number when no digits are entered after 988. The downside with such an approach, as the NANC has noted, is that such a dialing delay 'could result in the caller terminating the call because he thinks the call failed, or [result in] unrelated calls being routed to the hotline when a 7 digit number is dialed too slowly.''' Alternatively, ''requiring 10-digit dialing would enable the switches to distinguish between calls made to the national suicide prevention hotline system and those made to a number beginning with a 988 prefix. With 10-digit dialing, a caller must first input the 3-digit area code before entering a 7-digit number. Thus, an individual attempting to call a 988–XXXX number would first have to input the area code (*i.e.,* XXX–988–XXXX), avoiding the problem of calling the hotline in error.'' The Commission has previously mandated 10-digit dialing ''in cases of area-code relief, which involves establishing a new area code for a geographic region after the existing area code runs out of NXX prefixes.''

22. To facilitate efficient implementation of 988 and to make reaching 988 as easy as possible for Americans across the country, we require covered providers to implement 10-digit dialing in areas that both use 7-digit dialing and 988 as an NXX prefix. In a 10-digit number, (XXX) YYY–ZZZZ, the NXX code is the three digits labeled ''YYY.'' The record generally supports the use of 10-digit dialing, rather than a dialing delay, and we agree with commenters who favor 10-digit dialing. In particular, the record demonstrates that 10-digit dialing will be ''the simpler, easier, and less costly approach for 988 implementation'' and will provide 988 callers with a more reliable connection to the resources they need when compared with a dialing delay. Implementation of 10-digit dialing will ensure that callers in crisis are able to dial 988 and obtain a connection to the Lifeline without unnecessary delay, and without the confusion and frustration that may result from a dialing delay, as we discuss further below. Moreover, 10-digit dialing has the potential to avoid misdirected calls to the Lifeline, which will conserve scarce resources that are better spent helping callers in need.

23. By contrast, the record reflects that dialing delays present a number of technical and logistical challenges, making their use a less desirable solution for routing 988 calls. As an initial matter, several commenters note that dialing delays may not be supported by some switches at all. If we were to mandate use of a dialing delay, these switches may have to be replaced entirely, which would add unnecessary costs to the implementation of 988 by service providers. In addition, for those switches that do support use of a dialing delay, the length of the supported delay may vary widely. We note that at least one provider has already opted to implement 988 on a voluntary basis, using a dialing delay of 10 seconds. We encourage any service providers considering early implementation of 988 to coordinate their efforts with Commission staff, SAMHSA, and the VA. AT&T, for example, indicates that for its network, ''some . . . legacy wireline switches accommodate a delay of relatively short duration (*i.e.,* 4 seconds or 6 seconds), whereas other AT&T switches accommodate a longer delay (*i.e.,* 14 seconds).'' We agree with commenters who argue that, because of this variability, use of a dialing delay for routing 988 calls risks confusion and misdirected calls. As the NANC Report found, routing 988 calls with a dialing delay could result in nonemergency calls being misdirected to the Lifeline if, for example, a 7-digit number is dialed too slowly. And, as Verizon argues, this could in turn ''adversely affect[] the availability of hotline resources to callers in critical need.'' While dialing delays that are too short could lead to a significant number of calls being misdirected to 988, longer dialing delays could also hinder access to the Lifeline, if, for example, a caller were to terminate a 988 call before the dialing delay elapsed, thinking the call had failed. As AT&T argues, the use of a dialing delay to route 988 calls ''would inevitably lead some 988 callers in crisis to terminate the call.'' This risk is particularly acute for the longer delays that would be required by some legacy switches, which could lead to inconsistent access to 988 service across different areas of the country. As the American Association of Suicidology indicates, given the critical nature of the crisis counseling service offered by the Lifeline, any length of delay in connecting a call may be detrimental. We therefore agree with those who argue that use of a dialing delay to route 988 calls could have ''unavoidable adverse impacts'' for the Lifeline.

24. Because 10-digit dialing will be simpler to implement and better for callers than a dialing delay, we reject GCI's argument that we should defer to the judgment of state regulators as to which option is most appropriate in particular states. To support its request, GCI argues that in Alaska ''it would make little sense to mandate 10-digit dialing'' because 988 is employed as a wireless NXX in only one rate area in Alaska. But GCI does not offer any specific reasons to support its conclusions regarding the comparative benefits of 10-digit dialing and a dialing delay in Alaska. Its brief, general claims that 10-digit dialing is costly and confusing to consumers run contrary to the extensive evidence in the record discussed above. We expect that implementing a dialing delay in some parts of the country and 10-digit dialing in others is likely to heighten the risk of failed attempts to reach 988 in dialing delay areas because individuals from outside those areas are unlikely to realize that a dialing delay is necessary. Based on the foregoing analysis, we conclude that we should adopt a uniform nationwide policy requiring 10-digit dialing in areas in which 988 is an NXX code.

25. *Administration.* We are confident that covered providers and the North American Numbering Plan Administrator, a neutral administrator of numbering resources shared by the 20 member countries of the North American Numbering Plan, will be able to efficiently implement 10-digit dialing in the 87 area codes where it is necessary. Providers have already converted to 10-digit dialing in the geographic areas encompassed by 77 area codes. Providers routinely manage 10-digit dialing transitions in multiple area codes simultaneously. For example, in 2001, providers transitioned 11 area codes to 10-digit dialing. More recently, providers transitioned 7 area codes to 10-digit dialing in 2017. We disagree with AT&T's argument that these observations are ''misleading'' because

these transitions had ''overlapping, staggered . . . implementation schedules'' and were ''spread among multiple wireline providers.'' As AT&T itself points out, its own team is ''extremely experienced'' conducting overlays and has in the past managed multiple such projects in a single year. Further, arguments concerning the historical rate at which NPAs transitioned to 10-digit dialing are misplaced. These transitions took place as necessary to facilitate area-code relief efforts as needed, and their frequency in prior years does not speak to the question of whether providers could have transitioned more area codes to 10-digit dialing, had there been a demonstrated need to do so. The Commission has granted authority to state public utility commissions to implement 10-digit dialing in cases of area-code relief, which involves establishing a new area code for a geographic region that is fast approaching exhaust. In a typical case, when an area code is approaching number exhaust, the North American Numbering Plan Administrator, acting with the input of and on behalf of affected carriers, petitions the state to implement 10-digit dialing and add a new area code, typically ''overlaid'' on the existing one. In an area code ''overlay,'' a new area code is opened in the same geographic area as the area code requiring relief. With an overlay, consumers can keep their area code and telephone number while numbers from the new area code may be assigned to new telephone customers or those adding additional lines. The other possible solution to address running out of numbers in an area code—a geographic area code split—has not been employed since 2007. The state commission then adopts an order that sets forth an implementation schedule. Of the seven such orders for which implementation is ongoing (encompassing 9 area codes), six set forth a 13-month implementation schedule, and one sets forth an approximate 9-month implementation schedule. The 13-month implementation schedules each allocate six months for carriers to prepare their networks for 10-digit dialing and the new area code; six months of consumer education and ''permissive'' 10-digit dialing, in which affected consumers may employ either 7- or 10-digit dialing; and one additional month at the end of the transition period to activate the new area code.

26. We direct covered providers to coordinate their implementation of 10-digit dialing in the 87 area codes at issue with the North American Numbering Plan Administrator. We expect implementation to proceed faster than in the cases of adding a new area code discussed above. Because we direct 10-digit dialing in these 87 area codes pursuant to our exclusive jurisdiction, no state public utility commission action is needed. AT&T asserts that a state public utility commission order typically precedes the 13-month implementation timeline, and that, as a result ''a lack of PUC action affords no reduction in the typical 13-month implementation timeline.'' We agree, but AT&T fails to account for ongoing state oversight of a typical transition to 10-digit dialing. In the ordinary course, state public utility commissions may intervene in the overlay process, potentially slowing the transition to 10-digit dialing. The last step in implementing 10-digit dialing to add a new area code—the one month period for activating the new code—is not necessary because these transitions do not involve a new area code. We also believe that the 6-month permissive dialing period could be shortened to facilitate meeting the two-year deadline for 988 implementation across all of the area codes and because there are likely to be synergies in terms of consumer education when transitioning multiple areas. We disagree with arguments submitted by AT&T, CenturyLink, and USTelecom expressing skepticism regarding whether standard consumer education periods can be shortened. AT&T, for example, states that outreach and technical implementation ''are already performed in tandem during the 13-month transition period.'' Contrary to AT&T's claims however, this suggests that the standard 13-month transition period—which accounts for two separate six-month periods for consumer outreach and technical work—can be curtailed if necessary. We expect that economies of scale and lessons learned regarding the logistical and technical processes for the transitions will reduce the time necessary to both prepare and execute transitions to 10-digit dialing in these area codes. We expect that covered providers, in coordination with the North American Numbering Plan Administrator, will be able to develop a standard implementation plan that addresses both outreach and staging, which covered providers will be able to use in many, if not most, areas. Additionally, we anticipate that consumer education planning and outreach to consumers and affected businesses and government agencies can be accomplished more quickly and simply than in cases of a new area code, as the move to 10-digit dialing does not involve the introduction of new area codes or switching telephone numbers for consumers or others. In addition, outreach can begin right away, and be done in tandem with technical implementation, further compressing the timeframe for transitioning to 10-digit dialing in these areas. We also expect less education to be necessary than in years past because, by now, even in areas in which legacy carriers make 7-digit dialing available, most consumers are familiar with and accustomed to 10-digit dialing with their mobile devices, as well as in visiting one or more of the many areas throughout the country in which 10-digit dialing is mandatory. For all of these reasons, we disagree with USTelecom's reliance on previous 10-digit transition timeframes to claim that a ''set timeline of less than 5 years to transition to 10-digit dialing is most likely not feasible.''

27. We recognize that covered providers may need to implement 10-digit dialing on a staggered basis within the time available. We direct the North American Numbering Plan Administrator to develop, based on input from covered providers, an implementation schedule that will allow all covered providers to meet the transition deadline in an efficient manner that best accounts for the challenges each covered provider faces. The North American Numbering Plan Administrator shall promulgate a 10-digit dialing transition plan that enables timely implementation within 30 days of release of this Order based on its expertise and any input it receives from covered providers within that time. We decline the recent suggestion by AT&T and CenturyLink that we delay the implementation deadline by the period it takes the North American Numbering Plan Administrator to complete the schedule and until the Commission publishes the schedule. AT&T suggests that the planning process will consume valuable portions of the two-year implementation timeline that providers will need. As discussed elsewhere, in setting the deadline of July 16, 2022, we accounted for the challenges covered providers face in implementing 10-digit dialing, including necessary planning. Further, neither party explains why implementation work could not begin right away during the pendency of the implementation schedule, which we expect to set dates for completion of work, rather than dates to start. We do not see any value in the Commission publishing the implementation

schedule, nor do AT&T and CenturyLink identify any. We direct the North American Numbering Plan Administrator to communicate the schedule, once established, to state public utility commissions in states in which 10-digit dialing will be necessary so that they can address any specific consumer education and outreach measures they deem appropriate. We caution that we would not expect states to take any actions that would complicate or delay the implementation of 988 or the requirement we impose for 10-digit dialing in certain areas. Finally, we direct the Wireline Competition Bureau to monitor the progress of the 87 area codes transitioning to 10-digit dialing in coordination with the North American Numbering Plan Administrator. We decline USTelecom's suggestion that we require the Wireline Competition Bureau ''to issue a report at the end of 12 months from adoption of the final Order to assess whether additional time is needed to complete the 10-digit dialing transition in certain NPAs.'' It is not obvious that twelve months is the optimal point at which to evaluate progress. Should a covered provider file a waiver request, the Wireline Competition Bureau will be able to make use of information from its ongoing monitoring in coordination with the North American Numbering Plan Administrator to evaluate the merits of the waiver request at that point in time.

4. Implementation Timeframe for Ubiquitous Deployment of 988

28. In the *Notice,* we proposed requiring that covered providers implement 988 in their networks within 18 months of publication of the final order in the **Federal Register**. Alternatively, we sought comment on whether we should adopt a shorter or longer timeframe for implementation such as one year or two years. Additionally, we asked whether we should consider the size of a carrier's network, including the need to simultaneously replace multiple legacy switches, when determining the appropriate implementation timeline. We further sought comment on whether the use of legacy-switch technology warranted a phased-in approach to implementation, and if so, how such an approach should work.

29. For ubiquitous implementation of 988, covered providers must overcome two primary hurdles that drive our need to provide time for implementation. *First,* such providers must implement 10-digit dialing in the 87 area codes that continue to permit 7-digit dialing and also use 988 as a central office code. As discussed above, transitioning to 10-digit dialing involves both the technical work needed to implement 10-digit dialing as well as educating consumers about the transition.

30. *Second,* such providers must reprogram, upgrade, translate, or replace those switches that would not otherwise support 988 as a 3-digit dialing code. Covered providers must also work to implement 10-digit dialing, and we recognize that some legacy providers face a higher logistical burden in areas that require both steps. Our deadline is constrained by those legacy providers because many non-legacy voice services already require 10-digit dialing and use newer switch hardware and software in which implementing 988 is straightforward and swift. In the *Notice,* we estimated that approximately 88% of the nation's switches can today accommodate 988, and nothing in the record suggests otherwise. Therefore, the vast majority of providers could easily implement 988.

31. We set a uniform implementation deadline of July 16, 2022, to allow sufficient time—but no more time than necessary—for covered providers to meet the challenges of implementing 10-digit dialing in 87 area codes and of making necessary changes to their switches. Under our precedent, we have the flexibility to set a deadline that is most appropriate to the particular 3-digit code at issue. We have set implementation deadlines in the past ranging from six to 24 months. USTelecom, AT&T, and CenturyLink argue that our action today is inconsistent with the Commission's adoption of 811 because in the latter case the Commission calculated the two-year deadline **Federal Register** publication, whereas we calculate our two-year deadline from adoption. However, the deadlines the Commission set for previous N11 transitions are particular to their circumstances, and the facts here—particularly the pressing need to make 988 available nationwide as quickly as possible to help prevent suicides—are unique to this record. Moreover, 811 needed to be repurposed when the Commission designated it for use as a call-before-you-dig number because it was being used in some jurisdictions for free repair calls and as a 911 test code, which required a longer customer education period—a circumstance that is not present here. Further, in the 15 years since the *811 Designation Order,* we expect covered providers to have invested both their own funds and universal service support that they have received in their networks such that upgrades—even comparatively more complex ones—could be handled more quickly. Our guiding principle in setting this deadline is to minimize the time for 988 implementation to help address the growing epidemic of suicide in this country as quickly as possible. We agree with the American Association of Suicidology that it ''is crucial that the three-digit hotline be made available as readily as possible'' because ''[i]ncidences of mental health conditions and suicide rates are increasing every year.'' Similarly, we agree with The Trevor Project that ''[t]he longer the delay the more likely it is we will lose individuals who don't know where to access help, or who will not be able to remember a 10-digit number in a moment of crisis, but who would remember 988 after an effective public education campaign.'' And our cost-benefit analysis below shows that the benefits of implementing 988 greatly outweigh the costs—swift implementation will allow Americans to reap those benefits sooner. For these reasons, it is paramount that providers establish 3-digit access to the Lifeline as quickly as possible.

32. We find that July 16, 2022, provides sufficient time for all covered providers to implement both 10-digit dialing and any necessary changes to their switches. As to 10-digit dialing, covered providers must transition 87 areas codes to 10-digit dialing, far more than the 9 for which transitions are currently underway over staggered 13-month periods (9 months in one case). Given the time it has taken in the past to implement 10-digit dialing to add a new area code over an existing one, we are persuaded covered providers will need significant time to devise and enact a plan for prompt implementation across so many areas. At the same time, as discussed above, we expect carriers to be able to speed 10-digit dialing implementation significantly compared to the past because of the economies of scale and lessons learned from implementing across numerous areas at once, ability to compress the typical implementation schedule by performing consumer education simultaneously with technical work, elimination of the need for initial state action to begin the 10-digit dialing process, extensive industry experience in implementing such transitions, and elimination of the work typically needed to implement a new area code when implementing 10-digit dialing. We observe that covered providers have not previously had such strong reason to investigate efficiencies. We anticipate that the necessary investments to implement 988 at a faster pace compared to previous timetables,

which were spread out in time and geography, will reveal new efficiencies that were not possible previously. AT&T argues that transitioning even 9 NPAs concurrently every 6 months would represent a 33% increase in its fastest ongoing transition schedule and 50% faster than its typical transition schedule. AT&T claims that even at a pace of 11 or 12 NPAs, it would still take over four years for it to transition the 716 legacy switches in the 50 seven-digit dialing NPAs with 988 NXX where AT&T offers wireline service. As we explain, however, the need to transition so many NPAs at once has not previously existed, and we anticipate that greater investment and efficiencies discovered thereby will speed implementation. We thus disagree with arguments that there are likely no additional efficiencies to be realized. Moreover, these same covered providers have failed to commit to any definite deadline. We must make a choice, and we cannot abdicate our duty to apply our expertise to the regulated parties. Taking into account the differences compared to 10-digit dialing implementation in the past, we find that setting a deadline of July 16, 2022, allows sufficient time for carriers to meet the challenges of implementing 10-digit dialing in 87 area codes. We do not, as a general matter, agree with commenters' assertions based solely on past timelines that the need to transition to 10-digit dialing in some areas of the country justifies a longer (or significantly longer) implementation timeframe.

33. We also observe that moving forward to 10-digit dialing at an intensified pace furthers long-standing industry goals. Over twenty years ago, ATIS's Industry Numbering Committee, an open forum to address and resolve industry-wide numbering issues, recommended moving to a uniform 10-digit dialing plan, citing reduced customer confusion—particularly in today's mobile society—and support for a consistent, fair, and equitable competitive environment as the benefits. The recommendation specifically highlighted that 10-digit dialing should be implemented ''as the opportunity presents itself.'' Today's Order is consistent with these long-accepted industry goals, and in fact will help the industry move forward expeditiously while also helping to realize the important life-saving benefits of nationwide deployment of a 3-digit code for the Lifeline.

34. We disagree with arguments submitted by USTelecom and AT&T that our implementation timeline fails to account for changes that must be made by end-user customers to accommodate 10-digit dialing. As discussed above, we recognize that customer education is an important part of the 10-digit dialing transition process, and we expect the North American Numbering Plan Administrator to build time for such efforts into the schedule it establishes. While we are sympathetic to end users who experience complications, we find this an insufficient basis to delay our deadline for several reasons. Such disruptions are inevitable for many end users anyway, as 10-digit dialing transitions in response to number exhaust would continue to occur regardless of today's *Order.* As discussed above, customers today are more used to 10-digit dialing and are more likely to employ modern equipment, so we expect disruptions to be reduced compared to the past. USTelecom does not adequately explain why the stakeholders it references cannot begin preparations for the transition to 10-digit dialing prior to its implementation on their networks. USTelecom and AT&T also have not attempted to quantify the costs of such complications for end users, but given the order of magnitude by which the benefits of prompt 988 implementation outweigh the costs, we find it highly unlikely that such costs to end users would cause us to reevaluate the deadline we adopt. Of note, neither end users nor representatives of end users have raised this argument themselves. Finally, USTelecom, AT&T, and other USTelecom members have downplayed the significance of precisely the same sorts of impacts of technology changes on downstream end users when it served their regulatory agendas—as USTelecom has correctly argued, ''antiquated, analog-based equipment . . . need not stop technology transitions in their tracks.'' In any event, we recognize that the transition to 10-digit dialing will entail some inconvenience and cost for the entities referenced by USTelecom, as well as their customers. However, as we have explained, these costs are easily exceeded by the benefits 988 offers to the American public.

35. With respect to the second gating step for ubiquitous 988 implementation—enabling switches to route calls to 988 to the Lifeline—we similarly conclude that the deadline we set of July 16, 2022, is sufficient but no more than necessary. We recognize that translating and upgrading or replacing legacy switches in use by legacy carriers—up to 12% of those in use in the country—to accommodate a new 3-digit, non-N11 code poses significant challenges. We estimated in the *Notice* that about 6,000 switches need upgrading or replacement. Commenters did not dispute this estimate. However, given the time that has elapsed since the publication of the April 2019 data relied on in the *Notice* and ongoing progress and investment by legacy carriers in the IP transition, we expect that this estimate may overstate the number of switches that require upgrades. Legacy carriers have voiced concerns about upgrading or replacing legacy switches, which may need to be done across geographically large swaths of providers' networks and would require extensive planning and testing. These commenters point to a lack of personnel trained in upgrading legacy switches and the need for technicians to replace them. They claim that this shortage of skilled workers constrains their ability to implement 988 in the timeframe provided. USTelecom explains, however, that it ''has become clear that 988 could be implemented through switch translations and upgrades in areas with 10-digit dialing,'' the costs for which ''are significantly less than the switch replacements contemplated'' in the *Notice.* And despite these claims regarding a lack of skilled workers, USTelecom and its members have not shown how many workers are available, either on their current payrolls or through hiring or contracting, to perform the required work. Two years is a substantial period of time, and thus we find these unquantified statements that covered providers face resource constraints before they have even begun the work unconvincing. We recognize that significant work is required and that investing in the capacity necessary to perform the many hours of work required may be costly, but the benefits of 988 implementation greatly outweigh the costs, and USTelecom and its members have not shown that such investment not possible or otherwise infeasible. Further, carriers with legacy switches have represented that they have been in the midst of an IP transition involving extensive updates to their TDM-based networks, technology that they have repeatedly claimed will be obsolete very soon. Indeed, USTelecom states that its members ''have invested billions of dollars to facilitate an IP transition already.'' We therefore believe, consistent with providers' oft-repeated statements on progress made in transitioning legacy networks, that a July 16, 2022 deadline provides sufficient time to require all covered providers to upgrade and translate switches on their network.

36. We also find the implementation timeframe we establish will benefit those covered providers for which implementation will require the most technical work, as they are the most likely to benefit from improvements to their networks. An IP-based network, in addition to allowing 10-digit dialing and implementation of short codes such as 988, provides improved network performance and speed, efficiency, reliability, scalability, and security, making innovative protective technologies such as caller ID authentication available. Additionally, IP-based networks typically use soft switches, which ''are economically desirable because they offer significant savings in procurement, development, and maintenance. Such devices feature vastly improved economies of scale compared to switches based on specialized hardware.'' AT&T argues that the need to move to 10-digit dialing does not mean that providers will necessarily pursue an IP-based solution, and it argues that an IP transition cannot be completed in two years. Although these arguments appear at odds with the position AT&T has taken with respect to the pace and importance of IP transition, we also do not expect that in the process of implementing 988 the IP transition will be completed. Rather, it represents a meaningful incremental step, and taking incremental steps toward an IP-based network is likely to ease the path to future upgrades, benefitting carriers and the public alike.

37. *Single Deadline.* In setting an implementation timeframe, we consider the advantages and disadvantages of establishing a single deadline versus a phased-in approach with multiple deadlines (*e.g.,* based on the type of service provider) to accommodate those providers that may need more time to implement 988 in their networks. Weighing these factors, we find that rollout of 988 will be most effective if we set a single implementation deadline so that stakeholders can clearly and consistently communicate to the American public when 988 will be universally available. While a phased-in approach could allow us to set a shorter deadline for some providers, it risks failed attempts to reach 988 by callers who are likely to be unaware of the details of staggered regulatory deadlines or the technical intricacies of the telephone system on which they rely. Confusion about what number to call could be disastrous for individuals and, in the aggregate, could erode trust in the Lifeline. As one of the parties advocating for a phased-in approach concedes, '' '[n]on-uniform access to 988 will confuse callers and be a detriment to accessing crisis services.' '' Requiring voice service providers to implement 988 by different deadlines poses exactly this risk. And commenters advocating for an 18-month deadline for most voice service providers and a later (unspecified) deadline for legacy wireline carriers do not explain how public education campaigns could be effectively conducted to ensure that customers of ''wireless, VoIP, and non-legacy wireline networks'' know about the availability of the new, shorter Lifeline number at the 18-month mark while also ensuring that customers of legacy wireline networks know that they should *not* call that number yet. This reality is compounded by the fact that a consumer may purchase both mobile wireless phone service and legacy wireline home phone service (including from the same company, such as AT&T or Verizon) and may have the expectation that if 988 works on one of their phones, it will work on the other. Although we recognize that some providers may implement 988 before the deadline we set, we anticipate less consumer confusion with a single widely known ''available-no-later-than'' date, accompanied by coordinated, national consumer education campaigns. We also expect and encourage providers to coordinate with Commission staff, SAMHSA, and the VA before moving forward with early adoption, which will further facilitate clear and informative public education campaigns. To simplify coordination, we ask parties considering early implementation to contact *988@fcc.gov.* Commission staff will monitor that email address and share any information received with relevant SAMHSA and VA staff.

38. We therefore decline to adopt a technology-based, phased-in implementation approach as some commenters urge. We recognize that many of the legacy switches that require upgrading to implement 988 may reside in states with rural legacy networks. Many of the area codes that are affected are largely rural. And while we understand that networks in rural areas in particular may pose more acute challenges due to issues such as weather and physical remoteness, the record also demonstrates that the need to ease access to life-saving suicide-prevention resources is also particularly acute in rural and remote areas. As we have previously explained, ''suicide does not discriminate by geographic region, and to be effective, any code designated for a national suicide prevention and mental health crisis hotline system must be ubiquitously deployed.'' A phased-in approach would risk delaying 3-digit access to some of the areas of the country that need it most. As Mental Health America explains, ''[i]n establishing the timeline,'' the Commission ''must ensure universal access to the new 988 number,'' even if implementation takes longer, to avoid ''excluding certain rural jurisdictions or other populations from having access.''

39. We also decline to adopt a phased-in approach on the basis that ''service providers simply do not have the necessary personnel to make all necessary network changes and upgrades at one time.'' We account for these challenges by ensuring adequate time for the transition, rather than by foregoing the benefits of a single deadline.

40. *Declining Additional Delay.* We decline requests for an unspecified amount of time for implementation. Setting an indefinite timeframe for providing 3-digit access to potentially life-saving resources would be contrary to the public interest. The lack of regulatory certainty would also risk public confusion, hinder preparation by parties involved with operating the Lifeline, sharply reduce the incentive for carriers to upgrade their networks promptly, and complicate planning and budgeting for all parties involved. Moreover, none of the carriers requesting this delay offers a concrete plan to ensure ubiquitous deployment of 988 in a timely manner. USTelecom's plan would only establish a deadline for 97% of households, leaving the others—mostly in rural areas—waiting indefinitely. AT&T argues that the Commission should ''avoid a premature implementation schedule'' and proposes that the Commission solicit ''input on the appropriate implementation schedules that begins 36 months *after* [designation of 988] is set.'' Similarly, the Alliance for Telecommunications Industry Solutions asserts that it is ''premature'' to establish an implementation deadline before first determining where 988 calls will be routed, whether 10-digit dialing will be mandated, and other ''key decisions.'' But that is the very purpose of this notice-and-comment rulemaking proceeding. The unwillingness of USTelecom, AT&T, and CenturyLink to identify *any* point in time by which they could complete 988 implementation provides an additional basis to reject their various post-circulation attempts to poke holes in the deadline we selected. AT&T claims that covered providers are in the best position to know how long implementation will take, but even assuming that to be true,

it does us no good if they will not tell us. We recognize that, according to some commenters, the original 18-month deadline proposed in the *Notice* provided insufficient time for implementation; thus, we have provided additional time accordingly. Based on the foregoing analysis, we decline requests to adopt the 18-month deadline proposed in the *Notice.* We do not believe that it is in the public interest, however, to provide a general extension beyond two years.

41. We also reject arguments that the possible need to bolster the Lifeline's resources is a reason to establish a lengthier deadline. Notably, neither SAMHSA nor the VA have suggested that they require additional time to prepare with necessary and approved funding, resources, and support to handle increased demand. We reject arguments to the contrary by parties that, unlike SAMSHSA and the VA, are not well-positioned to evaluate the Lifeline's needs. While additional resources may need to be devoted to the Lifeline to ensure a smooth transition, USTelecom's recommendation that ''the implementation timeline for 988 should only be triggered once [SAMHSA] . . . or another appropriate federal entity can certify that the Lifeline call centers have adequate network, staffing, and back-up capabilities to handle the anticipated increase in call volume'' ignores the fact that these same entities have expressed no reservations about preparedness in an 18-month timeframe as proposed in the *Notice,* let alone a deadline of July 16, 2022. We therefore reject suggestions to establish a lengthier deadline based on the need to prepare the Lifeline for a potential increase in calls.

42. Finally, while we conclude that we should adopt a uniform nationwide policy of transitioning to 10-digit dialing in areas in which 988 is an NXX code and a uniform nationwide implementation deadline, we recognize that each of these decisions could lead to unusual hardships in some circumstances. Some parties have argued that ''despite the best intentions and efforts of all stakeholders'' waivers may be necessary ''due to the complexity and operational challenges associated with implementing 10-digit dialing.'' We observe that nothing in this Order impedes parties' ordinary right to seek a waiver of our rules for good cause shown. We may exercise our discretion to waive a rule where the particular facts at issue make strict compliance inconsistent with the public interest. In considering whether to grant a waiver, we may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. We caution that waivers are not routinely granted, and that any party seeking a waiver must demonstrate both (i) that particular circumstances warrant a deviation from the general rules we adopt today, and (ii) that grant of a waiver will further the important policy objectives of this Order. Parties seeking a waiver of our 10-digit dialing mandate should be prepared to demonstrate why their unique circumstances support a deviation from our uniform nationwide policy requiring 10-digit dialing in areas in which 988 is an NXX code. We note that GCI, the Alaska Telecom Association and Alaska Communications have argued ''given the unique network architecture'' in Alaska, which has a single area code, carriers ''can ensure all 988 calls reach their intended recipient by transitioning to 10-digit dialing only in the limited geographic area where 988 is used as an NXX, without necessarily requiring that the entire state of Alaska transition to 10-digit dialing.'' On this basis, GCI et al. argues that we should clarify that our 10-digit dialing mandate applies to an ''area'' that uses 7-digit dialing and has 988 as an NXX prefix, rather than an ''area code.'' We decline to issue the clarification requested by GCI et al. because, as USTelecom correctly argues, inserting such ''broadly applicable language . . . could create additional uncertainty and risk[] undermining the Commission's objective of expeditious and uniform nationwide implementation for 988.'' Nevertheless, we note that GCI et al. remain free to petition the Commission for a waiver of our 10-digit dialing rule, as described in this section. Similarly, parties seeking a waiver of our uniform 988 implementation deadline of July 16, 2022 should be prepared to demonstrate that they have put forward best efforts to comply with our deadline, and detail the specific circumstances that have prevented such compliance.

5. Cost Recovery

43. In the *Notice,* we proposed that all service providers bear their own costs of implementing 988 in their networks. We adopt this proposal. As we explained in the *Notice,* this approach encourages affected entities to make any needed upgrades efficiently and avoids unnecessary administrative costs. Unlike previous numbering proceedings in which the Commission established a cost recovery mechanism, here no shared industry costs such as central or regional numbering databases or third-party administrators are necessary to implement 988. The Commission divided the costs for local number portability into (1) shared costs; (2) carrier-specific costs directly related to providing number portability; and (3) carrier-specific costs not directly related to providing number portability. The Commission established an industry-wide cost recovery mechanism for the shared costs of number portability, which included the costs of administering the regional databases. Because no shared industry costs such as central or regional numbering databases or third-party administrators are necessary to implement 988, we conclude that the numbering administration requirement of section 251(e)(2) does not apply. As explained in the *Notice,* the Commission is only required to apply section 251(e)(2) in situations involving some type of numbering administration arrangement. No commenter disputes this proposed finding in the *Notice.* Rather, the costs incurred are provider-specific, as each service provider determines a solution to route its 988 calls to 1–800–273–8255 (TALK), which will vary significantly by individual provider. In addition, it is typical in non-numbering matters for providers to comply with Commission rules without a specific cost recovery mechanism. We note that our decision does not preclude service providers from reflecting any increased costs incurred as a result of 988 implementation in their rates charged to end users. Moreover, we recently issued a Notice of Proposed Rulemaking in a separate proceeding in which we proposed providing carriers with pricing flexibility nationwide for voice services.

44. We therefore disagree with commenters who argue that we should provide a mechanism for carriers to recover their costs associated with the implementation of the 988 dialing code. For example, USTelecom argues that we should provide a cost recovery mechanism because ''[w]hen imposing new abbreviated dialing codes in the past, the Commission has allowed states to regulate cost recovery for telecommunications providers in most instances.'' The examples cited by USTelecom, related to the designation of N11 codes, do not support the proposition that we must designate a cost recovery mechanism in this proceeding. It is true that, in designating 311 as a nationwide number for non-emergency services, we noted that telecommunications service providers might incur costs to enable 311, and that ''states would regulate cost recovery in most instances.'' Critically however, as the Commission explained, this was appropriate because ''311 calls, like 911

calls, are typically intrastate'' and the nature and ''[f]unding of 311 service . . . is a local issue.'' Similarly, the 211, 511, and 811 designations referenced by USTelecom involved providing callers direct access to local resources administered by states and localities. Here, however, we are establishing a 3-digit code for reaching the nationwide toll free number of the Lifeline, a resource administered by the federal government. Under these circumstances, the argument that we should defer to the states regarding cost recovery mechanisms is far less compelling.

45. USTelecom further argues that a cost recovery mechanism is warranted because ''[r]equiring carriers to bear the costs of mandated implementation of 988 while also urging carriers to deploy SHAKEN/STIR authentication . . . compounds the financial impact, consuming scarce capital resources and lessening carriers' ability to invest in broadband.'' And CenturyLink contends that we should authorize a cost recovery mechanism because ''the vast majority of 988 implementation costs will be borne by the legacy wireline companies.'' We recognize that carriers with significant legacy infrastructure may incur higher costs in implementing 988 than other voice service providers. However, this does not suggest that we should provide a mechanism to recover those costs. To the contrary, a recovery mechanism would risk undesirable distortions because, as we observed in the *Notice,* any costs borne by telecommunications carriers and VoIP providers will be proportional to the size and quality of their networks. As discussed above, the switch translations or upgrades necessary to implement 988 are likely to largely coincide with those required for the transition to IP-based services. For this reason, the carriers that would be the most likely to need to spend more on upgrades in the absence of today's rules—those with large networks with older infrastructure—will be the same providers that must spend more in order to implement 988.

46. Finally, we remind carriers that ''upgrades to legacy switches will have significant offsetting benefits beyond the immediate context of this proceeding, such as providing consumers with the benefits of more advanced, IP-based services as well as new business opportunities for providers.'' Given these significant benefits to carriers, we conclude that the costs associated with implementing 988 should be borne by service providers. And, as we noted above, our decision today does not preclude carriers or providers from adjusting their rates to end users to account for these costs if necessary.

*C. Assessing the Benefits and Costs of Designating and Implementing 988*

47. We are convinced that designating and implementing 988 will enable Americans to more easily access proven, life-saving suicide prevention and mental health crisis services, and the benefits of our actions today far surpass the costs of implementation. In the *Notice,* we estimated that if the new 988 dialing code could deter just one out of every one thousand suicides and suicide attempts, ''the estimated benefit of $2.4 billion in present value over the course of ten years will exceed the estimated, one-time $367 million in present value implementation cost to service providers.'' We sought comment on this preliminary conclusion. Based on the record and updated 2018 data from the CDC, we continue to estimate that a 0.1% reduction in suicide mortality will create $2.4 billion in present value benefits over the course of ten years. This benefit alone far exceeds the estimated present value costs of implementation, which remains $367 million. We also recognize that there are other significant benefits to 988 beyond a reduction in mortality, including cost savings for medical care and public safety, further indicating that the benefits of our action today greatly outweigh the costs.

1. Benefits

48. Estimates indicate that ''nearly one-half of the American public has been impacted by suicide.'' The Lifeline and Veterans Crisis Line provide critical and proven services that save lives, and expanding access to these services through the implementation of 988—an easy-to-remember, 3-digit dialing code—will save lives. In the *Notice,* we provided a range of estimated reductions in suicides resulting from the implementation of 988, and estimated that even a small reduction, a 0.1% decline in suicides, would save $451 million annually. We explained that estimating a precise reduction in suicide incidence is difficult and we therefore proposed to evaluate plausible suicide-reduction scenarios. No commenters directly addressed our range of estimated reductions in suicides, and we see no reason to depart from our estimates in the *Notice.* There, we assigned mortality reductions a monetary value based on the value of a statistical life (VSL), a measure of the collective willingness to pay to avoid a marginal increase in the risk of premature death. Multiplying the number of saved lives corresponding to various suicide prevention scenarios by the VSL yields a range of annual benefits corresponding to the suicide reductions achieved. We evaluate the most modest suicide reduction scenario of 0.1% to provide the most conservative estimate of benefits.

49. In 2018, 48,344 Americans died by suicide, and an estimated 1.4 million attempted suicide. This is an increase in suicides of 1,344 compared to the 2017 CDC data used for the estimate in the *Notice.* Based on 2018 CDC data, a marginal decline of 0.1% would save 48 people. Multiplied by the VSL, this results in an estimated annual benefit of $461 million (48*$9.6 million). This estimate is higher than our earlier $451 million estimate of the annual benefit due to the increase in total suicides from 2017 to 2018. In 2018, 1,344 more persons died by suicide than in 2017. If our actions would save 0.1% of this change, that would be 1.34 lives. This rounds to a single life saved. Multiplied by the VSL, the resulting value of the one-person increase in mortality is $9.6 million. Over ten years, the present value of the mortality reduction using 2017 suicides is $2.352 billion vs. $2.404 billion using 2018 suicides. Both figures round to $2.4 billion. For every expected life saved, the VSL is equal to $9.6 million. If the 988 dialing code deters one out of every 1,000 Americans who would otherwise die by suicide, we estimate the annual benefit would be approximately $461 million. The present value of this benefit over ten years, using a 7% discount rate, is approximately $2.4 billion. We use a 7% discount rate throughout, consistent with Office of Management and Budget guidance. When the proposed regulation primarily affects private consumption, OMB recommends a lower discount rate of 3%. OMB encourages regulatory analyses to present net benefits using both 3% and 7%. For our analysis here, however, the lower 3% discount would only increase the net benefits. For the sake of simplicity and to be conservative, we calculate net benefits using the 7% discount rate. Vibrant Emotional Health, the only commenter to address the issue, supports the $2.4 billion estimate of benefits attributable to suicide reduction.

50. We agree with commenters that the overall benefits of designating and implementing a 3-digit dialing code are broader than the direct benefits of saving lives. Vibrant Emotional Health contends that the benefits of reducing suicides and suicide attempts also include ''cost savings from averted suicide attempts and de-escalation of suicidal distress.'' These benefits include decreased burdens on public health and safety emergency services as well as on the family and those closest

to the impacted individual. These benefits are conceptually and causally different from the VSL. Medical treatment cost is the direct, aggregate, out-of-pocket cost of treating self-inflicted wounds. Lost-productivity cost is the indirect cost measured by the aggregate lost-earnings caused by self-inflicted wounds. The VSL measures neither lost earnings nor medical costs. The VSL is defined as the marginal rate of substitution between income and mortality risk, which intuitively measures the rate at which individuals are willing to trade money for the reduced risk of death. The VSL does not measure the value of life, but rather the individual's willingness to pay to reduce risk. We agree that these are additional benefits of designating and implementing a 3-digit dialing code. Since quantifying these additional benefits is not necessary to show that the benefits far outweigh the costs, we do not quantify them in our cost benefit calculation. We estimate based on the most recent data available from the CDC, if only 0.1% of suicides are averted by the 988 code, then nearly $795 million dollars in medical treatment and lost productivity costs would be saved annually. CDC estimates that the 41,149 suicides in 2013 cost the U.S. economy almost $51 billion in medical treatment and value of lost work. Suicide attempts—non-fatal self-harm injuries— resulted in nearly $12 billion in medical and work-loss costs in 2013 ($11.9 billion is the sum of $11.3 billion in medical and work-loss costs for persons whose self-harm injuries required hospitalization and $627 million in medical and work-loss costs for persons treated for self-harm injuries in a hospital emergency room and then released). Together, the total cost of suicides and suicidal attempts was approximately $63 billion (CDC estimates that the 41,149 suicides in 2013 cost the U.S. economy almost $51 billion in medical treatment and value of lost work). Adjusting to 2018 dollars and accounting for changes to the suicide rate, we estimate total work-loss and medical costs were approximately $79.5 billion. We believe this estimate is understated given the effectiveness of crisis counselors in reducing suicides and expected increases in calls to the Lifeline from 988 implementation. Because we did not specifically seek comment on these estimates in the *Notice* and because it is not necessary to include these estimates to show that the benefits of 988 far outweigh the costs, we exclude these estimates from our cost benefit calculation out of an abundance of caution. Similarly, we recognize commenters' claims that implementing 988 will confer other benefits that will appear as cost savings elsewhere in the public safety system, and ultimately in federal, state and local government budgets. When crisis services are unavailable, at-risk individuals are often taken by police to local jails, consuming costly police services and jail beds. By connecting at-risk individuals to counselors instead, a 988 code could spare the economy this cost. As several commenters note, diverting individuals in crisis away from emergency services that have higher costs would result in significant savings. While we are unable to estimate benefits of our actions in preventing these losses, it is unnecessary since our benefit estimates already far outweigh the costs of 988 implementation.

2. Costs

51. In the *Notice,* we estimated that service providers would incur one-time outlays to update switches and replace legacy equipment of $367 million in present value. This estimate was assumed to be incurred one year into the future and was discounted back to present day using the 7% discount rate. Estimated costs included $300 million for upgrading and replacing switches and $92.5 million for translation updates. We sought comment on the accuracy of these estimates and whether providers would face other costs. We received support for our proposal, and no commenter offers detailed information that causes us to deviate from our proposed cost estimate. We therefore adopt our proposed $367 million cost estimate.

52. In its comments, USTelecom argued that the *Notice* underestimates implementation costs because it ''failed to account for the fact that switch replacement will typically also require reconfiguration or construction of facilities to connect that switch.'' USTelecom has since altered its position and states that with 10-digit dialing, switch replacement is not necessary. Instead, it states that ''988 could be implemented through switch translations and upgrades in areas with 10-digit dialing,'' so that ''[w]hile carriers will still incur costs associated with these switch translations and upgrades, they are significantly less than the switch replacements contemplated in the *Suicide Hotline NPRM.*'' USTelecom has not quantified the costs it now expects, nor did it quantify the costs for reconfiguration or construction that it originally identified. Based on USTelecom's latest assertions, we now expect that our cost estimate is overstated by a significant amount. ''For the approximately 4,750 switches with a direct upgrade path to IP, we expect a relatively low cost of approximately $30,000 per switch. We estimate an average per switch replacement cost of $100,000 for the approximately 1,400 switches without a clear upgrade path. Upgrading or replacing all switches, therefore, would cost ($100,000 × 1,400 full upgrades =) $140 million and ($30,000 x 4,750 field upgrades =) $142.5 million, for a total cost of $282.5 million which we round up to $300 million.'' Nevertheless, because we lack record evidence on which to base a different cost calculation, and because a lower cost figure is unnecessary to show that the estimated benefits far exceed the estimated costs, we adopt our proposed $367 million cost estimate. If we assumed that the $30,000 per switch upgrade cost proposed in the *Notice* applied to the switches that we proposed concluding would require replacement or upgrade, that would yield 6,150 switches × $30,000 = $184.5 million in upgrade costs; and adding translation updates would yield total estimated cost of $251.5 million. But it is not clear from the record whether it is correct to assume that the upgrade cost would apply uniformly to the switches we proposed concluding would require replacement.

53. We also note that switch upgrades or replacements necessary for 988 implementation will provide an added cost savings by reducing future upgrade and maintenance costs. We could add these future savings, which we do not quantify, to our estimate of total benefits.

54. Finally, we recognize several commenters expressed concern that additional funding for crisis call centers will be needed to successfully implement 988. We agree that both call volumes and costs are likely to increase with the transition to 988, but we are confident that our federal partners, with necessary and approved funding, resources, and support to handle increased demand will be well-positioned to assist the additional Americans who are able to reach needed help because of our adoption of 988 in light of their support for this proceeding. The relatively small added cost to the Lifeline of each additional call is greatly outweighed by the benefit flowing from the possibility that the call may have saved a life. Given the gulf between the benefits and costs we have quantified, it is highly unlikely that the additional costs arising from handling an increased call volume would lead overall costs to exceed the enormous benefits of using 988 as a 3-digit, easy-to-remember number to reach the

Lifeline. Accepting SAMHSA's estimated additional call volume costs of $50 million annually, increases the net present value of total costs over ten years by $351 million (assuming the call volume increase occurs instantly at the inception of the hotline in Year 1). The over $2 billion in net benefits estimated above is more than sufficient to offset this increased cost. If the increase in call volume occurs with a lag as the 988 code is implemented, the present value of increased-call-volume costs decreases, thereby increasing the net benefit.

*D. Other Issues*

55. We are pleased to have the opportunity we take today, in our capacity as the federal regulator of our nation's communications networks, to contribute to the Lifeline's effectiveness as a resource for suicide prevention and mental health crisis services. Our role, however, is limited—we cannot and do not wish to usurp the role of our federal partners or others in operating the Lifeline itself. In response to the *Notice,* some commenters raised other issues that, while important, are best addressed in the first instance by others and, in some cases, reach beyond our jurisdiction. We briefly discuss these issues below. We encourage interested parties to work with our federal partners, SAMHSA and the VA, as well as other stakeholders to increase the overall effectiveness of the Lifeline and the Veterans Crisis Line, and we note that we are able to revisit these issues in the future if appropriate.

56. *Texting to 988.* In the *Notice,* we sought comment on whether and how to ''account for the fact that Americans, particularly younger Americans, increasingly rely on texting to communicate.'' Numerous mental health experts that commented in the record emphasize the importance of texting as a medium by which some individuals, particularly members of certain vulnerable communities such as young people, low-income individuals, members of the LGBTQ community, and individuals who are deaf and hard of hearing, may wish to obtain crisis counseling. We are pleased that several text-based options are available nationwide, including a short-code to reach the Veterans Crisis Line (838255) and the Crisis Text Line (741741), a private non-profit service that offers ''a free, 24/7 . . . crisis texting service to the public'' and that has ''over 27,000 trained Crisis Counselors in the U.S.'' and has ''exchanged over 130 million text messages with people in crisis since . . . August 2013.''

57. At the same time, we agree with the Crisis Text Line and CTIA, which argue that it would be premature for us to take action regarding text-to-988 capability in this Order. The Lifeline currently lacks an integrated text service. As CTIA argues, the ''crucial issue for deployment of text-to-988 will be mental health crisis centers' election, and technical ability, to receive and respond to messages in text medium.'' We do not have the authority to require the Lifeline and its crisis centers to develop the technical capability to accept and respond to texts. We also do not wish to usurp the role of SAMHSA, which has the mental health expertise to determine how best to allocate the Lifeline's resources to assist Americans in need. In the absence of integrated texting capability, we do not see how the benefits of imposing a mandate on covered providers would exceed the costs. We therefore defer consideration of mandating text-to-988 at this time so that we could revisit the issue promptly should the Lifeline develop integrated texting. For these reasons we also decline at this time to mandate real-time text capability to 988 as requested by Telecommunications for the Deaf and Hard of Hearing, Inc. et al. We also decline at this time the Boulder Regional Emergency Telephone Service Authority's request that we act to ensure that the Lifeline can access caller location information for the purpose of handing off calls to local Public Safety Answering Points. Transmission of call location information is a technically complicated issue that we cannot resolve on the record before us. Further we do not wish to unduly delay or complicate implementation of 988 and the life-saving benefits it offers to Americans in crisis. At present, we encourage Americans who wish to obtain mental health crisis counseling via text and chat to use existing resources provided by SAMHSA, which provides a chat portal on the Lifeline website; the VA, which offers veterans both an online chat service and a text service accessible by dialing 838255; or the Crisis Text Line, a private non-profit service that offers a free, 24/7 crisis texting service to the public.

58. *Direct Video Calling to 988.* Some commenters urge us to require the deployment of a direct American Sign Language (ASL) suicide prevention hotline for individuals who are deaf or hard of hearing to interact with the Lifeline without the need for an interpreter. We encourage the deployment of direct communications solutions for individuals with disabilities and have adopted several policies to provide sign language users with access to enhanced options for point-to-point communications. We recently adopted rules to facilitate consumer support call centers in implementing direct video calling and enabling sign language users to communicate directly with signing call center representatives. We decline, however, to mandate deployment of a direct ASL suicide prevention hotline because we lack authority over the functions or administration of the Lifeline and because our rules facilitate rather than mandate direct video calling. We emphasize that the Lifeline is available to users of TRS, and TRS users will be able to reach the Lifeline via 988. The Lifeline also maintains a separate TTY number, as well as an online chat portal.

59. *Funding for the Lifeline Network.* Some commenters raise concerns about whether the Lifeline network and individual call centers have sufficient capacity and funding to meet the increased demand that will likely result from the establishment of the 988 dialing code. While these issues fall outside of our jurisdiction, we note that our federal partners are aware that ''increased community crisis center capacity would be necessary to answer the anticipated significant increase in call volume.'' And with our adoption of a July 16, 2022 deadline, they will have additional time to prepare for such an increase. We also encourage stakeholders to work with Congress during this period to ensure appropriate funding for the Lifeline.

## II. Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the Notice of Proposed Rulemaking (*Notice*), released December 2019. The Commission sought written public comments on the proposals in the *Notice,* including comment on the IRFA. No comments were filed addressing the IRFA. Because the Commission amends its rules in this Report and Order (*Order*), the Commission has included this Final Regulatory Flexibility Analysis (FRFA). This present FRFA conforms to the RFA.

*A. Need for, and Objectives of, the Rules*

2. Pursuant to the Suicide Hotline Improvement Act of 2018, the *Notice* proposed to designate 988 as the 3-digit dialing code for a national suicide and mental health crisis hotline system. The *Notice* proposed to require all telecommunications carriers and interconnected voice over internet

protocol (VoIP) providers to transmit calls initiated by dialing 988 to the current toll free access number for the National Suicide Prevention Lifeline, and to implement such changes within 18 months.

3. Pursuant to these objectives, the *Order* adopts changes to the Commission's rules to: (1) Designate 988 as the 3-digit dialing code for a national suicide prevention and mental health crisis hotline system maintained by the Assistant Secretary for Mental Health and Substance Use and the Secretary of Veterans Affairs; (2) require all telecommunications carriers, interconnected voice over internet Protocol (VoIP) providers, and one-way VoIP providers (together, ''covered providers'') to transmit all calls initiated by an end user dialing 988 to the current toll free access number for the National Suicide Prevention Lifeline, presently 1–800–273–8255 (TALK); (3) require all covered providers to complete 10-digit dialing implementation in areas that use 7-digit dialing and have assigned 988 as a central office code; (4) require all covered providers to complete all changes to their systems that are necessary to implement the designation of the 988 dialing code by July 16, 2022. These modifications advance the goals of the Suicide Hotline Improvement Act of 2018 and the Commission's goal of addressing the growing suicide dilemma facing our country.

*B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA*

4. There were no comments filed that specifically addressed the proposed rules and policies presented in the IRFA.

*C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration*

5. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments.

6. The Chief Counsel did not file any comments in response to the proposed rules this proceeding.

*D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply*

7. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the final rules adopted pursuant to the *Order.* The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small-business concern'' under the Small Business Act. A ''small-business concern'' is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

8. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry-specific size standards for small businesses that are used in the regulatory-flexibility analysis, according to data from the SBA's Office of Advocacy, a small business in general is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 30.2 million businesses.

9. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field . . . .'' Nationwide, as of March 2019, there were approximately 356,494 small organizations based on registration and tax data filed by nonprofits with the Internal Revenue Service (IRS).

10. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2012 Census of Governments indicates that there were 90,056 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number, there were 37,132 general purpose governments (county, municipal, and town or township) with populations of less than 50,000, and 12,184 special-purpose governments (independent school districts and special districts) with populations of less than 50,000. The 2012 U.S. Census Bureau data for most types of governments in the local government category shows that a majority these governments have populations of less than 50,000. Based on this data, we estimate that at least 49,316 local-government jurisdictions fall in the category of ''small governmental jurisdictions.''

11. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as ''establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.'' The SBA has developed a small-business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. Census data for 2012 shows that there were 3,117 firms that operated that year and that of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small.

12. *Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 shows that 3,117 firms operated for the entire year. Of that total, 3,083 operated with fewer than 1,000 employees. Thus under this category and the associated size standard, the Commission estimates that the majority of local exchange carriers are small entities.

13. *Incumbent LECs.* Neither the Commission nor the SBA has developed a small-business size standard specifically for incumbent local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 indicates that 3,117 firms

operated the entire year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by our actions. According to Commission data, 1,307 Incumbent Local Exchange Carriers reported that they were incumbent local exchange service providers. Of this total, an estimated 1,006 have 1,500 or fewer employees. Thus, using the SBA's size standard, the majority of incumbent LECs can be considered small entities.

14. Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers. Neither the Commission nor the SBA has developed a small-business size standard specifically for these service providers. The most appropriate NAICS Code category is Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 indicate that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees. Based on these data, the Commission concludes that the majority of Competitive LECS, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers are small entities. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services. Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees. In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees. Additionally, 72 carriers have reported that they are Other Local Service Providers. Of this total, 70 have 1,500 or fewer employees. Consequently, based on internally researched FCC data, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities.

15. We have included small incumbent LECs in this present RFA analysis. As noted above, a ''small business'' under the RFA is one that, *inter alia,* meets the pertinent small-business size standard (*e.g.,* a telephone communications business having 1,500 or fewer employees) and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

16. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a definition for Interexchange Carriers. The closest NAICS Code category is Wired Telecommunications Carriers. The applicable size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 indicate that 3,117 firms operated for the entire year. Of that number, 3,083 operated with fewer than 1,000 employees. According to internally developed Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services. Of this total, an estimated 317 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of interexchange service providers are small entities.

17. *Local Resellers.* The SBA has developed a small-business size standard for Telecommunications Resellers that includes Local Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. Under the SBA's size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 shows that 1,341 firms provided resale services during that year. Of that number, all operated with fewer than 1,000 employees. Thus, under this category and the associated small-business size standard, the majority of these resellers can be considered small entities. According to Commission data, 213 carriers have reported that they are engaged in the provision of local resale services. Of these, an estimated 211 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of Local Resellers are small entities.

18. *Toll Resellers.* The Commission has not developed a definition for Toll Resellers. The closest NAICS Code category is Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. The SBA has developed a small-business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 shows that 1,341 firms provided resale services during that year. Of that number, 1,341 operated with fewer than 1,000 employees. Thus, under this category and the associated small-business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services. Of this total, an estimated 857 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of toll resellers are small entities.

19. *Other Toll Carriers.* Neither the Commission nor the SBA has developed a definition for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable NAICS Code category is for Wired Telecommunications Carriers as defined above. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this category and the associated small-business size standard, the majority of Other Toll Carriers can be considered small. According to internally developed Commission data, 284 companies reported that their primary telecommunications service activity was the provision of other toll carriage. Of these, an estimated 279 have 1,500 or

fewer employees. Consequently, the Commission estimates that most Other Toll Carriers are small entities.

20. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined ''small business'' for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these small-business size standards.

21. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. The closest applicable SBA category is Wireless Telecommunications Carriers (except Satellite), and under the most appropriate size standard for this category, such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census Bureau data for 2012 shows that there were 967 firms that operated for the entire year. Of this total, 955 firms had fewer than 1,000 employees and 12 firms had 1000 employees or more. Thus, under this category and the associated size standard, the Commission estimates that a majority of these entities can be considered small. According to Commission data, 413 carriers reported that they were engaged in wireless telephony. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Therefore, more than half of these entities can be considered small.

22. *All Other Telecommunications.* The ''All Other Telecommunications'' category is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing internet services or voice over internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry. The SBA has developed a small-business size standard for All Other Telecommunications, which consists of all such firms with annual receipts of $ 35 million or less. For this category, U.S. Census Bureau data for 2012 shows that there were 1,442 firms that operated for the entire year. Of those firms, a total of 1,400 had annual receipts less than $25 million and 42 firms had annual receipts of $25 million to $49,999,999. Thus, the Commission estimates that the majority of ''All Other Telecommunications'' firms potentially affected by our action can be considered small.

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

23. The *Order* modifies the Commission's rules to require implementation of 988 as the 3-digit dialing code for a national suicide prevention and mental health crisis hotline by July 22, 2022. The final rules adopted in the *Order* do not contain any new or additional reporting, recordkeeping, or other compliance obligations.

*F. Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

24. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its approach, which may include the following four alternatives (among others): ''(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rules for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

25. The final rules adopted in this *Order* require that all covered providers to transmit all calls initiated by an end user dialing 988 to the current toll-free access number for the National Suicide Prevention Lifeline, presently 1–800–273–8255 (TALK). Because ''suicide does not discriminate by geographic region, and to be effective, any code designated for a national suicide and mental health crisis hotline must be ubiquitously deployed,'' the Commission cannot exempt entities from or delay the implementation of 988. However, we do not believe the actions in this *Order* will overly burden small carriers or providers.

*G. Report to Congress*

26. The Commission will send a copy of the *Order,* including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Order,* including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the *Order* and FRFA (or summaries thereof) will also be published in the **Federal Register**.

**III. Procedural Matters**

27. *Paperwork Reduction Act of 1995 Analysis.* This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

28. *Final Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act of 1980,103 the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) of the possible significant economic impact on small entities of the policies and rules, as proposed, addressed in this *Report and Order.* The FRFA is set forth in Appendix B. The Commission will send a copy of this *Report and Order,* including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

29. *Congressional Review Act.* The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that this rule is non-major under the Congressional Review Act, 5 U.S.C. 804(2), because it is promulgated under the Telecommunications Act of 1996 and the amendments made by that Act. The Commission will send a copy of this Report & Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

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

31. *Contact Person.* For further information about this rulemaking proceeding, please contact Michelle Sclater, Competition Policy Division, Wireline Competition Bureau, at (202) 418–0388 or *michelle.sclater@fcc.gov.*

## IV. Ordering Clauses

32. Accordingly, IT IS ORDERED that, pursuant to authority found in sections 1, 4(i) and 4(j), 201, 225, 251, 255, 303(g), 303(r), and 332(c) of the Communications Act as amended, 47 U.S.C. 151, 154(i), 154(j), 201, 225, 251, 255, 303(g), 303(r), and 332(c) this Report and Order IS ADOPTED.

33. IT IS FURTHER ORDERED that, pursuant to §§ 1.4(b)(1) and 1.103(a) of the Commission's rules, 47 CFR 1.4(b)(1), 1.103(a), this Report and Order SHALL BE EFFECTIVE 30 days after publication in the **Federal Register**.

34. IT IS FURTHER ORDERED, that the North American Numbering Plan Administrator SHALL ASSIGN 988 as a national abbreviated dialing code to be used exclusively for access to the national suicide prevention and mental health crisis hotline system maintained by the Assistant Secretary for Mental Health and Substance Use and the Secretary of Veterans Affairs as of the effective date of this Report and Order.

35. IT IS FURTHER ORDERED that part 64 of the Commission's rules IS AMENDED as set forth in Appendix A of the Report and Order.

36. IT IS FURTHER ORDERED that the Commission SHALL SEND a copy of this Report and Order to Congress and to the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

37. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Report and Order, including the Final Regulatory Flexibility Analysis (FRFA), to the Chief Counsel for Advocacy of the Small Business Administration.

### List of Subjects in 47 CFR Part 52

Communications common carriers, Telecommunications, Telephone.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary.*

### Final Rules

For the reasons discussed, the Federal Communications Commission amends 47 CFR part 52 as follows:

## PART 52—NUMBERING

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

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

■ 2. Subpart E, consisting of § 52.200, is added to read as follows:

### Subpart E—Universal Dialing Code for National Suicide Prevention and Mental Health Crisis Hotline System

**§ 52.200 Designation of 988 for a National Suicide Prevention and Mental Health Crisis Hotline.**

(a) 988 is established as the 3-digit dialing code for a national suicide prevention and mental health crisis hotline system maintained by the Assistant Secretary for Mental Health and Substance Use and the Secretary of Veterans Affairs.

(b) All covered providers shall transmit all calls initiated by an end user dialing 988 to the current toll free access number for the National Suicide Prevention Lifeline, presently 1–800–273–8255 (TALK).

(c) All covered providers shall complete 10-digit dialing implementation in areas that use 7-digit dialing and have assigned 988 as a central office code as defined in § 52.7(c) by July 16, 2022.

(d) All covered providers shall complete all changes to their systems that are necessary to implement the designation of the 988 dialing code by July 16, 2022.

(e) For purposes of complying with the requirements of this section,

(1) The term ''covered provider'' means any telecommunications carrier, interconnected VoIP provider, or provider of one-way VoIP.

(2) The term ''one-way VoIP''—

(i) Means a service that—

(A) Enables real-time, two-way voice communications;

(B) Requires a broadband connection from the user's location;

(C) Requires internet protocol-compatible customer premises equipment; and

(D) Permits users generally to receive calls that originate on the public switched telephone network or to terminate calls to the public switched telephone network.

(ii) Does not include any service that is an interconnected VoIP service.

[FR Doc. 2020–16908 Filed 9–15–20; 8:45 am]

BILLING CODE 6712–01–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 635

**[Docket No. 030908222–6241–02]**

**RTID 0648–XA481**

## Atlantic Highly Migratory Species (HMS); Atlantic Billfish Fisheries

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

**ACTION:** Temporary rule; Action restricting recreational fishing for Atlantic blue marlin, white marlin, and roundscale spearfish to catch-and-release fishing.

**SUMMARY:** NMFS has determined that the recreational landings limit for Atlantic blue marlin, white marlin, and roundscale spearfish has been reached and exceeded for 2020, based upon a review of landings data. Therefore, NMFS is prohibiting retention of Atlantic blue marlin, white marlin, and roundscale spearfish in the Atlantic HMS recreational fisheries. Fishing for these species will be limited to catch-and-release only for the remainder of 2020. This action affects Angling and Charter/Headboat permit holders, tournament operators, and Atlantic tunas General category or Swordfish General Commercial permit holders that fish in registered Atlantic HMS tournaments, and is effective in all areas of the Atlantic Ocean. Atlantic sailfish may continue to be retained consistent with applicable regulations.

**DATES:** Effective September 30, 2020, through December 31, 2020.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Lee by email at *Jennifer.Lee@noaa.gov,* Jennifer Cudney by email at *Jennifer.Cudney@noaa.gov,* or Nicholas Alvarado by email at *Nicholas.Alvardo@noaa.gov.*

**SUPPLEMENTARY INFORMATION:** Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing fishing for Atlantic billfish (including blue marlin, white marlin, roundscale spearfish, longbill spearfish, and sailfish) by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. The Atlantic billfish fishery is a recreational fishery, and the sale of Atlantic billfish is prohibited. 50 CFR 635.31(b). Only

persons who have been issued a valid HMS Angling or valid Charter/Headboat permit, or who have been issued a valid Atlantic Tunas General category or Swordfish General Commercial permit and are participating in a tournament as provided in § 635.4(c), may possess a blue marlin, white marlin, or roundscale spearfish in, or take a blue marlin, white marlin, or roundscale spearfish from, its management unit. Blue marlin, white marlin, or roundscale spearfish may only be harvested by rod and reel. § 635.19(c)(1).

Atlantic HMS regulations specify an annual recreational landings limit of 250 Atlantic blue and white marlin and roundscale spearfish, combined. § 635.27(d)(1). NMFS implemented this landings limit consistent with International Commission for the Conservation of Atlantic Tunas (ICCAT) recommendations, most recently reflected in ICCAT Recommendation 19–05, Recommendation by ICCAT to Establish Rebuilding Programs for Blue Marlin and White Marlin/Roundscale Spearfish.

Under § 635.27(d)(3), when the 250-marlin landings limit is reached or projected to be reached, NMFS will file for publication with the Office of the Federal Register an action restricting fishing for Atlantic blue marlin, white marlin, and roundscale spearfish to catch-and-release fishing only. Section 635.27(d)(3) also states that once a determination is made, in no case shall such adjustment be effective less than 14 calendar days after the date of publication. From the effective date and time of such action until additional landings become available, no blue marlin, white marlin, or roundscale spearfish from the management unit may be taken, retained, or possessed.

Preliminary landings information from multiple sources (see Monitoring and Reporting section, below), indicate that 268 blue marlin, white marlin, and roundscale spearfish combined have been landed, and the 250-marlin landings limit has been reached and exceeded for the 2020 fishing year. As a result, NMFS is prohibiting further retention of Atlantic blue marlin, white marlin, and roundscale spearfish in the recreational fisheries, and the fishery for these species will operate as a catch-and-release fishery only for the remainder of 2020. This prohibition on retention affects Angling and Charter/Headboat permit holders, tournament operators, and Atlantic tunas General category or Swordfish General Commercial permit holders that fish in registered Atlantic HMS tournaments, and is effective in all areas of the Atlantic Ocean.

This is the first time that the United States has reached and exceeded its annual 250-marlin landings limit since it was established. Both tournament and non-tournament billfish landings have been increasing in recent years. Billfish tournaments typically occur during the summer months, and in mid- to late August 2020 there was a substantial increase in tournament landings that resulted in the 250-marlin landings limit being reached and exceeded.

After reviewing final landings data, NMFS will, consistent with § 635.27(d)(2), subtract any overharvest from the landings limit for 2021. Any adjustment, if necessary, would be announced via notice in the **Federal Register**.

This restriction does not apply to Atlantic sailfish. Atlantic sailfish may continue to be retained consistent with applicable regulations. Retention of longbill spearfish is already prohibited. Billfish retention remains prohibited in commercial fisheries.

## Monitoring and Reporting

NMFS will continue to monitor the Atlantic billfish fishery closely through mandatory landings reports. Angling category and HMS Charter/Headboat vessel owners are required to report billfish landings, within 24 hours of the landing(s) or end of each trip, by accessing *hmspermits.noaa.gov,* using the HMS Catch Reporting app, or calling (888) 872–8862 (Monday through Friday from 8 a.m. until 4:30 p.m.). Anglers in Maryland and North Carolina are required to report billfish landings at state-operated reporting stations. Depending on the final 2020 landings and other considerations described above, NMFS may adjust the 2021 landing limit and determine that additional adjustments are necessary in 2021 to ensure the landing limit is not exceeded. Such adjustments will be published in the **Federal Register**. In addition, fishermen may access *hmspermits.noaa.gov* for updates on inseason adjustments.

HMS Angling and HMS Charter/Headboat category permit holders may catch-and-release (or tag and release) Atlantic billfish of all sizes. Anglers are reminded that Atlantic billfish that are released must be handled in a manner that will maximize survival, and without removing the fish from the water, consistent with requirements at § 635.21(a)(1). For additional information on safe handling, see the ''Careful Catch-and-Release'' brochure available at *https://www.fisheries.noaa.gov/resource/educational-materials/careful-catch-and-release-brochure.*

## Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act and the Atlantic Tunas Convention Act, 16 U.S.C. 971d(c)(1)(A). This action is required by 50 CFR part 635, which was issued pursuant to section 304(c), and is exempt from review under Executive Order 12866.

The Assistant Administrator for NMFS finds that pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive an opportunity for public comment on this action. This fishery is currently underway and delaying this action would be contrary to the public interest as it could result in Atlantic blue marlin, white marlin, and roundscale spearfish landings further exceeding the 250-marlin landings limit, which was adopted at ICCAT and implemented domestically. If NMFS were to offer a public comment period now, after having appropriately considered that data, it could result in further exceedance of the landings limit and NMFS having to lower the marlin landing limit in the next fishing year.

Consistent with specific regulation requiring this action, the regulated community will receive 14 days' prior notice of the effective date of this action. Affording additional notice and an opportunity for public comment on the change to catch-and-release only for the remainder of 2020 at this time is impracticable. Based on review of available billfish landings data, restriction to catch-and-release only is required under the regulations to prevent any further exceedances of the marlin landings limit during the 2020 fishing year. NMFS could not have proposed this action earlier, as it needed to consider and respond to recently-updated landings data, including from HMS Angling, Charter/Headboat permit holders, tournament operators, and Atlantic tunas General category and Swordfish General Commercial permit holders that fish in registered Atlantic HMS Tournaments. Therefore, the Assistant Administrator finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. Furthermore, while NMFS is providing 14 days' notice, it is not providing the full 30-day delay in effectiveness, and for the reasons above finds there also is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under § 635.23(d)(5), and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: September 11, 2020.

**Jennifer M. Wallace,**

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

[FR Doc. 2020–20409 Filed 9–11–20; 4:15 pm]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 648

**[Docket No. 200325–0088; RTID 0648–XA437]**

### Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Closure of the Closed Area I Scallop Access Area to General Category Individual Fishing Quota Scallop Vessels

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS announces that the Closed Area I Scallop Access Area is closed to Limited Access General Category Individual Fishing Quota scallop vessels for the remainder of the 2020 fishing year. No vessel issued a Limited Access General Category Individual Fishing Quota permit may fish for, possess, or land scallops from the Closed Area I Scallop Access Area. Regulations require this action once it is projected that 100 percent of trips allocated to the Limited Access General Category Individual Fishing Quota scallop vessels for the Closed Area I Scallop Access Area will be taken.

**DATES:** Effective 0001 hr local time, September 13, 2020, through March 31, 2021.

**FOR FURTHER INFORMATION CONTACT:** Shannah Jaburek, Fishery Management Specialist, (978) 282–8456.

**SUPPLEMENTARY INFORMATION:** Regulations governing fishing activity in the Sea Scallop Access Areas can be found in 50 CFR 648.59 and 648.60. These regulations authorize vessels issued a valid Limited Access General Category (LAGC) Individual Fishing Quota (IFQ) scallop permit to fish in the Closed Area I Scallop Access Area under specific conditions, including a total of 571 trips that may be taken during the 2020 fishing year. Section 648.59(g)(3)(iii) requires the Closed Area I Scallop Access Area to be closed to LAGC IFQ permitted vessels for the remainder of the fishing year once the NMFS Greater Atlantic Regional Administrator determines that the allocated number of trips for fishing year 2020 are projected to be taken.

Based on trip declarations by LAGC IFQ scallop vessels fishing in the Closed Area I Scallop Access Area, analysis of fishing effort, and other information, NMFS projects that 571 trips will be taken as of September 13, 2020. Therefore, in accordance with § 648.59(g)(3)(iii), NMFS is closing the Closed Area I Scallop Access Area to all LAGC IFQ scallop vessels as of September 13, 2020. No vessel issued an LAGC IFQ permit may fish for, possess, or land scallops in or from the Closed Area I Scallop Access Area after 0001 local time, September 13, 2020. Any LAGC IFQ vessel that has declared into the Closed Area I Access Area scallop fishery, complied with all trip notification and observer requirements, and crossed the vessel monitoring system (VMS) demarcation line on the way to the area before 0001, September 13, 2020, may complete its trip without being subject to this closure. This closure is in effect for the remainder of the 2020 scallop fishing year, through March 31, 2021.

#### Classification

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

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. The Closed Area I Scallop Access Area opened for the 2020 fishing year on April 1, 2020. The regulations at § 648.59(g)(3)(iii) require this closure to ensure that LAGC IFQ scallop vessels do not take more than their allocated number of trips in the area. The projected date on which the LAGC IFQ fleet will have taken all of its allocated trips in an Access Area becomes apparent only as trips into the area occur on a real-time basis and as activity trends begin to appear. As a result, NMFS can only make an accurate projection very close in time to when the fleet has taken all of its trips. To allow LAGC IFQ scallop vessels to continue to take trips in the Closed Area I Scallop Access Area during the period necessary to publish and receive comments on a proposed rule would likely result in the vessels taking much more than the allowed number of trips in the Closed Area I Scallop Access Area. Excessive trips and harvest from the Closed Area I Scallop Access Area would result in excessive fishing effort in the area, where effort controls are critical, thereby undermining conservation objectives of the Atlantic Sea Scallop Fishery Management Plan and requiring more restrictive future management measures.

Also, the public had prior notice and full opportunity to comment on this closure process when it was enacted. For these same reasons, NMFS further finds, under 5 U.S.C 553(d)(3), good cause to waive the 30-day delayed effectiveness period.

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

Dated: September 10, 2020.

**Jennifer M. Wallace,**

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

[FR Doc. 2020–20344 Filed 9–11–20; 4:15 pm]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 679

**[Docket No. 200227–0066]**

**RTID 0648–XA433**

### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Pot Catcher/Processors in the Bering Sea and Aleutian Islands Management Area

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific cod by catcher/processors using pot gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2020 Pacific cod total allowable catch (TAC) allocated to catcher/processors using pot gear in the BSAI.

**DATES:** Effective 1200 hours, Alaska local time (A.l.t.), September 12, 2020, through 2400 hours, A.l.t., December 31, 2020.

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

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific

Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2020 Pacific cod TAC allocated to catcher/processors using pot gear in the BSAI is 2,074 metric tons (mt) as established by the final 2020 and 2021 harvest specifications for groundfish in the BSAI (85 FR 13553, March 9, 2020).

In accordance with § 679.20(d)(1)(iii), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2020 Pacific cod TAC allocated as a directed fishing allowance to catcher/processors using pot gear in the BSAI will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by pot catcher/processors in the BSAI.

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

## Classification

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

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific cod by catcher/processors using pot gear in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 10, 2020.

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

Dated: September 11, 2020.

**Jennifer M. Wallace,**

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

[FR Doc. 2020–20408 Filed 9–11–20; 4:15 pm]

BILLING CODE 3510–22–P

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 679

**[Docket No. 200227–0066; RTID 0648–XA431]**

## Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Less Than 60 Feet (18.3 Meters) Length Overall Using Hook-and-Line or Pot Gear in the Bering Sea and Aleutian Islands Management Area

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific cod by catcher vessels less than 60 feet (18.3 meters (m)) length overall (LOA) using hook-and-line or pot gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2020 Pacific cod total allowable catch allocated to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear in the BSAI.

**DATES:** Effective 1200 hours, Alaska local time (A.l.t.), September 12, 2020, through 2400 hours, A.l.t., December 31, 2020.

**FOR FURTHER INFORMATION CONTACT:** Obren Davis, 907–586–7228.

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

The 2020 Pacific cod total allowable catch (TAC) allocated to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear in the BSAI is 4,807 metric tons (mt) as established by the final 2020 and 2021 harvest specifications for groundfish in the BSAI (85 FR 13553, March 9, 2020), and reallocations (85 FR 4601, January 27, 2020, and 85 FR 49976, August 17, 2020).

In accordance with § 679.20(d)(1)(iii), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2020 Pacific cod TAC allocated as a directed fishing allowance to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear in the BSAI will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear in the BSAI. While this closure is effective the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

## Classification

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

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific cod by catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 10, 2020.

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

Dated: September 11, 2020.

**Jennifer M. Wallace,**

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

[FR Doc. 2020–20430 Filed 9–11–20; 4:15 pm]

BILLING CODE 3510–22–P

# Proposed Rules

Federal Register
Vol. 85, No. 180
Wednesday, September 16, 2020

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF ENERGY

## 10 CFR Part 430

**[EERE–2020–BT–STD–0013]**

**RIN 1904–AE50**

## Energy Conservation Program: Energy Conservation Standards for Battery Chargers

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

**ACTION:** Request for information.

**SUMMARY:** The U.S. Department of Energy is undertaking an early assessment review for amended energy conservation standards for battery chargers to determine whether to amend applicable energy conservation standards for this product. Specifically, through this request for information (''RFI''), DOE seeks data and information that could enable the agency to determine whether it should propose a ''no new standard'' determination because a more stringent standard: Would not result in a significant savings of energy; is not technologically feasible; is not economically justified; or any combination of the foregoing. DOE welcomes written comments from the public on any subject within the scope of this document (including those topics not specifically raised in this RFI), as well as the submission of data and other relevant information concerning this early assessment review.

**DATES:** Written comments and information will be accepted on or before November 30, 2020.

**ADDRESSES:** Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2020–BT–STD–0013, by any of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
2. *Email: Batterychargers2020STD0013@ee.doe.gov.* Include the docket number EERE–2020–BT–STD–0013 in the subject line of the message.
3. *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a compact disc (''CD''), in which case it is not necessary to include printed copies.
4. *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW, 6th Floor, Washington, DC 20024. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

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

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

The docket web page can be found at *http://www.regulations.gov/docket?D=EERE-2020-BT-STD-0013.* The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section III for information on how to submit comments through *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:**

Mr. Jeremy Dommu, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–2J, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–9870. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

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

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

**SUPPLEMENTARY INFORMATION:**

### Table of Contents

I. Introduction
A. Authority and Background
1. Authority
2. Background
B. Rulemaking Process
II. Request for Information and Comments
A. Products Covered by This Process
1. Wireless Battery Chargers
B. Market and Technology Assessment
1. Product Classes
2. Technology Assessment
C. Screening Analysis
D. Engineering Analysis
1. Baseline Efficiency Levels
2. Maximum Available and Maximum Technologically Feasible Levels
3. Intermediate Efficiency Levels
4. Manufacturer Production Costs and Manufacturing Selling Price
E. Markup Analysis
F. Energy Use Analysis
1. Active Mode and Maintenance Mode Energy Consumption
2. Standby Mode and Off Mode Energy Consumption
G. Life-Cycle Cost and Payback Analysis
H. Shipments Analysis
I. National Impact Analysis
J. Manufacturer Impact Analysis
K. Other Energy Conservation Standards Topics
1. Market Failures
2. Network Mode/''Smart'' Technology
3. Other Issues
III. Submission of Comments

### I. Introduction

DOE established an early assessment review process to conduct a more focused analysis of a specific set of facts or circumstances that would allow DOE to determine that, based on one or more statutory criteria, a new or amended energy conservation standard is not warranted. The purpose of this review is to limit the resources, from both DOE and stakeholders, committed to

rulemakings that will not satisfy the requirements in EPCA that a new or amended energy conservation standard save a significant amount of energy, and be economically justified and technologically feasible. See 85 FR 8626, 8653–8654 (Feb. 14, 2020).

As part of the early assessment, DOE publishes an RFI in the **Federal Register**, announcing that DOE is considering initiating a rulemaking proceeding and soliciting comments, data, and information on whether a new or amended energy conservation standard would save a significant amount of energy and be technologically feasible and economically justified. Based on the information received in response to the RFI and DOE's own analysis, DOE will determine whether to proceed with a rulemaking for a new or amended energy conservation standard.

If DOE makes an initial determination based upon available evidence that a new or amended energy conservation standard would not meet the applicable statutory criteria, DOE would engage in notice and comment rulemaking before issuing a final determination that new or amended energy conservation standards are not warranted. Conversely, if DOE makes an initial determination that a new or amended energy conservation standard would satisfy the applicable statutory criteria or DOE's analysis is inconclusive, DOE would undertake the preliminary stages of a rulemaking to issue a new or amended energy conservation standard. Beginning such a rulemaking, however, would not preclude DOE from later making a determination that a new or amended energy conservation standard cannot satisfy the requirements in EPCA, based upon the full suite of DOE's analyses. See 85 FR 8626, 8654 (Feb. 14, 2020).

*A. Authority*

The Energy Policy and Conservation Act, as amended (''EPCA''),[1] among other things, authorizes the Department of Energy (''DOE'' or in context, ''the Department'') to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles. These products include battery chargers, the subject of this document. (42 U.S.C. 6291(32); 42 U.S.C. 6295(u) (directing DOE to issue a final rule that prescribes energy conservation standards for battery chargers (or classes of battery chargers) or determine that no energy conservation standard is technically feasible and economically justified). See 42 U.S.C. 6295(u)(1)(E)(i)(II))

Under EPCA, DOE's energy conservation program consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA include definitions (42 U.S.C. 6291), test procedures (42 U.S.C. 6293), labeling provisions (42 U.S.C. 6294), energy conservation standards (42 U.S.C. 6295), and the authority to require information and reports from manufacturers (42 U.S.C. 6296).

Federal energy efficiency requirements for covered products established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297(a)–(c)) DOE may, however, grant waivers of Federal preemption in limited instances for particular State laws or regulations, in accordance with the procedures and other provisions set forth under 42 U.S.C. 6297(d).

The Energy Policy Act of 2005 (''EPACT 2005''), Public Law 109–58 (Aug. 8, 2005), amended EPCA by defining the term ''battery charger.'' (42 U.S.C. 6291 and 42 U.S.C. 6295). That provision also directed DOE to prescribe definitions and test procedures related to the energy consumption of battery chargers and to issue a final rule that determines whether to set energy conservation standards for battery chargers or classes of battery chargers. (42 U.S.C. 6295(u)(1)(A) and (E))

Subsequently, the Energy Independence and Security Act of 2007 (''EISA 2007''), Public Law 110–140 (Dec. 19, 2007) established definitions for active, standby, and off modes and directed DOE to amend its test procedures for battery chargers to include a means to measure the energy consumed in standby mode and off mode. (42 U.S.C. 6295(gg)(2)(B)(i)). EISA 2007 also directed DOE to issue a final rule that prescribes energy conservation standards for battery chargers or classes of battery chargers or to determine that no energy conservation standard is technologically feasible and economically justified. (42 U.S.C. 6295(u)(1)(E))

EPCA also requires that, not later than 6 years after the issuance of any final rule establishing or amending a standard, DOE evaluate the energy conservation standards for each type of covered product, including those at issue here, and publish either (1) a notice of determination that the standards do not need to be amended, or (2) a notice of proposed rulemaking (''NOPR'') that includes new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(1)) In making a determination that the standards do not need to be amended, DOE must evaluate whether amended standards (1) will result in significant conservation of energy, (2) are technologically feasible, and (3) are cost effective as described under 42 U.S.C. 6295(o)(2)(B)(i)(II). (42 U.S.C. 6295(m)(1)(A); 42 U.S.C. 6295(n)(2)) Under 42 U.S.C. 6295(o)(2)(B)(i)(II), DOE must determine whether the benefits of a standard exceed its burdens by, to the greatest extent practicable, considering the savings in operating costs throughout the estimated average life of the covered product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered products which are likely to result from the imposition of the standard. If DOE determines not to amend a standard based on the statutory criteria, not later than 3 years after publishing a final determination not to amend standards, DOE must publish either a new determination that standards for the product do not need to be amended, or propose new energy conservation standards. (42 U.S.C. 6295(m)(3)(B)) DOE must make the analysis on which a determination is based publicly available and provide an opportunity for written comment. (42 U.S.C. 6295(m)(2))

In cases where DOE proposes new standards, DOE must evaluate that proposal against the criteria of 42 U.S.C. 6295(o), as described in the following section, and follow the rulemaking procedures set out in 42 U.S.C. 6295(p). (42 U.S.C. 6295(m)(1)(B)) If DOE decides to amend the standard based on the statutory criteria, DOE must publish a final rule not later than two years after energy conservation standards are proposed. (42 U.S.C. 6295(m)(3)(A))

*B. Rulemaking History*

Consistent with EPACT 2005, on December 8, 2006, DOE published a final rule that prescribed test procedures for a variety of products. 71 FR 71340, 71365–71375. That rule, which was codified in multiple sections of the Code of Federal Regulations (''CFR''), included a definition and test procedures for battery chargers. The test procedures for these products are found in 10 CFR part 430, subpart B,

[1] All references to EPCA in this document refer to the statute as amended through America's Water Infrastructure Act of 2018, Public Law 115–270 (October 23, 2018).

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

Appendix Y (''Uniform Test Method for Measuring the Energy Consumption of Battery Chargers'').

Pursuant to EISA 2007, DOE prescribed the test procedure for battery chargers in a final rule published March 27, 2009, to incorporate standby- and off-mode measurements. 74 FR 13318, 13334–13336. Additionally, DOE amended the test procedures for battery chargers to include an active mode measurement in a test procedure final rule. 76 FR 31750.

DOE initiated the first round of Energy Conservation Standards rulemaking by issuing a Framework Document for Battery Chargers and External Power Supplies (the Framework Document) on June 4, 2009. 74 FR 26816. The Framework Document, which explained the issues, analyses, and process DOE anticipated using in developing the energy conservation standards. On September 15, 2010, after having considered comments from interested parties, gathered additional information, and performed preliminary analyses for the purpose of developing potential amended energy conservation standards for Class A External Power Supplies (''EPSs'') and new energy conservation standards for battery chargers and non-Class A EPSs, DOE announced a public meeting and the availability of a preliminary technical support document (''preliminary TSD''). 75 FR 56021. The preliminary TSD discussed the comments DOE received at the framework stage of that rulemaking and described the actions DOE took in response to those comments.

After considering all of the comments DOE received from the public meeting and in written comments, DOE published a proposal to set energy conservation standards for battery chargers. 77 FR 18478 (March 27, 2012) (''March 2012 NOPR''). Accompanying that proposal, DOE released the NOPR technical support document (''TSD''), which incorporated the analyses DOE conducted and accompanying technical documentation. In the March 2012 NOPR, DOE proposed establishing energy conservation standards for battery chargers according to battery energy, charging characteristics, and input power source.

Comments responding to the March 2012 NOPR expressed particular interest in the potential interplay between DOE's proposal and a competing battery charger energy efficiency requirement that had been approved by the California Energy Commission (''the CEC'') on January 12, 2012. (The CEC is California's primary energy policy and planning agency.) The CEC standards, which took effect on February 1, 2013, created an overlap between the classes of battery chargers covered by the CEC rule and those classes of battery chargers DOE proposed to regulate in the March 2012 NOPR. Additionally, the standards proposed by DOE differed from the ones issued by the CEC, with some being more stringent and others being less stringent than the CEC standards. To better understand the impact of the CEC standards on the battery charger market in the U.S., DOE published a request for information (''RFI'') on March 26, 2013 that sought stakeholder comment on a variety of issues related to the CEC standards. 78 FR 18253 (''March 2013 RFI'').

DOE published a supplemental notice of proposed rulemaking (''SNOPR'') in September 2015 to address stakeholder comments responding to the March 2013 RFI by updating and revising its analysis to propose standards that were approximately equivalent, or where justified, more stringent compared to the CEC standards. 80 FR 52850 (September 1, 2015) (''September 2015 NOPR''). In addition to updating its proposal to account for the impact of the CEC standards, DOE made several other changes in preparing these revised standards—including adjusting its analyses in line with updated information and data in the September 2015 SNOPR.

DOE issued a final rule in 2016 establishing energy conservation standards for battery chargers manufactured on or after June 13, 2018. 81 FR 38266 (June 13, 2016) (''June 2016 Final Rule''). The current energy conservation standards, codified in the CFR at 10 CFR 430.32(z), are paired with accompanying test procedures used to evaluate battery charger energy consumption. *See* 10 CFR part 430, subpart B, appendix Y (''Appendix Y'').

## II. Request for Information

DOE is publishing this RFI to collect data and information during the early assessment review to inform its decision, consistent with its obligations under EPCA, as to whether the Department should proceed with an energy conservation standards rulemaking. Accordingly, in the following sections, DOE has identified specific issues on which it seeks input to aid in its analysis of whether an amended standard for battery chargers would not save a significant amount of energy or be technologically feasible or economically justified. In particular, DOE is interested in any information indicating that there has not been sufficient technological or market changes since DOE last conducted an energy conservation standards rulemaking analysis for battery chargers to suggest a more-stringent standard could satisfy these criteria. DOE also welcomes comments on other issues relevant to its early assessment that may not specifically be identified in this document.

Pursuant to DOE's recently amended ''Process Rule'' (85 FR 8626 (Feb. 14, 2020)), DOE stated that as a first step in a proceeding to consider establishing or amending an energy conservation standard, such as the existing standards for the battery chargers at issue in this notice, DOE would publish a notice in the **Federal Register** announcing that DOE is considering initiation of a proceeding, and as part of that notice, DOE would request submission of related comments, including data and information showing whether any new or amended standard would satisfy the relevant requirements in EPCA for a new or amended energy conservation standard. Based on the information received in response to the notice and its own analysis, DOE would determine whether to proceed with a rulemaking for a new or amended standard, or issue a proposed determination that the standards do not need to be amended.

When prescribing new or amended standards for covered products, DOE must follow specific statutory criteria. EPCA requires that any new or amended energy conservation standard prescribed by the Secretary be designed to achieve the maximum improvement in energy or water efficiency that is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) To determine whether a standard is economically justified, EPCA requires that DOE determine whether the benefits of the standard exceed its burdens by considering, to the greatest extent practicable, the following seven factors:

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

(2) The savings in operating costs throughout the estimated average life of the product compared to any increases in the initial cost, or maintenance expenses;

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

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

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

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

(7) Other factors the Secretary of Energy (''the Secretary'') considers relevant. (42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII))

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

TABLE I.1—EPCA REQUIREMENTS AND CORRESPONDING DOE ANALYSIS

| EPCA requirement | Corresponding DOE analysis |
|---|---|
| Significant Energy Savings | • Shipments Analysis.<br>• National Impact Analysis.<br>• Energy and Water Use Determination. |
| Technological Feasibility | • Market and Technology Assessment.<br>• Screening Analysis.<br>• Engineering Analysis. |
| Economic Justification: | |
| 1. Economic Impact on Manufacturers and Consumers | • Manufacturer Impact Analysis.<br>• Life-Cycle Cost and Payback Period Analysis.<br>• Life-Cycle Cost Subgroup Analysis.<br>• Shipments Analysis. |
| 2. Lifetime Operating Cost Savings Compared to Increased Cost for the Product. | • Markups for Product Price Determination.<br>• Energy and Water Use Determination.<br>• Life-Cycle Cost and Payback Period Analysis. |
| 3. Total Projected Energy Savings | • Shipments Analysis.<br>• National Impact Analysis. |
| 4. Impact on Utility or Performance | • Screening Analysis.<br>• Engineering Analysis. |
| 5. Impact of Any Lessening of Competition | • Manufacturer Impact Analysis. |
| 6. Need for National Energy and Water Conservation | • Shipments Analysis.<br>• National Impact Analysis. |
| 7. Other Factors the Secretary Considers Relevant | • Employment Impact Analysis.<br>• Utility Impact Analysis.<br>• Emissions Analysis.<br>• Monetization of Emission Reductions Benefits.<br>• Regulatory Impact Analysis. |

As noted in Section I.A, DOE is publishing this early assessment review RFI to collect data and information that could enable the agency to determine whether DOE should propose a ''no new standard'' determination because a more stringent standard: (1) Would not result in a significant savings of energy; (2) is not technologically feasible; (3) is not economically justified; or (4) any combination of the foregoing. DOE also seeks input and data from interested parties to aid in the development of the technical analyses on which DOE will ultimately rely to determine whether (and if so, how) to amend the standards for battery chargers.

In this early assessment review RFI, DOE seeks comment on whether there have been any technological or market changes since the June 2016 Final Rule that would justify a new rulemaking to consider, for existing standards, an amendment to establish more stringent standards, or whether a ''no new standard'' determination is appropriate pursuant to the criteria set forth in Section I.

*A. Products Covered by This Process*

This RFI covers those products that meet the various battery charger definitions, as codified at 10 CFR 430.2. A battery charger is a device that charges batteries for consumer products, including battery chargers embedded in other consumer products. 10 CFR 430.2. The definitions for specific classes of battery chargers were most recently amended in a test procedure final rule, which defined and excluded back-up battery chargers [3] from the test procedure's scope. 81 FR 31827 (May 20, 2016).

*Issue 1:* DOE requests comment on the appropriateness of the current definitions for battery charger (and its related battery charger classes).

1. Wireless Battery Chargers

In the June 2016 Final Rule, DOE specified that for battery chargers with inductive connections (*i.e.,* wireless battery chargers), only those that are more technologically mature—specifically, those that are designed to operate in wet conditions—would be subject to standards. 81 FR 38266, 38282. DOE planned to address wireless chargers designed for dry environments in a separate rulemaking to avoid unintentionally impeding the development of a then-nascent technology—wireless charging. *Id.*

With regard to wireless battery chargers, DOE seeks public input on the following topics.

*Issue 2:* DOE requests information and data on the technologies used in wireless battery chargers, including those designed for dry environments, the performance characteristics of the technologies, the potential consumer utility provided by such technologies, and the impact such technologies have on the energy consumption of the wireless battery charger.

*Issue 3:* DOE seeks information on design options that are (1) currently used in wireless battery chargers to reduce energy consumption or (2) could be used to reduce energy consumption. DOE also requests information on any such technologies currently used in prototypes. DOE requests information on the associated costs for any identified technologies.

*Issue 4:* DOE requests information on whether industry or other organizations have developed, or are in the process of developing, industry or voluntary standards for wireless battery chargers,

[3] The term ''back-up battery charger'' means a battery charger (but excluding an uninterruptible power supply) that is embedded in a separate end-use product that is designed to continuously operate using mains power (including end-use products that use external power supplies); and whose sole purpose is to recharge a battery used to maintain continuity of power in order to provide normal or partial operation of a product in case of input power failure. 10 CFR 430.2.

including those designed for dry environments.

*B. Market and Technology Assessment*

The market and technology assessment that DOE routinely conducts when analyzing the impacts of a potential new or amended energy conservation standard provides information about the battery charger industry that will be used to determine whether DOE should propose a ''no new standard'' determination. DOE uses qualitative and quantitative information to characterize the structure of the industry and market. DOE identifies manufacturers, estimates market shares and trends, addresses regulatory and non-regulatory initiatives intended to improve energy efficiency or reduce energy consumption, and explores the potential for efficiency improvements in the design and manufacturing of battery chargers. DOE also reviews product literature, industry publications, and company websites. Additionally, DOE considers conducting interviews with manufacturers to improve its assessment of the market and available technologies for battery chargers.

1. Product Classes

When evaluating and establishing energy conservation standards, DOE may divide covered products into different product classes by the type of energy used, or by capacity or other performance-related features that justify a different standard. (42 U.S.C. 6295(q)) In making a determination whether capacity or another performance-related feature justifies a different standard, DOE must consider such factors as the utility of the feature to the consumer and other factors DOE deems appropriate. (*Id.*)

For battery chargers, the current energy conservation standards specified in 10 CFR 430.32(z) are based on seven product classes determined according to the following performance-related features that provide utility to the consumer: Rated battery energy, rated battery voltage, and inductive charging capability specifically designed for use in a wet environment. Table II.1 lists the current seven product classes for battery chargers.

TABLE II.1—CURRENT BATTERY CHARGER PRODUCT CLASSES

| Product class | Product class description | Rated battery energy (watt-hours (''Wh'')) | Special characteristic or battery voltage |
|---|---|---|---|
| 1 | Low-energy | ≤5 Wh | Inductive connection and designed for use in wet environment. |
| 2 | Low-energy, Low-voltage | <100 Wh | <4 volts (''V'') |
| 3 | Low-energy, Medium-voltage | | 4–10 V |
| 4 | Low-energy, High-voltage | | >10 V |
| 5 | Medium-energy, Low-voltage | 100–3000 Wh | <20 V |
| 6 | Medium-energy, High-voltage | | ≥20 V |
| 7 | High Energy | >3000 Wh | |

*Issue 5:* DOE requests feedback on the current battery charger product classes and whether changes to these individual product classes and their descriptions are needed or whether certain classes should be merged or separated (*e.g.,* merge Low-energy, Low-voltage product class with that of Low-energy, Medium-voltage *etc.*). DOE also seeks feedback on the potential impacts from combining certain classes, such as the elimination of performance-related features or the availability of products to meet the current energy conservation standard for these products. DOE also requests comment on separating any of the existing product classes and whether it would impact product utility by eliminating any performance-related features or reduce any compliance burdens.

DOE is also aware that there may be new configurations and features available for battery chargers that may not have been available at the time of the last energy conservation standards analysis.

*Issue 6:* DOE seeks information regarding any other new product classes it should consider for inclusion in its analysis. Specifically, DOE requests information on the performance-related features (*e.g.,* inductive charging vs. conductive charging, presence of charging indicators, fast charging capability, etc.) that provide unique consumer utility and data detailing the corresponding impacts on energy use that would justify separate product classes (*i.e.,* explanation for why the presence of these performance-related features would increase energy consumption).

2. Technology Assessment

In analyzing information to determine whether DOE should propose a ''no new standards determination'' for existing battery charger standards, DOE uses information about existing and past technology options and prototype designs to help identify technologies that manufacturers could use to meet and/or exceed a given set of energy conservation standards under consideration. In consultation with interested parties, DOE intends to develop a list of technologies to consider in its analysis. That analysis will likely include a number of the technology options DOE previously considered during its most recent standards rulemaking for battery chargers. A complete list of those prior options appears in Table II.2 of this RFI. As certain technologies have progressed since the June 2016 Final Rule, Table II.3 of this RFI lists additional technology options that DOE may also consider in a future battery charger energy conservation standards rulemaking.

TABLE II.2—TECHNOLOGY OPTIONS FOR THE JUNE 2016 FINAL RULE

| | |
|---|---|
| 1 | Elimination/Limitation of Maintenance Current. |
| 2 | Elimination of No-Battery Current. |
| **Slow Charger** | |
| 3 | Improved Cores. |
| 4 | Termination of Charge Current at Full Charge. |
| 5 | Switched-Mode Power Supply. |
| **Fast Charger** | |
| 6 | Low-Power Integrated Circuits. |
| 7 | Schottky Diodes and Synchronous Rectification. |
| 8 | Phase Control to Limit Input Power. |

TABLE II.3—ADDITIONAL TECHNOLOGY OPTIONS FOR BATTERY CHARGERS

| | |
|---|---|
| 1 | Printed Circuit Boards with Higher Copper Content. |
| 2 | Alternative Semiconductor Materials. |
| 3 | More Efficient SMPS Topologies such as synchronous rectification. |

*Issue 7:* DOE seeks information on the technologies listed in Table II.2 of this RFI regarding their applicability to the current market and how these technologies may impact the energy consumption of battery chargers as measured according to the DOE test procedure. DOE also seeks information on how these technologies may have changed since they were considered in the June 2016 Final Rule analysis. Specifically, DOE seeks information on the range of efficiencies or performance characteristics that are currently available for each technology option.

*Issue 8:* DOE seeks information on the technologies listed in Table II.3 of this RFI regarding their market adoption, costs, and any concerns with incorporating them into products (*e.g.,* impacts on consumer utility, potential safety concerns, manufacturing/production/implementation issues, etc.), particularly as to changes that may have occurred since the June 2016 Final Rule.

*Issue 9:* DOE seeks comment on other technology options that it should consider for inclusion in its analysis and if the incorporation of these technologies may impact product features or consumer utility of battery chargers.

*C. Screening Analysis*

The purpose of the screening analysis is to evaluate the technologies that improve equipment efficiency to determine which technologies will be eliminated from further consideration and which will be passed to the engineering analysis for further consideration. In this early assessment RFI, DOE seeks data and information with respect to technologies previously screened out or retained that could enable the agency to determine whether to propose a ''no new standard'' determination because a more stringent standard: (1) Would not result in a significant savings of energy; (2) is not technologically feasible; (3) is not economically justified; or (4) any combination of the foregoing.

DOE determines whether to eliminate certain technology options from further consideration based on the following criteria:

(1) *Technological feasibility.* Technologies that are not incorporated in commercial products or in working prototypes will not be considered further.

(2) *Practicability to manufacture, install, and service.* If it is determined that mass production of a technology in commercial products and reliable installation and servicing of the technology is unlikely to be achieved on the scale necessary to serve the relevant market at the time of the compliance date of the standard, then that technology will not be considered further.

(3) *Impacts on equipment utility or equipment availability.* If a technology is determined to have significant adverse impact on the utility of the equipment to significant subgroups of consumers, or result in the unavailability of any covered equipment type with performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as equipment generally available in the United States at the time, it will not be considered further.[4]

(4) *Adverse impacts on health or safety.* If it is determined that a technology will have significant adverse impacts on health or safety, it will not be considered further.

(5) *Unique-Pathway Proprietary Technologies.* If a design option utilizes proprietary technology that represents a unique pathway to achieving a given efficiency level, that technology will not be considered further.

10 CFR part 430, subpart C, appendix A 6(c)(3) and 7(b)

Technology options identified in the technology assessment are evaluated against these criteria using DOE analyses and inputs from interested parties (*e.g.,* manufacturers, trade organizations, and energy efficiency advocates). Technologies that pass through the screening analysis are referred to as ''design options'' in the engineering analysis. Technology options that fail to meet one or more of these criteria are eliminated from consideration.

Table II.4 summarizes the technology options that DOE screened out in the June 2016 Final Rule, and the applicable screening criteria.

TABLE II.4—PREVIOUSLY SCREENED OUT TECHNOLOGY OPTIONS FROM THE JUNE 2016 FINAL RULE

| Screened technology option | Screening criteria (X = Basis for screening out) | | | | |
|---|---|---|---|---|---|
| | Technological feasibility | Practicability to manufacture, install, and service | Adverse impact on product utility | Adverse impacts on health and safety | Unique-pathway proprietary technologies |
| Non-inductive Chargers for Use in Wet Environment | | | | X | |
| Capacitive Reactance | | | | X | |
| Lowering Charging Current or Increasing Voltage | | | X | | |

*Issue 10:* DOE requests feedback on what impact, if any, the screening criteria described in this section would have on each of the technology options listed in Table II.2 and Table II.3 of this RFI with respect to battery chargers. Similarly, DOE seeks information regarding how these same criteria would affect any other technology options not already identified in this document with respect to their potential use in battery chargers.

*Issue 11:* With respect to the screened out technology options listed in Table II.4 of this RFI, DOE seeks information on whether these options would, based on current and projected assessments regarding each of them, remain screened out under the screening criteria described in this section. With respect to each of these technology options, what steps, if any, could be (or have already been) taken to facilitate the introduction of each option as a means to improve battery charger energy efficiency? What impact, if any, is there likely to be to the consumer utility of these products with respect to the adoption of each of these previously screened out options?

*D. Engineering Analysis*

The engineering analysis estimates the cost-efficiency relationship of

[4] For example, in the analysis for the June 2016 Final Rule DOE screened out the option to lower charging current or increase charging voltage so that product utility would not be adversely impacted. See 81 FR 38266, 38285.

products at different levels of increased energy efficiency (''efficiency levels''). This relationship serves as the basis for the cost-benefit calculations for consumers, manufacturers, and the Nation. In determining the cost-efficiency relationship, DOE estimates the increase in manufacturer production cost (''MPC'') associated with increasing the efficiency of products above the baseline, up to the maximum technologically feasible (''max-tech'') efficiency level for each product class. In this early assessment review RFI, DOE seeks data and information with respect to these cost-benefit calculations that could enable the agency to determine whether to propose a ''no new standard'' determination because a more stringent standard: (1) Would not result in a significant savings of energy; (2) is not technologically feasible; (3) is not economically justified; or (4) any combination of the foregoing.

DOE historically has used the following three methodologies to generate incremental manufacturing costs and establish efficiency levels (''ELs'') for analysis: (1) The design-option approach, which provides the incremental costs of adding to a baseline model design options that will improve its efficiency; (2) the efficiency-level approach, which provides the relative costs of achieving increases in energy efficiency levels, without regard to the particular design options used to achieve such increases; and (3) the cost-assessment (or reverse engineering) approach, which provides ''bottom-up'' manufacturing cost assessments for achieving various levels of increased efficiency, based on detailed cost data for parts and material, labor, shipping/packaging, and investment for models that operate at particular efficiency levels.

1. Baseline Efficiency Levels

For each established product class, DOE selects a baseline model as a reference point against which any changes resulting from new or amended energy conservation standards can be measured. The baseline model in each product class represents the characteristics of common or typical products in that class. Typically, a baseline model is one that meets the current minimum energy conservation standards and provides basic consumer utility.

The current minimum energy conservations standards (which went into effect August 12, 2016) represent the current baseline efficiency levels for each product class. The current standards for each product class are based on unit energy consumption (''UEC''). The current standards for battery chargers are found at 10 CFR 430.32(z).

*Issue 12:* DOE requests feedback on whether using the current established energy conservation standards for battery chargers are appropriate baseline efficiency levels for DOE to consider in evaluating whether DOE should propose a ''no new standard'' determination. DOE requests data and suggestions to evaluate the baseline efficiency levels in order to better evaluate amending energy conservation standards for these products.

*Issue 13:* DOE requests feedback on the appropriate baseline efficiency levels for any newly analyzed product classes that are not currently in place or for the combined product classes discussed in section II.B.1 of this document. For newly analyzed product classes, DOE requests energy use data to develop a baseline relationship between energy use and adjusted volume.

2. Maximum Available and Maximum Technologically Feasible Levels

As part of DOE's analysis, the maximum available efficiency level is the highest efficiency unit currently available on the market, or as in the case of battery chargers, the unit currently available on the market with the lowest energy consumption. For the June 2016 Final Rule, DOE analyzed all seven battery charger product classes. For each product class, DOE selected a representative unit on which it conducted its engineering analysis and developed a cost-efficiency curve. The representative unit is meant to be an idealized battery charger typical of those used with high-volume applications in its product class. Because results from the analysis of these representative units would later be extended or applied to other units in each respective product class, DOE selected high-volume and/or high-energy consumption applications that use batteries that are typically found across battery chargers in the given product class. The analysis of these battery chargers applies to all applications in the product class under the assumption that all battery chargers with the same battery voltage and energy provide similar utility to the user, regardless of the actual end-use product with which they work. See 81 FR 38266, 38286 and chapter 5 of the preliminary analysis technical support document (''TSD'') [5] for that rulemaking. The maximum efficiencies currently available for these seven analyzed product classes are included in Table II.5 of this RFI.

TABLE II.5—MAXIMUM EFFICIENCY LEVELS CURRENTLY AVAILABLE

| Product class | Best-in-market unit energy consumption (kWh/yr) |
|---|---|
| 1 | 3.04 |
| 2 | 1.58 |
| 3 | 0.74 |
| 4 | 3.63 |
| 5 | 21.39 |
| 6 | 33.53 |
| 7 | 131.44 |

DOE defines a ''max-tech'' efficiency level to represent the theoretical maximum possible efficiency if all available and compatible design options are incorporated in a model. In many cases, the max-tech efficiency level is not commercially available because it is not economically feasible. In the June 2016 Final Rule, DOE determined max-tech efficiency levels using engineering analysis. DOE determined the maximum technologically feasible improvements in energy use for battery chargers by examining a variety of relevant sources of information, including the design parameters used by the least consumptive products available on the market, conducting interviews with manufacturers, vetting available manufacturer data with subject matter experts, and obtaining public feedback on DOE's analytical results. 81 FR 38266, 38278. For additional discussion of the prior max-tech analysis see chapter 5 of the June 2016 Final Rule TSD.

DOE is considering the likelihood of achieving ''significant energy savings'' from an amended standard by examining the projected energy savings that would result from amended standards. If DOE determines that a more stringent energy conservation standard would not result in an additional 0.3 quad of site energy savings or an additional 10-percent reduction in site energy use over a 30-year period, DOE would propose to make a no-new-standards determination. DOE's most recent standards rulemaking resulted in standards that produced an estimated energy savings (based on the full fuel cycle) of 0.173 quad over a 30-year period, compared against the estimated 0.703 quad in energy use reduction if the max-tech levels from that rulemaking had been adopted. DOE seeks comment on the potential energy savings that could be expected from more-stringent standards for battery chargers.

[5] The June 2016 Final Rule TSD is available at: *https://www.regulations.gov/document?D=EERE-2008-BT-STD-0005-0257.*

*Issue 14:* DOE seeks data and information on the range of potential reductions in energy usage available for battery chargers including those alternatives analyzed in the last energy conservation standards rulemaking as well as those not directly analyzed, what alternative approaches for achieving potential reductions in energy usage should DOE consider when analyzing battery chargers and why? Relatedly, DOE seeks feedback on what design options (if any) are available to incorporate into a potential updated max-tech efficiency level and the related efficiencies of those individual options. As part of this request, DOE also seeks information as to whether there are limitations on the use of certain combinations of design options.

3. Intermediate Efficiency Levels

DOE may also define intermediate efficiency levels in between the baseline and max-tech efficiency levels. Typically, DOE identifies intermediate efficiency levels, where appropriate, based on a variety of sources including, but not limited to: (1) clusters of models currently on the market at intermediate efficiency levels; (2) efficiency levels defined by programs such as ENERGY STAR; or (3) ''gap-fill'' levels to bridge large divides between existing clusters in the market. From the June 2016 Final Rule, DOE established four trial standard levels (''TSLs'') containing some intermediate efficiency levels for each of the seven battery charger product classes, listed in Table II.6 of this RFI. 81 FR 38307.

TABLE II.6—TRIAL STANDARD LEVELS FOR BATTERY CHARGERS

| Product class | Trial standard level | | | |
|---|---|---|---|---|
| | TSL 1 | TSL 2 | TSL 3 | TSL 4 |
| 1 | EL 1 | EL 2 | EL 2 | EL 3 |
| 2 | EL 1 | EL 1 | EL 2 | EL 4 |
| 3 | EL 1 | EL 1 | EL 2 | EL 3 |
| 4 | EL 1 | EL 1 | EL 2 | EL 3 |
| 5 | EL 1 | EL 2 | EL 3 | EL 3 |
| 6 | EL 1 | EL 2 | EL 3 | EL 3 |
| 7 | EL 1 | EL 1 | EL 2 | EL 2 |

For battery charger PC 1 (low-energy, inductive), DOE examined trial standard levels corresponding to each of three ELs developed in the engineering analysis. TSL 1 is an intermediate level of performance above the baseline. TSLs 2 and 3 are equivalent to the best-in-market and corresponds to the maximum consumer net present value. TSL 4 is the max-tech level and corresponds to the greatest national energy savings (''NES'').

For its second set of TSLs, which covers PCs 2 (low-energy, low-voltage), 3 (low-energy, medium-voltage), and 4 (low-energy, high-voltage), DOE examined four TSLs of different combinations of the various efficiency levels found for each product class in the engineering analysis. In this grouping, TSLs 1 and 2 are intermediate efficiency levels above the baseline for each product class and corresponds to the maximum consumer net present value (''NPV''). TSL 3 corresponds to an incremental efficiency level below best-in-market for PC 2, and the best-in-market efficiency level for PCs 3 and 4. Finally, TSL 4 corresponds to the max-tech efficiency level for all product classes and therefore, the maximum NES. Note that for PC 2 only, EL 3 (corresponding to a best-in-market efficiency level) was not analyzed in any given TSL due to the negative LCC savings results for this product class at EL 3 and the fact that only four TSLs were analyzed.

DOE's third set of TSLs corresponds to the grouping of PCs 5 (medium-energy, low-voltage) and 6 (medium-energy, high-voltage). For both product classes, TSL 1 is an intermediate efficiency level above the baseline. TSL 2 corresponds to the best-in-market efficiency level for both product classes and is the level with the highest consumer NPV. Finally, TSLs 3 and 4 correspond to the max-tech efficiency level for both product classes and the maximum NES.

For PC 7 (high-energy), DOE examined only two ELs because of the paucity of products available on the market. TSLs 1 and 2 correspond to an efficiency level equivalent to the best-in-market and maximizes consumer NPV. TSLs 3 and 4 comprise the max-tech level corresponding to the level with the maximum NES.

4. Manufacturer Production Costs and Manufacturing Selling Price

As described at the beginning of this section, the main outputs of the engineering analysis are cost-efficiency relationships that describe the estimated increases in manufacturer production costs associated with higher-efficiency products for the analyzed product classes. For the June 2016 Final Rule, DOE developed the cost-efficiency relationships by estimating the efficiency improvements and costs associated with incorporating specific design options into the assumed baseline model for each analyzed product class. See chapter 5 of the June 2016 Final Rule TSD for the cost-efficiency curves developed in that rulemaking.

*Issue 15:* DOE requests feedback on how manufacturers would incorporate the technology options listed in Table II.2 and Table II.3 of this document to reduce the energy consumption of battery chargers from the baseline while continuing to maintain the same utility of these products. This includes information on the order in which manufacturers would incorporate the different technologies to incrementally improve product efficiency. DOE also requests feedback on whether the increased energy efficiency would lead to other design changes that would not occur otherwise. DOE is also interested in information regarding any potential impact of design options on a manufacturer's ability to incorporate additional functions or attributes in response to consumer demand.

*Issue 16:* DOE also seeks input on the increase in MPC associated with incorporating each particular design option. Specifically, DOE is interested in whether, and if so how, the costs estimated for the design options examined in the June 2016 Final Rule have changed since the time of that analysis. DOE also requests information on the investments necessary to incorporate specific design options, including, but not limited to, costs related to new or modified tooling (if any), materials, engineering and development efforts to implement each design option, and manufacturing/production impacts.

*Issue 17:* DOE requests comment on whether certain design options apply to (or present compatibility issues with) specific product classes.

As described in section II.D.2 of this document, DOE analyzed seven product classes in the June 2016 Final Rule. DOE developed cost-efficiency curves for each of these product classes that were used as the input for the downstream analyses conducted in support of that rulemaking. See chapter 5 of the June 2016 Final Rule TSD for the cost-efficiency curves developed in that rulemaking.

*Issue 18:* DOE seeks feedback on whether the approach of analyzing representative units from each product class by selecting idealized battery chargers typical of those used with high-volume applications in their product classes is appropriate for a future battery charger energy conservation standards rulemaking. Additionally, DOE welcomes comment on whether the approach used to apply the analyzed representative unit results to the other products within its product class is appropriate—and if not, why not? For example, if it is necessary to individually analyze additional battery charger models other than the representative units used in the June 2016 Final Rule, please provide information on why aggregating certain products is not appropriate. If this approach is not appropriate, what alternative approaches should DOE consider using and why?

To account for manufacturers' non-production costs and profit margin, DOE applies a non-production cost multiplier (the manufacturer markup) to the MPC. The resulting manufacturer selling price (''MSP'') is the price at which the manufacturer distributes a unit into commerce. For the June 2016 Final Rule, DOE developed a markup for each product class based on the shipment-weighted average of the markups for different end-use product categories. Detailed tables and derivations are published in chapter 5 of the June 2016 Final Rule TSD.

*Issue 19:* DOE requests feedback on whether manufacturer markups used in the June 2016 Final Rule remain appropriate and applicable in evaluating whether to amend the current standards for battery chargers.

*E. Markup Analysis*

In this early assessment review RFI, DOE seeks data and information with respect to markups for battery chargers that could enable the agency to determine whether to propose a ''no new standard'' determination because a more stringent standard: (1) Would not result in a significant savings of energy; (2) is not technologically feasible; (3) is not economically justified; or (4) any combination of the foregoing.

To carry out the life-cycle cost (''LCC'') and payback period (''PBP'') calculations, DOE would need to determine the cost to the residential consumer of baseline products, and the cost of more-efficient units the consumer would purchase under potential amended standards. By applying a multiplier called a ''markup'' to the MSP, DOE is able to estimate the residential consumer's price. In generating end-user price inputs, DOE must identify distribution channels (*i.e.,* how the products are distributed from the manufacturer to the consumer) and estimate relative sales volumes through each channel. In the June 2016 Final Rule, DOE determined that the dominant distribution channel for battery chargers typically involves an end-use product manufacturer (*i.e.,* an OEM) and retailer.

DOE typically determines an average manufacturer markup by examining the annual Securities and Exchange Commission (''SEC'') 10–K reports filed by publicly traded manufacturers of appliances whose product range includes battery chargers. DOE also typically determines an average retailer markup by analyzing both economic census data from the U.S. Census Bureau and the annual SEC 10–K reports filed by publicly traded retailers.

In addition to developing manufacturer and retailer markups, DOE typically develops and includes sales taxes to calculate appliance retail prices. DOE uses an internet source, the Sales Tax Clearinghouse, to calculate applicable sales taxes.

*Issue 20:* DOE requests information on the existence of any significant distribution channels other than the retail outlet and end-use product manufacturer distribution channels that are used to distribute the products at issue into the market. DOE also requests data on whether the distribution channels identified in the June 2016 Final Rule remain appropriate and applicable to the market.

*F. Energy Use Analysis*

In this early assessment review RFI, DOE seeks data and information with respect to energy use of battery chargers that could enable the agency to determine whether to propose a ''no new standard'' determination because a more stringent standard: (1) Would not result in a significant savings of energy; (2) is not technologically feasible; (3) is not economically justified; or (4) any combination of the foregoing.

As part of the rulemaking process, DOE conducts an energy use analysis to identify how products are used by consumers, and thereby determine the energy savings potential of energy efficiency improvements. DOE bases the energy consumption of battery chargers on the rated annual energy consumption as determined by the DOE test procedure. Along similar lines, the energy use analysis is meant to represent typical energy consumption in the field.

Battery chargers work as power conversion devices that transform an input voltage to a suitable voltage for the batteries they are powering. A portion of the energy that flows into a battery charger flows out to a battery or end-use product and, thus, cannot be considered to be consumed by the battery charger. However, to provide the necessary output power, battery chargers consume energy due to internal losses as well as overhead circuitry. Therefore, the traditional method for calculating energy consumption by measuring the energy a product draws from mains while performing its intended function(s) is not appropriate for battery chargers because the method would not factor in the energy delivered by the battery charger to the battery, and would overestimate the energy consumption of the battery charger. Instead, energy consumption is the energy losses that occur while battery chargers convert and deliver power to end-use products or batteries. The energy and power requirements of the end-use products and batteries, once determined, are considered fixed, and DOE considers only how standards would affect the energy consumption of battery chargers themselves.

The energy conservation standards for battery chargers rely on the UEC metric to represent an annualized amount of the non-useful energy consumed by a battery charger in all modes of operation. The UEC equation combines various performance parameters including 24-hour energy, measured battery energy, maintenance mode power, standby mode power, off mode power, charge test duration, and usage profiles. See Appendix Y, Section 3.3.13. Table 3.3.3 of Appendix Y defines usage profiles that represent time spent in each mode of operation, specific to each defined product class. DOE developed scaling relationships based on battery charger efficiency level and additional test results, and determined the maximum UEC allowed as a function of rated battery energy for each product class. The current energy conservation standards for each product

class are presented in Table II.7 of this RFI.

TABLE II.7—ENERGY CONSERVATION STANDARDS FOR BATTERY CHARGERS

| Product class | Maximum UEC (kWh/yr) (as a function of rated battery energy ("$E_{batt}$")) |
|---|---|
| 1 | 3.04 |
| 2 | 0.1440 * $E_{batt}$ + 2.95 |
| 3 | For $E_{batt}$ <10 Wh, 1.42 kWh/y $E_{batt}$ ≥10 Wh, 0.0255 * $E_{batt}$ + 1.16 |
| 4 | 0.11 * $E_{batt}$ + 3.18 |
| 5 | 0.0257 * $E_{batt}$ + .815 |
| 6 | 0.0778 * $E_{batt}$ + 2.4 |
| 7 | 0.0502 * $E_{batt}$ + 4.53 |

1. Active Mode and Maintenance Mode Energy Consumption

''Active mode'' or ''charge mode'' is the mode in which the battery charger system is connected to the main electricity supply (*i.e.,* the electrical outlet), and the battery charger is delivering current, equalizing the cells, and performing other one-time or limited-time functions in order to bring the battery to a fully charged state. See Appendix Y, Section 2.1. Active mode energy consumption is measured as a part of 24-hour energy consumption, which is incorporated into the UEC calculation to assess the energy consumption of battery chargers. Twenty-four hour energy consumption also accounts for energy consumed by the battery charger in battery maintenance mode. ''Battery maintenance mode'' or ''maintenance mode'' is the mode when the battery charger is connected to the main electricity supply and the battery is fully charged, but is still connected to the charger. See Appendix Y, Section 2.8. In maintenance mode, the charger is performing functions intended to keep the battery fully charged while protecting it from overcharge. Active mode and maintenance mode energy consumption contribute to the majority of the inefficiencies (*i.e.* energy not transferred to the battery) that occur during all modes of operation. While DOE does not require specific efficiency performances for each mode of operation, DOE utilizes the UEC calculation to account for overall battery charger energy consumption, allowing the standard to be met by a configuration of modal energy use determined by the manufacturer.

*Issue 21:* DOE requests feedback on whether the current active mode and maintenance mode energy measurements produce results that are representative of these modes during an average period of use. If not, DOE requests alternate approaches to these measurements along with supporting use data.

*Issue 22:* DOE seeks information on whether any new (or revised) industry or voluntary standards for measuring battery charger active mode and maintenance mode energy consumption have been developed since the June 2016 Final Rule.

2. Standby Mode and Off Mode Energy Consumption

''Standby mode'' or ''no-battery mode'' is the mode in which the battery charger is connected to the main electricity supply; with no battery connected to the charger, and all the manual on-off switches turned on. See Appendix Y, Section 2.25. ''Off mode'' is the mode of operation similar to standby mode, but with all the manual on-off switches turned off. See Appendix Y, Section 2.20. The test procedure at Appendix Y incorporates by reference IEC 62301 standard to provide specific resolution and measurement tolerances for standby power measurements. See Appendix Y, Section 3.1.2. Appendix Y integrates the standby mode and off mode energy consumption combined with usage profiles specific to each product class to further refine the UEC calculation so that it accounts for all modes of battery charger operations. See Appendix Y, Table 3.3.3.

*Issue 23:* DOE requests information on technology options for battery chargers that could reduce standby mode and off mode energy consumption and the costs associated with each option.

*G. Life-Cycle Cost and Payback Analysis*

In this early assessment review RFI, DOE seeks data and information with respect to manufacturer impacts that could enable the agency to determine whether to propose a ''no new standard'' determination because a more stringent standard: (1) Would not result in a significant savings of energy; (2) is not technologically feasible; (3) is not economically justified; or (4) any combination of the foregoing.

DOE conducts the LCC and PBP analysis to evaluate the economic effects of potential energy conservation standards for battery chargers on individual customers. The effects of more stringent energy conservation standards on a consumer of battery chargers include changes in operating expenses (usually decreased) and changes in purchase prices (usually increased). DOE would analyze data input variability and uncertainty by performing the LCC and PBP calculations on a representative sample of households from RECS or similar survey data for the considered product classes using Monte Carlo simulation and probability distributions. For any given efficiency level, DOE measures the PBP and the change in LCC relative to an estimated baseline level. The LCC is the total customer expense over the life of the equipment, consisting of purchase, installation, and operating costs (expenses for energy use, maintenance, and repair). Inputs to the calculation of total installed cost include the cost of the equipment—which includes MSPs, distribution channel markups, and sales taxes—and installation costs. Inputs to the calculation of operating expenses include annual energy consumption, energy prices and price projections, repair and maintenance costs, product lifetimes, discount rates, and the year that compliance with new and amended standards is required. DOE assumes there is little to no maintenance and repair costs due to the nature of battery charger devices, and the life cycle cost would mainly consist of purchase and energy use costs.

*Issue 24:* DOE requests information and data on the frequency of repair and repair costs by product class for the technology options listed in Table II.2 and Table II.3. While DOE is interested in information regarding each of the listed technology options, DOE is also interested in whether consumers simply replace the products when they fail as opposed to repairing them.

*H. Shipments Analysis*

In this early assessment review RFI, DOE seeks data and information with respect to battery charger shipments that could enable the agency to determine whether to propose a ''no new standard'' determination because a more stringent standard: (1) Would not result in a significant savings of energy; (2) is not technologically feasible; (3) is not economically justified; or (4) any combination of the foregoing.

DOE develops shipments forecasts of battery chargers to calculate the national impacts of potential amended energy conservation standards on energy consumption, net present value (''NPV''), and future manufacturer cash flows. DOE shipments projections are based on available historical data broken out by product class and battery characteristics. Current sales estimates allow for a more accurate model that captures recent trends in the market.

In the June 2016 Final Rule, DOE relied on historical data for battery charges as shown in Table II.8 of this RFI.

TABLE II.8—HISTORIC SHIPMENTS BY PRODUCT CLASS FROM THE JUNE 2016 FINAL RULE

| Category | Rated battery energy | Special characteristic or battery voltage | Shipments in 2011 (thousand units) |
|---|---|---|---|
| Low-Energy | ≤5 Wh | Inductive Connection | 15,100 |
| Low-Energy, Low-Voltage | <100 Wh | <4 V | 383,006 |
| Low-Energy, Medium-Voltage | | 4–10 V | 25,934 |
| Low-Energy, High-Voltage | | >10 V | 76,731 |
| Medium-Energy, Low-Voltage | 100–3000 Wh | <20 V | 4,517 |
| Medium-Energy, High-Voltage | | ≥20 V | 640 |
| High-Energy | >3000 Wh | | 229 |

*Issue 25:* DOE requests available annual sales data (*i.e.,* number of shipments) for the years 2012–2018 based on product class and application (*i.e.* rechargeable toothbrush chargers, smartphone chargers, etc.). If available, DOE also requests data on the fraction of shipments to residential and commercial sectors in each product class. If disaggregated fractions of annual sales are not available, DOE requests more aggregated fractions of annual sales at the product class level.

*I. National Impact Analysis*

In this early assessment review RFI, DOE seeks data and information with respect to national impacts that could enable the agency to determine whether to propose a ''no new standard'' determination because a more stringent standard: (1) Would not result in a significant savings of energy; (2) is not technologically feasible; (3) is not economically justified; or (4) any combination of foregoing. DOE also seeks comment on any relevant national impacts information for its consideration of standards for a ''short cycle'' product class.

The purpose of the national impact analysis (''NIA'') is to estimate aggregate impacts of potential efficiency standards at the national level. Impacts reported by DOE include the national energy savings (''NES'') from potential standards and the national NPV of the total consumer benefits. The NIA considers lifetime impacts of potential standards on battery chargers shipped in a 30-year period that begins with the expected compliance date for amended standards.

Analyzing impacts of potential amended energy conservation standards for battery chargers requires a comparison of projected U.S. energy consumption with and without the amended standards. The forecasts contain projections of annual battery charger shipments (section II.H of this document), the annual energy consumption of new battery chargers (section II.F of this document), and the purchase price of new battery chargers (section II.E of this document).

A key component of DOE's estimates of NES and NPV would be the battery charger efficiency forecasted over time for the no-standards case and each of the potential standards cases. For the projection made in the June 2016 Final Rule, DOE considered historical trends in efficiency and various forces that are likely to affect the mix of efficiencies over time. DOE compared the no-standards case with projections characterizing the market for each product class if DOE adopted new standards at specific energy efficiency levels (*i.e.,* the TSLs or standards cases) for that class. For the standards cases, DOE considered how a given standard would likely affect the market shares of products with efficiencies greater than the standard.

*Issue 26:* DOE seeks historical estimated annual energy consumption data since the June 2016 Final Rule for battery chargers by product class. DOE also seeks historical market share data showing the percentage of product shipments by efficiency level for each of the product classes to the extent possible.

*J. Manufacturer Impact Analysis*

In this early assessment review RFI, DOE seeks data and information with respect to manufacturer impacts that could enable the agency to determine whether to propose a ''no new standard'' determination because a more stringent standard: (1) Would not result in a significant savings of energy; (2) is not technologically feasible; (3) is not economically justified; or (4) any combination of the foregoing.

The purpose of the manufacturer impact analysis (''MIA'') is to estimate the financial impact of amended energy conservation standards on manufacturers of battery chargers, and to evaluate the potential impact of such standards on direct employment and manufacturing capacity. The MIA includes both quantitative and qualitative aspects. The quantitative part of the MIA primarily relies on the Government Regulatory Impact Model (''GRIM''), an industry cash-flow model adapted for each product in this analysis, with the key output of industry net present value (''INPV''). The qualitative part of the MIA addresses the potential impacts of energy conservation standards on manufacturing capacity and industry competition, as well as factors such as product characteristics, impacts on particular subgroups of firms, and important market and product trends.

As part of the MIA, DOE intends to analyze impacts of amended energy conservation standards on subgroups of manufacturers of covered products, including small business manufacturers. DOE uses the Small Business Administration's (''SBA'') small business size standards to determine whether manufacturers qualify as small businesses, which are listed by the applicable North American Industry Classification System (''NAICS'') code.[6] Manufacturing of consumer battery chargers is classified under NAICS 335999, ''All Other Miscellaneous Electrical Equipment and Component Manufacturing,'' and the SBA sets a threshold of 500 employees or less for a domestic entity to be considered as a small business. This employee threshold includes all employees in a business' parent company and any other subsidiaries.

One aspect of assessing manufacturer burden involves examining the cumulative impact of multiple DOE standards and the product-specific regulatory actions of other Federal agencies that affect the manufacturers of a covered product or equipment. While any one regulation may not impose a significant burden on manufacturers, the combined effects of several existing or impending regulations may have serious consequences for some manufacturers, groups of manufacturers, or an entire industry. Assessing the impact of a single regulation may overlook this cumulative regulatory burden. In addition to energy

[6] Available online at *https://www.sba.gov/document/support-table-size-standards.*

conservation standards, other regulations can significantly affect manufacturers' financial operations. Multiple regulations affecting the same manufacturer can strain profits and lead companies to abandon product lines or markets with lower expected future returns than competing products. For these reasons, DOE conducts an analysis of cumulative regulatory burden as part of its rulemakings pertaining to appliance efficiency.

*Issue 27:* To the extent feasible, DOE seeks the names and contact information of any domestic or foreign-based manufacturers that distribute battery chargers in the United States.

*Issue 28:* DOE identified small businesses as a subgroup of manufacturers that could be disproportionally impacted by amended energy conservation standards. DOE requests the names and contact information of small business manufacturers, as defined by the SBA's size threshold, of battery chargers that manufacture products in the United States. In addition, DOE requests comment on any other manufacturer subgroups that could be disproportionally impacted by amended energy conservation standards. DOE requests feedback on any potential approaches that could be considered to address impacts on manufacturers, including small businesses.

*Issue 29:* DOE requests information regarding the cumulative regulatory burden impacts on manufacturers of battery chargers associated with (1) other DOE standards applying to different products that these manufacturers may also make and (2) product-specific regulatory actions of other Federal agencies. DOE also requests comment on its methodology for computing cumulative regulatory burden and whether there are any flexibilities it can consider that would reduce this burden while remaining consistent with the requirements of EPCA.

*K. Other Energy Conservation Standards Topics*

1. Market Failures

In the field of economics, a market failure is a situation in which the market outcome does not maximize societal welfare. Such an outcome would result in unrealized potential welfare. DOE welcomes comment on any aspect of market failures, especially those in the context of amended energy conservation standards for battery chargers.

2. Network Mode/''Smart'' Technology

DOE published an RFI on the emerging smart technology appliance and equipment market. 83 FR 46886 (Sept. 17, 2018). In that RFI, DOE sought information to better understand market trends and issues in the emerging market for appliances and commercial equipment that incorporate smart technology. DOE's intent in issuing the RFI was to ensure that DOE did not inadvertently impede such innovation in fulfilling its statutory obligations in setting efficiency standards for covered products and equipment. As part of this early assessment review, DOE seeks comments, data and information on the issues presented in the RFI as they may be applicable to energy conservation standards for battery chargers.

3. Other Issues

Additionally, DOE welcomes comments on other issues relevant to the conduct of this early assessment review that may not specifically be identified in this document. In particular, DOE notes that under Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' Executive Branch agencies such as DOE are directed to manage the costs associated with the imposition of expenditures required to comply with Federal regulations. See 82 FR 9339 (Feb. 3, 2017). Consistent with that Executive Order, DOE encourages the public to provide input on measures DOE could take to lower the cost of its energy conservation standards rulemakings, recordkeeping and reporting requirements, and compliance and certification requirements applicable to battery chargers while remaining consistent with the requirements of EPCA.

## III. Submission of Comments

DOE invites all interested parties to submit in writing by the date specified in the **DATES** section of this document, comments and information on matters addressed in this document and on other matters relevant to DOE's consideration of amended energy conservations standards for battery chargers. After the close of the comment period, DOE will review the public comments received and may begin collecting data and conducting the analyses discussed in this document.

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

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

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

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

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

long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No faxes will be accepted.

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

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

*Confidential Business Information.* Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: one copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

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

DOE considers public participation to be a very important part of the process for developing energy conservation standards. DOE actively encourages the participation and interaction of the public during the comment period in this process. Interactions with and between members of the public provide a balanced discussion of the issues and assist DOE. Anyone who wishes to be added to the DOE mailing list to receive future notices and information about this process or would like to request a public meeting should contact Appliance and Equipment Standards Program staff at (202) 287–1445 or via email at *ApplianceStandardsQuestions@ee.doe.gov.*

## Signing Authority

This document of the Department of Energy was signed on August 21, 2020, by Alexander N. Fitzsimmons, Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on August 21, 2020.

**Treena V. Garrett,**

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

[FR Doc. 2020–18748 Filed 9–15–20; 8:45 am]

BILLING CODE 6450–01–P

---

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2020–0796; Project Identifier MCAI–2020–00902–T]**

**RIN 2120–AA64**

## Airworthiness Directives; Gulfstream Aerospace LP Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain Gulfstream Aerospace LP Model Gulfstream G280 airplanes. This proposed AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in a Civil Aviation Authority of Israel (CAAI) AD, which will be incorporated by reference. The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by November 2, 2020.

**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 that will be incorporated by reference (IBR) in this AD, contact the CAAI, Mr. Vladimir Novicov, Engineering Branch, CAAI—P.O. Box 1101, 3 Golan Street, Airport City, Israel, 70151; phone: 972–3–9774529; fax: 972–3–9774592; email: *novicovv@mot.gov.il.* You may find this IBR material on the CAA website at *www.caa.gov.il.* 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–2020–0796.

## 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–2020–0796; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Tom Rodriguez, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3226; email: *tom.rodriguez@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

## Comments Invited

The FAA invites you to participate in this rulemaking by submitting written comments, data, or views about this proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0796; Project Identifier MCAI–2020–00902–T'' at the beginning of your 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, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments received by the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this NPRM because of those comments.

## Confidential Business Information

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

## Discussion

The CAAI, which is the aviation authority for Israel, has issued CAAI AD ISR–I–04–2020–06–02, dated June 28, 2020 (''CAAI AD ISR–I–04–2020–06–02'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Gulfstream Aerospace LP Model Gulfstream G280 airplanes. Airplanes with an original airworthiness certificate or original export certificate of airworthiness issued after September 15, 2019 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.

This proposed AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is proposing this AD to address solder cracking of the flight control electronic control units (FCECUs), which, combined with latent failure of the horizontal stabilizer trim actuator (HSTA) ''no-back'' mechanism, could result in uncontrolled HSTA operation. See the MCAI for additional background information.

## Related Material Under 1 CFR part 51

CAAI AD ISR–I–04–2020–06–02 describes new or more restrictive airworthiness limitations for airplane structures and safe life limits. 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 and Requirements of This Proposed AD

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 the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI referenced above. The FAA is proposing this AD because the FAA has evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

## Proposed AD Requirements

This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, which are specified in CAAI AD ISR–I–04–2020–06–02 described previously, as incorporated by reference. Any differences with CAAI AD ISR–I–04–2020–06–02 are identified as exceptions in the regulatory text of this AD.

This proposed AD would require revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections) and Critical Design Configuration Control Limitations (CDCCLs). Compliance with these actions and CDCCLs is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (j)(1) of this proposed AD.

## Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, CAAI AD ISR–I–04–2020–06–02 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with CAAI AD ISR–I–04–2020–06–02 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Service information specified in CAAI AD ISR–I–04–2020–06–02 that is required for compliance with CAAI AD ISR–I–04–2020–06–02 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0796 after the FAA final rule is published.

## Airworthiness Limitation ADs Using the New Process

The FAA's process of incorporating by reference MCAI ADs as the primary source of information for compliance with corresponding FAA ADs has been limited to certain MCAI ADs (primarily those with service bulletins as the primary source of information for accomplishing the actions required by the FAA AD). However, the FAA is now expanding the process to include MCAI ADs that require a change to airworthiness limitation documents,

such as airworthiness limitation sections.

For these ADs that incorporate by reference an MCAI AD that changes airworthiness limitations, the FAA requirements are unchanged. Operators must revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in the new airworthiness limitation document. The airworthiness limitations must be followed according to 14 CFR 91.403(c) and 91.409(e).

## Costs of Compliance

The FAA estimates that this proposed AD affects 160 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed 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. In the past, the agency has estimated that this action takes 1 work-hour per airplane. 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

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

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

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

(2) 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 Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**Gulfstream Aerospace LP:** Docket No. FAA–2020–0796; Project Identifier MCAI–2020–00902–T.

**(a) Comments Due Date**

The FAA must receive comments by November 2, 2020.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to all Gulfstream Aerospace LP Model Gulfstream G280 airplanes, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued on or before September 15, 2019.

**(d) Subject**

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

**(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 solder cracking of the flight control electronic control units (FCECUs), which, combined with latent failure of the horizontal stabilizer trim actuator (HSTA) ''no-back'' mechanism, could result in uncontrolled HSTA operation.

**(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, Civil Aviation Authority of Israel (CAAI) AD ISR–I–04–2020–06–02, dated June 28, 2020 (''CAAI AD ISR–I–04–2020–06–02'').

**(h) Exceptions to CAAI AD ISR–I–04–2020–06–02**

(1) Where CAAI AD ISR–I–04–2020–06–02 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where CAAI AD ISR–I–04–2020–06–02 refers to the date of its issuance, this AD requires using the effective date of this AD.

**(i) Provisions for Alternative Actions, Intervals, and Critical Design Configuration Control Limitations (CDCCLs)**

After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections), intervals, and CDCCLs are allowed unless they are approved as specified in the provisions of CAAI AD ISR–I–04–2020–06–02.

**(j) Other FAA 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)(2) 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 local flight standards district office/certificate holding district 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 CAAI; or CAAI's authorized Designee. If approved by the CAAI Designee, the approval must include the Designee's authorized signature.

**(k) Related Information**

(1) For information about CAAI AD ISR–I–04–2020–06–02, contact the CAAI, Mr. Vladimir Novicov, Engineering Branch, CAAI—P.O. Box 1101, 3 Golan Street, Airport City, Israel, 70151, phone: 972–3–9774529, fax: 972–3–9774592; email:

*novicovv@mot.gov.il.* You may find this IBR material on the CAA website at *www.caa.gov.il.* 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. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0796.

(2) For more information about this AD, contact Tom Rodriguez, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3226; email: *tom.rodriguez@faa.gov.*

Issued on September 3, 2020.

**Lance T. Gant,**

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

[FR Doc. 2020–20274 Filed 9–15–20; 8:45 am]

**BILLING CODE 4910–13–P**

---

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2020–0841; Product Identifier 2020–NM–087–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus SAS Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus SAS Model A300 F4–605R airplanes and Model A310–324 airplanes. This proposed AD was prompted by a report that certain emergency locator transmitter (ELT) lithium batteries lack protection against current injection. This proposed AD would require modification of the airplane circuit connecting the ELT battery, as specified in a European Union Aviation Safety Agency (EASA) AD, which will be incorporated by reference. The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by November 2, 2020.

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

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

For material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* internet: *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this 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–2020–0841.

### 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–2020–0841; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

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

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0841; Product Identifier 2020–NM–087–AD'' at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. The FAA will consider all comments received by the closing date and may amend this NPRM based on those comments.

The FAA will post all comments the FAA receives, without change, to *https://www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact the FAA receives about this NPRM.

### Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0108, dated May 14, 2020 (''EASA AD 2020–0108'') (also referred to as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus SAS Model A300–600 series airplanes and Model A310 series airplanes.

This proposed AD was prompted by a report that ELT lithium batteries lack protection against current injection of 28 Volts DC or 115 Volts AC. The FAA is proposing this AD to address ELT lithium batteries lacking protection against current injection, which could induce a local battery fire, even after a significant delay, and could result in damage to the airplane and injury to occupants. See the MCAI for additional background information.

### Related Material Under 1 CFR Part 51

EASA AD 2020–0108 describes procedures for modification of the airplane circuit connecting the ELT battery by installing a diode. 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 and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI referenced above. The FAA is proposing this AD because the FAA evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

### Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2020–0108 described previously, as incorporated by reference, 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 initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2020–0108 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2020–0108 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2020–0108 that is required for compliance with EASA AD 2020–0108 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0841 after the FAA final rule is published.

**Costs of Compliance**

The FAA estimates that this proposed AD affects 6 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

| Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|
| 2 work-hours × $85 per hour = $170 | $50 | $220 | $1,320 |

According to the manufacturer, some or all of the costs of this proposed 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**

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

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

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

(2) 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 Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**Airbus SAS:** Docket No. FAA–2020–0841; Product Identifier 2020–NM–087–AD.

**(a) Comments Due Date**

The FAA must receive comments by November 2, 2020.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to the Airbus SAS airplanes identified in paragraphs (c)(1) and (2) of this AD, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2020–0108, dated May 14, 2020 (''EASA AD 2020–0108'').

(1) Model A300 F4–605R airplanes.

(2) Model A310–324 airplanes.

**(d) Subject**

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

**(e) Reason**

This AD was prompted by a report that certain emergency locator transmitter (ELT) lithium batteries lack protection against current injection. The FAA is issuing this AD to address ELT lithium batteries lacking protection against current injection, which could induce a local battery fire, even after a significant delay, and could result in damage to the airplane and injury to occupants.

**(f) Compliance**

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

**(g) Requirements**

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2020–0108.

**(h) Exceptions to EASA AD 2020–0108**

(1) Where EASA AD 2020–0108 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2020–0108 does not apply to this AD.

(3) Where paragraph (1) of EASA AD 2020–0108 specifies to ''modify the airplane,'' the

modification includes the testing required in paragraph 3.E. of the Accomplishment Instructions of the service information specified in paragraph (1) of EASA AD 2020–0108.

**(i) Other FAA 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 (j)(2) 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 local flight standards district office/certificate holding district 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):* For any service information referenced in EASA AD 2020–0108 that contains RC procedures and tests: Except as required by paragraph (i)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

**(j) Related Information**

(1) For information about EASA AD 2020–0108, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +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.* 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. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0841.

(2) 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; phone and fax: 206–231–3225; email: *dan.rodina@faa.gov.*

Issued on September 9, 2020.

**Lance T. Gant,**

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

[FR Doc. 2020–20277 Filed 9–15–20; 8:45 am]

BILLING CODE 4910–13–P

---

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2020–0813; Product Identifier 2019–CE–040–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Pilatus Aircraft Limited Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for Pilatus Aircraft Limited Model PC–12/47E airplanes. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as inboard flap fairings aft (IFFAs) having an incorrect shape, which may result in chafing between the IFFA and the associated front inboard tension rod could occur. This proposed AD would require an inspection of the IFFAs for the correct shape and chafing between the IFFA and the associated front inboard tension rod, with corrective action as necessary. This condition could lead to failure of the inboard flap drive arm with consequent asymmetric flap extension, resulting in reduced control of the airplane. The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by November 2, 2020.

**ADDRESSES:** You may send comments 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 service information identified in this proposed AD, contact Pilatus Aircraft, Ltd., Customer Support PC–12, CH–6371 Stans, Switzerland; telephone: +41 41 619 33 33; fax: +41 41 619 73 11; email: *supportPC12@pilatus-aircraft.com;* internet: *https://www.pilatus-aircraft.com.* You may review this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

### Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0813; 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 proposed AD, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Doug Rudolph, Aerospace Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2020–0813; Product Identifier 2019–CE–040–AD'' at the beginning of your comments. The FAA will consider all comments received by the closing date and may amend this proposed AD 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 FAA will also post a report summarizing each substantive verbal contact it receives about this proposed AD.

**Confidential Business Information**

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Doug Rudolph, Aerospace Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, Missouri 64106. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

**Discussion**

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD No.: 2019–0231, dated September 13, 2019 (referred to after this as the MCAI), to correct an unsafe condition for Pilatus Aircraft, Ltd., Model PC–12/47E airplanes. The MCAI states:

On the final assembly line of PC–12/47E aeroplanes, IFFAs were detected having an incorrect shape. As a consequence, chafing between the IFFA and the associated front inboard tension rod could occur, may cause corrosion of the bare rod aluminium tube and reduce aluminium thickness.

This condition, if not detected and corrected, could lead to failure of the inboard flap drive arm with consequent asymmetric flap extension, possibly resulting in reduced control of the aeroplane.

To address this potential unsafe condition, Pilatus issued the [service bulletin] SB to provide inspection and modification instructions.

For the reason described above, this [EASA] AD requires a one-time inspection of both IFFA and, depending on findings, a follow-on inspection of the associated front inboard tension rod for chafing, and modification or replacement of affected parts.

You may examine the MCAI on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0813.

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

Pilatus Aircraft Limited has issued Pilatus PC–12 Service Bulletin No: 27–026, dated July 10, 2019 (Pilatus SB No. 27–026). The service information specifies procedures for inspecting and correcting chafing between the left and right IFFAs and the associated front inboard tension rods. 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.

**FAA's Determination and Requirements of the Proposed AD**

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI and service information referenced above. The FAA is proposing this AD because it evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

**Proposed AD Requirements**

This proposed AD would require accomplishing the actions specified in the service information described previously except as discussed under ''Differences Between this AD and the Service Information.''

**Differences Between This Proposed AD and the MCAI**

Pilatus SB No. 27–026 only requires inspection of airplanes that were potentially manufactured with the IFFAs that have the incorrect shape and requires inspection of the tension rods if the IFFAs are modified because they have been found to have the incorrect shape. Due to the length of time between manufacture and this proposed AD, operators having multiple Model PC–12/47E airplanes could have installed defective parts, either the IFFAs or affected tension rods, from one airplane into an airplane that was not manufactured with the defective part. Therefore, this proposed AD would require inspection of the IFFAs for correct shape, verification of proper clearance with the tension rods, and inspection for chafing damage on the tension rods on all Model PC–12/47E airplanes.

**Costs of Compliance**

The FAA estimates that this proposed AD would affect 18 products of U.S. registry. The FAA also estimates that it would take about 2.5 work-hours per product to comply with the requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $1,600 per product.

Based on these figures, the FAA estimates the cost of the proposed AD on U.S. operators would be $32,634 or $1,813 per product.

According to the manufacturer, all or some of the costs of this proposed 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 included all costs in this 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**

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

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

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

(2) 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 Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**Pilatus Aircraft Limited:** Docket No. FAA–2020–0813; Product Identifier 2019–CE–040–AD.

**(a) Comments Due Date**

The FAA must receive comments by November 2, 2020.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Pilatus Aircraft Limited Model PC–12/47E airplanes, all serial numbers, certificated in any category.

**(d) Subject**

Air Transport Association of America (ATA) Code 27: Flight Controls.

**(e) Reason**

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as inboard flap fairings aft (IFFAs) having an incorrect shape, which could lead to chafing between the IFFA and the front inboard tension rod, and consequently corrosion of the bare rod aluminum tube and reduced aluminum thickness. This condition, if not corrected, could lead to failure of the inboard flap drive arm, asymmetric flap extension, and reduced control of the airplane.

**(f) Actions and Compliance**

(1) Unless already done, within 100 hours time-in-service (TIS) after the effective date of this AD or within 6 months after the effective date of this AD, whichever occurs first, inspect the left-hand (LH) and right-hand (RH) IFFAs for correct shape and clearance with the LH and RH tension rods by following step 3.B.(1) and Figures 2 and 3 of the Accomplishment Instructions—Aircraft in Pilatus PC–12 Service Bulletin No: 27–026, dated July 10, 2019 (Pilatus SB 27–026).

(i) If the shape of the LH or RH IFFA is incorrect or if the clearance between the IFFA and the tension rod is less than 5 mm (0.2 inch), before further flight, modify the IFFA and inspect the tension rods for chafing by following section 3.C. of the Accomplishment Instructions—Aircraft in Pilatus SB 27–026.

(ii) If the shape of the LH and RH IFFAs is correct and the clearance between the IFFA and the tension rod is at least 5 mm (0.2 inch), before further flight, inspect the front inboard LH and RH tension rods for chafing by following step 3.C.(12)(a) of the Accomplishment Instructions—Aircraft in Pilatus SB 27–026. If the LH or RH tension rod has any chafing, before further flight, replace the tension rod by following step 3.C.(12)(b) of the Accomplishment Instructions—Aircraft in Pilatus SB 27–026.

(2) As of the effective date of this AD, do not install on any airplane a LH IFFA part number (P/N) 557.52.12.223, RH IFFA P/N 557.52.12.224, or tension rod P/N 527.52.12.135 unless the part has been inspected and all corrective actions have been taken as required by this AD.

**(g) Alternative Methods of Compliance (AMOCs):**

The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Doug Rudolph, Aerospace Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

**(h) Related Information**

(1) Refer to MCAI European Union Aviation Safety Agency AD No. 2019–0231, dated September 13, 2019, for related information. You may examine the MCAI on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0813.

(2) For service information related to this AD, contact Pilatus Aircraft, Ltd., Customer Support PC–12, CH–6371 Stans, Switzerland; telephone: +41 41 619 33 33; fax: +41 41 619 73 11; email: *supportPC12@pilatus-aircraft.com;* internet: *https://www.pilatus-aircraft.com.* You may review this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued on September 9, 2020.

**Lance T. Gant,**

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

[FR Doc. 2020–20310 Filed 9–15–20; 8:45 am]

**BILLING CODE 4910–13–P**

---

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2020–0800; Airspace Docket No. 20–ANM–43]**

**RIN 2120–AA66**

## Proposed Revocation of Class D and Amendment of Class E Airspace; Gillette, WY

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to remove the Class D airspace and modify the following: Class E surface area, the Class E airspace as an extension to the surface area and the Class E airspace extending upward from 700 feet AGL at Gillette-County Airport, Gillette, WY. In addition, this proposal would remove the VOR/DME from the legal description and replace the outdated term Airport Facility/Directory with the term Chart Supplement.

After being informed that the Airport Traffic Control Tower at Gillette-County Airport is closed permanently, the FAA found it necessary to amend the existing airspace for the safety and management of Instrument Flight Rules (IFR) operations at this airport.

**DATES:** Comments must be received on or before November 2, 2020.

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1–800–647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2020–0800; Airspace Docket No. 20–ANM–43, at the beginning of your comments. You may also submit comments through the internet at https*://www.regulations.gov.*

FAA Order 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence

Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E at NARA, email *fedreg.legal@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

**FOR FURTHER INFORMATION CONTACT:** Richard Roberts, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S. 216th Street, Des Moines, WA 98198; telephone (206) 231–2245.

**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 airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would remove the Class D and modify the Class E airspace at Gillette-County Airport, Gillette, WY to support IFR operations at the airport.

## Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Persons wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2020–0800; Airspace Docket No. 20–ANM–43''. The postcard will be date/time stamped and returned to the commenter.

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

## Availability of NPRMs

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

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

## Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

## The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to remove the Class D airspace and modify the following: Class E surface area, the Class E airspace as an extension to the Class E surface area and the Class E airspace extending upward from 700 feet AGL at Gillette-Campbell County Airport, Gillette, WY.

The FAA was informed that the Airport Traffic Control Tower at Gillette-Campbell County Airport is closed, which is a basic qualification for the establishment of Class D airspace. As a result, the FAA is proposing to remove the Class D airspace and modify the Class E Surface Airspace at the airport. The Class E surface airspace would be expanded from 4.3 miles to 5 miles to ensure departures are contained in the surface area until reaching 700 feet AGL.

The Class E airspace extending upward from the surface as an extension to the Class E surface area would be expanded to 3.4 miles each side of the 170° bearing from 3 miles to 12 miles (formerly 12.2 miles) south of the airport. This adjustment would protect aircraft as they descend through 1,000 feet AGL, while using the RNAV and ILS approaches to runway 34.

The Class E airspace extending upward from 700 feet would be modified to within 4 miles each side of the 170° and 350° bearings (reduced from 6.1 miles east and 8.3 miles west) and extend 14 miles south (reduced from 15.3 miles) and 11 miles north (reduced from 16.1miles). The additional airspace is no longer needed to protect departing aircraft to 1,200 feet and arrivals as they descend through 1,500 feet AGL. This proposal would remove the Class E airspace extending upward from 1,200 feet as it is redundant with the Denver E6 airspace and no longer needed.

In addition, the legal descriptions for the Class E airspace extending upward from the surface as an extension to the Class E surface area and the Class E airspace extending upward from 700 feet would be rewritten to eliminate the use of the VOR/DME as a reference point. The VOR/DME is no longer needed to adequately describe the airspace.

The use of the term Airport Facility/Directory would be replaced with Chart Supplement and the geographical coordinates updated to match the FAA database.

Class E airspace designations are published in paragraph 5000, 6002, 6004, 6005 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order. 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, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under

Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**Environmental Review**

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

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

**§ 71.1 [Amended]**

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

*Paragraph 5000 Class D Airspace.*

* * * * *

**ANM WY D Gillette, WY [Remove]**

Gillette-Campbell County Airport, WY
(Lat. 44°20′56″ N, long. 105°32′22″ W)

*Paragraph 6002. Class E Airspace Designated as Surface Areas.*

* * * * *

**ANM WY E2 Gillette, WY [Amended]**

Gillette-Campbell County Airport, WY
(Lat. 44°20′56″ N, long. 105°32′22″ W)

That airspace extending upward from the surface to and including 6,900 feet MSL within a 5-mile radius of the Gillette-Campbell County Airport. This Class E airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

*Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.*

* * * * *

**ANM WY E4 Gillette, WY [Amended]**

Gillette-Campbell County Airport, WY
(Lat. 44°20′56″ N, long. 105°32′22″ W)

That airspace extending upward from the surface within 3.4 miles each side of the Gillette County Airport 170° bearing extending from the 5-mile radius of Gillette-Campbell County Airport to 12 miles south of the airport.

*Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.*

* * * * *

**ANM WY E5 Gillette, WY [Amended]**

Gillette-Campbell County Airport, WY
(Lat. 44°20′56″ N, long. 105°32′22″ W)

That airspace extending upward from 700 feet above the surface of the earth within 4 miles each side of the 170° bearing extending from the 5-mile radius to 14 miles south of the airport, and that airspace 4 miles each side of the 350° bearing extending from the 5-mile radius to 11 miles north of the airport.

Issued in Seattle, Washington, on September 8, 2020.

**Byron Chew,**

*Acting Manager, Operations Support Group, Western Service Center.*

[FR Doc. 2020–20235 Filed 9–15–20; 8:45 am]

BILLING CODE 4910–13–P

---

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 117

**[Docket No. USCG–2020–0334]**

**RIN 1625–AA09**

## Drawbridge Operation Regulation; New Jersey Intracoastal Waterway, Atlantic City, NJ

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to temporarily modify the operating schedule that governs the Route 30 (Absecon Boulevard) Bridge across the New Jersey Intracoastal Waterway (NJICW), Beach Thorofare, mile 67.2, at Atlantic City, NJ. This proposed temporary modification will allow the drawbridge to remain in the closed-to-navigation position to accommodate critical bridge maintenance.

**DATES:** Comments and relate material must reach the Coast Guard on or before October 16, 2020.

**ADDRESSES:** You may submit comments identified by docket number USCG–2020–0334 using Federal e-Rulemaking Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call or email Mr. Mickey Sanders, Bridge Administration Branch, Fifth District, U.S. Coast Guard, telephone (757) 398–6587, email *Mickey.D.Sanders2@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
OMB Office of Management and Budget
NPRM Notice of Proposed Rulemaking (Advance, Supplemental)
§ Section
U.S.C. United States Code
NJICW New Jersey Intercoastal Waterway

### II. Background, Purpose and Legal Basis

The New Jersey Department of Transportation, who owns and operates the Route 30 (Absecon Boulevard) Bridge, across the NJICW, Beach Thorofare, at mile 67.2, in Atlantic City, NJ, has requested this modification to allow the drawbridge to be maintained in the closed-to-navigation position to facilitate bridge maintenance of the drawbridge. The Route 30 (Absecon Boulevard) Bridge, across the NJICW, Beach Thorofare, mile 67.2, at Atlantic City, NJ, has a vertical clearance of 20 feet above mean high water in the closed position and unlimited vertical clearance above mean high water in the open position. The current operating schedule for the drawbridge is published in 33 CFR 117.733 (e).

This proposed temporary final rule is necessary to facilitate maintenance of the drawbridge, while ensuring the safety of those performing bridge maintenance and vessels navigating in the area. A work platform will reduce the horizontal clearance of the navigation channel to approximately 30 feet and temporary shielding will reduce the vertical clearance of the entire bridge to approximately 19 feet above mean high water in the closed position. Vessels that can safely transit through the bridge in the closed position with the reduced clearances may do so, if at least thirty minutes

notice is given, to allow for safe navigation. The Coast Guard is proposing this rulemaking under authority in 33 U.S.C. 499.

## III. Discussion of Proposed Rule

Under this proposed temporary final rule, the drawbridge will be maintained in the closed-to-navigation position from 8 a.m. on November 1, 2020, through 5 p.m. on March 31, 2021; from 8 a.m. on November 1, 2021, through 5 p.m. on March 31, 2022; and from 8 a.m. on November 1, 2022, through 5 p.m. on March 31, 2023. At all other times the drawbridge will operate per 33 CFR 117.733 (e). The bridge will not be able to open for emergencies and there is no immediate alternative route for vessels unable to pass through the bridge in the closed position. Vessels that can safely transit through the bridge in the closed position with the reduced vertical and horizontal clearances may do so, if at least 30 minutes notice is given, to allow for safe navigation.

## IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on 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. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB) and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the fact that the closure will occur outside of recreational boating season on the NJICW, and only during specific daily hours. An average of only 40 annual bridge openings occurred for recreational vessels and light tugs from November 1 to March 31 from 2015 through 2017.

### *B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980 (RFA), 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 proposed rule would not have a significant economic impact on a substantial number of small entities.

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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 proposed 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 contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

### *C. Collection of Information*

This proposed rule would call for no 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 proposed 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 proposed rule does not have tribal implications under Executive Order 13175, (Consultation and Coordination with Indian Tribal Governments), because it would 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. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

### *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 proposed rule will not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

### *F. Environment*

We have analyzed this rule under Department of Homeland Security Management Directive 023–01, Rev.1, associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f). The Coast Guard has 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 proposed rule promulgates the operating regulations or procedures for drawbridges. Normally such actions are categorically excluded from further review, under paragraph L49, of Chapter 3, Table 3–1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

### *G. Protest Activities*

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact 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.

**V. Public Participation and Request for Comments**

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Documents mentioned in this NPRM as being available in this docket and all public comments, will be in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

**List of Subjects in 33 CFR Part 117 Bridges.**

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 33 CFR 1.05–1; DHS Delegation No. 0170.1.

■ 2. Amend § 117.733 by adding paragraph (e)(4) to read as follows:

**§ 117.733 New Jersey Intracoastal Waterway**

* * * * *

(e) * * *

(4) From 8 a.m. on November 1, 2020, through 5 p.m. on March 31, 2021; from 8 a.m. on November 1, 2021, through 5 p.m. on March 31, 2022; and from 8 a.m. on November 1, 2022, through 5 p.m. on March 31, 2023, the drawbridge will be maintained in the closed-to-navigation position. A work platform will reduce the horizontal clearance of the navigation channel to approximately 30 feet and temporary shielding will reduce the vertical clearance of the entire bridge to approximately 19 feet above mean high water in the closed position. Vessels that can safely transit through the bridge in the closed position with the reduced clearances may do so, if at least 30 minutes notice is given, to allow for safe navigation.

* * * * *

**K.M. Smith,**

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

[FR Doc. 2020–20064 Filed 9–15–20; 8:45 am]

**BILLING CODE 9110–04–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R03–OAR–2020–0355; FRL–10014–04–Region 3]**

## Air Plan Approval; Pennsylvania; 1997 8-Hour Ozone National Ambient Air Quality Standards Second Maintenance Plan for the Johnstown Area

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision pertains to the Commonwealth's plan, submitted by the Pennsylvania Department of Environmental Protection (DEP), for maintaining the 1997 8-hour ozone national ambient air quality standard (NAAQS) (referred to as the ''1997 ozone NAAQS'') in the Johnstown, Pennsylvania area (Johnstown Area). This action is being taken under the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before October 16, 2020.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R03–OAR–2020–0355 at *https://www.regulations.gov,* or via email to *spielberger.susan@epa.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.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, 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.*

**FOR FURTHER INFORMATION CONTACT:** Ramesh Mahadevan, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2237. Mr. Mahadevan can also be reached via electronic mail at *mahadevan.ramesh@epa.gov.*

**SUPPLEMENTARY INFORMATION:** On February 27, 2020, DEP submitted a revision to the Pennsylvania SIP to incorporate a plan for maintaining the 1997 ozone NAAQS in the Johnstown Area through August 1, 2027, in accordance with CAA section 175A.

**I. Background**

In 1979, under section 109 of the CAA, EPA established primary and secondary NAAQS for ozone at 0.12 parts per million (ppm), averaged over a 1-hour period. 44 FR 8202 (February 8, 1979). On July 18, 1997 (62 FR 38856),[1] EPA revised the primary and secondary NAAQS for ozone to set the acceptable level of ozone in the ambient air at 0.08 ppm, averaged over an 8-hour period. EPA set the 1997 ozone NAAQS based on scientific evidence demonstrating that ozone causes adverse health effects at lower

[1] In March 2008, EPA completed another review of the primary and secondary ozone standards and tightened them further by lowering the level for both to 0.075 ppm. 73 FR 16436 (March 27, 2008). Additionally, in October 2015, EPA completed a review of the primary and secondary ozone standards and tightened them by lowering the level for both to 0.70 ppm. 80 FR 65292 (October 26, 2015).

concentrations and over longer periods of time than was understood when the pre-existing 1-hour ozone NAAQS was set.

Following promulgation of a new or revised NAAQS, EPA is required by the CAA to designate areas throughout the nation as attaining or not attaining the NAAQS. On April 30, 2004 (69 FR 23858), EPA designated the Johnstown Area as nonattainment for the 1997 ozone NAAQS. The Johnstown Area consists of Cambria County in Pennsylvania.

Once a nonattainment area has three years of complete and certified air quality data that has been determined to attain the NAAQS, and the area has met the other criteria outlined in CAA section 107(d)(3)(E),[2] the state can submit a request to EPA to redesignate the area to attainment. Areas that have been redesignated by EPA from nonattainment to attainment are referred to as ''maintenance areas.'' One of the criteria for redesignation is to have an approved maintenance plan under CAA section 175A. The maintenance plan must demonstrate that the area will continue to maintain the standard for the period extending 10 years after redesignation, and it must contain such additional measures as necessary to ensure maintenance as well as contingency measures as necessary to assure that violations of the standard will be promptly corrected.

On August 1, 2007 (72 FR 41903 effective August 1, 2007), EPA approved a redesignation request (and maintenance plan) from DEP for the Johnstown Area. In accordance with section 175A(b), at the end of the eighth year after the effective date of the redesignation, the state must also submit a second maintenance plan to ensure ongoing maintenance of the standard for an additional 10 years.

EPA's final implementation rule for the 2008 ozone NAAQS revoked the 1997 ozone NAAQS and provided that one consequence of revocation was that areas that had been redesignated to attainment (*i.e,* maintenance areas) for the 1997 ozone NAAQS no longer needed to submit second 10-year maintenance plans under CAA section 175A(b).[3] However, in *South Coast Air Quality Management District* v. *EPA*[4] (South Coast II), the United States Court of Appeals for the District of Columbia (D.C. Circuit) vacated EPA's interpretation that, because of the revocation of the 1997 ozone standard, second maintenance plans were not required for ''orphan maintenance areas,'' (*i.e.,* areas like Johnstown Area) that had been redesignated to attainment for the 1997 ozone NAAQS and were designated attainment for the 2008 ozone NAAQS. Thus, states with these ''orphan maintenance areas'' under the 1997 ozone NAAQS must submit maintenance plans for the second maintenance period.

As previously discussed, CAA section 175A sets forth the criteria for adequate maintenance plans. In addition, EPA has published longstanding guidance that provides further insight on the content of an approvable maintenance plan, explaining that a maintenance plan should address five elements: (1) An attainment emissions inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan. The 1992 Calcagni Memo[5] provides that states may generally demonstrate maintenance by either performing air quality modeling to show that the future mix of sources and emission rates will not cause a violation of the NAAQS or by showing that future emissions of a pollutant and its precursors will not exceed the level of emissions during a year when the area was attaining the NAAQS (*i.e.,* attainment year inventory). See 1992 Calcagni Memo at p. 9. EPA further clarified in three subsequent guidance memos describing ''limited maintenance plans'' (LMPs)[6] that the requirements of CAA section 175A could be met by demonstrating that the area's design value[7] was well below the NAAQS and that the historical stability of the area's air quality levels showed that the area was unlikely to violate the NAAQS in the future. Specifically, EPA believes that if the most recent air quality design value for the area is at a level that is below 85% of the standard, or in this case below 0.071 ppm, then EPA considers the state to have met the section 175A requirement for a demonstration that the area will maintain the NAAQS for the requisite period. Accordingly, on February 27, 2020, DEP submitted an LMP for the Johnstown Area, following EPA's LMP guidance and demonstrating that the area will maintain the 1997 ozone NAAQS through August 1, 2027, *i.e.,* through the entire 20-year maintenance period.

## II. Summary of SIP Revision and EPA Analysis

DEP's February 27, 2020 SIP submittal outlines a plan for continued maintenance of the 1997 ozone NAAQS which addresses the criteria set forth in the 1992 Calcagni Memo as follows.

### *A. Attainment Emissions Inventory*

For maintenance plans, a state should develop a comprehensive and accurate inventory of actual emissions for an attainment year which identifies the level of emissions in the area which is sufficient to maintain the NAAQS. The inventory should be developed consistent with EPA's most recent guidance. For ozone, the inventory should be based on typical summer day's emissions of oxides of nitrogen ($NO_X$) and volatile organic compounds (VOC), the precursors to ozone formation. In the first maintenance plan for the Johnstown Area, DEP used 2004 for the attainment year inventory, because 2004 was one of the years in the 2003–2005 three-year period when the area first attained the 1997 ozone NAAQS.[8] Johnstown Area continued to monitor attainment of the 1997 ozone NAAQS in 2014. Therefore, the emissions inventory from 2014 represents emissions levels conducive to continued attainment (*i.e.,* maintenance) of the NAAQS. Thus, DEP is using 2014 as representing attainment level emissions for its second maintenance plan. Pennsylvania used 2014 summer day emissions from EPA's 2014 version 7.0 modeling platform as the basis for the 2014 inventory presented in Table 1.[9]

[2] The requirements of CAA section 107(d)(3)(E) include attainment of the NAAQS, full approval under section 110(k) of the applicable SIP, determination that improvement in air quality is a result of permanent and enforceable reductions in emissions, demonstration that the state has met all applicable section 110 and part D requirements, and a fully approved maintenance plan under CAA section 175A.

[3] See 80 FR 12315 (March 6, 2015).

[4] 882 F.3d 1138 (D.C. Cir. 2018).

[5] ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (1992 Calcagni Memo).

[6] See ''Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas'' from Sally L. Shaver, Office of Air Quality Planning and Standards (OAQPS), dated November 16, 1994; ''Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas'' from Joseph Paisie, OAQPS, dated October 6, 1995; and ''Limited Maintenance Plan Option for Moderate $PM_{10}$ Nonattainment Areas'' from Lydia Wegman, OAQPS, dated August 9, 2001.

[7] The ozone design value for a monitoring site is the 3-year average of the annual fourth-highest daily maximum

8-hour average ozone concentrations. The design value for an ozone nonattainment area is the highest design value of any monitoring site in the area.

[8] For more information, see EPA's June 1, 2007 notice proposing to redesignate the Johnstown Area to attainment for the 1997 ozone NAAQS (72 FR 30509).

[9] For more information, visit *https://www.epa.gov/sites/production/files/2018-11/ozone_1997_naaqs_emiss_inv_data_nov_19_2018_0.xlsx.*

TABLE 1—2014 TYPICAL SUMMER DAY $NO_X$ AND VOC EMISSIONS FOR THE JOHNSTOWN AREA (TONS/DAY)

| Source category | $NO_X$ emissions | VOC emissions |
|---|---|---|
| Point | 7.37 | 0.31 |
| Nonpoint | 3.78 | 5.84 |
| Onroad | 4.17 | 2.39 |
| Nonroad | 1.07 | 1.55 |
| Total | 16.39 | 10.09 |

The data shown in Table 1 is based on the 2014 National Emissions Inventory (NEI) version 2.[10] The inventory addresses four anthropogenic emission source categories: Stationary (point) sources, stationary nonpoint (area) sources, nonroad mobile, and onroad mobile sources. Point sources are stationary sources that have the potential to emit (PTE) more than 100 tons per year (tpy) of VOC, or more than 50 tpy of $NO_X$, and which are required to obtain an operating permit. Data are collected for each source at a facility and reported to DEP. Examples of point sources include kraft mills, electrical generating units (EGUs), and pharmaceutical factories. Nonpoint sources include emissions from equipment, operations, and activities that are numerous and in total have significant emissions. Examples include emissions from commercial and consumer products, portable fuel containers, home heating, repair and refinishing operations, and crematories. The onroad emissions sector includes emissions from engines used primarily to propel equipment on highways and other roads, including passenger vehicles, motorcycles, and heavy-duty diesel trucks. The nonroad emissions sector includes emissions from engines that are not primarily used to propel transportation equipment, such as generators, forklifts, and marine pleasure craft. EPA reviewed the emissions inventory submitted by DEP and proposes to conclude that the plan's inventory is acceptable for the purposes of a subsequent maintenance plan under CAA section 175A(b).

*B. Maintenance Demonstration*

In order to attain the 1997 ozone NAAQS, the three-year average of the fourth-highest daily average ozone concentrations (design value, or ''DV'') at each monitor within an area must not exceed 0.08 ppm. Based on the rounding convention described in 40 CFR part 50, appendix I, the standard is attained if the DV is 0.084 ppm or below. CAA section 175A requires a demonstration that the area will continue to maintain the NAAQS throughout the duration of the requisite maintenance period. Consistent with the prior guidance documents discussed previously in this document as well as EPA's November 20, 2018 ''Resource Document for 1997 Ozone NAAQS Areas: Supporting Information for States Developing Maintenance Plans'' (2018 Resource Document),[11] EPA believes that if the most recent DV for the area is well below the NAAQS (*e.g.* below 85%, or in this case below 0.071 ppm), the section 175A demonstration requirement has been met, provided that Prevention of Significant Deterioration (PSD) requirements, any control measures already in the SIP, and any Federal measures remain in place through the end of the second 10-year maintenance period (absent a showing consistent with section 110(l) that such measures are not necessary to assure maintenance).

For the purposes of demonstrating continued maintenance with the 1997 ozone NAAQS, DEP provided 3-year DVs for the Johnstown Area from 2007 to 2018. This includes DVs for 2005–2007, 2006–2008, 2007–2009, 2008–2010, 2009–2011, 2010–2012, 2011–2013, 2012–2014, 2013–2015, 2014–2016, 2015–2017, and 2016–2018, which are shown in Table 2. [12] In addition, EPA has reviewed the most recent ambient air quality monitoring data for ozone in the Johnstown Area, as submitted by Pennsylvania and recorded in EPA's Air Quality System (AQS). The most recent DV (*i.e.* 2017–2019) is also shown in Table 2.[13] There is one ambient air quality monitor located in the Johnstown Area (AQS Site ID 42–021–0011).

TABLE 2—1997 OZONE NAAQS DESIGN VALUES (PPM) FOR THE JOHNSTOWN AREA

| 2005–2007 | 2006–2008 | 2007–2009 | 2008–2010 | 2009–2011 | 2010–2012 | 2011–2013 | 2012–2014 | 2013–2015 | 2014–2016 | 2015–2017 | 2016–2018 | 2017–2019 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 0.074 | 0.070 | 0.067 | 0.067 | 0.069 | 0.072 | 0.070 | 0.066 | 0.063 | 0.063 | 0.063 | 0.061 | 0.059 |

As can be seen in Table 2, DVs in the Johnstown Area have been well below 85% of the 1997 ozone NAAQS (*i.e.,* 0.071 ppm) since the 2011–2013 design value. The most recent DV (*i.e.* 2017–2019) in the Johnstown Area is 0.059 ppm, which is well below 85% of the 1997 ozone NAAQS.

Additionally, states can support the demonstration of continued maintenance by showing stable or improving air quality trends. According to EPA's 2018 Resource Document, several kinds of analyses can be performed by states wishing to make such a showing. One approach is to take the most recent DV for the area and add the maximum design value increase (over one or more consecutive years) that has been observed in the area over the past several years. A sum that does not exceed the level of the 1997 ozone NAAQS may be a good indicator of expected continued attainment. As

[10] The NEI is a comprehensive and detailed estimate of air emissions of criteria pollutants, criteria precursors, and hazardous air pollutants from air emissions sources. The NEI is released every three years based primarily upon data provided by State, Local, and Tribal air agencies for sources in their jurisdictions and supplemented by data developed by EPA.

[11] This resource document is included in the docket for this rulemaking available online at *https://www.regulations.gov,* Docket ID: EPA–R03–OAR–2020–0268 and is also available at *https://www.epa.gov/sites/production/files/2018-11/documents/ozone_1997_naaqs_lmp_resource_document_nov_20_2018.pdf.*

[12] See also Table II–2 of DEP's February 27, 2020 submittal, included in the docket for this rulemaking available online at *https://www.regulations.gov,* Docket ID: EPA–R03–OAR–2020–0355.

[13] This data is also included in the docket for this rulemaking available online at *https://www.regulations.gov,* Docket ID: EPA–R03–OAR–2020–02 and is also available at *https://www.epa.gov/air-trends/air-quality-design-values#report.*

shown in Table 2, the largest increase in DVs from 2007 to 2019 was 0.003 ppm, which occurred between the 2009–2011 (0.069 ppm) and 2010–2012 (0.072 ppm) DVs. Adding 0.003 ppm to the most recent DV of 0.059 ppm results in 0.062 ppm, a sum that is still well below the 1997 ozone NAAQS.

The Johnstown Area has maintained air quality levels well below the 1997 ozone NAAQS since the Area first attained the NAAQS in 2005.[14] Additional supporting information that the area is expected to continue to maintain the standard can be found in projections of future year DVs that EPA recently completed to assist states with the development of interstate transport SIPs for the 2015 8-hour ozone NAAQS. Those projections, made for the year 2023, show that the DV for the Johnstown Area is expected to be 0.058 ppm.[15] Therefore, EPA proposes to determine that future violations of the 1997 ozone NAAQS in the Johnstown Area are unlikely.

*C. Continued Air Quality Monitoring and Verification of Continued Attainment*

Once an area has been redesignated to attainment, the state remains obligated to maintain an air quality network in accordance with 40 CFR part 58, in order to verify the area's attainment status. In the February 27, 2020, submittal, DEP commits to continue to operate their air monitoring network in accordance with 40 CFR part 58. DEP also commits to track the attainment status of the Johnstown Area for the 1997 ozone NAAQS through the review of air quality and emissions data during the second maintenance period. This includes an annual evaluation of vehicles miles traveled (VMT) and stationary source emissions data compared to the assumptions included in the LMP. DEP also states that it will evaluate the periodic (*i.e.* every three years) emission inventories prepared under EPA's Air Emission Reporting Requirements (40 CFR part 51, subpart A). Based on these evaluations, DEP will consider whether any further emission control measures should be implemented for the Johnstown Area. EPA has analyzed the commitments in DEP's submittal and is proposing to determine that they meet the requirements for continued air quality monitoring and verification of continued attainment.

*D. Contingency Plan*

The contingency plan provisions are designed to promptly correct or prevent a violation of the NAAQS that might occur after redesignation of an area to attainment. Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation of the contingency measures, and a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be adopted and implemented. The maintenance plan must require that the state will implement all pollution control measures that were contained in the SIP before redesignation of the area to attainment. See section 175(A)(d) of the CAA.

DEP's February 27, 2020, submittal includes a contingency plan for the Johnstown Area. In the event that the fourth highest eight-hour ozone concentrations at a monitor in the Johnstown Area exceeds 84 ppb (0.084 ppm) for two consecutive years, but prior to an actual violation of the NAAQS, DEP will evaluate whether additional local emission control measures should be implemented that may prevent a violation of the NAAQS.[16] After analyzing the conditions causing the excessive ozone levels, evaluating the effectiveness of potential corrective measures, and considering the potential effects of federal, state, and local measures that have been adopted but not yet implemented, DEP will begin the process of implementing selected measures so that they can be implemented as expeditiously as practicable following a violation of the NAAQS. In the event of a violation, DEP commits to adopting additional emission reduction measures as expeditiously as practicable in accordance with the schedule included in the contingency plan as well as the CAA and applicable Pennsylvania statutory requirements.

DEP will use the following criteria when considering additional emission reduction measures to adopt to address a violation of the 1997 ozone NAAQS in the Johnstown Area: (1) Air quality analysis indicating the nature of the violation, including the cause, location, and source; (2) emission reduction potential, including extent to which emission generating sources occur in the nonattainment area; (3) timeliness of implementation in terms of the potential to return the area to attainment as expeditiously as practicable; and (4) costs, equity, and cost-effectiveness. The measures DEP would consider pursuing for adoption in the Johnstown Area include, but are not limited to, those summarized in Table 3. If additional emission reductions are necessary, DEP commits to adopt additional emission reduction measures to attain and maintain the 1997 ozone NAAQS.

TABLE 3—JOHNSTOWN AREA SECOND MAINTENANCE PLAN CONTINGENCY MEASURES

| |
|---|
| Non-Regulatory Measures: |
| Voluntary diesel engine ''chip reflash'' (installation software to correct the defeat device option on certain heavy-duty diesel engines). |
| Diesel retrofit (including replacement, repowering or alternative fuel use) for public or private local onroad or offroad fleets. |
| Idling reduction technology for Class 2 yard locomotives. |
| Idling reduction technologies or strategies for truck stops, warehouses, and other freight-handling facilities. |
| Accelerated turnover of lawn and garden equipment, especially commercial equipment, including promotion of electric equipment. |
| Additional promotion of alternative fuel (e.g. biodiesel) for home heating and agricultural use. |
| Regulatory Measures: [17] |
| Additional control on consumer products [18]. |
| Additional controls on portable fuel containers [19]. |

[14] As explained in EPA's June 1, 2007 notice proposing to redesignate the Johnstown Area as attainment for the 1997 ozone NAAQS (72 FR 30509), the 2003–2005 DV for the Johnstown Area was 0.077 ppm.

[15] See U.S. EPA, ''Air Quality Modeling Technical Support Document for the Updated 2023 Projected Ozone Design Values'', Office of Air Quality Planning and Standards, dated June 2018, available at *https://www.epa.gov/airmarkets/air-quality-modeling-technical-support-document-updated-2023-projected-ozone-design.*

[16] A violation of the NAAQS occurs when an area's 3-year design value exceeds the NAAQS.

The contingency plan includes schedules for the adoption and implementation of both non-regulatory and regulatory contingency measures, including schedules for adopting potential land use planning strategies not listed in Table 3, which are summarized in Tables 4 and 5, respectively.

TABLE 4—IMPLEMENTATION SCHEDULE FOR JOHNSTOWN AREA NON-REGULATORY CONTINGENCY MEASURES

| Time after triggering event | Action |
|---|---|
| Within 2 months | DEP will identify stakeholders for potential non-regulatory measures for further development. |
| Within 3 months | If funding is necessary, DEP will identify potential sources of funding and the timeframe for when funds would be available. |
| Within 6 months | DEP will work with the relevant planning commission(s) to identify potential land use planning strategies and projects with quantifiable and timely emission benefits. DEP will also work with the Pennsylvania Department of Community and Economic Development and other state agencies to assist with these measures. |
| Within 9 months | If state loans or grants are required, DEP will enter into agreements with implementing organizations. DEP will also quantify projected emission benefits. |
| Within 12 months | DEP will submit revised SIP to EPA. |
| Within 12–24 months | DEP will implement strategies and projects. |

TABLE 5—IMPLEMENTATION SCHEDULE FOR JOHNSTOWN AREA REGULATORY CONTINGENCY MEASURES

| Time after triggering event | Action |
|---|---|
| Within 1 month | DEP will submit request to begin regulatory development process. |
| Within 3 months | Request will be reviewed by the Air Quality Technical Advisory Committee (AQTAC), Citizens Advisory Council, and other advisory committees as appropriate. |
| Within 6 months | Environmental Quality Board (EQB) meeting/action. |
| Within 8 months | DEP will publish regulatory measure in the Pennsylvania Bulletin for comment as proposed rulemaking. |
| Within 10 months | DEP will hold a public hearing and comment period on proposed rulemaking. |
| Within 11 months | House and Senate Standing Committee and Independent Regulatory Review Commission (IRCC) comment on proposed rulemaking. |
| Within 13 months | AQTAC, Citizens Advisory Council, and other committees will review responses to comment(s), if applicable, and the draft final rulemaking. |
| Within 16 months | EQB meeting/action. |
| Within 17 months | The IRCC will take action on final rulemaking |
| Within 18 months | Attorney General's review/action. |
| Within 19 months | DEP will publish the regulatory measure as a final rulemaking in the Pennsylvania Bulletin and submit to EPA as a SIP revision. The regulation will become effective upon publication in the Pennsylvania Bulletin. |

EPA proposes to find that the contingency plan included in DEP's February 27, 2020 submittal satisfies the pertinent requirements of CAA section 175A(d). EPA notes that while six of the potential contingency measures included in the Commonwealth's second maintenance plan are non-regulatory, their inclusion among other measures is overall SIP-strengthening, and their inclusion does not alter EPA's proposal to find the LMP is fully approvable. EPA also finds that the submittal acknowledges Pennsylvania's continuing requirement to implement all pollution control measures that were contained in the SIP before redesignation of the Johnstown Area to attainment.

*E. Transportation Conformity*

Transportation conformity is required by section 176(c) of the CAA. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS (CAA 176(c)(1)(B)). EPA's conformity rule at 40 CFR part 93 requires that transportation plans, programs and projects conform to SIPs and establish the criteria and procedures for determining whether or not they conform. The conformity rule generally requires a demonstration that emissions from the Regional Transportation Plan (RTP) and Transportation Improvement Program (TIP) are consistent with the motor vehicle emissions budget (MVEB) contained in the control strategy SIP revision or maintenance plan (40 CFR 93.101, 93.118, and 93.124). A MVEB is defined as ''that portion of the total allowable emissions defined in the submitted or approved control strategy implementation plan revision or maintenance plan for a certain date for the purpose of meeting reasonable further progress milestones or demonstrating attainment or maintenance of the NAAQS, for any criteria pollutant or its precursors, allocated to highway and transit vehicle use and emissions (40 CFR 93.101).''

Under the conformity rule, LMP areas may demonstrate conformity without a regional emission analysis (40 CFR 93.109(e)). However, because LMP areas are still maintenance areas, certain

[17] These regulatory measures were considered potential cost-effective and timely control strategies by the Ozone Transport Commission (OTC) as well as the Mid-Atlantic Regional Air Management Association and the Mid-Atlantic/Northeast Visibility Union. The OTC is a multi-state organization responsible for developing regional solutions to ground-level ozone pollution in the Northeast and Mid-Atlantic, including the development of model rules that member states may adopt. OTC member states include: Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Virginia. For more information on the OTC, visit *https://otcair.org/index.asp*. To view the model rules developed by the OTC, including those for consumer products and portable fuel containers, visit *https://otcair.org/document.asp?fview=modelrules.*

[18] Pennsylvania's existing controls on consumer products are under 25 Pa. Code Chapter 130, Subchapters B and C (38 Pa.B. 5598). This contingency measure includes the adoption of additional controls on consumer products such as VOC limits for adhesive removers.

[19] Existing controls on portable fuel containers can be found under 40 CFR part 59 subpart F—Control of Evaporative Emissions From New and In-Use Portable Fuel Containers.

aspects of transportation conformity determinations still will be required for transportation plans, programs, and projects. Specifically, for such determination, RTPs, TIPs, and transportation projects still will have to demonstrate that they are fiscally constrained (40 CFR 93.108), meet the criteria for consultation (40 CFR 93.105 and 93.112) and transportation control measure implementation in the conformity rule provisions (40 CFR 93.113). Additionally, conformity determinations for RTPs and TIPs must be determined no less frequently than every four years, and conformity of plan and TIP amendments and transportation projects is demonstrated in accordance with the timing requirements specified in 40 CFR 93.104. In addition, for projects to be approved, they must come from a currently conforming RTP and TIP (40 CFR 93.114 and 93.115). The Johnstown Area remains under the obligation to meet the applicable conformity requirements for the 1997 ozone NAAQS.

## III. Proposed Action

EPA's review of DEP's February 27, 2020 submittal indicates that it meets all applicable CAA requirements, specifically the requirements of CAA section 175A. EPA is proposing to approve the second maintenance plan for the Johnstown Area as a revision to the Pennsylvania SIP. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

## IV. Statutory and Executive Order Reviews

Under the 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, 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 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rulemaking, proposing approval of Pennsylvania's second maintenance plan for the Johnstown Area, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

## List of Subjects in 40 CFR Part 52

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

Dated: August 27, 2020.

**Cosmo Servidio,**

*Regional Administrator, Region III.*

[FR Doc. 2020–19677 Filed 9–15–20; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Parts 60, 61, and 63

**[EPA–R06–OAR–2019–0615; FRL–10013–03–Region 6]**

## New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to Albuquerque-Bernalillo County Air Quality Control Board

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

**ACTION:** Proposed rule.

**SUMMARY:** The Albuquerque-Bernalillo County Air Quality Control Board (ABCAQCB) has submitted updated regulations for receiving delegation and approval of a program for the implementation and enforcement of certain New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) for all sources (both Title V and non-Title V sources). These updated regulations apply to certain NSPS promulgated by the EPA, as amended between September 14, 2013 and January 23, 2017; certain NESHAP promulgated by the EPA, as amended between September 14, 2013 and January 23, 2017; and other NESHAP promulgated by the EPA, as amended between September 14, 2013 and January 23, 2017, as adopted by the ABCAQCB. The EPA is providing notice that it is updating the delegation of certain NSPS to ABCAQCB and taking proposed action to approve the delegation of certain NESHAP to ABCAQCB. The delegation of authority under this action does not apply to sources located in areas defined as Indian Country.

**DATES:** Written comments should be received on or before October 16, 2020.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R06–OAR–2019–0615, at *http://www.regulations.gov* or via email to *barrett.richard@epa.gov.* For additional information on how to submit comments see the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this issue of the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Mr. Rick Barrett, EPA Region 6 Office, 6ARPE, 1201 Elm Street, Suite 500, Dallas, TX 75270, (214) 665–7227; email: *barrett.richard@epa.gov.* Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office will be closed to the public to reduce the risk of transmitting COVID–

19. We encourage the public to submit comments via *https://www.regulations.gov,* as there will be a delay in processing mail and no courier or hand deliveries will be accepted. Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.

**SUPPLEMENTARY INFORMATION:** In the final rules section of this issue of the **Federal Register**, the EPA is approving ABCAQCB's request for delegation of authority to implement and enforce certain NSPS and NESHAP for all sources (both Title V and non-Title V sources). ABCAQCB has adopted certain NSPS and NESHAP by reference into ABCAQCB's regulations. In addition, the EPA is waiving certain notification requirements required by the delegated standards so that sources will only need to notify and report to ABCAQCB, thereby avoiding duplicative notification and reporting to the EPA. This waiver only extends to the submission of copies of notifications and reports; EPA does not waive the requirements in delegated standards that require notifications and reports be submitted to an electronic database.

The EPA is taking direct final action without prior proposal because the EPA views this as a noncontroversial action and anticipates no relevant adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated. If the EPA receives relevant adverse comments, the direct final rule will be withdrawn, and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

For additional information, see the direct final rule which is located in the rules section of this issue of the **Federal Register**.

Dated: July 30, 2020.

**David Garcia,**

*Director, Air & Radiation Division, Region 6.*

[FR Doc. 2020–17062 Filed 9–15–20; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## 50 CFR Part 17

**[FF09E21000 FXES11110900000 201]**

# Endangered and Threatened Wildlife and Plants; Findings on a Petition To Delist the Distinct Population Segment of the Western Yellow-Billed Cuckoo and a Petition To List the U.S. Population of Northwestern Moose

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notification of findings.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce 12-month findings on a petition to remove the distinct population segment (DPS) of the western yellow-billed cuckoo from the List of Endangered and Threatened Wildlife (*i.e.,* to ''delist'' that DPS) and a petition to list a DPS of the U.S. population of northwestern moose under the Endangered Species Act of 1973, as amended (Act). After a thorough review of the best available scientific and commercial information, we find that it is not warranted at this time to delist the DPS of the western yellow-billed cuckoo. However, we ask the public to submit to us at any time any new information relevant to the status of the DPS of the western yellow-billed cuckoo or its habitat. We also find that the U.S. population of northwestern moose does not meet the criteria for discreteness as a DPS and the petitioned northwestern moose DPS is not a listable entity under the Act.

**DATES:** The findings in this document were made on September 16, 2020.

**ADDRESSES:** Detailed descriptions of the bases for these findings are available on the internet at *http://www.regulations.gov* under the following docket numbers:

| Species | Docket No. |
|---|---|
| Yellow-billed cuckoo ..... | FWS–R2–ES–2020–0004 |
| Northwestern moose ..... | FWS–R3–ES–2016–0061 |

Please submit any new information, materials, comments, or questions concerning this finding to the appropriate person, as specified under **FOR FURTHER INFORMATION CONTACT**.

**FOR FURTHER INFORMATION CONTACT:**

| Species | Contact information |
|---|---|
| Yellow-billed cuckoo. | Jeff Humphrey, Field Supervisor, 602–242–0210, *jeff_humphrey@fws.gov;* or Shawn Sartorius, Project Leader, 505–346–2525, *shawn_sartorius@fws.gov.* |
| Northwestern moose. | Sarah Quamme, Field Supervisor, Minnesota-Wisconsin Field Office, 952–252–0092. |

If you use a telecommunications device for the deaf (TDD), please call the Federal Relay Service at 800–877–8339.

**SUPPLEMENTARY INFORMATION:**

## Background

Under section 4(b)(3)(B) of the Act (16 U.S.C. 1531 *et seq.*), we are required to make a finding whether or not a petitioned action is warranted within 12 months after receiving any petition for which we have determined contained substantial scientific or commercial information indicating that the petitioned action may be warranted (''12-month finding''). We must make a finding that the petitioned action is: (1) Not warranted; (2) warranted; or (3) warranted but precluded. We must publish these 12-month findings in the **Federal Register**.

## Summary of Information Pertaining to the Five Factors

Section 4 of the Act (16 U.S.C. 1533) and the implementing regulations at part 424 of title 50 of the Code of Federal Regulations (50 CFR part 424) set forth procedures for adding species to, removing species from, or reclassifying species on the Lists. The Act defines ''species'' as any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature. The Act defines ''endangered species'' as any species that is in danger of extinction throughout all or a significant portion of its range (16 U.S.C. 1532(6)), and ''threatened species'' as any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range (16 U.S.C. 1532(20)). Under section 4(a)(1) of the Act, a species may be determined to be an endangered species or a threatened species because of any of the following five factors:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

In considering whether a species may meet the definition of an endangered species or a threatened species because of any of the five factors, we must look beyond the mere exposure of the species to the stressor to determine whether the species responds to the stressor in a way that causes actual impacts to the species. If there is exposure to a stressor, but no response, or only a positive response, that stressor does not cause a species to meet the definition of an endangered species or a threatened species. If there is exposure and the species responds negatively, we determine whether that stressor drives or contributes to the risk of extinction of the species such that the species warrants listing as an endangered or threatened species. The mere identification of stressors that could affect a species negatively is not sufficient to compel a finding that listing is or remains warranted. For a species to be listed or remain listed, we require evidence that these stressors are operative threats to the species and its habitat, either singly or in combination, to the point that the species meets the definition of an endangered or a threatened species under the Act.

In conducting our evaluation of the five factors provided in section 4(a)(1) of the Act to determine whether the DPS of the western yellow-billed cuckoo meets the definition of ''endangered species'' or ''threatened species,'' we considered and thoroughly evaluated the best scientific and commercial information available regarding the past, present, and future stressors and threats. We reviewed the petition, information available in our files, and other available published and unpublished information. Our evaluation may include information from recognized experts; Federal, State, and tribal governments; academic institutions; foreign governments; private entities; and other members of the public.

The species assessment form for the western yellow-billed cuckoo contains more detailed biological information, an analysis of the listing factors, and an explanation of why we determined that this species is not warranted for delisting. Additional background information on the western yellow-billed cuckoo can be found in the proposed listing rule (78 FR 61622; October 3, 2013) and the final listing rule (79 FR 59992; October 3, 2014). This supporting information can be found on the internet at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2018–0027. The following is an informational summary for the finding.

*Western Yellow-Billed Cuckoo DPS*

Previous Federal Actions

On October 3, 2014, we published a final rule (79 FR 59992) listing the western DPS of the yellow-billed cuckoo (western yellow-billed cuckoo) as a threatened species.

On May 4, 2017, we received a petition from the American Stewards of Liberty, Arizona Cattlemen's Association, Arizona Mining Association, Hereford Natural Resource Conservation District, Jim Chilton, National Cattlemen's Beef Association, Public Lands Council, WestLand Resources, Inc., and Winkelman Natural Resource Conservation District, requesting that the western DPS of the yellow-billed cuckoo be removed from the List of Endangered and Threatened Wildlife due to an error in our DPS analysis. They also provided information in their petition indicating the species should be delisted as a result of its documented use of additional habitat. The petition clearly identified itself as such and included the requisite information for the petitioner, required at the time at 50 CFR 424.14(a).

On June 27, 2018, we published a substantial 90-day finding on the petition indicating that delisting the western DPS of the yellow-billed cuckoo may be warranted due to information on additional habitat being used by the species (83 FR 30091). While we did not find that the petition provided substantial information indicating the entity may warrant delisting due to an error in our DPS analysis, because the petitioners did provide substantial information regarding additional habitat use by the species, we indicated we would review the DPS as part of our status review of the species.

This notice constitutes our 12-month finding on the May 4, 2017, petition to delist the western yellow-billed cuckoo.

Summary of Finding

The western yellow-billed cuckoo (*Coccyzus americanus*) is a member of the avian family Cuculidae. It is a migratory bird species, traveling between its wintering grounds in Central and South America and its breeding grounds in North America (Continental U.S. and Mexico) each spring and fall, often using river corridors as travel routes. The western yellow-billed cuckoo's breeding range is known from 12 States in the United States and 6 States in Mexico.

Adult yellow-billed cuckoos have a fairly stout and slightly down-curved bill; a slender, elongated body with a long-tailed look; and a narrow yellow ring of colored, bare skin around the eye. The plumage is loose and grayish-brown above and white below, with reddish primary flight feathers. The tail feathers are boldly patterned with black and white below. They are a medium-sized bird about 12 inches (30 centimeters) in length, and about 2 ounces (60 grams) in weight. The bill is blue-black with yellow on the basal half of the lower mandible. The legs are short and bluish-gray. Males and females differ slightly and are indistinguishable in the field (Hughes 1999, pp. 2–3).

We evaluated the western yellow-billed cuckoo under our ''Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the Endangered Species Act'' (DPS Policy; 61 FR 4722, February 7, 1996). We reviewed our DPS analysis from the final listing rule (79 FR 59992; October 3, 2014) and based our review on the available scientific information, including genetics and morphological information. We conclude that the western population segment of the yellow-billed cuckoo is discrete from the remainder of the species because the yellow-billed cuckoo population segment that nests west of the Continental Divide (as defined in the species assessment form) and in northwestern Mexico is markedly separated geographically and behaviorally from all other populations of yellow-billed cuckoo, including those that nest in eastern North America. We conclude that the western population segment of the yellow-billed cuckoo is significant because the loss of the population segment would leave a significant gap in the species' range that would span seven entire States and substantial portions of five additional States in the United States, and six States in Mexico.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the western yellow-billed cuckoo, and we evaluated all relevant factors under the five listing factors, including any regulatory mechanisms and conservation measures addressing these stressors. In the final listing rule (79 FR 59992; October 3, 2014), we identified the primary stressors affecting the western yellow-billed cuckoo's biological status to include habitat loss and degradation from altered watercourse hydrology and natural stream processes, livestock overgrazing, encroachment from agriculture, conversion of native habitat to predominantly nonnative vegetation,

and sedimentation of riparian habitat; poor water quality; and, to a lesser extent, effects of invasive species and the effects of climate change. The cumulative impact from various threats is also a factor that will exacerbate multiple existing threats to the western yellow-billed cuckoo and its habitat. We found that the threats identified in the final listing rule are still acting on the species and continue to affect the cuckoo's viability. In addition, minerals mining projects negatively impact recently identified occupied habitat in central and southern Arizona. Current yellow-billed cuckoo breeding populations are fragmented and geographically isolated. The western yellow-billed cuckoo continues to meet the definition of a threatened species.

Therefore, we find that delisting the western yellow-billed cuckoo is not warranted. A detailed discussion of the basis for this finding can be found in the western yellow-billed cuckoo species assessment and other supporting documents (see **ADDRESSES**, above).

*Northwestern Moose U.S. DPS*

Previous Federal Actions

On July 9, 2015, we received a petition from the Center for Biological Diversity and Honor the Earth, requesting that we list the U.S. population of northwestern moose (*Alces alces andersoni*) as an endangered or threatened DPS. On June 3, 2016, we published a 90-day finding that the petition presented substantial scientific or commercial information, indicating that listing the northwestern moose DPS may be warranted (81 FR 35698).

Summary of Finding

The moose is the largest member of the deer family. Currently, four subspecies of moose are recognized from North America. The petitioned entity is the U.S. population of the northwestern subspecies of moose (*Alces alces andersoni*), which historically occurred in Michigan, Minnesota, North Dakota, and Wisconsin. Moose were likely extirpated from the upper and lower peninsulas of Michigan and the State of Wisconsin. Recent reintroductions in Michigan were of the eastern subspecies (*Alces alces americana*), which likely spread into Wisconsin. The current range of the northwestern moose includes Minnesota, North Dakota, and Isle Royale National Park in Michigan.

We have carefully assessed the best scientific and commercial information available regarding the northwestern moose and evaluated the petition's claims that the U.S. population of northwestern moose qualifies as a DPS for listing under the Act. We considered differences in antler size and reproductive behavior, as well as control of moose harvest, management of moose habitat, and the moose's conservation status within the range of the northwestern moose in the United States and Canada. We do not have information that shows a difference, based on physical, physiological, ecological, or behavioral factors, between the populations in the United States and Canada. Further, we find that the U.S. population of northwestern moose is not delimited by international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the Act.

Therefore, we find that the U.S. population of northwestern moose does not meet the criteria for discreteness as a DPS and the petitioned northwestern moose DPS is not a listable entity under the Act. A detailed discussion of the basis for this finding can be found in the northwestern moose species assessment and other supporting documents (see **ADDRESSES**, above).

*New Information*

We request that you submit any new information concerning the taxonomy of, biology of, ecology of, status of, or stressors to the western yellow-billed cuckoo or the northwestern moose to the appropriate person, as specified under **FOR FURTHER INFORMATION CONTACT**, whenever it becomes available. New information will help us monitor this species and make appropriate decisions about its conservation and status. We encourage local agencies and stakeholders to continue cooperative monitoring and conservation efforts.

## References Cited

A list of the references cited in the petition finding are available on the internet at *http://www.regulations.gov* in the docket provided above in **ADDRESSES** and upon request from the appropriate person, as specified under **FOR FURTHER INFORMATION CONTACT**.

## Authors

The primary authors of this document are the staff members of the Species Assessment Team, Ecological Services Program.

## Authority

The authority for this action is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

**Aurelia Skipwith,**

*Director, U.S. Fish and Wildlife Service.*

[FR Doc. 2020–19149 Filed 9–15–20; 8:45 am]

**BILLING CODE 4333–15–P**

# Notices

Federal Register

Vol. 85, No. 180

Wednesday, September 16, 2020

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

## DEPARTMENT OF AGRICULTURE

### Natural Resources Conservation Service

**[Docket No. NRCS–2020–0005]**

### Notice of Availability of the Mississippi Trustee Implementation Group Final Restoration Plan II and Environmental Assessment: Wetlands, Coastal, and Nearshore Habitats and Oysters and Finding of No Significant Impact

**AGENCY:** Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture (USDA).

**ACTION:** Notice of availability and Finding of No Significant Impact.

**SUMMARY:** In accordance with the Oil Pollution Act of 1990 (OPA), the National Environmental Policy Act of 1969 (NEPA), the Deepwater Horizon Oil Spill Final Programmatic Damage Assessment and Restoration Plan and Final Programmatic Environmental Impact Statement (Final PDARP/PEIS), Record of Decision, and Consent Decree, the Federal and State natural resource trustee agencies for the Mississippi Trustee Implementation Group (MS TIG) prepared a Final Restoration Plan II Environmental Assessment: Wetlands, Coastal, and Nearshore Habitats and Oysters (RPII/EA) and Finding of No Significant Impact (FONSI). The RPII/EA describes the restoration project alternatives considered by the MS TIG that meet the Trustees' goals to restore and conserve habitat and replenish and protect living coastal and marine resources. The MS TIG evaluated these alternatives under criteria set forth in the OPA natural resource damage assessment (NRDA) regulations and also evaluated the environmental consequences of the restoration alternatives in accordance with NEPA. The MS TIG selected four restoration projects in the RPII/EA for implementation in the Mississippi Restoration Area, which are consistent with the Trustees' selected programmatic alternative in the PDARP/PEIS. The purpose of this notice is to inform the public of the availability of the RPII/EA and FONSI.

**ADDRESSES:** *Obtaining Documents:* You may download the RPII/EA and FONSI at *http://www.gulfspillrestoration.noaa.gov.* Alternatively, you may request a CD of the RPII/EA and FONSI (see **FOR FURTHER INFORMATION CONTACT**). You may also view the document at any of the public facilities listed at *http://www.gulfspillrestoration.noaa.gov.*

**FOR FURTHER INFORMATION CONTACT:** Ron Howard, Senior Technical Advisor, Natural Resource Specialist, at *ron.howard@ms.usda.gov;* and Valerie Alley, NRDA Coordinator, at *mississippiTIG@mdeq.ms.gov.*

**SUPPLEMENTARY INFORMATION:**

#### Background

On April 20, 2010, the mobile offshore drilling unit Deepwater Horizon, which was being used to drill a well for BP Exploration and Production Inc. (BP), in the Macondo prospect (Mississippi Canyon 252–MC252), exploded, caught fire, and subsequently sank in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The Deepwater Horizon oil spill is the largest maritime oil spill in U.S. history, discharging millions of barrels of oil over a period of 87 days. In addition, well over 1 million gallons of dispersants were applied to the waters of the spill area to disperse the spilled oil. An undetermined amount of natural gas was also released to the environment as a result of the spill.

The Deepwater Horizon State and Federal natural resource trustees (DWH Trustees) conducted the natural resource damage assessment (NRDA) for the Deepwater Horizon oil spill under the Oil Pollution Act 1990 (OPA; 33 U.S.C. 2701–2720) and the implementing NRDA regulations (15 CFR part 990). In accordance with OPA, Federal and State agencies act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and to implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

The DWH Trustees are:

- U.S. Department of the Interior (DOI), as represented by the U.S. Fish and Wildlife Service (USFWS), the National Park Service (NPS), and Bureau of Land Management (BLM);
- National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce (DOC);
- U.S. Department of Agriculture (USDA);
- U.S. Environmental Protection Agency (EPA);
- State of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources;
- State of Mississippi Department of Environmental Quality (MDEQ);
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- The State of Texas, Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

Upon completion of NRDA, the DWH Trustees reached and finalized a settlement of their natural resource damage claims with BP in a Consent Decree [1] approved by the United States District Court for the Eastern District of Louisiana. In accordance with that Consent Decree, restoration projects in the Mississippi Restoration Area are now chosen and managed by the MS TIG.

The MS TIG is composed of the following Trustees:

- MDEQ;
- DOI, as represented by the USFWS, the NPS, and the BLM;
- NOAA, on behalf of DOC;
- USDA; and

[1] *https://www.justice.gov/enrd/file/838066/download.*

• EPA.

The restoration planning activities are proceeding in accordance with the Final PDARP/PEIS. Restoration Types evaluated in the RPII/EA include: Wetlands, Coastal, and Nearshore Habitats; and Oysters. Information on the restoration types that were considered in the RPII/EA, as well as a general overview of the OPA NRDA criteria against which project ideas were evaluated, can be found in the Final PDARP/PEIS (*http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan*) and in the Overview section of the PDARP/PEIS (*http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan*).

The MS TIG posted a Notice of Solicitation calling for project ideas on June 11, 2018 [2] through August 10, 1018 (June 11, 2018, Notice). Project ideas were requested for the following restoration types: Wetlands, Coastal, and Nearshore Habitats (WCNH); Nutrient Reduction; Oysters; Sea Turtles; and Marine Mammals. During the planning process the MS TIG decided to focus only on WCNH and Oyster Restoration Types in RPII. On October 10, 2018, the MS TIG published a Notice of Initiation of Restoration Planning in Mississippi.[3]

The notice of availability of the Draft RPII/EA was published in the **Federal Register** on April 22, 2020 (85 FR 22393–22395). In the Draft RPII EA, the MS TIG evaluated seven alternatives and two No Action Alternatives for the WCNH and Oysters Restoration Types, respectively. In the Draft RPII/EA, the MS TIG determined that the actions proposed for selection would be consistent with the programmatic restoration alternative selected in the Final PDARP/PEIS and would be funded by $4,887,500 from the WCNH Restoration Type and $10,500,000 from the Oysters Restoration Type allocations to the Mississippi Restoration Area. The MS TIG provided the public with 30 days to review and comment on the Draft RPII/EA and hosted a public webinar to provide an overview of the Draft RPII/EA and to provide opportunity for public comment. Public comment was also received electronically through the Trustee-wide public website, the *Regulations.gov* website, and by mail and email correspondence. The MS TIG considered the public comments received (See Chapter 8.0 of the RPII/EA), which informed the MS TIG's analysis of alternatives in the RPII/EA. The MS TIG also considered the OPA NRDA criteria against which project ideas are evaluated, which can be found in the PDARP/PEIS and in the Overview of the PDARP/PEIS (*http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan*).

**Overview of the RPII/EA**

The RPII/EA is being released in accordance with the OPA NRDA regulations in 15 CFR part 990, NEPA (42 U.S.C. parts 4321–4347), and 40 CFR part 1500.

In the RPII/EA, the MS TIG selects four alternatives to be funded from Restoration Type funds as specified below. Specifically, the MS TIG selects the following projects for implementation:

• Wolf River Coastal Preserve Habitat Management—Dupont and Bell's Ferry Tracts (WCNH);

• Hancock County Coastal Preserve Habitat Management—Wachovia Tract (WCNH);

• Oyster Spawning Reefs in Mississippi (Oysters); and

• Mississippi Oyster Gardening Program (Oysters).

The total estimated cost of the four selected alternatives is approximately $15 million.

The RPII/EA evaluates a reasonable range of alternatives and a No Action Alternative for each of the Restoration Types. As a result of its evaluation, the MS TIG determined that the restoration projects selected for funding are most appropriate for providing partial compensation to the public for injured natural resources and ecological services in the Mississippi Restoration Area. The selected alternatives are intended to continue the process of restoring natural resources and ecological services injured or lost as a result of the Deepwater Horizon oil spill. Additional restoration planning for the Mississippi Restoration Area will continue.

In accordance with NEPA and as part of the RPII/EA, the Trustees issued a FONSI which is available in Appendix E of the RPII/EA.

**Administrative Record**

The DWH Trustees opened a publicly available Administrative Record for the NRDA for the Deepwater Horizon oil spill, including restoration planning activities, concurrently with publication of the 2011 Notice of Intent to Begin Restoration Scoping and Prepare a Gulf Spill Restoration Planning PEIS (pursuant to 15 CFR 990.45). The Administrative Record includes the relevant administrative records since its date of inception. This Administrative Record is actively maintained and available for public review. The documents included in the Administrative Record can be viewed electronically at the following location: *http://www.doi.gov/deepwaterhorizon/adminrecord.*

**Authority**

The authority for this action is the OPA (33 U.S.C. 2701 *et seq.*), its implementing NRDA regulations in 15 CFR part 990, and the NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations in 40 CFR parts 1500–1508.

**Kevin Norton,**

*Acting Chief, Natural Resources Conservation Service.*

[FR Doc. 2020–20354 Filed 9–14–20; 4:15 pm]

BILLING CODE 3410–16–P

[2] *https://www.gulfspillrestoration.noaa.gov/2018/06/mississippi-trustee-implementation-group-welcomes-publics-project-ideas.*

[3] *https://www.gulfspillrestoration.noaa.gov/2018/10/notice-initiation-restoration-planning-mississippi.*

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

### Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Rated Orders Under the Defense Priories and Allocations System (DPAS)

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Notice of Information Collection, request for comment.

**SUMMARY:** The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

**DATES:** To ensure consideration, comments regarding this proposed information collection must be received on or before November 16, 2020.

**ADDRESSES:** Interested persons are invited to submit comments by email to Mark Crace, IC Liaison, Bureau of Industry and Security, at *mark.crace@bis.doc.gov* or to *PRAcomments@doc.gov.* Please reference OMB Control Number 0694–0092 in the subject line of your comments. Do not submit Confidential Business Information or

otherwise sensitive or protected information.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or specific questions related to collection activities should be directed to Mark Crace, IC Liaison, Bureau of Industry and Security by email at *mark.crace@bis.doc.gov* or by phone at 202–482–8093.

**SUPPLEMENTARY INFORMATION:**

## I. Abstract

This information collection is necessary to support the execution of the President's priorities and allocations authority under the Defense Production Act of 1950 (DPA), as amended (50 U.S.C. 4501, *et seq.*), and the priorities authorities under the Selective Service Act of 1948 (50 U.S.C. 3801, *et seq.*), as implemented by the Defense Priorities and Allocations System (DPAS) regulation (15 CFR part 700). The purpose of this authority is to ensure preferential acceptance and performance of contracts and orders supporting national defense and emergency preparedness program requirements.

## II. Method of Collection

Submitted electronically or in paper form.

## III. Data

*OMB Control Number:* 0694–0092.

*Form Number(s):* None.

*Type of Review:* Regular submission, extension of a current information collection.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 14,434,650.

*Estimated Time per Response:* 2 minute to 16 minutes.

*Estimated Total Annual Burden Hours:* 45,290.

*Estimated Total Annual Cost to Public:* $1,585,150.

*Respondent's Obligation:* Mandatory.

*Legal Authority:* Defense Production Act of 1950 (DPA).

## IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Sheleen Dumas,**

*Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.*

[FR Doc. 2020–20206 Filed 9–15–20; 8:45 am]

**BILLING CODE 3510–33–P**

---

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–588–874]**

### Certain Hot-Rolled Steel Flat Products From Japan: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2017–2018

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) determines that mandatory respondents, Nippon Steel Corporation (NSC) and Tokyo Steel Manufacturing Co., Ltd. (Tokyo Steel), producers and exporters of hot-rolled steel flat products (hot-rolled steel) from Japan, did not sell subject merchandise in the United States at prices below normal value during the period of review (POR) October 1, 2017 through September 30, 2018. In addition, Commerce determines that Honda Trading Canada, Inc. (Honda) had no shipments during the POR.

**DATES:** Applicable September 16, 2020.

**FOR FURTHER INFORMATION CONTACT:** Jun Jack Zhao or Myrna Lobo, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1396 or (202) 482–2371, respectively.

**SUPPLEMENTARY INFORMATION:**

## Background

On December 16, 2019, Commerce published the *Preliminary Results* of this review in the **Federal Register**.[1] We invited interested parties to comment on the *Preliminary Results.* Between January 15 and January 24, 2020, Commerce received timely filed briefs and rebuttal briefs from the petitioners,[2] NSC, and Tokyo Steel.[3] On January 15, 2020, Commerce received hearing requests from the petitioners and NSC.[4] In lieu of a hearing, Commerce held a phone meeting with the petitioners on July 17, 2020; NSC did not request a phone meeting in lieu of a hearing.[5]

On March 20, 2020, we extended the deadline for the final results.[6] On April 24, 2020, Commerce tolled all deadlines in administrative reviews by 50 days.[7] On July 21, 2020, Commerce tolled all deadlines in administrative reviews by

---

[1] *See Certain Hot-Rolled Steel Flat Products from Japan: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2017–2018,* 84 FR 68402 (December 16, 2019) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

[2] The petitioners are AK Steel Corporation; ArcelorMittal USA LLC; Nucor Corporation; SSAB Enterprises, LLC; Steel Dynamics, Inc.; and United States Steel Corporation.

[3] *See* Petitioners' Letter, ''Certain Hot-Rolled Steel Flat Products from Japan: Case Brief,'' dated January 15, 2020; *see also* NSC's Letter, ''Certain Hot-Rolled Steel Flat Products from Japan: NSC's Case Brief,'' dated January 15, 2020; Petitioners' Letter, ''Certain Hot-Rolled Steel Flat Products from Japan: Petitioner's Rebuttal Brief,'' dated January 24, 2020; NSC's Letter, ''Certain Hot-Rolled Steel Flat Products from Japan: NSC's Rebuttal Brief,'' dated January 24, 2020; and Tokyo Steel's Letter, ''Rebuttal Brief of Tokyo Steel: Certain Hot-Rolled Steel Flat Products from Japan,'' dated January 24, 2020.

[4] *See* Petitioners' Letter, ''Certain Hot-Rolled Steel Flat Products from Japan: Hearing Request,'' dated January 15, 2020; *see also* NSC's Letter, ''Certain Hot-Rolled Steel Flat Products from Japan: NSC's Hearing Request,'' dated January 15, 2020.

[5] *See* Memorandum, ''Certain Hot-Rolled Steel Products from Japan: Phone Meeting with the Petitioners,'' dated July 17, 2020. The petitioners withdrew their hearing request on July 16, 2020; *see* Petitioners' Letter, ''Certain Hot-Rolled Steel Flat Products From Japan: Withdrawal of Hearing Request,'' dated July 16, 2020. NSC did not request a phone meeting with Commerce, in lieu of a hearing; *see* Memorandum, ''Administrative Review of Certain Hot-Rolled Steel Flat Products from Japan: Contact with NSC Counsel,'' dated August 27, 2020.

[6] *See* Memoranda, ''Certain Hot-Rolled Steel Products from Japan: Extension of Deadline for Final Results of Antidumping Duty Administrative Review; 2017–2018,'' dated March 20, 2020.

[7] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID–19,'' dated April 24, 2020.

an additional 60 days.[8] The deadline for the final results of this review is now September 22, 2020.

These final results cover 25 producers and exporters of subject merchandise.[9] Based on an analysis of the comments received, we have made changes to the weighted-average dumping margins determined for the respondents. The weighted-average dumping margins are listed in the ''Final Results of Review'' section. Commerce conducted this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

## Scope of the Order

The merchandise covered by the *Order* is certain hot-rolled steel flat products. For a complete description of the scope of the *Order, see* the Issues and Decision Memorandum.[10]

## Final Determination of No Shipments

In the *Preliminary Results,* Commerce preliminarily determined that Honda Trading Canada, Inc. (Honda) had no shipments of subject merchandise during the POR. U.S. Customs and Border Protection (CBP) subsequently confirmed Honda had no shipments.[11] As no party has identified any record evidence which would call into question these preliminary findings with respect to Honda, we continue to find that Honda made no shipments of subject merchandise during the POR. Accordingly, consistent with our practice, we intend to instruct CBP to liquidate any existing entries of subject merchandise produced by Honda, but exported by other parties without their own rate, at the all-others rate.[12]

## Analysis of Comments Received

We addressed all issues raised in the case and rebuttal briefs in the Issues and Decision Memorandum. The issues are identified in Appendix I to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/index.html.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

## Changes Since the Preliminary Results

Based on our review and analysis of the comments received from parties, we made certain changes to the margin calculations for both NSC and Tokyo Steel. For a discussion of these changes, *see* the Issues and Decision Memorandum.

## Rate for Non-Examined Companies

The statute and Commerce's regulations do not address the establishment of a rate to be applied to companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when calculating the rate for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally ''an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}.''

In this review, we have calculated weighted-average dumping margins for NSC and Tokyo Steel that are zero. Accordingly, we have assigned to the companies not individually examined a margin of 0.00 percent.

## Final Results of Review

We are assigning the following weighted-average dumping margins to the firms listed below for the period October 1, 2017 through September 30, 2018:

| Producers/exporters | Weighted-average dumping margin (percent) |
|---|---|
| Nippon Steel Corporation/Nippon Steel Nisshin Co., Ltd./Nippon Steel Trading Corporation [13] | 0.00 |
| Tokyo Steel Manufacturing Co., Ltd | 0.00 |
| Review-Specific Average Rate Applicable to the Following Companies: | |
| Hanwa Co., Ltd | 0.00 |
| Higuchi Manufacturing America, LLC | 0.00 |
| Higuchi Seisakusho Co., Ltd | 0.00 |
| Hitachi Metals, Ltd | 0.00 |
| JFE Steel Corporation/JFE Shoji Trade Corporation [14] | 0.00 |
| JFE Shoji Trade America | 0.00 |
| Kanematsu Corporation | 0.00 |
| Kobe Steel, Ltd | 0.00 |

[8] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews,'' dated July 21, 2020.

[9] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 83 FR 63615 (December 11, 2018).

[10] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review: Certain Hot-Rolled Steel Flat Products from Japan; 2017–2018,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[11] *See* Memorandum, ''No Shipment Inquiry with Respect to the Company Below During the Period 10/01/2017 through 09/30/2018,'' dated December 10, 2019.

[12] *See, e.g., Magnesium Metal from the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review,* 75 FR 26922, 26923 (May 13, 2010), unchanged in *Magnesium Metal from the Russian Federation: Final Results of Antidumping Duty Administrative Review,* 75 FR 56989 (September 17, 2010).

[13] In a recently completed changed circumstances review, we found that NSC, Nippon Steel Nisshin Co., Ltd. (Nippon Nisshin), and Nippon Steel Trading Corporation (NSTC) are affiliated companies that should be treated as a single entity and as the successor-in-interest to Nippon Steel & Sumitomo Metal Corporation (NSSMC), Nisshin Steel Co., Ltd. (Nisshin Steel), and Nippon Steel & Sumikin Bussan Corporation (NSSBC), respectively. *See Certain Hot-Rolled Steel Flat Products from Japan: Notice of Final Results of Antidumping Duty Changed Circumstances Review,* 84 FR 46713 (September 5, 2019). In the absence of record information indicating that Commerce should reevaluate this determination, we are treating these companies as a single entity for purposes of this administrative review.

[14] We collapsed JFE Shoji Trade Corporation with JFE Steel Corporation in the underlying investigation. *See Certain Hot-Rolled Steel Flat Products from Japan: Preliminary Determination of Sales at Less than Fair Value and Postponement of Final Determination,* 81 FR 15222 (March 22, 2016), and accompanying PDM at 8–9, unchanged in *Certain Hot-Rolled Steel Flat Products from Japan: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances,* 81 FR 53409 (August 12, 2016).

| Producers/exporters | Weighted-average dumping margin (percent) |
|---|---|
| Metal One Corporation | 0.00 |
| Mitsui & Co., Ltd | 0.00 |
| Miyama Industry Co., Ltd | 0.00 |
| Nakagawa Special Steel Inc | 0.00 |
| Nippon Steel & Sumikin Logistics Co., Ltd | 0.00 |
| Okaya & Co. Ltd | 0.00 |
| Panasonic Corporation | 0.00 |
| Saint-Gobain K.K | 0.00 |
| Shinsho Corporation | 0.00 |
| Sumitomo Corporation | 0.00 |
| Suzukaku Corporation | 0.00 |
| Toyota Tsusho Corporation Nagoya | 0.00 |

**Disclosure**

We intend to disclose the calculations performed in connection with these final results within five days of the date of publication of this notice to parties in this proceeding, in accordance with 19 CFR 351.224(b).

**Assessment**

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b), Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Commerce intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of this review in the **Federal Register**.

Where the respondent reported reliable entered values, we calculated importer- (or customer-) specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer).[15] Where Commerce calculated a weighted-average dumping margin by dividing the total amount of dumping for reviewed sales to that party by the total sales quantity associated with those transactions, Commerce will direct CBP to assess importer- (or customer-) specific assessment rates based on the resulting per-unit rates.[16] Where an importer- (or customer-) specific *ad valorem* or per-unit rate is greater than *de minimis* (*i.e.,* 0.50 percent), Commerce will instruct CBP to collect the appropriate duties at the time of liquidation.[17] Where an importer- (or customer-) specific *ad valorem* or per-unit rate is zero or *de minimis,* Commerce will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[18]

For the companies which were not selected for individual review, we will assign an assessment rate based on the methodology described in the ''Rates for Non-Examined Companies'' section.

Consistent with Commerce's assessment practice, for entries of subject merchandise during the POR produced by NSC, Tokyo Steel, or the non-examined companies for which the producer did not know that its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[19]

**Cash Deposit Requirements**

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for the companies listed in these final results will be equal to the weighted-average dumping margins established in the final results of this review; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment in which the company was reviewed; (3) if the exporter is not a firm covered in this review or the original less-than-fair-value (LTFV) investigation, but the producer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 5.58 percent,[20] the all-others rate established in the LTFV investigation. These cash deposit requirements, when imposed, shall remain in effect until further notice.

**Notification to Importers**

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

**Administrative Protective Order**

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

**Notification to Interested Parties**

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h) and 351.221(b)(5) of Commerce's regulations.

[15] *See* 19 CFR 351.212(b)(1).

[16] *Id.*

[17] *Id.*

[18] *See* 19 CFR 351.106(c)(2).

[19] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

[20] *See Certain Hot-Rolled Steel Flat Products from Japan: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances,* 81 FR 53409 (August 12, 2016).

Dated: September 9, 2020.

**Joseph A. Laroski, Jr.,**

*Deputy Assistant Secretary for Policy and Negotiations.*

## Appendix I

**List of Topics Discussed in the Issues and Decision Memorandum**

I. Summary
II. Background
III. Scope of the Order
IV. Application of Partial Facts Available and Use of Adverse Inference
V. Final Determination of No Shipments
VI. Changes Since the Preliminary Results
VII. Discussion of the Issues
*Tokyo Steel-Specific Issues*
Comment 1: Whether Tokyo Steel's Scrap Reporting is Flawed
Comment 2: Whether Commerce Should Adjust Tokyo Steel's Reported Costs by Assigning Non-Prime Cost of Production to Prime Products
Comment 3: Whether the Quality Product Characteristic for Some of Tokyo Steel's HM Sales is Incorrect
*NSC-Specific Issues*
Comment 4: Whether Commerce Should Continue to Apply Partial AFA to Certain NSC's Affiliated Downstream Resales in the Home Market
Comment 5: Whether Commerce Properly Excluded Certain Further Manufactured U.S. Sales
Comment 6: Whether NSC's Reported Domestic Inland Freight and Warehousing for U.S. Sales Were Made at Arm's Length
Comment 7: Whether Commerce Should Account for NSC's Unreported Domestic Brokerage Expenses
Comment 8: Whether NSC's Reported International Freight Expenses Were Made at Arm's Length
Comment 9: Whether NSC Has Accounted for the Miscellaneous U.S. Inland Freight Expenses
Comment 10: Whether Commerce Should Apply AFA for Determining NSC's Further Manufacturing Costs
Comment 11: Whether Commerce Incorrectly Increased NSC's Further Manufacturing Costs to Account for the Markup Steelscape Washington LLC Charges Steel Scape LLC
VIII. Recommendation

[FR Doc. 2020–20426 Filed 9–15–20; 8:45 am]

**BILLING CODE 3510–DS–P**

---

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–821–802]**

### Draft Amendment to the Agreement Suspending the Antidumping Investigation on Uranium From the Russian Federation; Request for Comment

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The U.S. Department of Commerce (Commerce) and State Atomic Energy Corporation Rosatom (Rosatom) have initialed a draft amendment to the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation (Agreement). The draft amendment will allow the Russian Federation to export Russian uranium products to the United States in accordance with the export limits and other terms detailed in the amendment. Commerce is inviting interested parties, industrial users, and the public to comment on the text of the draft amendment to the Agreement.

**DATES:** Applicable September 11, 2020. Comments are due by 5:00 p.m. Eastern Time on September 28, 2020.

**ADDRESSES:** All submissions to Commerce must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* See the **SUPPLEMENTARY INFORMATION** for additional details.

**FOR FURTHER INFORMATION CONTACT:** Sally C. Gannon or Jill Buckles, Bilateral Agreements Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0162 or (202) 482–6230, respectively.

**SUPPLEMENTARY INFORMATION:**

### Background

On October 16, 1992, Commerce signed an agreement with the Russian Federation's Ministry for Atomic Energy (MINATOM), the predecessor to Rosatom, under section 734(l) of the Tariff Act of 1930, as amended (the Act), suspending the antidumping duty investigation on uranium from the Russian Federation.[1] There have been five amendments to the Agreement, the most recent of which was signed on February 1, 2008.[2] On February 22, 2019, Commerce formally opened consultations with Rosatom with respect to a possible extension of the Agreement's term.[3]

### Draft Amendment

On September 11, 2020, Commerce and Rosatom initialed a draft amendment to the Agreement. The draft amendment allows for exports of Russian uranium products to the United States in accordance with the export limits and other terms detailed in the amendment. In general, the draft amendment will reduce U.S. reliance on imports of uranium from Russia over the long term. Under the current Agreement, Russian uranium exports are limited to approximately 20 percent of U.S. enrichment demand. Under the draft amended Agreement, the export limits will be equivalent to 24 percent of U.S. enrichment demand in 2021, 20 percent in 2022, 24 percent in 2023, 20 percent per year from 2024 to 2027, and 15 percent per year from 2028 to 2040. (Export limits are to be calculated on the basis of the World Nuclear Association's Lower Scenario, a 4.4 percent product assay, and a 0.3 percent tails assay.) These figures correspond to an average of approximately 17 percent over the next 20 years.

The draft amendment to the Agreement also strengthens existing protections for the U.S. commercial enrichment industry, by extending and reducing the Agreement's export limits, as discussed above.

The draft amendment to the Agreement establishes protections for U.S. uranium miners and the U.S. uranium converter by limiting sales of enriched uranium product (EUP) and sales of enrichment (*i.e.,* separative work units, or SWU) plus conversion under the export limits. Under the draft amendment, the cap on exports pursuant to EUP sales is equivalent to 15 percent of U.S. enrichment demand in 2021, 9.8 percent in 2022, 10.2 percent in 2023, 5.7 percent in 2024, 5.3 percent in 2025, and 5 percent per year from 2026 to 2040. The cap for additional exports pursuant to sales of SWU plus conversion is equivalent to 1 percent of U.S. enrichment demand in 2021, approximately 3 percent from 2022 to 2025, and zero percent from 2026 to 2040. These figures correspond to an average of 7 percent of U.S. enrichment demand for the combined

---

[1] See Antidumping; Uranium from *Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Ukraine, and Uzbekistan; Suspension of Investigations and Amendment of Preliminary Determinations,* 57 FR 49220, 49235 (October 30, 1992).

[2] *See Amendment to Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation,* 59 FR 15373 (April 1, 1994); *Amendments to the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation,* 61 FR 56665 (November 4, 1996); *Amendment to Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation,* 62 FR 37879 (July 15, 1997); *and Amendment to the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation,* 73 FR 7705 (February 11, 2008).

[3] *See* Letter to Rosatom from P. Lee Smith, Deputy Assistant Secretary for Policy & Negotiations, ''Consultations on the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation,'' dated February 22, 2019.

EUP and SWU plus conversion limits over the 20-year period. The current Agreement contains no limits on sales of EUP or SWU plus conversion, other than the general export limits (which are equivalent to approximately 20 percent of U.S. enrichment demand, as noted above).

The draft amendment includes updated provisions with respect to natural uranium returned or provided by U.S. customers to the Russian exporter pursuant to sales of enrichment (*i.e.,* ''returned feed''). The draft amendment fixes ''returned feed'' provisions in the existing Agreement that are detrimental to U.S. uranium miners and the U.S. converter. Specifically, under the current Agreement, foreign-origin returned feed can be delivered to the Russian exporter, enriched in Western Europe, and then exported to the United States outside the Agreement's export limits. The draft amended Agreement would require foreign-origin returned feed that is enriched or sold in third countries to be subject to the Agreement's export limits if exported back to the United States.

The export limits and other caps in the draft amendment are generally structured to allow U.S. customers to fulfill preexisting contractual obligations to purchase Russian uranium products.

The full text of the draft amendment to the Agreement follows in the Annex to this notice with the exception of Appendix 5 which contains business proprietary information and is releasable only under the Administrative Protective Order (APO).

**Comment Period**

Commerce invites interested parties to comment on the text of the draft amendment to the Agreement. In addition, industrial users such as utility companies, and the public, may also comment on the text of the draft amendment. Comments are due by 5:00 p.m. Eastern Time on September 28, 2020. Commerce will consider all comments received by the due date, and will formally address all timely filed comments from interested parties for purposes of a final amendment to the Agreement.

All information provided to Commerce will be subject to release under APO and should be submitted in accordance with 19 CFR 351.103 and 19 CFR 351.105 of Commerce's regulations, including the service of copies of comments on interested parties to this proceeding. The APO and public service lists in this proceeding can be found in ACCESS. Commerce will consider all comments received by the close of the comment period.

Dated: September 11, 2020.

**Jeffrey I. Kessler,**

*Assistant Secretary for Enforcement and Compliance.*

BILLING CODE 3510–DS–C

**Annex: 2020 AMENDMENT TO THE AGREEMENT SUSPENDING THE ANTIDUMPING INVESTIGATION ON URANIUM FROM THE RUSSIAN FEDERATION**

The Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation is amended as set forth below (2020 Amendment). All other provisions of the Agreement, as amended to date (Agreement), remain in force and apply to this Agreement.

**The last paragraph of the Preamble is amended as follows (*changes shown in italics*) and replaces the current paragraph:**

> The Department and ROSATOM acknowledge that, for purposes of the Agreement, as amended (the "Agreement"), the successor in interest to MINATOM is the Federal Atomic Energy Agency. *The Federal Atomic Energy Agency is now known as the State Atomic Energy Corporation Rosatom* ("ROSATOM"). All references to MINATOM in this Agreement shall be understood to indicate ROSATOM. All exports of Russian Uranium Products are executed through the Russian Government-Owned entity *TENEX, Joint-Stock Company* ("TENEX") *(formerly known as Techsnabexport)*. All references to TENEX include its successors and its affiliated companies. All references to "Customs" shall be understood to indicate United States Customs and Border Protection.

**Section II – Definitions – This section is amended as follows (*changes shown in italics*):**

(o) "Effective Date *of the 2008 Amendment*" means *February 1, 2008, the date the 2008 Amendment was* signed by both parties.[4]

**The following additional sections are amended to replace "Effective Date" with "Effective Date *of the 2008 Amendment*":**

**IV.A**
**IV.B**
**IV.B.1.*a***
**IV.B.3**
**IV.B.4**
**IV.N**
**Appendix 3, section 1**
**Appendix 3, section 2**

**Insert new definitions following definition (f):**

*(g) "Effective Date of the 2020 Amendment" means the date on which this 2020 Amendment is signed by both parties.*

*(h) "USEC" means the Delaware corporation known, as of the Effective Date of the 2020 Amendment, as United States Enrichment Corporation, a subsidiary of Centrus Energy Corp., or its successor.*

[4] *See Amendment to the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation (73 FR 7705) (February 11, 2008).*

*(i) - (k) (reserved)*

**Section IV.B.1 – Export Limits – Paragraph 1 is amended (*changes shown in italics*) by changing the numbering of paragraph 1 to sub-paragraph "1.*a*" and by adding additional sub-paragraphs as follows. The purpose of the amended section IV.B.1 is to insert export limits, and certain caps within those export limits, during the period from January 1, 2021 through December 31, 2040:**

*1.b The annual export limits for 2021-2040 are as follows (expressed in KgU as LEU, at a product assay of 4.4 percent and a tails assay of 0.3 percent, and in Kg U-235 content). In addition, caps for LEU exports pursuant to sales of EUP (which may include sales of SWU plus conversion), as well as caps for additional LEU exports pursuant to sales of SWU plus conversion only, are as follows.*

| *Export Limit Year* | *Percentage of U.S. Enrichment Demand* | *Total Export Limit in KgU as LEU (A)* | *Total Export Limit in Kg U-235 Content (B)* | *Cap for LEU Exports Pursuant to Sales of EUP (may include Sales of SWU plus Conversion) in Kg U-235 (C) (Subset of B)* | *Cap for Additional LEU Exports Pursuant to Sales of SWU plus Conversion Only in Kg U-235 (D) (Subset of B)* | *USEC Export Limit Allocation in Kg U-235[5] (E) (Subset of B)* |
|---|---|---|---|---|---|---|
| *2021* | *24%* | *596,682* | *26,254* | *16,409* | *1,094* | *7,780* |
| *2022* | *20%* | *489,617* | *21,543* | *10,556* | *3,231* | *7,430* |
| *2023* | *24%* | *578,877* | *25,471* | *10,825* | *3,277* | *10,700* |
| *2024* | *20%* | *476,536* | *20,968* | *5,976* | *2,834* | *10,200* |
| *2025* | *20%* | *470,376* | *20,697* | *5,485* | *2,834* | *10,300* |
| *2026* | *20%* | *464,183* | *20,424* | *5,106* | *0* | *10,700* |
| *2027* | *20%* | *459,083* | *20,200* | *5,050* | *0* | *10,600* |
| *2028* | *15%* | *344,312* | *15,150* | *5,050* | *0* | *4,100* |
| *2029* | *15%* | *340,114* | *14,965* | *4,988* | *0* | *0* |
| *2030* | *15%* | *332,141* | *14,614* | *4,871* | *0* | *0* |
| *2031* | *15%* | *328,862* | *14,470* | *4,823* | *0* | *0* |
| *2032* | *15%* | *322,255* | *14,179* | *4,726* | *0* | *0* |
| *2033* | *15%* | *317,536* | *13,972* | *4,657* | *0* | *0* |
| *2034* | *15%* | *298,088* | *13,116* | *4,372* | *0* | *0* |
| *2035* | *15%* | *294,511* | *12,958* | *4,319* | *0* | *0* |
| *2036* | *15%* | *286,066* | *12,587* | *4,196* | *0* | *0* |
| *2037* | *15%* | *281,272* | *12,376* | *4,125* | *0* | *0* |
| *2038* | *15%* | *277,124* | *12,193* | *4,064* | *0* | *0* |
| *2039* | *15%* | *277,124* | *12,193* | *4,064* | *0* | *0* |
| *2040* | *15%* | *267,685* | *11,778* | *3,926* | *0* | *0* |

[5] *These numbers have been ranged. See Appendix 5, which contains a business proprietary version of Column E.*

*These limits were derived from the Lower scenario U.S. enrichment demand projection data in the World Nuclear Association's 2019 "The Nuclear Fuel Report, Global Scenarios for Demand and Supply Availability 2019-2040." To match the projected reactor demand for subsequent years the Department shall, within 3 months following the update of that publication or its successor in 2023, 2029, and 2035, update these export limits by adjusting them to the new projections using 4.4% product assay and 0.3% tails assay based upon the Lower scenario. With each update, the Department shall also increase the total export limits for the remaining years by the net amount by which the export limits for previous years have fallen short of the export limits that would have been derived from the revised demand figures for those years, with any additional export allowances being divided equally between the revised export limits for the remaining years. Russian Uranium Products may be exported to the United States under a contract approved by the Department under this Agreement, even if such exports exceed the export limits in effect at the time of delivery.*

*Column B represents the maximum export limit quantity in Kg U-235 content for each Year of this Agreement. The following additional requirements apply:*

*i. Of the quantities in Column B, the quantities in Column C may be exported pursuant to sales of EUP (which may include sales of SWU plus conversion);*

*ii. Of the quantities in Column B, the quantities in Column D may be exported pursuant to additional sales of SWU plus conversion only, in addition to the quantities in Column C;*

*iii. The remaining export quantities (= B - (C + D)) must be exported pursuant to sales of enrichment (i.e., SWU) only;*

*iv. For 2021-2028: of the quantities in Column B, the quantities in Column E may be imported into the United States by USEC pursuant to sales by TENEX to USEC of enrichment (i.e., SWU) in LEU, with return of natural uranium feed material to TENEX.*

*All contracts and contract amendments, as appropriate, for deliveries under the annual export limits must be approved by the Department under sections V.C.(1) and V.F of this Agreement.*

*1.c For 2021-2025:*

*i. Any delivery quantities under contracts or contract amendments concluded after March 31, 2020 must be pursuant to sales of enrichment (i.e., SWU) only and not sales of EUP or SWU plus conversion;*

*ii. If the EUP and/or SWU plus conversion caps exceed the actual imported shipment quantities, then the excess EUP and/or SWU plus conversion quantities will expire; and*

*iii. EUP and/or SWU plus conversion quantities may only be used for delivery quantities under contracts or contract amendments concluded prior to March 31, 2020 and may not be transferred from one contract to another.*

*1.d Where Russian LEU is sold into the United States under a contract for the sale of enrichment (SWU), or the sale of enrichment (SWU) plus conversion, the natural uranium feed quantity ($UF_6$ or $U_3O_8$, as applicable) equal to the feed component of the LEU to be delivered must be returned or provided by the U.S. customer to TENEX at approximately the same time as the Russian LEU is delivered to the U.S. utility end-user (unless the Department has approved an extension), and, regardless of the location of the return or provision of natural uranium feed to TENEX (i.e., whether inside or outside of the United States), TENEX must certify to the following upon the importation of the Russian LEU:*

*i. The natural uranium feed returned or provided to TENEX by its U.S. customer shall be deemed to be of Russian origin (if it is not, in fact, already designated as being of Russian origin) for purposes of the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation at the time of deposit, exchange, or return, and shall clearly be identified as being of Russian origin in all book accounting and all accompanying documentation and packaging;*

*ii. The natural uranium feed returned or provided to TENEX by its U.S. customer shall be immediately quarantined in a dedicated account exclusively for the accounting of this material at the relevant facility and shall not be sold, loaned, swapped, used as loan repayments or working stock, or utilized in any way other than in accordance with the terms of the Agreement;[6] and*

*iii. The natural uranium feed ($U_3O_8$, alone or as contained in $UF_6$) returned or provided to TENEX by its U.S. customer and held in a dedicated account shall be either (i) exported to the Russian Federation within 18 months of the date that it is returned or provided to TENEX (whether inside of the United States or in a third country), or (ii) if returned or provided to TENEX in a third country, it may be sold and/or enriched in that or other third country with the following restrictions: (a) if the natural uranium feed contains $U_3O_8$ that was not mined in the United States, then it shall retain its deemed-Russian origin subsequent to third-country enrichment and shall be subject to the terms of this Agreement, and (b) if the natural uranium feed contains $U_3O_8$ that was mined in the United States, then its origin will be conferred by the place of third-country enrichment. For purposes of the preceding sentence, "mined in the United States" means that the uranium is produced on or after the Effective Date of the 2020 Amendment at, or previously produced by and held in inventory of, a uranium mine or mill located in the United States; was not produced at a mine or mill directly or indirectly owned or controlled by the Government of the Russian Federation or an agency or agent thereof; and was not produced as a result of enrichment underfeeding or re-enrichment of depleted tails.*

[6] *The requirement that returned feed must be credited to a dedicated account does not include the necessity to physically store such material separately from like uranium products of other customers or for other purposes; such material may be physically commingled at the storage location with any other like uranium products.*

**Section IV.D – is amended as follows (*changes shown in italics*), including by adding sub-paragraphs 1 through 4, and replaces the current section:**

D.*1* *Carry-back:* Except for any increase added pursuant to section IV.C, if, in any *particular Y*ear, the Department permits any Russian Uranium Products to enter the United States in excess of the export limit for that *Y*ear, the amount of the excess *added to that Year may not exceed 10 percent of the export limit for that particular Year, and* shall be ~~*charged against*~~ *deducted from* the export limit for the first subsequent *Y*ear *or Years* in which the export limit has not been contractually obligated *in full. Carry-back is not permitted from any Year that is more than three years away.*

*D.2* *Carry-forward:* If the amount entered in any *particular Y*ear falls below the export limit for that *Y*ear, the amount of the shortfall may be added to the export limit for the subsequent *Y*ear *or a Year that is not more than three years away only*, up to 10 percent of the export limit for the *particular Y*ear in which the shortfall occurs.

*D.3 The total amount carried back and carried forward to any particular Year may not increase the export limit for that Year by more than 10 percent. Any carry-back or carry-forward shall be contingent upon specific requests by TENEX and upon the Department's express approval of such requests.*

*D.4 The carry-back and carry-forward provisions may only be applied to Department-approved contracts for sales of enrichment (i.e., SWU) only.*

**Section XII. – Duration – This section is amended as follows (*changes shown in italics*):**

~~*As of the Effective Date of this Amendment, each of the petitioners in the suspended investigation, or their legal successors, has filed with the Department an irrevocable letters expressly withdrawing the petition in the antidumping investigation, effective December 31, 2020. These letters are attached to this Amendment as Appendix 4. The Agreement will terminate on December 31, 2020. Upon its termination on December 31, 2020, the Department shall terminate the antidumping investigation effective on that date.*~~

~~*The Department, before February 1, 2008, the Effective Date of the 2008 Amendment, acknowledges the remand of the U.S. Court of International Trade of September 26, 2007, in Techsnabexport v. United States, Ct. No. O6-00228, including the Court's direction that "Commerce follow the precedent by which it is bound, articulated in the Eurodif cases." As directed by the Court of International Trade, the Department will abide by the Eurodif decisions in its determination of the likelihood of continued or recurring dumping. Therefore, on the Effective Date, Techsnabexport will file a motion in Techsnabexport v. United States under Rule 41 of the U.S. Court of International Trade Rules. The United States will not appeal the September 26th decision in Techsnabexport v. United States.*~~

*A.* ~~*In addition, t*~~*T*he Department shall conduct sunset reviews under 19 U.S.C. § 1675(c) in the years 2011, ~~*and*~~ 2016, *2022, 2028, and 2034*. All parties agree that ~~*the*~~*these* sunset reviews shall be expedited, pursuant to 19 U.S.C. §§ 1675(C)(4) and (C)(3)(B), respectively, at both the Department of Commerce and the International Trade Commission. *Thereafter, the Department shall conduct sunset reviews under 19 U.S.C. § 1675(c) that follow the normal course (i.e., whether expedited or full, as applicable).*

*B. At the request of either party to this Agreement, the Department and ROSATOM shall enter into good-faith consultations on potential extension of this Agreement beyond its term, including through 2045 or beyond, and the parties will use their reasonable efforts to agree on extension of this Agreement and the associated terms within one year after the mentioned request for consultations.*

*C.* ~~*MINATOM*~~ *ROSATOM* may ~~*terminate*~~ *provide notice of intent to terminate* this Agreement at any time~~ *upon notice to the Department*~~. Termination shall be effective ~~*60*~~ *365* days after such notice is given to the Department. Upon termination at the request of ~~*MINATOM*~~ *ROSATOM*, the provisions of Section 734*(i)* of the Act shall apply, *as though the Department made a finding that the Agreement no longer meets the statutory requirements or a violation had occurred.*

*D.* If the Department has determined that a sufficient amount of time has elapsed between the effective date of this Agreement and the date of termination, the Department will follow the provisions of ~~*S*~~sections ~~*XIII.(b).*~~*XIII.A(b) or* ~~*XIII.(c).*~~*XIII.A(c)* of this Agreement.

**Section XIV.B – Other Provisions – Paragraph B is amended as follows (*changes shown in italics*) and replaces the current paragraph:**

B. For all purposes relating to the Agreement, the Department and ROSATOM shall be represented by, and all communications and notices shall be given and addressed to:

Department Contact:
United States Department of Commerce
Assistant Secretary
for ~~*Import Administration*~~ *Enforcement & Compliance*
International Trade Administration
*1401 Constitution Ave., N.W.*
Washington, D.C. 20230

ROSATOM Contact:
*State Atomic Energy Corporation Rosatom*
~~State Secretary,~~ Deputy Director *General for International Cooperation*
*24 Bolshaya Ordynka St., 119017* Moscow,
Russian Federation ~~*Federal Atomic Energy Agency (ROSATOM)*~~
~~*Staromonetnyy per., 26, 119180*~~

**Appendix 1 – This appendix is amended as follows (*changes shown in italics*).**

"1992 Sections IV.E-IV.G – remain in effect" **is changed to:**

"*1992 Sections IV.E and IV.F are changed to Sections IV.O and IV.P, respectively, and remain in effect. 1992 Section IV.G –remains in effect.*"

**Appendix 4 – This appendix is deleted in its entirety.**

**Appendix 5 – This appendix is added and contains business proprietary information.**

Signed on this ____ day of _____, 2020.

**For the U.S. Department of Commerce:**

_____
**TBD**

**For State Atomic Energy Corporation Rosatom:**

_____
**TBD**

[FR Doc. 2020–20500 Filed 9–14–20; 11:15 am]
BILLING CODE 3510–DS–C

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XA452]**

### Endangered and Threatened Species; Notice of Initiation of a 5-Year Review of Five Foreign Sturgeon Species

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

**ACTION:** Notice; request for information.

**SUMMARY:** NMFS announces the initiation of a 5-year review for the following five foreign sturgeon species: Adriatic sturgeon (*Acipenser naccarii),* European sturgeon *(A. sturio),* Chinese sturgeon (*A. sinensis*), Sakhalin sturgeon (*A. mikadoi*), and Kaluga sturgeon (*Huso dauricus*). NMFS is required by the Endangered Species Act (ESA) to conduct 5-year reviews to ensure that the listing classifications of species are accurate. The 5-year review must be based on the best scientific and commercial data available at the time of the review. We request submission of any such information on these five sturgeon species, particularly information on the status, threats, and recovery of the species that has become available since their listing, effective July 2, 2014.

**DATES:** To allow us adequate time to conduct this review, we must receive your information no later than November 16, 2020.

**ADDRESSES:** You may submit information on this document, identified by NOAA–NMFS–2020–0121, by either of the following methods:

- *Electronic Submission:* Submit electronic information via the Federal e-Rulemaking Portal. Go to *www.regulations.gov* and enter NOAA–NMFS–2020–0121. Click on the ''Comment Now!'' icon and complete the required fields. Enter or attach your comments.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the specified period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive or protected information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous submissions (enter ''N/A'' in the required fields if you wish to remain anonymous).

**FOR FURTHER INFORMATION CONTACT:** Adrienne Lohe, NMFS Office of Protected Resources, (301) 427–8442, *Adrienne.Lohe@noaa.gov.*

**SUPPLEMENTARY INFORMATION:** This notice announces our review of the following foreign sturgeon species listed as endangered under the ESA: Adriatic Sturgeon (*Acipenser naccarii),* European sturgeon *(A. sturio),* Chinese sturgeon (*A. sinensis*), Sakhalin sturgeon (*A. mikadoi*), and Kaluga sturgeon (*Huso dauricus*). Section 4(c)(2)(A) of the ESA requires that we conduct a review of listed species at least once every 5 years. This will be the first review of these species since they were listed in 2014 (79 FR 31222; June 2, 2014). The regulations in 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing species currently under active review. On the basis of such reviews under section 4(c)(2)(B), we determine whether any species should be removed from the list (*i.e.,* delisted) or reclassified from endangered to threatened or from threatened to endangered (16 U.S.C. 1533(c)(2)(B)). As described by the regulations in 50 CFR 424.11(e), the Secretary shall delist a species if the Secretary finds that, after conducting a status review based on the best scientific and commercial data available: (1) The species is extinct; (2) the species does not meet the definition of an endangered species or a threatened species; and/or (3) the listed entity does not meet the statutory definition of a species. Any change in Federal classification would require a separate rulemaking process.

Background information on each of the three species is available on the NMFS website at: *https://www.fisheries.noaa.gov/fish-sharks.*

#### Public Solicitation of New Information

To ensure that the reviews are complete and based on the best available scientific and commercial information, we are soliciting new information from the public, governmental agencies, Tribes, the scientific community, industry, environmental entities, and any other interested parties concerning the status of *A. naccarii, A. sturio, A. sinensis, A. mikadoi,* and *H. dauricus.* Categories of requested information include: (1) Species biology including, but not limited to, population trends, distribution, abundance, demographics, and genetics; (2) habitat conditions including, but not limited to, amount, distribution, and important features for conservation; (3) status and trends of threats to the species and its habitats; (4) conservation measures that have been implemented that benefit the species, including monitoring data demonstrating effectiveness of such measures; and (5) other new information, data, or corrections including, but not limited to, taxonomic or nomenclatural changes and improved analytical methods for evaluating extinction risk.

If you wish to provide information for the reviews, you may submit your information and materials electronically (see **ADDRESSES** section). We request that all information be accompanied by supporting documentation such as maps, bibliographic references, or reprints of pertinent publications. We also would appreciate the submitter's name, address, and any association, institution, or business that the person represents; however, anonymous submissions will also be accepted.

**Authority:** 16 U.S.C. 1531 *et seq.*

Dated: September 10, 2020.

**Angela Somma,**

*Chief, Endangered Species Conservation Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2020–20398 Filed 9–15–20; 8:45 am]
BILLING CODE 3510–22–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XA484]**

### Mid-Atlantic Fishery Management Council (MAFMC); Public Meetings

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

**ACTION:** Notice of public meetings.

**SUMMARY:** The Mid-Atlantic Fishery Management Council (Council) will hold public meetings of the Council.

**DATES:** The meetings will be held Monday, October 5, 2020, from 1 p.m. to 4 p.m.; Tuesday, October 6, 2020, from 9 a.m. to 4:30 p.m.; Wednesday, October 7, 2020, from 9 a.m. to 4 p.m.; and, Thursday, October 8, 2020, from 9 a.m. to 1 p.m. For agenda details, see **SUPPLEMENTARY INFORMATION**.

**ADDRESSES:** Due to public health concerns related to the spread of COVID–19 (coronavirus), the Mid-Atlantic Fishery Management Council's

October meeting will be conducted by webinar only. This webinar-based meeting replaces the in-person meeting previously scheduled to be held in Riverhead, NY. Please see the Council's website (*www.mafmc.org*) for log-in procedures.

*Council address:* Mid-Atlantic Fishery Management Council, 800 N. State St., Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

**FOR FURTHER INFORMATION CONTACT:** Christopher M. Moore, Ph.D. Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255. The Council's website, *www.mafmc.org* also has details on the meeting location, proposed agenda, webinar listen-in access, and briefing materials.

**SUPPLEMENTARY INFORMATION:** The following items are on the agenda, though agenda items may be addressed out of order (changes will be noted on the Council's website when possible).

**Monday, October 5, 2020**

*Executive Committee—2021 Implementation Plan*

Review progress on 2020 Implementation Plan, review staff recommendations for 2021 actions and deliverables, public comment opportunity, and develop draft recommendations for 2021 actions and deliverables

**Tuesday, October 6, 2020**

*Spiny Dogfish Committee, Meeting as a Committee of the Whole—Spiny Dogfish Specifications*

Review SSC, Advisory Panel, Monitoring Committee, and staff recommendations and adopt 2021–22 specifications

*Chub Mackerel Specifications*

Review SSC, Advisory Panel, Monitoring Committee, and staff recommendations for 2021 specifications and review previously implemented 2021 specifications and recommend changes if necessary

*Executive Order 13921 on Promoting American Seafood Competitiveness and Economic Growth*

Finalize prioritized list of recommendations for submission to NMFS

*Research Priorities Update*

Review approach and timeline for 2021 research priorities evaluation

*Ecosystem Approach to Fisheries Management Updates (EAFM)*

Summer flounder recreational discard management strategy evaluation and other EAFM activities

*Joint Council/SSC Meeting*

Direction for SSC Socioeconomic workgroup, science considerations due to missing 2020 data, and risk policy considerations for ocean quahog

**Wednesday, October 7, 2020**

*Bluefish Allocation and Rebuilding Amendment*

Approve a range of alternatives for inclusion into a public hearing document

*Recreational Reform Initiative*

Update on progress and consider initiating a management action

**Thursday, October 8, 2020**

*Update/Overview of the Proposed Rule for the Atlantic Large Whale Take Reduction Plan*

*Business Session*

Committee Reports (SSC and Executive Committee); Executive Director's Report; Organization Reports; and, Liaison Reports

*Continuing and New Business*

Although non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

**Special Accommodations**

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: September 11, 2020.

**Rey Israel Marquez,**

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

[FR Doc. 2020–20431 Filed 9–15–20; 8:45 am]

BILLING CODE 3510–22–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XA460]**

### Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permit

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

**ACTION:** Notice; request for comments.

**SUMMARY:** The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS, has made a preliminary determination that an Exempted Fishing Permit application contains all of the required information and warrants further consideration. This Exempted Fishing Permit would allow eight commercial fishing vessels to participate in a beam trawl survey in and around the South Fork Wind Farm work area, under the direction of the Commercial Fisheries Research Foundation. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notice to provide interested parties the opportunity to comment on Exempted Fishing Permit applications.

**DATES:** Comments must be received on or before October 1, 2020.

**ADDRESSES:** You may submit written comments by either of the following methods:

- *Email: nmfs.gar.efp@noaa.gov.* Include in the subject line ''Comments on CFRF Beam Trawl Survey EFP.''
- *Mail:* Michael Pentony, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on CFRF Beam Trawl Survey EFP.''

**FOR FURTHER INFORMATION CONTACT:** Maria Fenton, Fishery Management Specialist, 978–281–9196, *Maria.Fenton@noaa.gov.*

**SUPPLEMENTARY INFORMATION:** The Commercial Fisheries Research Foundation (CFRF) submitted a complete application for an Exempted Fishing Permit (EFP) in support of a South Fork Wind Farm Beam Trawl Monitoring Survey. The EFP would temporarily exempt eight commercial fishing vessels from minimum mesh size requirements for vessels using trawl gear at 50 CFR 648.80(b)(2)(i), possession limits and minimum size

requirements specified in § 648 subsections B and D through O; and lobster possession limits and minimum size requirements specified in § 697.20, for sampling purposes only.

Under this EFP, CFRF would conduct up to 24 1-day survey trips September 2020 through July 2022 (1 trip per month). Prior to the first survey trip, researchers would conduct a scouting trip to visit proposed tow areas. During each survey trip, participating vessels would complete three tows in each of three sampling areas in Southern New England: One sampling area inside the South Fork Wind Farm work area southwest of Martha's Vineyard (Figure 1), and two reference sampling areas adjacent to the South Fork Wind Farm work area. This would total 9 tows completed per month, and 216 tows completed under the EFP. Surveys would not occur in any areas that are closed to fishing.

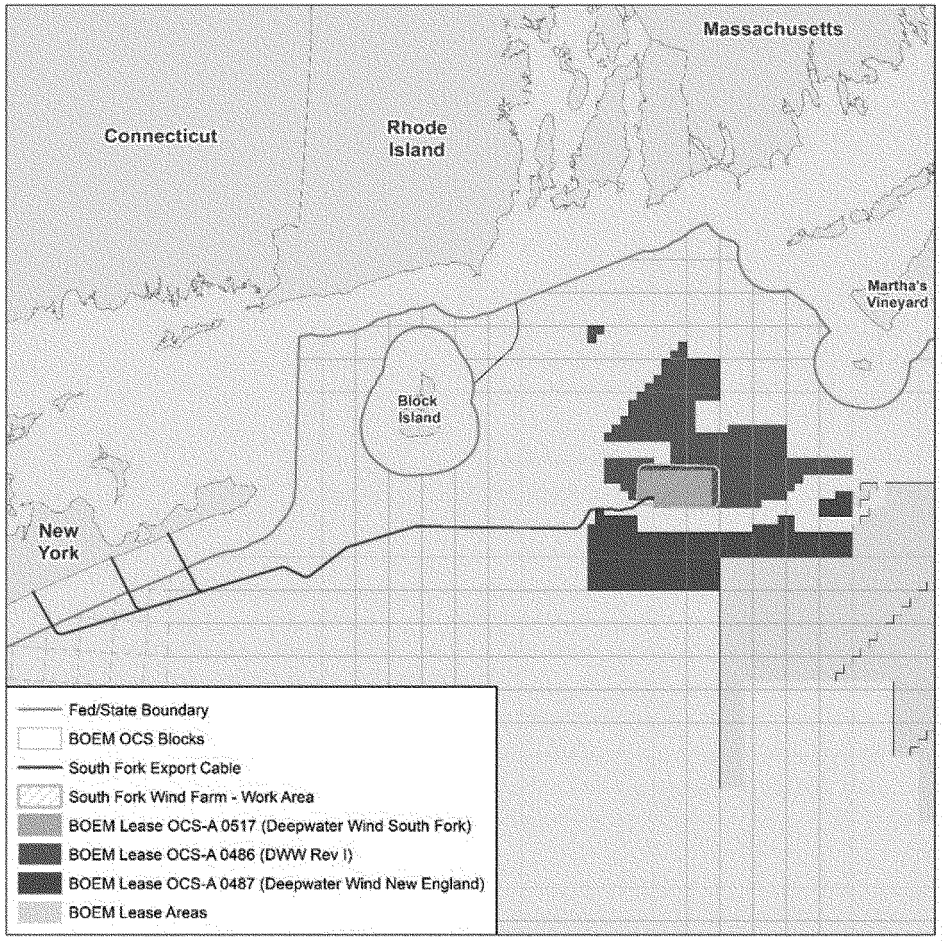



**Figure 1 -- Deepwater Wind South Fork Area Map (Credit: Bureau of Ocean Energy Management)**

Participating vessels would complete all survey tows using a 3-m beam trawl with a 4.75-inch (12.06-cm) mesh codend and a 1-inch (2.54-cm) knotless codend liner. The mouth of the trawl would be equipped with rock chains to prevent larger rocks from entering the net and damaging the catch or the gear. Each survey tow would last for 20 minutes in duration once the gear is fully deployed.

A sampling team consisting of a lead Research Biologist and an assistant sea sampler would direct sampling activities on all survey trips. The sampling team would collect hydrographic data (water temperature, dissolved oxygen concentration, and salinity) for near-surface and near-bottom waters at the end of each sampling string. Visual observations on sea state and weather conditions would also be recorded during each sampling session.

After each survey tow, researchers would collect data on:

- Species diversity;
- Catch per unit effort (abundance (count) and biomass (weight, kg) per tow); and
- Length frequency distribution for dominant species and protected species.

After each tow, researchers would sort catch by species, and all individuals would be counted. In order to minimize mortality, any protected species interactions would be prioritized during catch sorting and processing. Researchers would measure up to 50 individuals of each species per tow, as well as all protected species. Stomach content analysis will be performed for up to 5 individuals of commercially-important species (monkfish, winter skate, gadids, and black sea bass), or up

to 10 total individuals per tow, to determine pre-construction prey composition. Each individual would be measured and weighed to assess relative condition before the stomach is removed. All prey items in the stomach would be identified to the lowest possible identification level, counted, and weighed. Otoliths would be collected from all fish that are sacrificed for biological sampling. Researchers would take photographs of all species encountered in each tow for verification purposes.

Estimated catch of federally regulated species under this EFP is shown in Table 1. Catch estimates were derived based on survey data from a previous beam trawl survey to evaluate demersal fish and invertebrate communities in and around the South Fork Wind Farm. Researchers do not anticipate catching any Atlantic cod under this EFP. However, if cod is caught, each individual would be assessed for reproductive stage and spawning condition, and all cod would be sacrificed for biological sampling. No catch would be landed for sale under this EFP, and all individuals (except those sacrificed for biological sampling) would be returned to the water after being processed.

TABLE 1—ESTIMATED CATCH OF FEDERALLY REGULATED SPECIES PER SURVEY TRIP, AND TOTAL ESTIMATED CATCH

| Common name | Scientific name | Estimated catch per trip | Estimated total survey catch |
|---|---|---|---|
| Little skate | *Leucoraja erinacea* | 976.9 lb (49.2 kg) | 23,444.8 lb (443.1 kg). |
| Sea scallop | *Placopectin magellanicus* | 754.0 lb (38 kg) | 18,095.5 lb (342.0 kg). |
| Winter skate | *Leucoraja ocellata* | 484.4 lb (25.5 kg) | 11,624.5 lb (219.7 kg). |
| Leucoraja spp. skates (immature) | *Leucoraja spp.* | 132.5 lb (6.7 kg) | 3,179.9 lb (60.1 kg). |
| Winter flounder | *Pseudopleuronectes americanus* | 108.9 lb (5.5 kg) | 2,613.8 lb (49.4 kg). |
| Monkfish | *Lophius americanus* | 96.1 lb (4.8 kg) | 2,306.9 lb (43.6 kg). |
| Spiny dogfish | *Squalus acanthias* | 54.0 lb (2.7 kg) | 1,296.3 lb (24.5 kg). |
| Clearnose skate | *Raja eglanteria* | 53.1 lb (2.7 kg) | 1,275.2 lb (24.1 kg). |
| Ocean quahog | *Arctica islandica* | 34.0 lb (1.7 kg) | 814.8 lb (15.4 kg). |
| Yellowtail flounder | *Pleuronectes ferruginea* | 29.3 lb (1.5 kg) | 703.7 lb (13.3 kg). |
| Barndoor skate | *Raja laevis* | 29.1 lb (1.5 kg) | 698.4 lb (13.2 kg). |
| Summer flounder | *Paralichthys dentatus* | 29.1 lb (1.5 kg) | 698.4 lb (13.2 kg). |
| Windowpane | *Scophthalmus aquosus* | 23.8 lb (1.2 kg) | 571.4 lb (10.8 kg). |
| Silver hake | *Merluccius bilinearis* | 15.9 lb (0.8 kg) | 381.0 lb (7.2 kg). |
| Red hake | *Urophycis chuss* | 12.1 lb (0.6 kg) | 291.0 lb (5.5 kg). |
| American lobster | *Homarus americanus* | 11.5 lb (0.6 kg) | 275.1 lb (5.2 kg). |
| Witch flounder | *Glyptocephalus cynoglossus* | 10.6 lb (0.5 kg) | 254.0 lb (4.8 kg). |
| Ocean pout | *Macrozdarces americanus* | 9.5 lb (0.5 kg) | 227.5 lb (4.3 kg). |
| Longfin inshore squid | *Doryteuthis pealeii* | 5.3 lb (0.3 kg) | 127.0 lb (2.4 kg). |
| Scup | *Stenotomus chrysops* | 5.3 lb (0.3 kg) | 127.0 lb (2.4 kg). |
| Butterfish | *Peprilus triacanthus* | 1.5 lb (0.1 kg) | 37.0 lb (0.7 kg). |
| Surf clam | *Spisula solidissima* | 1.5 lb (0.1 kg) | 37.0 lb (0.7 kg). |
| Black sea bass | *Centropristis striata* | 0.4 lb (0 kg) | 10.6 lb (0.2 kg). |
| Haddock | *Melanogrammus aeglefinus* | 0.4 lb (0 kg) | 10.6 lb (0.2 kg). |
| Nudibranch | *Nudibrachia spp.* | 0.4 lb (0 kg) | 10.6 lb (0.2 kg). |

If approved, the applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: September 10, 2020.

**Jennifer M. Wallace,**

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

[FR Doc. 2020–20389 Filed 9–15–20; 8:45 am]

BILLING CODE 3510–22–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XA474]**

### North Pacific Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meetings.

**SUMMARY:** The North Pacific Fishery Management Council (Council) and the Advisory Panel will meet via webconference October 2, 2020 through October 16, 2020.

**DATES:** The Council's Advisory Panel (AP) will begin at 8 a.m. on Monday, October 5, 2020 and continue through Friday, October 9, 2020. The Council will meet on Friday, October 2, 2020, from 1 p.m. to 4 p.m., on Friday, October 9, 2020, from 8 a.m. to 4 p.m., and from 8 a.m. on Monday, October 12, 2020 through Friday, October 16, 2020, Alaska Time.

**ADDRESSES:** The meeting will be a webconference. Join online through the link at *https://meetings.npfmc.org/Meeting/Details/1565.*

*Council address:* North Pacific Fishery Management Council, 1007 W 3rd Ave., Anchorage, AK 99501–2252; telephone: (907) 271–2809. Instructions for attending the meeting via webconference are given under **SUPPLEMENTARY INFORMATION** Connection Information, below.

**FOR FURTHER INFORMATION CONTACT:** Diana Evans, Council staff; email: *diana.evans@noaa.gov;* telephone: (907) 271–2809. For technical support please contact our administrative staff, email: *npfmc.admin@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Agenda

*Monday, October 5, 2020 Through Friday, October 9, 2020*

The Advisory Panel agenda will include the following issues:

Bering Sea Aleutian Islands (BSAI) and Gulf of Alaska (GOA) Groundfish Harvest—Proposed Specifications, Plan Team (PT) Reports
Sculpin/Squid Product Types—Final Action
Cook Inlet Salmon Fishery Management Plan (FMP)—Intial Review
Observer 2021 Annual Deployment Plan (ADP) Plan—Review, Partial Coverage Fishery Monitory Advisory Committee (PCFMAC) Report, Trawl Electronic Monitoring (EM) Report
BSAI Halibut Abundance Based Management (ABM)—Initial Review and Discussion Paper
Survey Planning—Alaska Fishery Science Center (AFSC) Report
Staff Tasking

*Friday, October 2, 2020*

The Council agenda will include the following issue. The Council may take appropriate action on any of the issues identified.

BSAI Crab 4 Stocks—Final Specifications, Crab Plan Team Report

*Friday, October 9, 2020*

The Council agenda will include the following issues. The Council may take appropriate action on any of the issues identified.

All B Reports (Executive Director), NMFS Management, NOAA General Counsel (GC), Alaska Department of Fish and Game (ADF&G), U.S. Coast Guard, and U.S. Fish and Wildlife Service
Scientific and Statistical Committee (SSC) Report in Full
AP Report on BSAI and GOA Groundfish Harvest and Sculpin/Squid Types
BSAI and GOA Groundfish Harvest—Proposed Specifications, PT Reports
Sculpin/Squid Product Types—Final Action

*Monday, October 12, 2020 Through Friday, October 16, 2020*

The Council agenda will include the following issues. The Council may take appropriate action on any of the issues identified.

AP Report in Full
Cook Inlet Salmon FMP—Intial Review
Observer 2021 ADP Plan—Review, PCFMAC Report, Trawl EM Report
BSAI Halibut ABM—Initial Review and Discussion Paper
Survey Planning—AFSC Report
Seafood Production Executive Order
Committees, New Business, Tasking—Review

**Connection Information**

You can attend the meeting online using a computer, tablet, or smart phone; or by phone only. Connection information will be posted online at: *https://meetings.npfmc.org/Meeting/Details/1565.* For technical support please contact our administrative staff, email: *npfmc.admin@noaa.gov.*

**Public Comment**

Public comment letters will be accepted and should be submitted electronically to: *https://meetings.npfmc.org/Meeting/Details/1565.* The Council strongly encourages written public comment for this meeting, to avoid any potential for technical difficulties to compromise oral testimony. The deadline for written comments is September 30, 2020, at 5 p.m. Alaska Time.

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

Dated: September 11, 2020.

**Rey Israel Marquez,**

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

[FR Doc. 2020–20429 Filed 9–15–20; 8:45 am]

**BILLING CODE 3510–22–P**

---

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XA475]**

### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Construction of the Alaska LNG Project in Prudhoe Bay, Alaska

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

**ACTION:** Notice; reopening of public comment period.

**SUMMARY:** The National Marine Fisheries Service (NMFS) is reopening the public comment period on the notice of a proposed incidental harassment authorization (IHA) under the Marine Mammal Protection Act (MMPA) to authorize the taking of marine mammals, by Level A harassment and Level B harassment, incidental to construction of the Alaska LNG Project in Prudhoe Bay, Alaska. The comment period for the notice of proposed IHA that published on July 16, 2020 closed on August 17, 2020. NMFS is reopening the public comment period to provide the public with additional time to submit information and to comment on this proposed IHA.

**DATES:** Comments and information must be received no later than November 16, 2020. Comments received between the close of the first comment period on August 17, 2020 and the reopening of the comment period on September 16, 2020 will be considered timely received.

**ADDRESSES:** Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Written comments should be sent to *ITP.Davis@noaa.gov.*

*Instructions:* NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at *https://www.fisheries.noaa.gov/action/incidental-take-authorization-alaska-gasline-development-corporation-liquefied-natural-gas-0* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

**FOR FURTHER INFORMATION CONTACT:** Leah Davis, Office of Protected Resources, NMFS, (301) 427–8401.

**SUPPLEMENTARY INFORMATION:**

**Background**

On July 16, 2020, we published a notice of proposed incidental harassment authorization to authorize the taking of marine mammals incidental to construction of the Alaska LNG Project in Prudhoe Bay, Alaska (85 FR 43382). The proposed IHA allowed for a 30-day public comment period, which ended on August 17, 2020. On August 14, 2020, we received a request from the Alaska Eskimo Whaling Commission (AEWC) requesting a 60-day extension of the comment period. The request indicated that the AEWC required more time to conduct their review and provide comments.

The AEWC reiterates that (1) the Whaling Captains, community members, and the thousands of Alaska Natives who depend on the success of their harvests for their food security will be directly affected by any adverse effects from this project, and that (2) they have a direct stake in ensuring that this project is properly and thoroughly reviewed. Specifically, they note that in addition to other challenges to

reviewing the proposed IHA within the 30 days initially provided, the summer months are a time when many community members engage in a wide range of subsistence activities. Given this, and the fact that the specified activity the IHA addresses is not scheduled to start until 2022, NMFS has elected to provide additional time for public comment.

Due to the timing of the request, it was not feasible to publish a notice in the **Federal Register** announcing a comment period extension prior to the close of the initial public comment period. Therefore, we are reopening the public comment period from September 16, 2020 until November 16, 2020 to receive additional information and comments that may be relevant to any aspect of the proposal. Comments and information submitted during the prior comment period will be fully considered in the preparation of the final IHA and need not be resubmitted.

Dated: September 11, 2020.

**Donna S. Wieting,**

*Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2020–20401 Filed 9–15–20; 8:45 am]

**BILLING CODE 3510–22–P**

## COMMODITY FUTURES TRADING COMMISSION

### Renewal of the Global Markets Advisory Committee

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice of renewal.

**SUMMARY:** The Commodity Futures Trading Commission (Commission) is publishing this notice to announce the renewal of the Global Markets Advisory Committee (GMAC). The Commission has determined that the renewal of the GMAC is necessary and in the public's interest, and the Commission has consulted with the General Services Administration's Committee Management Secretariat regarding the GMAC's renewal.

**FOR FURTHER INFORMATION CONTACT:** Andree Goldsmith, GMAC Designated Federal Officer, at 202–418–6624 or *agoldsmith@cftc.gov.*

**SUPPLEMENTARY INFORMATION:** The GMAC's objectives and scope of activities are to conduct public meetings, and to submit reports and recommendations on matters of public concern to the exchanges, firms, market users, other market participants, and the Commission regarding the regulatory challenges of a global marketplace, which reflect the increasing interconnectedness of markets and the multinational nature of business. The GMAC will help the Commission determine how it can avoid unnecessary regulatory or operational impediments to global business while still preserving core protections for customers and other market participants. The GMAC will also make recommendations for appropriate international standards for regulating futures, swaps, options, and derivatives markets, as well as intermediaries. Additionally, the GMAC will assist the Commission in assessing the impact on U.S. markets and firms of the Commission's international efforts and the initiatives of foreign regulators and market authorities. The GMAC will also assist with identifying methods to improve both domestic and international regulatory structures while continuing to allow U.S. markets and firms to remain competitive in the global market.

The GMAC will operate for two years from the date of renewal unless the Commission directs that the GMAC terminate on an earlier date. A copy of the GMAC renewal charter has been filed with the Commission; the Senate Committee on Agriculture, Nutrition and Forestry; the House Committee on Agriculture; the Library of Congress; and the General Services Administration's Committee Management Secretariat. A copy of the renewal charter will be posted on the Commission's website at *www.cftc.gov.*

Dated: September 11, 2020.

**Christopher Kirkpatrick,**

*Secretary of the Commission.*

[FR Doc. 2020–20425 Filed 9–15–20; 8:45 am]

**BILLING CODE 6351–01–P**

## DEPARTMENT OF DEFENSE

### Department of the Air Force

### Notice of Intent To Grant an Exclusive Patent License With a Joint Ownership Agreement

**AGENCY:** Department of the Air Force, Department of Defense.

**ACTION:** Notice of intent.

**SUMMARY:** Pursuant to the Bayh-Dole Act and implementing regulations, the Department of the Air Force hereby gives notice of its intent to grant an exclusive patent license agreement to UNM Rainforest Innovations (formerly known as STC.UNM) is an organization having the primary function of managing inventions on behalf of the University of New Mexico having a place of business at 101 Broadway Blvd. NE, Suite 1100, Albuquerque, New Mexico 87102.

**DATES:** Written objections must be filed no later than fifteen (15) calendar days after the date of publication of this Notice.

**ADDRESSES:** Submit written objections to the Air Force Materiel Command Law Office, AFMCLO/JAZ, 2240 B Street, Room 260, Wright-Patterson AFB, OH 45433–7109; Facsimile: (937) 255–3733; or Email: *afmclo.jaz.tech@us.af.mil.* Include Docket No. ARD–200622A–JA in the subject line of the message.

**FOR FURTHER INFORMATION CONTACT:** Air Force Materiel Command Law Office, AFMCLO/JAZ, 2240 B Street, Rm 260, Wright-Patterson AFB, OH 45433–7109; (312) 674–5032, Facsimile: (937) 255–3733; Email: *afmclo.jaz.tech@us.af.mil.*

**SUPPLEMENTARY INFORMATION:** The Department of the Air Force intends to grant the exclusive patent license agreement for the invention described in:

—International Application No. PCT/US19/39850, filed 28 June 28 2019, entitled, ''*Low-Cost, Crack Tolerant Screen Printable Metalization for Increased Module Reliability,*'' and published as WO 2020/009936.

The Department of the Air Force may grant the prospective license unless a timely objection is received that sufficiently shows the grant of the license would be inconsistent with the Bayh-Dole Act or implementing regulations. A competing application for a patent license agreement, completed in compliance with 37 CFR 404.8 and received by the Air Force within the period for timely objections, will be treated as an objection and may be considered as an alternative to the proposed license.

**Adriane Paris,**

*Acting Air Force Federal Register Liaison Officer.*

[FR Doc. 2020–20390 Filed 9–15–20; 8:45 am]

**BILLING CODE 5001–10–P**

## DEPARTMENT OF DEFENSE

### Department of the Air Force

### Notice of Intent To Grant a Partially Exclusive Patent License

**AGENCY:** Department of the Air Force, Department of Defense.

**ACTION:** Notice of Intent.

**SUMMARY:** Pursuant to the Bayh-Dole Act and implementing regulations, The Department of the Air Force hereby gives notice of its intent to grant a partially exclusive (exclusive with

respect to the field of health, recreational and nutritional beverages) patent license agreement to JBP Group, a corporation of the State of Utah, having a place of business at 610 Trees Court, Cedar Hill, TX 75104.

**DATES:** Written objections must be filed no later than fifteen (15) calendar days after the date of publication of this Notice.

**ADDRESSES:** Submit written objections to the Air Force Materiel Command Law Office, AFMCLO/JAZ, 2240 B Street, Room 260, Wright-Patterson AFB, OH 45433–7109; Facsimile: (937) 255–3733; or Email: *afmclo.jaz.tech@us.af.mil.* Include Docket No. AFD–1620 in the subject line of the message.

**FOR FURTHER INFORMATION CONTACT:** Air Force Materiel Command Law Office, AFMCLO/JAZ, 2240 B Street, Rm 260, Wright-Patterson AFB, OH 45433–7109; Facsimile: (937) 255–3733; (312) 674–5032, Email: *afmclo.jaz.tech@us.af.mil.*

**SUPPLEMENTARY INFORMATION:** The Department of the Air Force intends to grant the partially exclusive patent license agreement for the invention described in:

—U.S. Patent Application Serial No. 15,939,397, filed on March 29, 2018.

The Department of the Air Force may grant the prospective license unless a timely objection is received that sufficiently shows the grant of the license would be inconsistent with the Bayh-Dole Act or implementing regulations. A competing application for a patent license agreement, completed in compliance with 37 CFR 404.8 and received by the Air Force within the period for timely objections, will be treated as an objection and may be considered as an alternative to the proposed license.

**Adriane Paris,**

*Acting Air Force Federal Register Liaison Officer.*

[FR Doc. 2020–20385 Filed 9–15–20; 8:45 am]

**BILLING CODE 5001–10–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### National Security Education Board; Notice of Federal Advisory Committee Meeting

**AGENCY:** Under Secretary of Defense for Personnel and Readiness, Department of Defense (DoD).

**ACTION:** Notice of Federal Advisory Committee meeting.

**SUMMARY:** The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the National Security Education Board will take place.

**DATES:** Open to the public Friday, October 16, 2020 from 9:30 a.m. Eastern Daylight Time (EDT) to 12:15 p.m. EDT.

**ADDRESSES:** The meeting will be held virtually. The meeting will be accessible through video conferencing (*https://global.gotomeeting.com/join/132416253*) and dial in (phone number: +1 (408) 650–3123). Please contact Ms. Caitlin Wiley by phone (571) 256–0708 or email (*caitlin.a.wiley.civ@mail.mil*) for the meeting password.

**FOR FURTHER INFORMATION CONTACT:** Ms. Alison Patz, (571) 329–3894 (Voice), *alison.m.patz.civ@mail.mil* (Email). Mailing address is National Security Education Program, 4800 Mark Center Drive, Suite 08F09–02, Alexandria, VA 22350–7000. Website: *https://www.nsep.gov/content/national-security-education-board.* The most up-to-date changes to the meeting agenda can be found on the website.

**SUPPLEMENTARY INFORMATION:** This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b), and 41 CFR 102–3.140 and 102–3.150.

*Purpose of the Meeting:* The purpose of the meeting is to review and make recommendations to the Secretary of Defense concerning requirements established by the David L. Boren National Security Education Act, Title VII of Public Law 102–183, as amended.

*Agenda:* 9:30 a.m. EDT—National Security Education Board (NSEB) Full Meeting Begins. 9:45 a.m. EDT—National Security Education Program (NSEP) Key Discussion with the Board. 10:30 a.m. EDT—Diversifying the Department of Defense Workforce: NSEP's Role. 11:15 a.m. EDT—New Partnerships with the Defense Language Institute Foreign Language Center. 11:45 a.m. EDT—Board Discussion and Closing Remarks. 12:15 p.m. EDT—Adjourn.

*Meeting Accessibility:* Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public.

*Written Statements:* This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150. Pursuant to 102–3.140 and sections 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written statements to the Department of Defense National Security Education Board about its mission and functions. Written statements may be submitted at any time or in response to the stated agenda of the planned meeting. All written statements shall be submitted to the Designated Federal Official for the National Security Education Board, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Designated Federal Official can be obtained from the GSA's FACA Database—*http://facadatabase.gov/.* Statements being submitted in response to the agenda mentioned in this notice must be received by the Designated Federal Official at the addressed listed in the **FOR FURTHER INFORMATION CONTACT** section at least five calendar days prior to the meeting that is the subject of this notice. Written statements received after this date may not be provided to or considered by the National Security Education Board until its next meeting.

Dated: September 11, 2020.

**Aaron T. Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2020–20444 Filed 9–15–20; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Department of Defense Military Family Readiness Council; Notice of Federal Advisory Committee Meeting

**AGENCY:** Under Secretary of Defense for Personnel and Readiness, Department of Defense (DoD).

**ACTION:** Notice of Federal Advisory Committee meeting.

**SUMMARY:** The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the Department of Defense Military Family Readiness Council (MFRC) will take place.

**DATES:** Open to the public Tuesday, September 22, 2020, from 10 a.m. to 12 p.m.

**ADDRESSES:** This open meeting will be held online. The phone number for the remote access is 800–309–1256, and the participant code is 913224. This information will also be posted on the DoD MFRC website at: *http://*

*www.militaryonesource.mil/those-who-support-mfrc.*

**FOR FURTHER INFORMATION CONTACT:** William Story, (571) 372–5345 (Voice), (571) 372–0884 (Facsimile), OSD Pentagon OUSD P–R Mailbox Family Readiness Council, *osd.pentagon.ousd-p-r.mbx.family-readiness-council@mail.mil* (Email). Mailing address is Office of the Deputy Assistant Secretary of Defense for Military Community and Family Policy, Office of Family Readiness Policy, 4800 Mark Center Drive, Alexandria, VA 22350–2300, Room 3G15. Website: *http://www.militaryonesource.mil/those-who-support-mfrc.* The most up-to-date changes to the meeting agenda can be found on the website.

**SUPPLEMENTARY INFORMATION:** Due to circumstances beyond the control of the Department of Defense and the Designated Federal Officer (DFO) for the Department of Defense Military Family Readiness Council, the Department of Defense Military Family Readiness Council was unable to provide public notification required by 41 CFR 102–3.150(a) concerning its meeting on September 22, 2020. 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. This meeting is 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:* This is the third meeting of the MFRC for Fiscal Year (FY) 2020. During this meeting the MFRC Members will present and vote on recommendations to the Secretary of Defense, and present and discuss Focus Areas for the MFRC meetings in FY 2021.

*Agenda:* Call to Order, Welcome & Opening Remarks; Administrative Items; Written Public Submissions; FY 2020 Recommendations, Discussion, and Voting; FY 2021 MFRC Focus Areas, Discussion, and Selection; Closing Remarks. Note: Exact order may vary.

*Meeting Accessibility:* Members of the public who are interested in hearing the MFRC meeting may call in using the remote access number 800–309–1256 and participant code 913224. Contact Frank Emery (*frank.a.emery.civ@mail.mil*) for access assistance.

*Written Statements:* Persons interested in providing a written statement for review and consideration by MFRC members attending the September 22, 2020 meeting must do so no later than close of business Thursday, September 17, 2020, through the Council mailbox (*osd.pentagon.ousd-p-r.mbx.family-readiness-council@mail.mil*). Written statements received after this date will be provided to Council members in preparation for the next MFRC meeting. The DFO will review all submitted written statements and provide copies to all MFRC members. Written statements become part of the MFRC's records and should not include personally identifiable information such as names of adults and children, phone numbers, addresses, social security numbers, and other contact information within the body of the written statement.

Dated: September 11, 2020.

**Aaron T. Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2020–20441 Filed 9–15–20; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Revised Non-Foreign Overseas Per Diem Rates

**AGENCY:** Defense Human Resources Activity, Department of Defense.

**ACTION:** Notice of revised per diem rates in non-foreign areas outside the Continental U.S.

**SUMMARY:** Defense Human Resources Activity is publishing this Civilian Personnel Per Diem Bulletin Number 314. Bulletin Number 314 lists current per diem rates prescribed for reimbursement of subsistence expenses while on official Government travel to Alaska, Hawaii, the Commonwealth of Puerto Rico, and the possessions of the United States. The Fiscal Year (FY) 2020 lodging rate review for Alaska resulted in lodging rate changes in certain locations.

**DATES:** The updated rates take effect October 1, 2020.

**FOR FURTHER INFORMATION CONTACT:** Mr. David J. Maly, 571–372–1316.

**SUPPLEMENTARY INFORMATION:** This document notifies the public of revisions in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance Committee for travel to non-foreign areas outside the continental United States. The FY 2020 lodging rate review for Alaska resulted in lodging rate changes in certain locations. Bulletin Number 314 is published in the **Federal Register** to ensure that Government travelers outside the Department of Defense are notified of revisions to the current reimbursement rates.

If you believe the lodging, meal or incidental allowance rate for a locality listed in the following table is insufficient, you may request a rate review for that location. For more information about how to request a review, please see the Defense Travel Management Office's Per Diem Rate Review Frequently Asked Questions (FAQ) page at *https://www.defensetravel.dod.mil/site/faqraterev.cfm.*

Dated: September 10, 2020.

**Aaron T. Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

| State or territory | Locality | Season start | Season end | Lodging | M&IE | Total per diem | Effective date |
|---|---|---|---|---|---|---|---|
| ALASKA | [OTHER] | 01/01 | 12/31 | 175 | 113 | 288 | 10/01/2020 |
| ALASKA | ADAK | 01/01 | 12/31 | 175 | 117 | 292 | 10/01/2020 |
| ALASKA | ANCHORAGE [INCL NAV RES] | 01/01 | 12/31 | 229 | 125 | 354 | 10/01/2020 |
| ALASKA | BARROW | 05/15 | 09/14 | 326 | 129 | 455 | 10/01/2020 |
| ALASKA | BARROW | 09/15 | 05/14 | 252 | 129 | 381 | 10/01/2020 |
| ALASKA | BARTER ISLAND LRRS | 01/01 | 12/31 | 175 | 113 | 288 | 10/01/2020 |
| ALASKA | BETHEL | 01/01 | 12/31 | 219 | 101 | 320 | 10/01/2020 |
| ALASKA | BETTLES | 01/01 | 12/31 | 175 | 113 | *288 | 10/01/2020 |
| ALASKA | CAPE LISBURNE LRRS | 01/01 | 12/31 | 175 | 113 | 288 | 10/01/2020 |
| ALASKA | CAPE NEWENHAM LRRS | 01/01 | 12/31 | 175 | 113 | 288 | 10/01/2020 |
| ALASKA | CAPE ROMANZOF LRRS | 01/01 | 12/31 | 175 | 113 | 288 | 10/01/2020 |
| ALASKA | CLEAR AB | 01/01 | 12/31 | 175 | 113 | 288 | 10/01/2020 |
| ALASKA | COLD BAY | 01/01 | 12/31 | 175 | 113 | 288 | 10/01/2020 |
| ALASKA | COLD BAY LRRS | 01/01 | 12/31 | 175 | 113 | 288 | 10/01/2020 |
| ALASKA | COLDFOOT | 01/01 | 12/31 | 219 | 93 | 312 | 10/01/2020 |

| State or territory | Locality | Season start | Season end | Lodging | M&IE | Total per diem | Effective date |
|---|---|---|---|---|---|---|---|
| ALASKA | COPPER CENTER | 01/01 | 12/31 | 175 | 115 | 290 | 10/01/2020 |
| ALASKA | CORDOVA | 03/01 | 10/31 | 175 | 106 | 281 | 10/01/2020 |
| ALASKA | CORDOVA | 11/01 | 02/28 | 150 | 106 | 256 | 10/01/2020 |
| ALASKA | CRAIG | 05/01 | 09/30 | 139 | 94 | 233 | 10/01/2020 |
| ALASKA | CRAIG | 10/01 | 04/30 | 109 | 94 | 203 | 10/01/2020 |
| ALASKA | DEADHORSE | 01/01 | 12/31 | 120 | 113 | *233 | 10/01/2020 |
| ALASKA | DELTA JUNCTION | 01/01 | 12/31 | 175 | 101 | 276 | 10/01/2020 |
| ALASKA | DENALI NATIONAL PARK | 06/01 | 09/30 | 160 | 98 | 258 | 10/01/2020 |
| ALASKA | DENALI NATIONAL PARK | 10/01 | 05/31 | 90 | 98 | 188 | 10/01/2020 |
| ALASKA | DILLINGHAM | 07/01 | 08/31 | 320 | 113 | 433 | 10/01/2020 |
| ALASKA | DILLINGHAM | 09/01 | 06/30 | 298 | 113 | 411 | 10/01/2020 |
| ALASKA | DUTCH HARBOR-UNALASKA | 01/01 | 12/31 | 175 | 129 | 304 | 10/01/2020 |
| ALASKA | EARECKSON AIR STATION | 01/01 | 12/31 | 146 | 74 | 220 | 10/01/2020 |
| ALASKA | EIELSON AFB | 05/01 | 09/15 | 154 | 100 | 254 | 10/01/2020 |
| ALASKA | EIELSON AFB | 09/16 | 04/30 | 79 | 100 | 179 | 10/01/2020 |
| ALASKA | ELFIN COVE | 01/01 | 12/31 | 175 | 113 | 288 | 10/01/2020 |
| ALASKA | ELMENDORF AFB | 01/01 | 12/31 | 229 | 125 | 354 | 10/01/2020 |
| ALASKA | FAIRBANKS | 05/01 | 09/15 | 154 | 100 | 254 | 10/01/2020 |
| ALASKA | FAIRBANKS | 09/16 | 04/30 | 79 | 100 | 179 | 10/01/2020 |
| ALASKA | FORT YUKON LRRS | 01/01 | 12/31 | 175 | 113 | 288 | 10/01/2020 |
| ALASKA | FT. GREELY | 01/01 | 12/31 | 175 | 101 | 276 | 10/01/2020 |
| ALASKA | FT. RICHARDSON | 01/01 | 12/31 | 229 | 125 | 354 | 10/01/2020 |
| ALASKA | FT. WAINWRIGHT | 05/01 | 09/15 | 154 | 100 | 254 | 10/01/2020 |
| ALASKA | FT. WAINWRIGHT | 09/16 | 04/30 | 79 | 100 | 179 | 10/01/2020 |
| ALASKA | GAMBELL | 01/01 | 12/31 | 175 | 113 | 288 | 10/01/2020 |
| ALASKA | GLENNALLEN | 01/01 | 12/31 | 175 | 115 | 290 | 10/01/2020 |
| ALASKA | HAINES | 01/01 | 12/31 | 149 | 113 | 262 | 10/01/2020 |
| ALASKA | HEALY | 06/01 | 09/30 | 164 | 98 | 262 | 10/01/2020 |
| ALASKA | HEALY | 10/01 | 05/31 | 114 | 98 | 212 | 10/01/2020 |
| ALASKA | HOMER | 05/01 | 09/30 | 189 | 124 | 313 | 10/01/2020 |
| ALASKA | HOMER | 10/01 | 04/30 | 104 | 124 | 228 | 10/01/2020 |
| ALASKA | JB ELMENDORF-RICHARDSON | 01/01 | 12/31 | 229 | 125 | 354 | 10/01/2020 |
| ALASKA | JUNEAU | 02/01 | 09/30 | 249 | 118 | 367 | 10/01/2020 |
| ALASKA | JUNEAU | 10/01 | 01/31 | 175 | 118 | 293 | 10/01/2020 |
| ALASKA | KAKTOVIK | 01/01 | 12/31 | 175 | 129 | *304 | 10/01/2020 |
| ALASKA | KAVIK CAMP | 01/01 | 12/31 | 175 | 113 | *288 | 10/01/2020 |
| ALASKA | KENAI-SOLDOTNA | 05/01 | 09/30 | 151 | 113 | 264 | 10/01/2020 |
| ALASKA | KENAI-SOLDOTNA | 10/01 | 04/30 | 99 | 113 | 212 | 10/01/2020 |
| ALASKA | KENNICOTT | 01/01 | 12/31 | 175 | 85 | 260 | 10/01/2020 |
| ALASKA | KETCHIKAN | 04/01 | 09/30 | 250 | 118 | 368 | 10/01/2020 |
| ALASKA | KETCHIKAN | 10/01 | 03/31 | 140 | 118 | 258 | 10/01/2020 |
| ALASKA | KING SALMON | 01/01 | 12/31 | 175 | 89 | 264 | 10/01/2020 |
| ALASKA | KING SALMON LRRS | 01/01 | 12/31 | 175 | 113 | 288 | 10/01/2020 |
| ALASKA | KLAWOCK | 05/01 | 09/30 | 139 | 94 | 233 | 10/01/2020 |
| ALASKA | KLAWOCK | 10/01 | 04/30 | 109 | 94 | 203 | 10/01/2020 |
| ALASKA | KODIAK | 04/01 | 09/30 | 207 | 109 | 316 | 10/01/2020 |
| ALASKA | KODIAK | 10/01 | 03/31 | 123 | 109 | 232 | 10/01/2020 |
| ALASKA | KOTZEBUE | 01/01 | 12/31 | 175 | 121 | 296 | 10/01/2020 |
| ALASKA | KULIS AGS | 01/01 | 12/31 | 229 | 125 | 354 | 10/01/2020 |
| ALASKA | MCCARTHY | 01/01 | 12/31 | 175 | 85 | 260 | 10/01/2020 |
| ALASKA | MCGRATH | 01/01 | 12/31 | 175 | 113 | *288 | 10/01/2020 |
| ALASKA | MURPHY DOME | 05/01 | 09/15 | 154 | 100 | 254 | 10/01/2020 |
| ALASKA | MURPHY DOME | 09/16 | 04/30 | 79 | 100 | 179 | 10/01/2020 |
| ALASKA | NOME | 01/01 | 12/31 | 200 | 118 | 318 | 10/01/2020 |
| ALASKA | NOSC ANCHORAGE | 01/01 | 12/31 | 229 | 125 | 354 | 10/01/2020 |
| ALASKA | NUIQSUT | 01/01 | 12/31 | 175 | 113 | *288 | 10/01/2020 |
| ALASKA | OLIKTOK LRRS | 01/01 | 12/31 | 175 | 113 | 288 | 10/01/2020 |
| ALASKA | PALMER | 01/01 | 12/31 | 175 | 117 | 292 | 10/01/2020 |
| ALASKA | PETERSBURG | 01/01 | 12/31 | 130 | 108 | 238 | 10/01/2020 |
| ALASKA | POINT BARROW LRRS | 01/01 | 12/31 | 175 | 113 | 288 | 10/01/2020 |
| ALASKA | POINT HOPE | 01/01 | 12/31 | 175 | 113 | *288 | 10/01/2020 |
| ALASKA | POINT LONELY LRRS | 01/01 | 12/31 | 175 | 113 | 288 | 10/01/2020 |
| ALASKA | PORT ALEXANDER | 01/01 | 12/31 | 175 | 113 | *288 | 10/01/2020 |
| ALASKA | PORT ALSWORTH | 01/01 | 12/31 | 175 | 113 | 288 | 10/01/2020 |
| ALASKA | PRUDHOE BAY | 01/01 | 12/31 | 120 | 113 | *233 | 10/01/2020 |
| ALASKA | SELDOVIA | 05/15 | 09/30 | 189 | 124 | 313 | 10/01/2020 |
| ALASKA | SELDOVIA | 10/01 | 05/14 | 99 | 124 | 223 | 10/01/2020 |
| ALASKA | SEWARD | 04/01 | 09/30 | 299 | 146 | 445 | 10/01/2020 |
| ALASKA | SEWARD | 10/01 | 03/31 | 104 | 146 | 250 | 10/01/2020 |
| ALASKA | SITKA-MT. EDGECUMBE | 04/01 | 09/30 | 220 | 116 | 336 | 10/01/2020 |
| ALASKA | SITKA-MT. EDGECUMBE | 10/01 | 03/31 | 189 | 116 | 305 | 10/01/2020 |
| ALASKA | SKAGWAY | 04/01 | 09/30 | 250 | 118 | 368 | 10/01/2020 |
| ALASKA | SKAGWAY | 10/01 | 03/31 | 140 | 118 | 258 | 10/01/2020 |
| ALASKA | SLANA | 01/01 | 12/31 | 175 | 113 | 288 | 10/01/2020 |
| ALASKA | SPARREVOHN LRRS | 01/01 | 12/31 | 175 | 113 | 288 | 10/01/2020 |
| ALASKA | SPRUCE CAPE | 04/01 | 09/30 | 207 | 109 | 316 | 10/01/2020 |
| ALASKA | SPRUCE CAPE | 10/01 | 03/31 | 123 | 109 | 232 | 10/01/2020 |
| ALASKA | ST. GEORGE | 01/01 | 12/31 | 175 | 113 | 288 | 10/01/2020 |
| ALASKA | TALKEETNA | 01/01 | 12/31 | 175 | 120 | 295 | 10/01/2020 |
| ALASKA | TANANA | 01/01 | 12/31 | 200 | 118 | 318 | 10/01/2020 |
| ALASKA | TATALINA LRRS | 01/01 | 12/31 | 175 | 113 | 288 | 10/01/2020 |
| ALASKA | TIN CITY LRRS | 01/01 | 12/31 | 175 | 113 | 288 | 10/01/2020 |
| ALASKA | TOK | 01/01 | 12/31 | 105 | 113 | 218 | 10/01/2020 |

| State or territory | Locality | Season start | Season end | Lodging | M&IE | Total per diem | Effective date |
|---|---|---|---|---|---|---|---|
| ALASKA | VALDEZ | 05/16 | 09/15 | 212 | 110 | 322 | 10/01/2020 |
| ALASKA | VALDEZ | 09/16 | 05/15 | 154 | 110 | 264 | 10/01/2020 |
| ALASKA | WAINWRIGHT | 01/01 | 12/31 | 275 | 77 | 352 | 10/01/2020 |
| ALASKA | WAKE ISLAND DIVERT AIRFIELD | 01/01 | 12/31 | 175 | 113 | 288 | 10/01/2020 |
| ALASKA | WASILLA | 05/01 | 09/30 | 190 | 94 | 284 | 10/01/2020 |
| ALASKA | WASILLA | 10/01 | 04/30 | 100 | 94 | 194 | 10/01/2020 |
| ALASKA | WRANGELL | 04/01 | 09/30 | 250 | 118 | 368 | 10/01/2020 |
| ALASKA | WRANGELL | 10/01 | 03/31 | 140 | 118 | 258 | 10/01/2020 |
| ALASKA | YAKUTAT | 06/01 | 09/30 | 350 | 111 | 461 | 10/01/2020 |
| ALASKA | YAKUTAT | 10/01 | 05/31 | 150 | 111 | 261 | 10/01/2020 |
| AMERICAN SAMOA | AMERICAN SAMOA | 01/01 | 12/31 | 139 | 86 | 225 | 07/01/2019 |
| AMERICAN SAMOA | PAGO PAGO | 01/01 | 12/31 | 139 | 86 | 225 | 07/01/2019 |
| GUAM | GUAM (INCL ALL MIL INSTAL) | 01/01 | 12/31 | 159 | 96 | 255 | 09/01/2019 |
| GUAM | JOINT REGION MARIANAS (ANDERSEN). | 01/01 | 12/31 | 159 | 96 | 255 | 09/01/2019 |
| GUAM | JOINT REGION MARIANAS (NAVAL BASE). | 01/01 | 12/31 | 159 | 96 | 255 | 09/01/2019 |
| GUAM | TAMUNING | 01/01 | 12/31 | 159 | 96 | 255 | 09/01/2019 |
| HAWAII | [OTHER] | 01/01 | 12/31 | 218 | 149 | 367 | 07/01/2019 |
| HAWAII | CAMP H M SMITH | 01/01 | 12/31 | 177 | 149 | 326 | 07/01/2019 |
| HAWAII | EASTPAC NAVAL COMP TELE AREA | 01/01 | 12/31 | 177 | 149 | 326 | 07/01/2019 |
| HAWAII | FT. DERUSSEY | 01/01 | 12/31 | 177 | 149 | 326 | 07/01/2019 |
| HAWAII | FT. SHAFTER | 01/01 | 12/31 | 177 | 149 | 326 | 07/01/2019 |
| HAWAII | HICKAM AFB | 01/01 | 12/31 | 177 | 149 | 326 | 07/01/2019 |
| HAWAII | HILO | 01/01 | 12/31 | 199 | 120 | 319 | 07/01/2019 |
| HAWAII | HONOLULU | 01/01 | 12/31 | 177 | 149 | 326 | 07/01/2019 |
| HAWAII | ISLE OF HAWAII: HILO | 01/01 | 12/31 | 199 | 120 | 319 | 07/01/2019 |
| HAWAII | ISLE OF HAWAII: OTHER | 01/01 | 12/31 | 218 | 156 | 374 | 07/01/2019 |
| HAWAII | ISLE OF KAUAI | 01/01 | 12/31 | 325 | 141 | 466 | 07/01/2019 |
| HAWAII | ISLE OF MAUI | 01/01 | 12/31 | 304 | 150 | 454 | 07/01/2019 |
| HAWAII | ISLE OF OAHU | 01/01 | 12/31 | 177 | 149 | 326 | 07/01/2019 |
| HAWAII | JB PEARL HARBOR-HICKAM | 01/01 | 12/31 | 177 | 149 | 326 | 07/01/2019 |
| HAWAII | KAPOLEI | 01/01 | 12/31 | 177 | 149 | 326 | 07/01/2019 |
| HAWAII | KEKAHA PACIFIC MISSILE RANGE FAC | 01/01 | 12/31 | 325 | 141 | 466 | 07/01/2019 |
| HAWAII | KILAUEA MILITARY CAMP | 01/01 | 12/31 | 199 | 120 | 319 | 07/01/2019 |
| HAWAII | LANAI | 01/01 | 12/31 | 218 | 134 | 352 | 07/01/2019 |
| HAWAII | LIHUE | 01/01 | 12/31 | 325 | 141 | 466 | 07/01/2019 |
| HAWAII | LUALUALEI NAVAL MAGAZINE | 01/01 | 12/31 | 177 | 149 | 326 | 07/01/2019 |
| HAWAII | MCB HAWAII | 01/01 | 12/31 | 177 | 149 | 326 | 07/01/2019 |
| HAWAII | MOLOKAI | 01/01 | 12/31 | 218 | 106 | 324 | 07/01/2019 |
| HAWAII | NOSC PEARL HARBOR | 01/01 | 12/31 | 177 | 149 | 326 | 07/01/2019 |
| HAWAII | PEARL HARBOR | 01/01 | 12/31 | 177 | 149 | 326 | 07/01/2019 |
| HAWAII | PMRF BARKING SANDS | 01/01 | 12/31 | 325 | 141 | 466 | 07/01/2019 |
| HAWAII | SCHOFIELD BARRACKS | 01/01 | 12/31 | 177 | 149 | 326 | 07/01/2019 |
| HAWAII | TRIPLER ARMY MEDICAL CENTER | 01/01 | 12/31 | 177 | 149 | 326 | 07/01/2019 |
| HAWAII | WAHIAWA NCTAMS PAC | 01/01 | 12/31 | 177 | 149 | 326 | 07/01/2019 |
| HAWAII | WHEELER ARMY AIRFIELD | 01/01 | 12/31 | 177 | 149 | 326 | 07/01/2019 |
| MIDWAY ISLANDS | MIDWAY ISLANDS | 01/01 | 12/31 | 125 | 81 | 206 | 07/01/2019 |
| NORTHERN MARIANA ISLANDS | [OTHER] | 01/01 | 12/31 | 69 | 113 | 182 | 09/01/2019 |
| NORTHERN MARIANA ISLANDS | ROTA | 01/01 | 12/31 | 130 | 114 | 244 | 09/01/2019 |
| NORTHERN MARIANA ISLANDS | SAIPAN | 01/01 | 12/31 | 161 | 113 | 274 | 09/01/2019 |
| NORTHERN MARIANA ISLANDS | TINIAN | 01/01 | 12/31 | 69 | 93 | 162 | 09/01/2019 |
| PUERTO RICO | [OTHER] | 01/01 | 12/31 | 154 | 100 | 254 | 06/01/2020 |
| PUERTO RICO | AGUADILLA | 01/01 | 12/31 | 149 | 90 | 239 | 06/01/2020 |
| PUERTO RICO | BAYAMON | 12/01 | 05/31 | 195 | 115 | 310 | 06/01/2020 |
| PUERTO RICO | BAYAMON | 06/01 | 11/30 | 167 | 115 | 282 | 06/01/2020 |
| PUERTO RICO | CAROLINA | 12/01 | 05/31 | 195 | 115 | 310 | 06/01/2020 |
| PUERTO RICO | CAROLINA | 06/01 | 11/30 | 167 | 115 | 282 | 06/01/2020 |
| PUERTO RICO | CEIBA | 01/01 | 12/31 | 159 | 110 | 269 | 06/01/2020 |
| PUERTO RICO | CULEBRA | 01/01 | 12/31 | 159 | 105 | 264 | 06/01/2020 |
| PUERTO RICO | FAJARDO [INCL ROOSEVELT RDS NAVSTAT]. | 01/01 | 12/31 | 159 | 110 | 269 | 06/01/2020 |
| PUERTO RICO | FT. BUCHANAN [INCL GSA SVC CTR, GUAYNABO]. | 12/01 | 05/31 | 195 | 115 | 310 | 06/01/2020 |
| PUERTO RICO | FT. BUCHANAN [INCL GSA SVC CTR, GUAYNABO]. | 06/01 | 11/30 | 167 | 115 | 282 | 06/01/2020 |
| PUERTO RICO | HUMACAO | 01/01 | 12/31 | 159 | 110 | 269 | 06/01/2020 |
| PUERTO RICO | LUIS MUNOZ MARIN IAP AGS | 12/01 | 05/31 | 195 | 115 | 310 | 06/01/2020 |
| PUERTO RICO | LUIS MUNOZ MARIN IAP AGS | 06/01 | 11/30 | 167 | 115 | 282 | 06/01/2020 |
| PUERTO RICO | LUQUILLO | 01/01 | 12/31 | 159 | 110 | 269 | 06/01/2020 |
| PUERTO RICO | MAYAGUEZ | 01/01 | 12/31 | 109 | 94 | 203 | 06/01/2020 |
| PUERTO RICO | PONCE | 01/01 | 12/31 | 149 | 130 | 279 | 06/01/2020 |
| PUERTO RICO | RIO GRANDE | 01/01 | 12/31 | 154 | 85 | 239 | 06/01/2020 |
| PUERTO RICO | SABANA SECA [INCL ALL MILITARY] | 12/01 | 05/31 | 195 | 115 | 310 | 06/01/2020 |
| PUERTO RICO | SABANA SECA [INCL ALL MILITARY] | 06/01 | 11/30 | 167 | 115 | 282 | 06/01/2020 |
| PUERTO RICO | SAN JUAN & NAV RES STA | 12/01 | 05/31 | 195 | 115 | 310 | 06/01/2020 |
| PUERTO RICO | SAN JUAN & NAV RES STA | 06/01 | 11/30 | 167 | 115 | 282 | 06/01/2020 |
| PUERTO RICO | VIEQUES | 01/01 | 12/31 | 159 | 94 | 253 | 06/01/2020 |
| VIRGIN ISLANDS (U.S.) | ST. CROIX | 12/15 | 04/14 | 299 | 120 | 419 | 04/01/2020 |
| VIRGIN ISLANDS (U.S.) | ST. CROIX | 04/15 | 12/14 | 247 | 120 | 367 | 04/01/2020 |
| VIRGIN ISLANDS (U.S.) | ST. JOHN | 12/04 | 04/30 | 230 | 123 | 353 | 04/01/2020 |
| VIRGIN ISLANDS (U.S.) | ST. JOHN | 05/01 | 12/03 | 170 | 123 | 293 | 04/01/2020 |
| VIRGIN ISLANDS (U.S.) | ST. THOMAS | 04/15 | 12/15 | 249 | 118 | 367 | 04/01/2020 |

| State or territory | Locality | Season start | Season end | Lodging | M&IE | Total per diem | Effective date |
|---|---|---|---|---|---|---|---|
| VIRGIN ISLANDS (U.S.) | ST. THOMAS | 12/16 | 04/14 | 339 | 118 | 457 | 04/01/2020 |
| WAKE ISLAND | WAKE ISLAND | 01/01 | 12/31 | 129 | 70 | 199 | 09/01/2019 |

*Where meals are included in the lodging rate, a traveler is only allowed a meal rate on the first and last day of travel.

[FR Doc. 2020–20340 Filed 9–15–20; 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 Program

**AGENCY:** Under Secretary of Defense for Research and Engineering (USD(R&E)), Department of Defense (DoD).

**ACTION:** This notice provides new authorities to all Science and Technology Reinvention Laboratory (STRL) Personnel Demonstration (Demo) Projects.

**SUMMARY:** STRLs may implement innovative approaches to attract and retain exceptional talent. The flexibilities described herein allow the STRLs to better manage their workforce and applicant pools by providing: A streamlined approach to receiving applications; an efficient process for determining whether applicants are qualified; flexibility to set an entrance on duty date prior to receipt of an applicant's official transcript; an additional direct hiring authority; a flexible-length and renewable-term appointment authority for positions providing direct support to the STRL; an increase in the maximum student loan repayment amount; and the ability to waive the completion of a background investigation prior to employment in a Special-Sensitive position.

**DATES:** This proposal may not be implemented until a 30-day comment period is provided, comments addressed, and a final **Federal Register** notice published. To be considered, written comments must be submitted on or before October 16, 2020.

**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:* DoD cannot receive written comments at this time due to the COVID–19 pandemic. Comments should be sent electronically to the docket listed above.

*Instructions:* All submissions received must include the agency name, 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 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 Research Institute for the Behavioral and Social Sciences: Dr. Scott Shadrick, 254–288–3800, *Scott.B.Shadrick.civ@mail.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@mail.mil.*
- Combat Capabilities Development Command Aviation and Missile Center: Ms. Nancy Salmon, 256–876–9647, *Nancy.C.Salmon2.civ@mail.mil.*
- Combat Capabilities Development Command Chemical Biological Center: Ms. Patricia Milwicz, 410–417–2343, *Patricia.L.Milwicz.civ@mail.mil.*
- Combat Capabilities Development Command Command, Control, Communications, Computers, Cyber, Intelligence, Surveillance, and Reconnaissance Center: Ms. Angela Clybourn, 443–395–2110, *Angela.M.Clyborn.civ@mail.mil.*
- Combat Capabilities Development Command Ground Vehicle Systems Center: Ms. Jennifer Davis, 586–306–4166, *Jennifer.L.Davis1.civ@mail.mil.*
- Combat Capabilities Development Command Soldier Center: Ms. Joelle Montecalvo, 508–206–3421, *Joelle.K.Montecalvo.civ@mail.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@mail.mil.*

**Department of the Navy**

- Naval Air Warfare Center, Weapons Division and Aircraft Division: Mr. Richard Cracraft, 760–939–8115, *Richard.Cracraft@navy.mil.*
- Naval Facilities Engineering Command Engineering and Expeditionary Warfare Center: Ms. Lori Leigh, 805–901–5917, *Lori.Leigh@navy.mil.*
- Naval Information Warfare Centers:
  - Naval Information Warfare Center Atlantic: Mr. Michael Gagnon, Mr. Michael Gagnon, 843–218–3871, *Michael.L.Gagnon@navy.mil.*
  - Naval Information Warfare Center Pacific: Ms. Angela Hanson, 619–553–0833, *Angela.Hanson@navy.mil.*
- Naval Medical Research Center: Dr. Richard Arnold, 937–938–3877, *Richard.Arnold.10@us.af.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@navy.mil.*
- Office of Naval Research: Ms. Margaret J. Mitchell, 703–588–2364, *Margaret.J.Mitchell@navy.mil.*

**DoD**

- Dr. Jagadeesh Pamulapati, Director, Laboratories and Personnel Office, 571–372–6372, *Jagadeesh.Pamulapati.civ@mail.mil.*

**SUPPLEMENTARY INFORMATION:**

### 1. Background

Section 342(b) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 1995, Public Law (Pub. L.) 103–337, as amended by section 1109 of the NDAA for FY 2000, Public Law 106–65, section 1114 of the NDAA for FY 2001, Public Law 106–398, and section 211 of the NDAA for FY 2017, Public Law 114.328 (10 U.S.C. 2358 note), authorizes the Secretary of Defense (SECDEF), through the USD(R&E), to conduct personnel demonstration

projects at DoD laboratories designated as Science and Technology Reinvention Laboratories (STRLs). All STRLs authorized by section 1105 of the NDAA for FY 2010, Public Law 111–84 (10 U.S.C. 2358 note), as amended by section 1104 of the NDAA for FY 2018, Public Law 115–91 (10 U.S.C. 2358 note), as well as any newly designated STRLs authorized by the SECDEF or future legislation, may use the provisions described in this **Federal Register** Notice (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 (IOPs) as appropriate.

*The 20 current STRLS are:*

- Air Force Research Laboratory
- Joint Warfare Analysis Center
- Army Research Institute for the Behavioral and Social Sciences
- Army Research Laboratory
- Combat Capabilities Development Command Armaments Center
- Combat Capabilities Development Command Aviation and Missile Center
- Combat Capabilities Development Command Chemical Biological Center
- Combat Capabilities Development Command Command, Control, Communications, Computers, Cyber, Intelligence, Surveillance, and Reconnaissance Center
- Combat Capabilities Development Command Ground Vehicle Systems Center
- Combat Capabilities Development Command Soldier Center
- Engineer Research and Development Center
- Medical Research and Development Command
- Technical Center, U.S. Army Space and Missile Defense Command
- Naval Air Warfare Center
- Naval Facilities Engineering Command 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*

This notice provides new personnel management flexibilities designed to enable the STRLs to be more agile and competitive in attracting, hiring, and continuously shaping world-class candidates in science, technology, engineering, and mathematics (STEM) career fields and in career fields that directly support the STRL mission. This FRN describes several flexibilities that support these innovative approaches to the Federal hiring process and a more efficient method to process simultaneous pay actions, including:

(1) Authority to utilize an alternative method to announcing position vacancies.

(2) Authority to modify Office of Personnel Management (OPM) policies when determining a combination of experience and education is qualifying for science and engineering (S&E) positions.

(3) Authority to establish an entrance on duty (EOD) date prior to receipt of official college transcripts.

(4) Authority to utilize direct hire for any position (1) involving 51 percent or more of time in direct support of the STRL mission; (2) identified by the STRL as hard to fill; (3) having a history of high turnover; or (4) requiring a unique, laboratory-related skillset.

(5) Authority to appoint candidates to flexible-length or renewable-term positions that provide direct support to the STRL.

(6) Authority to offer flexible and meaningful student loan repayment options that keep up with college tuition inflation rates.

(7) Authority to make a final job offer and establish an EOD prior to a final favorable eligibility determination at the Top Secret/Sensitive Compartmented Information (SCI) level.

### *B. Required Waivers to Law and Regulation*

Waivers and adaptations of certain title 5, U.S. Code (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. 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. Problems With the Present System and Expected Benefits*

(1) Despite the authorities already established for the STRLs, it is difficult to find and attract specialized talent in high-demand STEM and direct support career fields as they compete with other Government agencies, industry, and academia. The STRLs have difficulty hiring elite talent because of long, arbitrary, and layered processes, unlike their industry counterparts, who are able to pay more, hire faster, and be more agile.

USAJobs creates a hindrance as the STRLs try to attract highly sought after talent, both external and internal to the Federal government. Candidates must search through pages of opportunities, which may or may not lead to STRL opportunities; job advertisements often lack luster in description; and candidates face a long application process if they do apply to opportunities. This, coupled with the extensive onboarding process, creates a huge deterrent as the STRLs compete to attract top-tier talent.

In order for STRLs to obtain a competitive edge in the battle for talent, it is imperative that they have an expedited, simpler method for finding interested candidates and ensuring their resumes are seen by hiring managers. USAJobs flyer job announcements for direct hire and reassignment opportunities will direct the applicants to the hiring STRL without their having to apply through the lengthy USAJobs process and the Component's application process.

(2) Many STRL S&E positions are considered interdisciplinary in nature as different skillsets are equally relevant to the work. Additionally, OPM classification and qualification standards are not kept up to date with newer career fields, emerging technologies, and changing skill requirements. The ability to hire based on demonstrated skillsets instead of degrees attained for specific occupational series will enable the STRLs to focus on hiring talent versus credentials.

The OPM ''General Schedule Qualifications Policies'' describe a method of qualifying a candidate based on demonstrated skills when the candidate does not meet educational requirements. As provided by paragraph 4.g. in the ''Application of Qualification Standards'' section, ''Educational and Training Provisions or Requirements'' subsection, a comprehensive evaluation of the applicant's entire background is made by a panel of at least two individuals with professional standing in the field.

In an effort to reduce the time it takes to establish a panel and hold the review, one subject matter expert (SME) will be considered sufficient to qualify the applicant for STRL positions. STRL managers with direct knowledge of the mission, regardless of their occupational series or military occupation codes, will

be considered SMEs for purposes of determining qualifications under this authority.

(3) S&E positions have positive education requirements that must be verified by the hiring authorities. Servicing personnel offices typically request unofficial transcripts or a letter from the registrar from applicants in the beginning stages of the hiring process in order to make preliminary qualification determinations. Applicants must wait to receive their start dates until after their official transcripts have been received and reviewed.

On average, it takes approximately two weeks to receive transcripts through postal mail and one week to receive electronic transcripts. Both timeframes increase significantly if transcripts are lost or the electronic transcript codes are unknowingly sent to a junk email box. New college graduates face even longer delays as generally there is a four- to six-week delay in obtaining their official transcripts after graduation. At the same time, discrepancies between an official transcript and the unofficial or registrar letter confirming completion of degree requirements occur extremely rarely.

In order for STRLs to compete better with industry and academia, this FRN authorizes STRLs to hire candidates using unofficial transcripts or a letter from the registrar's office stating the student is in the final semester and providing the expected completion/graduation date. These new hires will be required to provide official transcripts within 30 calendar days after they report to duty. This will allow the STRLs to complete the hiring in a parallel versus serial approach, which will significantly reduce the length of the hiring process. If official transcripts are not provided or fail to show proof of the required qualification requirements, individuals may be removed.

(4) STRLs are not just pursuing scientific and engineering talent, but all talent, ensuring there are always qualified staff to support the mission. Strong support staff are essential to ensuring the STRLs are prepared to maintain and advance technology. In addition to the direct hire authorities authorized for S&E positions, the STRLs need to utilize a direct hire authority to recruit for positions that directly support the unique STRL missions, are identified by the STRLs as hard to fill, have a history of high turnover, or require unique, laboratory-related skillsets. For example, recruitment and retention of qualified police officers and security guards have become critical issues for some STRLs. Remote sites must be properly protected by qualified personnel to ensure there is not a mission failure resulting from insufficient protection of property and personnel. The ability to use a direct hire authority for support positions will greatly reduce the hiring timelines and allow for more streamlined hiring processes to promptly place personnel into critical support positions.

(5) STRLs need the ability to shape the mix of skills and expertise in the entire workforce to meet organizational and Department-designated missions in the most cost-effective and efficient manner; to shape the workforce to better respond to such missions; and to reduce the average unit cost of the workforce. Component and DoD-level drawdowns sometimes prevent STRLs from hiring even though the STRLs have funding and industrially funded missions. Typical term appointments, while limited in length, may provide a means to hire during these times.

Similar to the flexible-length and renewable-term technical appointment authority provided in section 1109 of the FY 2016 NDAA, as amended and documented in 82 FR 43339, STRLs need the ability to appoint qualified candidates to positions providing direct support to their missions for a period of more than one year, but not more than six years, with the ability to extend in up to six-year increments. This flexible-length and renewable-term appointment authority will give the STRLs the ability to attract candidates who are willing to accept such flexible assignments, and employees will be given benefits similar to those received by the career workforce.

(6) The average cost for a four-year undergraduate degree can range from $40,000 for in-state tuition and fees at a public university or college to over $225,000 for an Ivy League degree. Advanced degrees add significantly to these costs. The current allowable Student Loan Repayment Program (SLRP) amount, established in 2003, has a maximum of $60,000, paid in $10,000 increments. The average annual inflation rate between 2000 and 2019 for in-state college tuition was 5.13 percent. To remain in line with inflation, and to stay competitive with private industry and academia, the SLRP amount should be over $100,000. At the present SLRP amount, industry is willing to buy out a Federal employee's service agreement in order to entice them to come work for them.

The authority to offer a SLRP up to $125,000 in up to $25,000 yearly installments will provide a meaningful student loan repayment program that may provide the STRLs the ability to recruit, hire, and retain top talent. The Office of the Under Secretary of Defense for Research and Engineering (OUSD(R&E)) may adjust this amount as necessary to maintain competitiveness with industry and academia and to continue to enable the STRLS to attract and recruit top talent.

(7) The present method for obtaining security eligibility for an SCI position is slow and time consuming. Currently, final job offers cannot be extended to candidates for Special-Sensitive positions without their first obtaining a final favorable eligibility determination at the SCI level.

Title 5 CFR 1400.202 prohibits an organization from waiving the security requirements for candidates being selected for these Special-Sensitive positions. This exclusion significantly delays the timeline for hiring a person into a Special-Sensitive position. Average time to complete a Special-Sensitive security investigation is well over a year. This constrains the STRL's ability to complete its mission; causes strain and burnout on the rest of the personnel as they try to fill in for manning gaps; and deters top-tier talent from applying to positions.

The authority to make a final job offer and establish an EOD prior to a final favorable eligibility determination at the Top Secret/SCI level will provide STRLs the ability to make timely job offers.

*D. Participating Organizations and Employees*

All DoD laboratories designated as STRLs under section 1105 of the NDAA for FY 2010, Public Law 111–84, as amended by section 1105 of the NDAA for FY 2015, Public Law 113–291, and section 1104 of the NDAA for FY 2018, Public Law 115–91 (10 U.S.C. 2358 note), including any newly designated STRLs authorized by the SECDEF or by future legislation, 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*

(1) Use of USAJobs Flyers

STRLs have authority to determine when to utilize USAJobs flyers to solicit for STRL positions. Applications may be submitted directly to the human resources liaison in the STRL. Candidates may apply through the link or email address found in the flyer. Postings may be open to internal Government employees and external U.S. citizen candidates. All candidates will be asked to submit supporting documentation to include a resume and

official or unofficial transcripts. Flyers will include the following (1) open/close dates, (2) compensation, (3) appointment type and work schedule, (4) duty location, (5) duties, (6) position information, (7) conditions of employment, (8) qualification requirements, (9) education requirements, (10) how candidates will be evaluated, (11) benefits, (12) how to apply, (13) an equal employment opportunity statement, and (14) any additional information determined necessary by the STRL.

a. Positions may be filled through direct hire authorities on a temporary, term, or permanent basis or through reassignment utilizing the USAJobs flyer. When documenting direct hire actions, cite the first legal authority code (LAC)/legal authority for all permanent, term, temporary, or special demonstration project appointments as Z2U/Public Law 103–337. The second LAC/legal authority will be cited as the appropriate direct hire authority, Z5C/Direct Hire Authority (appropriate legal authority).

b. When documenting reassignment actions, cite the LAC/legal authority as Z2U/Public Law 103–337.

(2) Hiring Demonstrated Exceptional Talent Versus Credentials

As provided by OPM ''General Schedule Qualification Standards,'' paragraph 4.g., in the ''Application of Qualification Standards'' section, ''Educational and Training Provisions or Requirements'' subsection, STRLs may consider demonstrated exceptional experience or a combination of experience and education in lieu of a candidate's meeting OPM individual occupational qualification requirements for S&E positions. Utilizing the STRL modification to this provision, the STRLs may use one SME, instead of a panel of at least two, to conduct a comprehensive evaluation of an applicant's entire background, with full consideration given to both education and experience, to determine a candidate's qualifications. In addition, the unique nature of STRL interdisciplinary positions allows for an STRL manager with direct knowledge of the mission and position requirements, regardless of his or her occupational series or military occupation code, to serve as a SME to represent the needs of the organization.

Demonstrated exceptional experience is defined as experience that reflects significant accomplishment directly applicable to the position to be filled. This is evinced through a substantial record of experience, achievement, and/or publications that demonstrate expertise in an appropriate professional/scientific field. A written analysis by the SME will document the candidate's experience, achievements, and publications used for qualification determination.

Documentation justifying the employee's qualifications will be placed in the employee's electronic official personnel file (e-OPF) and his or her personnel folder to ensure the employee is considered qualified for the specific occupational series in the future.

(3) Official Transcripts

The requirement to have official transcripts prior to establishing an EOD is waived. STRLs and servicing personnel offices may use unofficial transcripts or a letter from a registrar or dean to make qualification determinations, thus eliminating several days or weeks from the current hiring timeline. Official transcripts must be received within 30 calendar days after EOD.

Once unofficial transcripts or a letter from a registrar or dean is received, the servicing personnel office will review qualifications and begin the onboarding process. Applicants will be asked to request and submit official transcripts to the servicing personnel office, but an EOD may be established prior to receipt. Applicants will sign a statement of understanding (SOU) as part of their pre-employment paperwork. Risk is low and mitigated by requiring applicants to sign the SOU prior to their EOD. The SOU will include language stipulating that if official transcripts are not provided or fail to show proof that individuals meet the qualification requirements, individuals may be subject to adverse actions up to and including removal, as determined by specific circumstances by applicable regulations.

The SOU will regulate the applicants who do not have the degrees required for the positions or who may have been dishonest during the hiring process. The SOU will be maintained in the employee's e-OPF. Once official transcripts have been received by the servicing personnel office, they will be verified in the personnel system and uploaded into the employee's e-OPF.

(4) Direct Hire Authority

STRLs may appoint qualified candidates to those positions that involve 51 percent or more of time spent in direct support of STRL activities; that are identified by the STRLs as hard to fill; that have a history of high turnover; or that require unique, laboratory-related skillsets, without regard to the provisions of 5 U.S.C. chapter 33, subchapter I (excluding sections 3303, 3308, and 3328 of such title), as determined by the STRL director.

a. Use of this appointment authority must comply with merit system principles.

b. Appointments may be made on permanent, term, or temporary basis.

c. When documenting personnel actions, cite the first LAC/legal authority for all permanent, term, temporary, or special demonstration project appointments as Z2U/Public Law 103–337. The second LAC/legal authority will be cited as Z5C/Direct Hire Auth (STRL-Direct Support) (with appropriate legal authority once assigned.)

d. STRLs will document requirements for how positions qualify for usage of this authority in their IOPs.

e. STRL positions not classified under the broad banding structure will be listed in IOPs.

(5) Flexible-Length and Renewable-Term Appointments for Support Positions

STRLs may use flexible-length and renewable-term appointments to appoint qualified candidates whose positions involve 51 percent or more of time spent in direct support of STRL activities for a period of more than one year but not more than six years. The appointment of any individual under this authority may be extended without limit in up to six-year increments at any time during any term of service under conditions set forth by the STRL director. The provisions described in 82 FR 43339, II.A.1., apply to appointments made under this authority.

(6) Student Loan Repayment

STRLs may provide student loan repayment options that are in line with current tuition costs and adjusted based on inflation without higher level approval. This authority provides an STRL the ability to repay all or part of an outstanding qualifying student loan or loans previously taken out by a current STRL employee or a candidate to whom an offer of employment has been made.

Beginning in 2020, the amount of student loan repayment benefits provided by an STRL is subject to both of the following limits:

a. Up to $25,000 per employee per calendar year.

b. A total of $125,000 per employee.

OUSD(R&E) may increase these amounts as deemed necessary to stay competitive with private industry and academia. Eligibilities, conditions, qualifying student loans, and required service agreements remain the same as

found in 5 CFR part 537. Loan payments made by an STRL under this part do not exempt an employee from his or her responsibility and/or liability for any loan(s) the individual has taken out. The employee is responsible for any income tax obligations resulting from the student loan repayment benefit.

(7) Security Eligibility

STRLs have authority to appoint individuals to Critical-Sensitive (CS) and Special-Sensitive positions prior to a final favorable eligibility determinations at the Top Secret/SCI level. Processes and pre-employment waiver requirements similar to those afforded CS positions will be applied in these situations. For the purposes of STRLs, an emergency or national interest that necessitates an appointment prior to the completion of the investigation and adjudication process includes an STRL's inability to meet mission requirements. Each applicant's Standard Form 86 ''Questionnaire for National Security Positions,'' fingerprints, and pre-screen questionnaire will be reviewed, and a favorable pre-screening eligibility determination will be made prior to any individual being given a final job offer and EOD. Also, each STRL will provide the written documentation needed to support a waiver decision to the appointing authority, who will document the reason for the appointment and ensure the justification is sufficient before a final offer of employment is made.

The individual will perform duties and occupy a location permitted by their current security eligibility (interim or final), but not higher than Top Secret. The applicant may be required to sign a statement of understanding that documents that the pre-appointment decision was made based on limited information, and that continued employment depends upon the completion of a personnel security investigation (tier 3 or 5) and favorable adjudication of the full investigative results.

*B. Evaluation*

Procedures for evaluating these authorities 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 these authorities when requested by the Component headquarters or OUSD(R&E).

## 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 CFR 212.301—Competitive Status Defined. Waived to the extent necessary to allow individuals on flexible-length and renewable-term appointments to be considered status candidates as defined in 82 FR 43339 and this FRN. |
| 5 U.S.C. Chapter 33, Subchapter I—Examination, Certification, and Appointment. Waived except for sections 3302, 3321, and 3328 to the extent necessary to allow direct hire authority for qualified candidates whose positions involve 51 percent or more of time spent in direct support of STRL activities, are identified by the STRLs as hard to fill, have a history of high turnover, or require unique, laboratory-related skillsets; and to the extent necessary to allow employees appointed on flexible-length and renewable-term appointments to apply for Federal positions as status candidates. | 5 CFR Parts 300–330 Other Than Subpart G of 300—Employment. Waived to the extent necessary to allow direct hire authority for qualified candidates whose positions involve 51 percent or more of time spent in direct support of STRL activities, are identified by the STRLs as hard to fill, have a history of high turnover, or require unique, laboratory-related skillsets. |
| | 5 CFR Part 315.805—Termination of Probationers for Conditions Arising before Appointment. Waived to the extent necessary to permit termination during the extended probationary period without using adverse procedures with regard to the authorities in this FRN. |
| | 5 CFR Part 316.301—Purpose and Duration. Waived to the extent necessary to allow provisions of the flexible-length and renewable-term appointments described herein. |
| | 5 CFR Part 330.104—Requirements for Vacancy Announcements. Waived to the extent necessary to allow an STRL to determine information to be published in a USAJobs flyer. |
| | 5 CFR Part 332—Recruitment and Selection through Competitive Examination. Waived to the extent necessary to allow employees on flexible-length and renewable-term appointments to apply for Federal positions as status candidates. |
| | 5 CFR Part 335—Promotion and Internal Placement. Waived to the extent necessary to allow employees on a flexible-length and renewable-term appointments to apply for Federal positions as status candidates. |
| 5 U.S.C. 3308—Competitive Service; Examinations; Educational Requirements Prohibited; Exceptions. Waived to the extent necessary to allow the qualification determinations as described in this FRN. | 5 CFR Part 338.301—Competitive Service Appointment. Waived to the extent necessary to allow STRLs to consider demonstrated exceptional experience or a combination of experience and education in lieu of meeting OPM individual occupational qualification requirements for S&E positions. |
| 5 U.S.C. 5379(a)(1)(A) and (b)(2)—Student Loan Repayment. Waived to the extent necessary to define agency as STRL and to allow provisions of the student loan repayment authority as described in this FRN. | 5 CFR Part 537—Repayment of Student Loans. Waived to the extent necessary to define agency as STRL and to allow provisions of the student loan repayment authority as described in this FRN. |

APPENDIX A—WAIVERS TO TITLE 5, U.S.C.—Continued

| Title 5, United States Code | Title 5, Code of Federal Regulations |
|---|---|
| | 5 CFR Part 1400.202 (a)(2)—Waivers and Exceptions to Pre-appointment Investigative Requirements. (1) To the extent necessary, waive the pre-employment investigative requirements thereby enabling STRLs to make a final job offer and establish an EOD prior to a favorable eligibility determination at the Top Secret/SCI level. (2) For positions designated as Top Secret/Special-Sensitive and Critical-Sensitive, apply the same waiver requirements for pre-appointment investigations in accordance with 5 CFR 1400.202(a)(2)(ii) for Critical-Sensitive positions with the following changes:<br>a. An emergency or a national interest necessitating a pre-employment investigation waiver would include an STRL's inability to meet mission requirements.<br>b. An agency or agency head would be defined as an STRL to allow for the provisions regarding security eligibility as described in this FRN. |

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. |
| Combat Capabilities Development Command Armaments Center | 76 FR 3744. |
| Army Research Institute for Behavioral and Social Sciences | Not yet published. |
| Combat Capabilities Development Command Army Research Laboratory. | 63 FR 10680. |
| Combat Capabilities Development Command Aviation and Missile Center. | 62 FR 34906 and 62 FR 34876 amended by 65 FR 53142 (AVRDEC and AMRDEC merged together). |
| Combat Capabilities Development Command Chemical Biological Center. | 74 FR 68936. |
| Combat Capabilities Development Command Command, Control, Communications, Computers, Cyber, Intelligence, Surveillance, and Reconnaissance Center. | 66 FR 54872. |
| Engineer Research and Development Center | 63 FR 14580 amended by 65 FR 32135. |
| Combat Capabilities Development Command Ground Vehicle Systems Center. | 76 FR 12508. |
| Medical Research and Development Command | 63 FR 10440. |
| Combat Capabilities Development Command Soldier Center | 74 FR 68448. |
| Technical Center, U.S. Army Space and Missile Defense Command | 85 FR 3339. |
| Naval Air Warfare Center | 76 FR 8530. |
| Naval Facilities Engineering Command Engineering and Expeditionary Warfare Center. | Not yet published. |
| 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. |
| Navy Information Warfare Center Atlantic and Pacific | 76 FR 1924. |

Dated: September 10, 2020.

**Aaron T. Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2020–20321 Filed 9–15–20; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF EDUCATION

**[Docket No.: ED–2020–SCC–0108]**

## Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; HBCU Capital Financing Program Deferment Applications

**AGENCY:** Office of Postsecondary Education, Department of Education (ED).

**ACTION:** Notice

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is proposing an ICR Extension.

**DATES:** Interested persons are invited to submit comments on or before October 16, 2020.

**ADDRESSES:** Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Don Watson, (202) 453–6166.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* HBCU Capital Financing Program Deferment Applications.

*OMB Control Number:* 1840–0845.

*Type of Review:* An Extension of an Existing Information Collection.

*Respondents/Affected Public:* Private Sector; State, Local, and Tribal Governments.

*Total Estimated Number of Annual Responses:* 50.

*Total Estimated Number of Annual Burden Hours:* 50.

*Abstract:* In the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116–136 (March 27, 2020), Congress provided authority for deferments due to a qualifying emergency. Generally, the CARES Act provides that the Secretary may grant a deferment to recipients of Program loans, regardless of whether the recipient is a public or private HBCU, for the duration of the coronavirus-related emergency. The Department has developed an application for HBCUs to seek a deferment of a Program loan under the CARES Act. This application will allow a Program participant to request the deferment and submit information for the Department's required report to Congress regarding its use of its CARES Act authority to grant the deferments.

Dated: September 11, 2020.

**Kate Mullen,**

*PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.*

[FR Doc. 2020–20414 Filed 9–15–20; 8:45 am]

**BILLING CODE 4000–01–P**

---

## DEPARTMENT OF EDUCATION

**[Docket No.: ED–2020–SCC–0098]**

## Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Report of Children Receiving Early Intervention Services in Accordance With Part C; Report of Program Settings in Accordance With Part C; Report on Infants and Toddlers Exiting Part C]

**AGENCY:** Office of Special Education and Rehabilitation, Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

**DATES:** Interested persons are invited to submit comments on or before October 16, 2020.

**ADDRESSES:** Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Amy Bae, 202–245–8372.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Report of Children Receiving Early Intervention Services in Accordance With Part C; Report of Program Settings in Accordance with Part C; Report on Infants and Toddlers Exiting Part C.

*OMB Control Number:* 1820–0557.

*Type of Review:* Extension without change.

*Respondents/Affected Public:* State, Local, and Tribal Governments.

*Total Estimated Number of Annual Responses:* 56.

*Total Estimated Number of Annual Burden Hours:* 5,311.

*Abstract:* Section 618 of the Individuals with Disabilities Education Act (IDEA), Public Law 108–446, directs the Secretary of Education to obtain data on the number and percentage of infants and toddlers with disabilities, by race, ethnicity, and gender, who are receiving early intervention services, the number and percentage of infants and toddlers, by race and ethnicity, who are at risk of having substantial developmental delays (as described in Section 632), and who are receiving early intervention services under Part C, and the number and percentage of children with disabilities, by race, ethnicity, and gender, who, from birth through age 2, stopped receiving early intervention services because of program completion or for other reasons. The specific legislative authority for these data collections may be found in Section 618(a)(1)(B), Section 618(a)(1)(C), Section 618(a)(2) and Section 618(a)(3). This package provides instructions and forms necessary for States to report the number of children receiving early intervention services under Part C of IDEA, the settings in which these children are provided services, and the reasons by which these children exit Part C of IDEA. The form satisfies

reporting requirements and is used by OSEP to monitor State agencies and for Congressional and public reporting. No adjustments were made to this data collection therefore we anticipate no change in the response burden associated with this data collection. The Department of Education is interested in public comment addressing the COVID crisis. Specially, are there any considerations to these data collections due to the national emergency caused by the novel Coronavirus disease 2019 (COVID–19). Please note that written comments received in response to this notice will be considered public records.

Dated: September 10, 2020.

**Kate Mullan,**

*PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.*

[FR Doc. 2020–20348 Filed 9–15–20; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF ENERGY

### Energy Information Administration

### Agency Information Collection Extension

**AGENCY:** U.S. Energy Information Administration (EIA), U.S. Department of Energy (DOE).

**ACTION:** Notice and request for comments.

**SUMMARY:** EIA submitted an information collection request for extension as required by the Paperwork Reduction Act of 1995. The information collection requests a three-year extension, with changes, to Form EIA–914, ''*Monthly Crude Oil and Lease Condensate, and Natural Gas Production Report*'' under OMB Control Number 1905–0205. Form EIA–914 collects monthly data from well operators at the state level on crude oil and lease condensate, and natural gas production within the United States. These data are used by EIA to estimate state, regional, and U.S. crude oil and lease condensate, and natural gas production.

**DATES:** Comments on this information collection must be received no later than October 16, 2020. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function below ''Currently under Review''.

**FOR FURTHER INFORMATION CONTACT:** Jessica Biercevicz, U.S. Energy Information Administration, telephone 202–586–4299, or by email at *jessica.biercevicz@eia.gov.* The forms and instructions are available on EIA's website at *www.eia.gov/survey.*

**SUPPLEMENTARY INFORMATION:** This information collection request contains:

(1) *OMB No.:* 1905–0205;

(2) *Information Collection Request Title:* Monthly Crude Oil and Lease Condensate, and Natural Gas Production Report;

(3) *Type of Request:* Three-year extension with changes;

(4) *Purpose:* Form EIA–914 Monthly Crude Oil and Lease Condensate, and Natural Gas Production Report, collects monthly data on natural gas production, crude oil and lease condensate production, and crude oil and lease condensate sales by API gravity. These data are used by EIA to estimate state, regional, and U.S. crude oil and natural gas production.

(4a) *Changes to Information Collection:* Respondents in four (4) states (Alabama, Michigan, Mississippi, and Virginia) and the Federal Offshore Pacific area will report crude oil and natural gas production in the ''Other States'' category rather than separately report their state or offshore area production. Production in these 4 states and offshore area will be combined with other states with small production volumes in the ''Other States'' category. Although production in these 4 states and offshore area have remained stable over the past 3 years, their percentage of the US total production for crude oil and natural gas has declined over the past 4 years.

(5) *Annual Estimated Number of Respondents:* 400;

(6) *Annual Estimated Number of Total Responses:* 4,800;

(7) *Annual Estimated Number of Burden Hours:* 19,200;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* EIA estimates that respondents will have no additional costs associated with the surveys other than the burden hours and the maintenance of the information during the normal course of business. The cost of burden hours to the respondents is estimated to be $1,538,688 (19,200 burden hours times $80.14).

**Authority:** 15 U.S.C. 772(b) and 42 U.S.C. 7101 *et seq.*

Signed in Washington, DC, on September 10, 2020.

**Thomas Leckey,**

*Assistant Administrator, Office of Energy Statistics, U.S. Energy Information Administration.*

[FR Doc. 2020–20342 Filed 9–15–20; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER20–2845–000]**

### Albemarle Beach Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Albemarle Beach Solar, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 30, 2020.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human

Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: September 10, 2020.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2020–20366 Filed 9–15–20; 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:

*Docket Numbers:* RP20–1177–000.

*Applicants:* Iroquois Gas Transmission System, L.P.

*Description:* § 4(d) Rate Filing:090920 Negotiated Rates—Freepoint Commodities LLC R–7250–35 to be effective 11/1/2020.

*Filed Date:* 9/9/20.

*Accession Number:* 20200909–5038.

*Comments Due:* 5 p.m. ET 9/21/20.

*Docket Numbers:* RP20–1178–000.

*Applicants:* Iroquois Gas Transmission System, L.P.

*Description:* § 4(d) Rate Filing: 091020 Negotiated Rates—Macquarie Energy LLC R–4090–21 to be effective 11/1/2020.

*Filed Date:* 9/10/20.

*Accession Number:* 20200910–5059.

*Comments Due:* 5 p.m. ET 9/22/20.

*Docket Numbers:* RP20–1179–000.

*Applicants:* Iroquois Gas Transmission System, L.P.

*Description:* § 4(d) Rate Filing: 091020 Negotiated Rates—Mercuria Energy America, LLC R–7540–02 to be effective 11/1/2020.

*Filed Date:* 9/10/20.

*Accession Number:* 20200910–5061.

*Comments Due:* 5 p.m. ET 9/22/20.

*Docket Numbers:* RP20–1180–000.

*Applicants:* Iroquois Gas Transmission System, L.P.

*Description:* § 4(d) Rate Filing: 091020 Negotiated Rates—Mercuria Energy America, LLC R–7540–22 to be effective 11/1/2020.

*Filed Date:* 9/10/20.

*Accession Number:* 20200910–5062.

*Comments Due:* 5 p.m. ET 9/22/20.

*Docket Numbers:* RP20–1181–000.

*Applicants:* Iroquois Gas Transmission System, L.P.

*Description:* § 4(d) Rate Filing: 091020 Negotiated Rates—Shell Energy North America (US), L.P. R–2170–15 to be effective 11/1/2020.

*Filed Date:* 9/10/20.

*Accession Number:* 20200910–5063.

*Comments Due:* 5 p.m. ET 9/22/20.

*Docket Numbers:* RP20–1182–000.

*Applicants:* Iroquois Gas Transmission System, L.P.

*Description:* § 4(d) Rate Filing: 091020 Negotiated Rates—Shell Energy North America (US), L.P. R–2170–16 to be effective 11/1/2020.

*Filed Date:* 9/10/20.

*Accession Number:* 20200910–5064.

*Comments Due:* 5 p.m. ET 9/22/20.

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: September 10, 2020.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2020–20368 Filed 9–15–20; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER20–2846–000]**

### Mechanicsville Lessee, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Mechanicsville Lessee, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 30, 2020.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link.

Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: September 10, 2020.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2020–20370 Filed 9–15–20; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket Nos. AD20–24–000; ER02–2001–000]**

### Electric Quarterly Report Users Group Meeting; Notice of Electric Quarterly Report Users Group Meeting

On August 3, 2020,[1] the Federal Energy Regulatory Commission (Commission) issued a notice that Commission staff will hold an Electric Quarterly Report (EQR) Users Group meeting on September 23, 2020. The meeting will take place from 10:00 a.m. to 5:00 p.m. Eastern Time. All interested persons are invited to participate. Access to the meeting will be available via WebEx.

Commission staff is hereby supplementing the August 3, 2020 notice with the agenda for discussion. During the meeting, Commission staff and EQR users will discuss recent developments and potential improvements to the EQR program and the EQR filing process. Questions regarding the meeting may be emailed to *EQRUsersGroup@ferc.gov.*

Please note that matters pending before the Commission and subject to ex-parte limitations cannot be discussed at this meeting. An agenda for the meeting follows.

Information for the EQR Users Group Meeting, including a link to the webcast, will be posted on the meeting event page on the Commission's website, *https://www.ferc.gov/news-events/events/electric-quarterly-report-eqr-user-group-meeting-09232020-1* prior to the event. Due to the nature of the discussion, those wishing to participate are required to register for the meeting through the WebEx link. There is no registration fee. Questions may also be emailed prior to and during the event to *EQRUsersGroup@ferc.gov.*

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–208–1659 (TTY), or send a FAX to 202–208–2106 with the required accommodations.

For more information about the EQR Users Group meeting, please contact Jeff Sanders of the Commission's Office of Enforcement at (202) 502–6455, or send an email to *EQRUsersGroup@ferc.gov.*

Dated: September 10, 2020.

**Kimberly D. Bose,**

*Secretary.*

### Agenda

*EQR Users Group Meeting; September 23, 2020*

10:00 a.m.–10:15a.m. Introductions and Logistics
- Agenda Review
- Meeting Format for Comments and Questions

10:15 a.m.–11:15 a.m. Updates Since Last Meeting
- New EQR Webpage
- Elimination of EQR RSS Feed
- New EQR Validations and Errors
- June 18th Order Revising and Clarifying EQR Reporting Requirements (171 FERC ¶ 61,214 (2020))

11:15 a.m.–12:00 p.m. Booked Out Power Transactions
- How do sellers define, classify, and capture data related to booked out power transactions?
- How do sellers report their Booked-Out Power transactions in the EQR?
- What can be done to provide further clarity on how booked out power transactions should be reported to the EQR?

12:00 p.m.–1:00 p.m. Break

1:00 p.m.–4:00 p.m. EQR Reassessment
- Updates since last meeting
- EQR Reassessment Going Forward
- What is XBRL?

4:00 p.m.–4:55 p.m. Open Discussion—Feedback to topics received from users

4:55 p.m.–5:00 p.m. Closing Remarks

[FR Doc. 2020–20396 Filed 9–15–20; 8:45 am]

**BILLING CODE 6717–01–P**

[1] 18 CFR 2.1 (2019).

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER20–2843–000.
*Applicants:* PJM Interconnection, L.L.C.
*Description:* § 205(d) Rate Filing: Amendment to ICSA, SA No. 5462; Queue No. Y3–092 (amend) to be effective 10/24/2019.
*Filed Date:* 9/9/20.
*Accession Number:* 20200909–5128.
*Comments Due:* 5 p.m. ET 9/30/20.

*Docket Numbers:* ER20–2844–000.
*Applicants:* Michigan Electric Transmission Company, LLC.
*Description:* § 205(d) Rate Filing: Filing of Amended Service Agreement Appendices to be effective 9/21/2020.
*Filed Date:* 9/9/20.
*Accession Number:* 20200909–5131.
*Comments Due:* 5 p.m. ET 9/30/20.

*Docket Numbers:* ER20–2845–000.
*Applicants:* Albemarle Beach Solar, LLC.
*Description:* Baseline eTariff Filing: Application For Market Based Rate Authority to be effective 11/9/2020.
*Filed Date:* 9/9/20.
*Accession Number:* 20200909–5133.
*Comments Due:* 5 p.m. ET 9/30/20.

*Docket Numbers:* ER20–2846–000.
*Applicants:* Mechanicsville Lessee, LLC.
*Description:* Baseline eTariff Filing: Application For Market Based Rate Authority to be effective 9/10/2020.
*Filed Date:* 9/9/20.
*Accession Number:* 20200909–5136.
*Comments Due:* 5 p.m. ET 9/30/20.

*Docket Numbers:* ER20–2847–000.
*Applicants:* AB Lessee, LLC.
*Description:* Baseline eTariff Filing: Application For Market Based Rate Authority to be effective 11/9/2020.
*Filed Date:* 9/9/20.
*Accession Number:* 20200909–5139.
*Comments Due:* 5 p.m. ET 9/30/20.

*Docket Numbers:* ER20–2848–000.
*Applicants:* Wheatridge Wind II, LLC.
*Description:* Baseline eTariff Filing: Wheatridge Wind II, Wheatridge Solar, and PGE Shared Facilities Agreement to be effective 10/15/2020.
*Filed Date:* 9/9/20.
*Accession Number:* 20200909–5141.
*Comments Due:* 5 p.m. ET 9/30/20.

*Docket Numbers:* ER20–2849–000.
*Applicants:* Louisville Gas & Electric Company, Kentucky Utilities Company.
*Description:* Notice of cancellation of Netting Agreement (Rate Schedule No.

27) of Louisville Gas and Electric Company, et al.

*Filed Date:* 9/9/20.

*Accession Number:* 20200909–5156.

*Comments Due:* 5 p.m. ET 9/30/20.

*Docket Numbers:* ER20–2850–000.

*Applicants:* California Independent System Operator Corporation.

*Description:* § 205(d) Rate Filing: 2020–09–10 Transferred Frequency Response Agmt—City of Seattle to be effective 12/1/2020.

*Filed Date:* 9/10/20.

*Accession Number:* 20200910–5016.

*Comments Due:* 5 p.m. ET 10/1/20.

*Docket Numbers:* ER20–2851–000.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* § 205(d) Rate Filing: 2020–09–10_SA 2899 Termination of ITC Midwest-Northern States Power FCA (J278) to be effective 9/11/2020.

*Filed Date:* 9/10/20.

*Accession Number:* 20200910–5044.

*Comments Due:* 5 p.m. ET 10/1/20.

*Docket Numbers:* ER20–2852–000.

*Applicants:* Midcontinent Independent System Operator, Inc., Otter Tail Power Company.

*Description:* § 205(d) Rate Filing: 2020–09–10_SA 3076 OTP-East River 1st Rev T–T (Load) to be effective 8/25/2020.

*Filed Date:* 9/10/20.

*Accession Number:* 20200910–5101.

*Comments Due:* 5 p.m. ET 10/1/20.

*Docket Numbers:* ER20–2853–000.

*Applicants:* California Independent System Operator Corporation.

*Description:* § 205(d) Rate Filing: 2020–09–10 Transferred Frequency Response Agmt—Grant PUD to be effective 12/1/2020.

*Filed Date:* 9/10/20.

*Accession Number:* 20200910–5106.

*Comments Due:* 5 p.m. ET 10/1/20.

*Docket Numbers:* ER20–2854–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Original WMPA 5751; Queue No. AF2–087 to be effective 8/11/2020.

*Filed Date:* 9/10/20.

*Accession Number:* 20200910–5117.

*Comments Due:* 5 p.m. ET 10/1/20.

*Docket Numbers:* ER20–2855–000.

*Applicants:* Alabama Power Company.

*Description:* § 205(d) Rate Filing: Silver Arrow LGIA Filing to be effective 8/26/2020.

*Filed Date:* 9/10/20.

*Accession Number:* 20200910–5125.

*Comments Due:* 5 p.m. ET 10/1/20.

*Docket Numbers:* ER20–2856–000.

*Applicants:* High Desert Power Project, LLC.

*Description:* Baseline eTariff Filing: SFA new filing to be effective 11/10/2020.

*Filed Date:* 9/10/20.

*Accession Number:* 20200910–5138.

*Comments Due:* 5 p.m. ET 10/1/20.

*Docket Numbers:* ER20–2857–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Second Revised ISA, Service Agreement No. 3041; Queue No. AE2–184 to be effective 8/11/2020.

*Filed Date:* 9/10/20.

*Accession Number:* 20200910–5144.

*Comments Due:* 5 p.m. ET 10/1/20.

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: September 10, 2020.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2020–20365 Filed 9–15–20; 8:45 am]

**BILLING CODE 6717–01–P**

---

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER20–2847–000]**

### AB Lessee, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of AB Lessee, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 30, 2020.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: September 10, 2020.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2020–20369 Filed 9–15–20; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OW–2018–0640; FRL–10014–54–Region 4]**

## Florida's Request To Assume Administration of a Clean Water Act Section 404 Program

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Clean Water Act (CWA) established the Section 404 program, under which the U.S. Army Corps of Engineers (Corps) may issue permits for the discharge of dredged or fill material into ''waters of the United States,'' as identified in the CWA. Section 404(g)(1) of the CWA authorizes states and tribes to administer their own permit program for the discharge of dredged or fill material into navigable waters, other than those waters that the CWA reserves as subject to Corps jurisdiction. On August 20, 2020, the Environmental Protection Agency (EPA) received from the Governor of the State of Florida, a complete program submission for regulating discharges of dredged or fill material into waters within the jurisdiction of the State in accordance with the CWA. Pursuant to CWA Section 404(h) and EPA's implementing regulations, EPA will hold public hearings and is opening a 45-day comment period. EPA is also initiating a programmatic consultation under Section 106 of the National Historic Preservation Act (NHPA) and is soliciting comments pursuant to NHPA implementing regulations during the 45-day comment period.

**DATES:** Comments on EPA's decision to approve or disapprove under CWA Section 404 must be received on or before November 2, 2020. Comments associated with the consultation under section 106 of the NHPA may also be submitted on or before November 2, 2020. EPA intends to approve or disapprove the State of Florida's request to assume administration of a CWA Section 404 program by December 17, 2020.

**ADDRESSES:** You may send comments on both actions (Florida's request to assume a CWA Section 404 program and EPA's consultation under NHPA section 106), identified by Docket ID No. EPA–HQ–OW–2018–0640, by any of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments and accessing the docket and materials related to this notice.
- *Email: 404Assumption-FL@epa.gov.*
- *Mail:* Mr. Kelly Laycock, Oceans, Wetlands and Streams Protection Branch, USEPA Region 4, 61 Forsyth St. SW, Atlanta, GA 30303.

*Instructions:* All submissions received must include the Docket ID No. EPA–HQ–OW–2018–0640 for these actions. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided.

Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are open by appointment only, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via *https://www.regulations.gov/* or email at *404Assumption-FL@epa.gov,* as there may be a delay in processing mail and faxes. Hand deliveries and couriers may be received by scheduled appointment only. For further information on the EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

The virtual hearings will be held on October 21, 2020 and October 27, 2020. The hearing held on October 21, 2020 will convene at 9:00 a.m. and will conclude no later than 12:00 p.m. EDT. The hearing held on October 27, 2020 will convene at 5:00 p.m. EDT and will conclude not later than 8:00 p.m. EDT. For information about registration for these virtual public hearings, please see *https://www.epa.gov/aboutepa/about-epa-region-4-southeast.*

**FOR FURTHER INFORMATION CONTACT:** Mr. Kelly Laycock, Oceans, Wetlands and Streams Protection Branch, USEPA Region 4, 61 Forsyth St. SW, Atlanta, GA 30303; (404) 562–9262; email address: *404Assumption-FL@epa.gov.*

**SUPPLEMENTARY INFORMATION:** The State's submission may be read online through the Federal eRulemaking Portal, Docket No. EPA–HQ–OW–2018–0640, the EPA's Docket Center, available at *https://www.regulations.gov.* The State's submission is also on file and may be inspected and copied (for a per page charge) at the EPA Docket Center Reading Room located at WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. Due to COVID–19, access to the EPA Docket Center Reading Room will be allowed by appointment only. Procedures to make an appointment to visit the EPA Docket Center Reading Room can be found at *https://www.epa.gov/dockets/epa-docket-center-reading-room.*

### Table of Contents

I. General Information
A. Does this action apply to me?
B. What should I consider as I prepare my comments?
C. How can I participate in the virtual public hearing?
II. Background
A. Clean Water Act Section 404(g)
B. National Historic Preservation Act Section 106 Consultation
C. Endangered Species Act Consultation

### I. General Information

*A. Does this action apply to me?*

States and tribes that have assumed or are considering assuming the administration of a CWA Section 404 dredged or fill material permitting program as well as regulated entities and members of the public in the State of Florida may be interested in providing input on the issues described in this document.

Tribal and State Historic Preservation Offices as well as members of the public with knowledge of or interest in the identification (and location) of historic properties in the State of Florida, the effects of discharges from dredged or fill activities into waters of the United States on these historic properties, or ways to mitigate or avoid adverse effects of such discharges may be interested in commenting on EPA's consultation on this action under section 106 of the NHPA.

*B. What should I consider as I prepare my comments?*

Comments may consider whether the state program meets the requirements of Section 404(g) of the CWA and its implementing regulations. Comments may also consider the impacts of EPA's approval or disapproval of Florida's request on historic sites located within the State of Florida in accordance with section 106 of the NHPA.

Submit your comments, identified by Docket ID No. EPA–HQ–OW–2018–0640, at *https://www.regulations.gov* (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its public docket. Do not submit to EPA's docket any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment

is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

The EPA Docket Center and Reading Room are open by appointment only, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via *https://www.regulations.gov/* as there may be a delay in processing mail and faxes. Hand deliveries or couriers will be received by scheduled appointment only. For further information and updates on EPA Docket Center services, please visit us online at *https://www.epa.gov/dockets.*

EPA continues to carefully and continuously monitor information from the Centers for Disease Control and Prevention (CDC), local area health departments, and our federal partners so that we can respond rapidly as conditions change regarding COVID–19.

*C. How can I participate in the virtual public hearing?*

EPA is deviating from its typical approach because the President has declared a national emergency. Because of current CDC recommendations, as well as state and local orders for social distancing to limit the spread of COVID–19, EPA cannot hold in-person public meetings at this time.

The virtual hearings will be held on October 21, 2020 and October 27, 2020. The hearing held on October 21, 2020 will convene at 9:00 a.m. and will conclude no later than 12:00 p.m. EDT. The hearing held on October 27, 2020 will convene at 5:00 p.m. EDT and will conclude not later than 8:00 p.m. EDT.

EPA will begin pre-registering speakers and listen-only attendees for the hearings upon publication of this notice in the **Federal Register**. For a link to the on-line registration page, please visit *https://www.epa.gov/aboutepa/about-epa-region-4-southeast.* Immediately following registration, you will receive an email confirming your registration and providing a unique link to the webinar. Speakers will be signed up to speak in the order that their registration is received. The last day to pre-register to speak at a hearing will be October 9, 2020. On October 20, 2020, EPA will post a general agenda for the hearing that will list the order of pre-registered speakers and their approximate timeslots at: *https://www.epa.gov/aboutepa/about-epa-region-4-southeast.* Please note that timeslots will be estimated and speakers are encouraged to join the webinar at least 15 minutes prior to the start of their estimated speaking time.

EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearings to run either ahead of schedule or behind schedule.

Oral comments shall be limited to no more than five (5) minutes. EPA recommends that commenters prepare their oral statement in advance to ensure it can be completed within five minutes. EPA also recommends that commenters also submit the text of their oral comments (with any relevant supplementary information) as written comments to the rulemaking docket. EPA encourages commenters to provide EPA with a copy of their oral testimony electronically (via email) by emailing it to Mr. Kelly Laycock at *404Assumption-FL@epa.gov.*

EPA may ask clarifying questions during the oral testimony but will not respond to the comments at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the public hearing. The proceedings of the hearings will be recorded. After the public hearing, verbatim transcripts of the sessions will be included in the rulemaking docket.

Please note that any updates made to any aspect of the hearing will be posted online at *https://www.epa.gov/aboutepa/about-epa-region-4-southeast.* While EPA expects the hearing to go forward as set forth above, please monitor our website to determine if there are any updates. EPA does not intend to publish a document in the **Federal Register** announcing updates.

To request services for special accommodations, please pre-register for the hearing with Mr. Kelly Laycock at *404Assumption-FL@epa.gov* and describe your needs by October 7, 2020. EPA will seek to arrange special accommodations as needed to support hearing participation if given advanced notice.

## II. Background

*A. Clean Water Act Section 404(g)*

The CWA established the Section 404 program, under which the Secretary of the Army, acting through the Chief of Engineers of the Corps, may issue permits for the discharge of dredged or fill material into waters of the United States as identified in the CWA. Section 404(g)(1) of the CWA provides states and tribes the option of submitting to EPA a request to assume administration of a CWA Section 404 program in certain waters within state or tribal jurisdiction.

The regulations establishing the requirements for the approval of state or tribal programs under section 404 of the CWA were published in the **Federal Register**, at 53 FR 20764, (June 6, 1988) (40 CFR parts 232 and 233), and can be accessed at *https://www.epa.gov/cwa404g/statutory-and-regulatory-requirements-assumption-under-cwa-section-404.* ''State regulated waters'' are defined in 40 CFR 232.2 as ''those waters of the United States in which the Corps suspends the issuance of Section 404 permits upon approval of a state's section 404 permit program by the Administrator under section 404(h). The program cannot be transferred for those waters which are presently used, or are susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce shoreward to their ordinary high water mark, including all waters which are subject to the ebb and flow of the tide shoreward to the high tide line, including wetlands adjacent thereto.'' The Corps retains CWA Section 404 permitting authority over waters of the United States within ''Indian country'' as that term is defined at 18 U.S.C. 1151, unless a tribe has assumed the 404 program within Indian country. *See* 40 CFR 233.1(b).

A state application to administer a Section 404 program must include the following: (a) A letter from the Governor of the state requesting program approval; (b) a complete program description as set forth in 40 CFR 233.11; (c) an Attorney General's statement or a statement from the attorney for those state or interstate agencies which have independent legal counsel, as set forth in 40 CFR 233.12; (d) a Memorandum of Agreement with the EPA Regional Administrator, as set forth in 40 CFR 233.13; (e) a Memorandum of Agreement with the Secretary of the Army, as set forth in 40 CFR 233.14; and (f) copies of all applicable state statutes and regulations, including those governing applicable

state administrative procedures. 40 CFR 233.10.

EPA has reviewed the State of Florida's program submission and consistent with 40 CFR 233.15 has determined that it is a complete request for State program approval that meets the submittal requirements of 40 CFR 233.10. The Governor's request proposes that FDEP administer a permit program for regulated activities in waters regulated by the State under section 404(g)(1), as identified in the Memorandum of Agreement with the Secretary of the Army, in accordance with section 404 of the CWA. The main statutory and regulatory authorities to administer and enforce the State 404 program can currently be found in the State's submission to assume the program and are available on FDEP's web page at *https://floridadep.gov/water/water/content/water-resource-management-rules.*

The State 404 program would provide for the issuance of general permits and individual permits. The State has adopted 38 general permits which are listed in 62–331 F.S. as part of their package submittal. A complete description of the individual permit process and the standards for granting of an individual permit are found at 62–331 F.S. In addition, there are standard requirements for all regulated activities in State-assumed waters. No permit shall be issued in certain specified circumstances, including when the permit does not comply with the requirements of the CWA or implementing regulations, including the CWA Section 404(b)(1) Guidelines. 40 CFR 233.20. Florida's laws outline a number of requirements applicable to State 404 permits, including that ''no dredge or fill activity shall be permitted if there is a practicable alternative to the proposed activity which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences,'' and an individual permit cannot be issued if it ''[c]auses or contributes to violations of any applicable State water quality standard, except when temporarily within a mixing zone proposed by the applicant and approved . . .'' by FDEP at 62–331.053 F.S.

Currently, Florida operates the Environmental Resource Permit program (ERP), which regulates the disposal of dredged or fill material into waters of the State under State law. State-regulated activities under ERP that go beyond the purview of the CWA are not subject to EPA approval or oversight under 40 CFR part 233.

The Memorandum of Agreement between FDEP and the Secretary of the Army, available in the docket for this action, identifies procedures for the transfer of all pending permit applications for discharges into the waters assumed by the State. 40 CFR 233.14. Pursuant to the Memorandum of Agreement, existing Section 404 permits already issued by the Corps as of the effective date of State assumption will remain with the Corps during the already approved lifespan of that permit.

The Regional Administrator is required to approve a state request to assume the Section 404 program unless the state program does not meet the requirements of Section 404(h) of the CWA and its implementing regulations. Among other authorities, the state must have: (1) Adequate authority to issue permits which comply with all pertinent requirements of the CWA, including but not limited to, the Section 404(b)(1) Guidelines, and which may be issued for fixed terms not to exceed 5 years; (2) adequate authority, including civil and criminal penalties, to abate violations of the permit or permit program; and (3) authority to ensure that the Administrator, the public, and any other affected state or tribe are given notice of each permit application and that the public and affected states and tribes are provided an opportunity for public hearing before a ruling on each such application. 33 U.S.C. 1344(h)(1).

The procedures for EPA's review and approval or disapproval of a state Section 404 program are outlined in 40 CFR 233.15. In summary, once a state submits an assumption package that is complete, a 120-day statutory review period commences, which may be extended by mutual agreement of the state and EPA. EPA shall provide copies of a complete assumption package within 10 days of receipt to the Corps, the National Marine Fisheries Service (NMFS), and the United States Fish and Wildlife Service (USFWS) for review and comment. Within 90 days of EPA's receipt of a complete program submission, the Corps, FWS, and NMFS shall submit to EPA any comments on the state program. EPA shall publish notice of the state's application in the **Federal Register**, state newspapers, and via mail to interested parties. EPA shall provide for a public comment period of not less than 45 days as well as a public hearing not less than 30 days after such notice is published in the **Federal Register**. EPA shall also provide notice of an opportunity to consult to federally recognized Indian tribes in the state.

Within 120 days of receipt of a complete program submission (unless EPA and the state extend the statutory review period), EPA shall approve or disapprove the program based on whether the state's program fulfills the requirements of the Act and 40 CFR part 233, taking into consideration all comments received. EPA will prepare a summary of significant comments received and responses to these comments, as well as respond individually to comments received from the Corps, USFWS, and NMFS.

If EPA approves Florida's program, EPA will notify the State and the Corps and publish notice in the **Federal Register**. Transfer of the program to the State is not effective until this notice is published. EPA may only disapprove the State's program if it is inconsistent with the requirements of the CWA and 40 CFR part 233. If EPA disapproves the State's program it shall notify the State of the reasons for the disapproval and of any revisions or modifications to the State's program which are necessary to obtain approval. If the State resubmits a program submission remedying the identified problem areas, the approval procedure and statutory review period shall begin upon receipt of the revised submission. EPA maintains oversight of State-issued permits pursuant to 40 CFR 233.50.

If EPA approves this program, EPA will also codify the approved program in 40 CFR 233 subpart H.

*B. National Historic Preservation Act Section 106 Consultation*

In accordance with 36 CFR 800.2(d), EPA is providing information and seeking comment on EPA's potential approval of Florida's request to assume a CWA Section 404 program and any potential effects of such approval on historic properties. The National Historic Preservation Act of 1966, as amended, (NHPA) establishes historic preservation as a federal agency policy and provides for the identification and protection of historic properties and resources. Section 106 of the NHPA requires federal agencies to take into account the effects of their undertakings on historic properties that are listed or eligible for listing on the National Register of Historic Places and provide the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment with regard to such undertakings. The approval of the State of Florida's request to assume the CWA Section 404 program would be an undertaking pursuant to 36 CFR 800.16(y), and therefore, in accordance with Section 106 of the NHPA and the ACHP's implementing regulations at 36 CFR part 800, EPA has initiated consultation regarding this undertaking.

EPA has invited the ACHP, FDEP, the State Historic Preservation Officer (SHPO), and Indian tribes with interests in the State of Florida to participate as consulting parties.

The State's administration of the Section 404 program and its issuance of permits over time has the potential to affect historic properties, including cultural resources or historic properties of religious and cultural significance. FDEP and the SHPO have entered into an Operating Agreement which sets forth a process to identify historic properties that may be impacted by Florida's issuance of Section 404 permits, and to develop recommendations for resolving adverse effects. As discussed in the State's Operating Agreement, such effects could potentially include, but are not limited to, the following:

i. Physical destruction of or damage to all or part of the property, including inundation;

ii. Alteration of a property, including restoration, rehabilitation, repair, maintenance, stabilization, hazardous material remediation, and provision of handicapped access;

iii. Change of the character of the property's use or of physical features within the property's setting, or impacts to the landscape that contribute to its historic significance;

iv. Introduction of visual, atmospheric or audible elements that diminish the integrity of the property's significant historic features; and

v. Neglect of a property which causes its deterioration, except where such neglect and deterioration are recognized qualities of a property of religious and cultural significance to an Indian Tribe.

Pursuant to the Operating Agreement, if the parties cannot reach agreement on the determination or resolution of effects, they may forward any outstanding issues to EPA for decision-making consistent with EPA's permitting review authorities under 40 CFR 233.50. The Operating Agreement provides comprehensive procedures for assessing the effects of Florida's 404 program on historic properties and therefore will considerably inform EPA's Section 106 consultation.

EPA solicits comments on this undertaking and any potential effects on historic properties at the Federal eRulemaking Portal, Docket No. EPA–HQ–OW–2018–0640. The comment period closes November 2, 2020.

*C. Endangered Species Act Consultation*

The Endangered Species Act (ESA) Section 7 directs each federal agency to ensure, in consultation with the USFWS and NMFS, that ''any action authorized, funded, or carried out by such agency . . . is not likely to jeopardize the continued existence of'' listed species or result in the destruction or adverse modification of designated critical habitat. 16 U.S.C. 1536(a)(2). EPA views consultation under ESA Section 7 to be required if a decision to approve a state or tribal CWA Section 404 program may affect ESA-listed species or designated critical habitat. EPA's position is set forth in a memorandum issued by David P. Ross, Assistant Administrator for the Office of Water, dated August 27, 2020, following the consideration of comments received during a public participation process that is outside of the scope of this notice. Accordingly, EPA is conducting ESA Section 7 consultation during the Agency's review of the State of Florida's request to assume administration of a CWA Section 404 program because EPA has determined that the Agency's potential approval of the program may affect ESA-listed species or designated critical habitat. *See https://www.epa.gov/cwa404g/consultation-cwa-section-404-program-requests-endangered-species-act-and-national-historic* for more information regarding EPA's position on ESA Section 7 consultation under CWA Section 404(g).

Dated: September 2, 2020.

**Mary Walker,**

*Regional Administrator, EPA Region 4.*

[FR Doc. 2020–19881 Filed 9–15–20; 8:45 am]

**BILLING CODE 6560–50–P**

---

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–OAR–2011–0371; FRL 10014–33–OAR]**

## Proposed Information Collection Request; Comment Request; National Volatile Organic Compounds Emission Standards for Architectural Coatings (Renewal)

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), titled, National Volatile Organic Compounds Emission Standards for Architectural Coatings to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA). Before doing so, the EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through June 30, 2021. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Comments must be submitted on or before November 16, 2020.

**ADDRESSES:** Submit your comments, referencing Docket ID No. EPA–OAR–2011–0371, online using *https://www.regulations.gov/* (our preferred method), by email to *a-and-r-docket@epa,gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

The EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information, or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** J. Kaye Whitfield, Sector Policies and Programs Division, Office of Air Quality Planning and Standards, D243–02, Research Triangle Park, North Carolina 27711, telephone number: 919–541–2509; fax number: 919–541–4991; email address: *whitfield.kaye@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *https://www.regulations.gov/.* Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via *https://www.regulations.gov/* or email, as there may be a delay in processing mail and faxes. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.* The telephone number for the Docket Center is 202–566–1744.

Pursuant to section 3506(c)(2)(A) of the PRA, the EPA is soliciting comments and information on National Volatile Organic Compounds Emission Standards for Architectural Coatings

(EPA ICR No, 1750.09, OMB Control No. 2060–0393) to enable it to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (2) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, the EPA will issue another **Federal Register** document to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

*Abstract:* The EPA is required under section 183(e) of the Clean Air Act (CAA) to regulate volatile organic compound (VOC) emissions from the use of consumer and commercial products. Pursuant to CAA section 183(e)(3), the EPA published a list of consumer and commercial products and a schedule for their regulation (60 FR 15264). Architectural coatings are included on the list, and the standards for such coatings are codified at 40 CFR part 59, subpart D. The information collection includes initial reports and periodic recordkeeping necessary for the EPA to ensure compliance with Federal standards for VOC in architectural coatings. Respondents are manufacturers, distributors, and importers of architectural coatings. Responses to the collection are mandatory under 40 CFR part 59, subpart D—National Volatile Organic Compound Emission Standards for Architectural Coatings. All information submitted to the EPA for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in 40 CFR part 2, subpart B—Confidentiality of Business Information.

*Form Numbers:* None.

*Respondents/affected entities:* Respondents are manufacturers, distributors, and importers of architectural coatings.

*Respondent's obligation to respond:* Mandatory under 40 CFR part 59, subpart D—National Volatile Organic Compound Emission Standards for Architectural Coatings.

*Estimated number of respondents:* 500 (total).

*Frequency of response:* On occasion.

*Total estimated burden:* 14,661 hours (per year). Burden is defined at 5 CFR 1320.03(b).

*Total estimated cost:* $1,481,441 (per year). There are no annualized capital or operation and maintenance costs.

*Changes in Estimates:* Labor rates have been updated using 2019 values, leading to an increase in the total estimated respondent burden compared with the ICR currently approved by OMB.

Dated: September 10, 2020.

**Penny Lassiter,**

*Director, Sector Policies and Programs Division.*

[FR Doc. 2020–20400 Filed 9–15–20; 8:45 am]

BILLING CODE 6560–50–P

## FEDERAL COMMUNICATIONS COMMISSION

**[OMB 3060–XXXX; FRS 17065]**

## Information Collection Being Submitted for Review and Approval to Office of Management and Budget

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.'' The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

**DATES:** Written comments and recommendations for the proposed information collection should be submitted on or before October 16, 2020.

**ADDRESSES:** Comments should be sent to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Nicole Ongele, FCC, via email to *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

**SUPPLEMENTARY INFORMATION:** As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public

Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

*OMB Control Number:* 3060–XXXX.

*Title:* Connect America Fund—Eligible Locations Adjustment Process (ELAP).

*Form Number:* N/A.

*Type of Review:* New information collection.

*Respondents:* Business or other for-profit entities, not-for-profit institutions, individuals or households, and state, local or tribal governments.

*Number of Respondents and Responses:* 296 unique respondents; 962 responses.

*Estimated Time per Response:* 2–40 hours.

*Frequency of Response:* One-time requirement.

*Obligation to Respond:* Voluntary. Statutory authority for this information collection is contained in 47 U.S.C. 151–154, 254.

*Total Annual Burden:* 10,804 hours.

*Total Annual Cost:* No cost.

*Privacy Act Impact Assessment:* Some of the requirements contained in this information collection affect individuals or households, and thus, there are impacts under the Privacy Act. As required by the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Commission will create a system of records notice (SORN) to cover the collection, storage, maintenance, and disposal (when appropriate) of any personally identifiable information that the Commission may collect as part of the information collection.

*Nature and Extent of Confidentiality:* The information submitted in the ELAP Map will be made public. We intend to keep other information confidential to the extent permitted by law. Also, as noted in this document, this collection contains information that affects individuals or households, and thus, there are impacts under the Privacy Act. As required by the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Commission will create a SORN to cover the collection, storage, maintenance, and disposal (when appropriate) of any personally identifiable information that the Commission may collect as part of the information collection. USAC must preserve the confidentiality of all personally identifiable information, must not use the information except for purposes of administering the Universal Service Fund, and must not disclose such information unless directed to do so by the Commission. *See ELAP Order,* 34 FCC Rcd 10395, 10412–14, paras. 50–56. If the Commission requests information that the respondents believe is confidential, respondents may request confidential treatment of such information under section 0.459 of the Commission's rules.

*Needs and Uses:* This information collection addresses the requirements of a process (the eligible locations adjustment process (ELAP)) that facilitates the post-auction review of certain CAF Phase II Auction support recipients' defined deployment obligations (and associated support), on a state-by-state basis, in situations where the number of eligible locations within a state is less than the number of funded locations. *Connect America Fund,* WC Docket Nos. 10–90 et al., Order on Reconsideration, 33 FCC Rcd 1380, 1390–92, paras. 23–28 (2018) (*Phase II Auction* Reconsideration *Order*); *Connect America Fund,* WC Docket No. 10–90, Order, 34 FCC Rcd 10395 (WCB 2019) (adopting rules and requirements necessary to implement this process, consistent with the parameters set forth in the *Phase II Auction Reconsideration Order* and prior Commission guidance for adjusting defined deployment obligations) (*ELAP Order*). CAF Phase II Auction support recipients' participation in this process is voluntary.

ELAP requires the one-time collection of location information for all eligible locations within the state where the participant is seeking an adjustment to its defined deployment obligation. Eligible locations include every location qualifying for support (qualifying locations) and may include additional locations within eligible areas of the state that the participant will reserve as part of its defined deployment obligations, even if such locations cannot be identified as qualifying at the time of the ELAP process (prospective locations). The total number of eligible locations reported by the participant cannot exceed the participant's defined deployment obligation for the state.

Participants must also submit a description of its methods for identifying all locations qualifying for support, as well as some supporting evidence, such as copies of public records, aerial photography, location information for non-eligible locations, or similar evidence. Participants must certify the truth and accuracy of this information.

The Bureau will announce which participants have met their prima facie evidentiary standard, and the Universal Service Administrative Company (USAC) will then use certain location information (address, geocoordinates, number of units) filed by these participants to populate a publicly available map (public ELAP Map).

Other interested parties deemed eligible to participate in ELAP (stakeholders) may then challenge the accuracy and completeness of any relevant participant's eligible location information. To file such a challenge, stakeholders must submit alternative location information (of the same kind and in the same format as required of the participant), a brief description of the methods used to identify the location as an eligible location, and supporting evidence. Stakeholders include government entities (state, local, and Tribal) as well as individuals or non-governmental entities with a legitimate and verifiable interest in ensuring broadband service in the relevant areas. Such stakeholders cannot hold a controlling interest in a competitor of the relevant participant(s).

The Bureau will use a third-party commercial verifier to confirm the eligibility of stakeholders who challenge a participant's location information. The Bureau will also separately gather certain limited information about these stakeholders (*e.g.,* name and contact information).

All ELAP information will be filed and maintained in a new module within the High-Cost Universal Service Broadband Portal (HUBB) (OMB Control No. 3060–1228). The module will permit centralization and controlled access to ELAP information as well as maintenance of such information.

The module will incorporate several features like those required for reporting deployed location information in the HUBB. Specifically, the module will have an automated validation system that will generate error messages when the location information submitted by ELAP parties fails to meet reporting parameters (such as redundancies, required file type) as specified in the *ELAP Order.* Participants and stakeholders will be able to pre-file information and correct, update, add, or delete information prior to their respective filing deadline. The module will have integrated instructions and guidance for submitting information. To the extent practicable, the module will generate notices where correction, supplementation, or redaction of information is necessary.

Unlike deployed location information collected pursuant to OMB Control No. 3060–1228, all ELAP information, including the description of methods and supporting documentation as well as location data, except the location data published in the public ELAP Map, will

be treated as presumptively confidential.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2020–20383 Filed 9–15–20; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

**[OMB 3060–0208; FRS 17067]**

### Information Collection Being Submitted for Review and Approval to Office of Management and Budget

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it can further reduce the information collection burden for small business concerns with fewer than 25 employees.

**DATES:** Written comments and recommendations for the proposed information collection should be submitted on or before October 16, 2020.

**ADDRESSES:** Comments should be sent to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

**SUPPLEMENTARY INFORMATION:** The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

*OMB Control Number:* 3060–0208.

*Title:* Section 73.1870, Chief Operators.

*Form Number:* Not applicable.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business and other for-profit; Not-for-profit institutions.

*Number of Respondents and Responses:* 18,498 respondents; 36,996 responses.

*Estimated Time per Response:* 0.166–26 hours.

*Frequency of Response:* Recordkeeping requirement; Third party disclosure requirement.

*Total Annual Burden:* 484,019 hours.

*Total Annual Cost:* None.

*Obligation to Respond:* Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 154(i) of the Communications Act of 1934, as amended.

*Nature and Extent of Confidentiality:* There is no need for confidentiality with this collection of information.

*Privacy Impact Assessment(s):* No impact(s).

*Needs and Uses:* The information collection requirements contained in 47 CFR 73.1870 require that the licensee of an AM, FM, or TV broadcast station designate a chief operator of the station. Section 73.1870(b)(3) requires that this designation must be in writing and posted with the station license. Section 73.1870(c)(3) requires that the chief operator, or personnel delegated and supervised by the chief operator, review the station records at least once each week to determine if required entries are being made correctly, and verify that the station has been operated in accordance with FCC rules and the station authorization. Upon completion of the review, the chief operator must date and sign the log, initiate corrective action which may be necessary and advise the station licensee of any condition which is repetitive. The posting of the designation of the chief operator is used by interested parties to readily identify the chief operator. The review of the station records is used by the chief operator, and FCC staff in investigations, to ensure that the station is operating in accordance with its station authorization and the FCC rules and regulations.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2020–20424 Filed 9–15–20; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

**[OMB 3060–0855; FRS 17064]**

### Information Collection Being Submitted for Review and Approval to Office of Management and Budget

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, as

required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.'' The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

**DATES:** Written comments and recommendations for the proposed information collection should be submitted on or before October 16, 2020.

**ADDRESSES:** Comments should be sent to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Nicole Ongele, FCC, via email to *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

**SUPPLEMENTARY INFORMATION:** As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

*OMB Control Number:* 3060–0855.

*Title:* Telecommunications Reporting Worksheets and Related Collections, FCC Forms 499–A and 499–Q.

*Form Number(s):* FCC Forms 499–A and 499–Q.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business or other for profit and not-for-profit institutions.

*Number of Respondents and Responses:* 6,900 respondents; 41,250 responses.

*Estimated Time per Response:* 0.25 hours–25 hours.

*Frequency of Response:* Annually, quarterly, recordkeeping and on occasion reporting requirements.

*Obligation To Respond:* Mandatory. Statutory authority for this collection of information is contained in 151, 154(i), 154(j), 155, 157, 159, 201, 205, 214, 225, 254, 303(r), 715 and 719 of the Act, 47 U.S.C. 151, 154(i), 154(j), 155, 157, 159, 201, 205, 214, 225, 254, 303(r), 616, and 620.

*Total Annual Burden:* 252,025 hours.

*Total Annual Cost:* No cost.

*Privacy Act Impact Assessment:* No impact(s).

*Nature and Extent of Confidentiality:* The Commission will allow respondents to certify that data contained in their submissions is privileged or confidential commercial or financial information and that disclosure of such information would likely cause substantial harm to the competitive position of the entity filing the FCC worksheets. If the Commission receives a request for or proposes to disclose the information, the respondent would be required to make the full showing pursuant to the Commission's rules for withholding from public inspection information submitted to the Commission.

*Needs and Uses:* This information collection requires contributors to the federal universal service fund, telecommunications relay service fund, and numbering administration to file, pursuant to sections 151, 225, 251 and 254 of the Act, a Telecommunications Reporting Worksheet on an annual basis (FCC Form 499–A and/or on a quarterly basis (FCC Form 499–Q). The information is also used to calculate FCC regulatory fees for interstate telecommunications service providers.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2020–20382 Filed 9–15–20; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

**[OMB 3060–1080; FRS 17066]**

### Information Collection Being Submitted for Review and Approval to Office of Management and Budget

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.'' The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that

does not display a valid OMB control number.

**DATES:** Written comments and recommendations for the proposed information collection should be submitted on or before October 16, 2020.

**ADDRESSES:** Comments should be sent to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Nicole Ongele, FCC, via email to *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

**SUPPLEMENTARY INFORMATION:** As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

*OMB Control Number:* 3060–1080.

*Title:* Improving Public Safety Communications in the 800 MHz Band.

*Form Number:* N/A.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business or other for-profit entities; and/or State, local or tribal governments.

*Number of Respondents and Responses:* 60 respondents; 2,665 responses.

*Estimated Time per Response:* 0.5 hours to 10 hours (4.5 hours average).

*Frequency of Response:* On occasion reporting requirement and third party disclosure requirement.

*Obligation to Respond:* Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151, 154, 160, 251–254, 303, and 332.

*Total Annual Burden:* 9,039 hours.

*Total Annual Cost:* No cost.

*Privacy Act Impact Assessment:* No impact(s).

*Nature and Extent of Confidentiality:* The Commission will work with respondents to ensure that their concerns regarding the confidentiality of any proprietary or public safety-sensitive information are resolved in a manner consistent with the Commission's rules. See 47 CFR 0.459.

*Needs and Uses:* The Commission will submit this expiring information collection to the Office of Management Budget (OMB) after this 60-day comment period in order to obtain the full three year clearance from them. The information sought will assist 800 MHz licensees in preventing or resolving interference and enable the Commission to implement its rebanding program.

Under that program, certain licensees are being relocated to new frequencies in the 800 MHz band, with all rebanding costs paid by T-Mobile. The Commission's overarching objective in this proceeding is to eliminate interference to public safety communications. As demonstrated in the Commission's 2020 Report and Order in this rulemaking proceeding (FCC 20–61), the Commission is actively accelerating the conclusion of the 800 MHz rebanding program.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2020–20381 Filed 9–15–20; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL DEPOSIT INSURANCE CORPORATION

### FDIC Systemic Resolution Advisory; Notice of Meeting

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

**ACTION:** Notice of open meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, notice is hereby given of a meeting of the FDIC Systemic Resolution Advisory Committee. The Advisory Committee will provide advice and recommendations on a broad range of policy issues regarding the resolution of systemically important financial companies. The meeting is open to the public. Out of an abundance of caution related to current and potential coronavirus developments, the public's means to observe this Systemic Resolution Advisory Committee meeting will be via a Webcast live on the internet. In addition, the meeting will be recorded and subsequently made available on-demand approximately two weeks after the event. To view the live event, visit *http://fdic.windrosemedia.com.* To view the recording, visit *http://fdic.windrosemedia.com/index.php?category=Systemic+Resolution+Advisory+Committee.* Observers requiring auxiliary aids (*e.g.,* sign language interpretation) for this meeting should call 703–562–2404 (Voice) or 703–649–4354 (Video Phone) to make necessary arrangements.

**DATES:** Thursday, October 1, 2020, from 9:00 a.m. to 12:30 p.m.

**FOR FURTHER INFORMATION CONTACT:** Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Committee Management Officer of the FDIC, at (202) 898–7043.

**SUPPLEMENTARY INFORMATION:**

*Agenda:* The agenda will include a discussion of a range of issues and developments related to the resolution of systemically important financial companies. The agenda may be subject to change. Any changes to the agenda will be announced at the beginning of the meeting.

*Type of Meeting:* This meeting of the Systemic Resolution Advisory Committee will be Webcast live via the

internet *http://fdic.windrosemedia.com.* For optimal viewing, a high-speed internet connection is recommended.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on September 10, 2020.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2020–20392 Filed 9–15–20; 8:45 am]

**BILLING CODE 6714–01–P**

## FEDERAL MARITIME COMMISSION

### Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments, relevant information, or documents regarding the agreements to the Secretary by email at *Secretary@fmc.gov,* or by mail, Federal Maritime Commission, Washington, DC 20573. Comments will be most helpful to the Commission if received within 12 days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's website (*www.fmc.gov*) or by contacting the Office of Agreements at (202)-523–5793 or *tradeanalysis@fmc.gov.*

*Agreement No.:* 011962–017.

*Agreement Name:* Consolidated Chassis Management Pool Agreement.

*Parties:* Ocean Carrier Equipment Management Association, Inc.; Consolidated Chassis Enterprises LLC; CCM Pools LLC; Consolidated Chassis Management LLC; Maersk A/S and Hamburg Sud (acting as a single party); CMA CGM S.A., APL Co. Pte. Ltd., and American President Lines, Ltd. (acting as a single party); COSCO SHIPPING Lines Co., Ltd.; Evergreen Line Joint Service Agreement; Ocean Network Express Pte. Ltd.; Hapag-Lloyd AG and Hapag-Lloyd USA LLC (acting as a single party); HMM Company Limited; MSC Mediterranean Shipping Co., S.A.; Zim Integrated Shipping Services Ltd; Matson Navigation Company; Westwood Shipping Lines; and Yang Ming Marine Transport Corp.

*Filing Party:* Jeffrey Lawrence and Donald Kassilke; Cozen O'Connor.

*Synopsis:* The Amendment deletes OOCL (USA) Inc. as a party and updates the name of HMM Co., Ltd.

*Proposed Effective Date:* 9/9/2020.

*Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/454.*

*Agreement No.:* 011284–083.

*Agreement Name:* Ocean Carrier Equipment Management Association.

*Parties:* Maersk A/S and Hamburg Sud (acting as a single party); CMA CGM S.A., APL Co. Pte. Ltd., and American President Lines, Ltd. (acting as a single party); COSCO SHIPPING Lines Co., Ltd.; Evergreen Line Joint Service Agreement; Ocean Network Express Pte. Ltd.; Hapag-Lloyd AG and Hapag-Lloyd USA LLC (acting as a single party); HMM Company Limited; Zim Integrated Shipping Services Ltd.; MSC Mediterranean Shipping Company S.A.; Wan Hai Lines Ltd.;

*Filing Party:* Jeffrey Lawrence and Donald Kassilke; Cozen O'Connor.

*Synopsis:* The amendment changes the name of HMM Company Limited.

*Proposed Effective Date:* 9/9/2020.

*Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/1560.*

Dated: September 11, 2020.

**Rachel E. Dickon,**

*Secretary.*

[FR Doc. 2020–20452 Filed 9–15–20; 8:45 am]

**BILLING CODE 6730–02–P**

## FEDERAL MARITIME COMMISSION

### Notice of Release of the Federal Maritime Commission's FY 2017 Service Contract Inventory Analysis

**AGENCY:** Federal Maritime Commission.

Acting in compliance with Sec. 743 of Division C of the Consolidated Appropriations Act 2010, the Federal Maritime Commission (Commission) is publishing this notice to advise the public of the availability of its FY 2017 Service Contract Inventory Analysis. The FY 2017 Service Contract Inventory Analysis includes Background, Methodology, Agency Analysis of Contracts, Contract Services and Agency.

Objectives, and Agency Findings. This analysis was developed in accordance with guidance issued on October 17, 2016 by the Office of Management and Budget (OMB), Office of Procurement Policy (OFPP). The Federal Maritime Commission has posted its FY 2018 Service Contract Inventory Analysis at the following link: *https://www.fmc.gov/about-the-fmc/governmentwide-laws-regulations/service-contract-analysis/.*

**DATES:** The inventory is available on the Commission's website as of July 16, 2020.

**FOR FURTHER INFORMATION CONTACT:** Katona Bryan-Wade, Director, Office of Management Services, 202–523–5900, *omsmaritime@fmc.gov.*

**Rachel Dickon,**

*Secretary.*

[FR Doc. 2020–20448 Filed 9–15–20; 8:45 am]

**BILLING CODE 6730–02–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)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843), and interested persons may express their views in writing on the standards enumerated in section 4. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

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 October 16, 2020.

*A. Federal Reserve Bank of Richmond* (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23219. Comments can also be sent electronically to or *Comments.applications@rich.frb.org:*

1. *New Republic Partners, Inc., Charlotte, North Carolina;* to become a bank holding company by acquiring the voting shares of New Republic Savings Bank, Roanoke Rapids, North Carolina, upon the Bank's conversion from a federal savings bank to a state-chartered commercial bank. In connection with

this application, New Republic Partners, Inc., through its wholly-owned subsidiary, New Republic Capital, LLC, both of Charlotte, North Carolina, to engage in financial and investment advisory activities pursuant to section 225.28(b)(6) of Regulation Y.

Board of Governors of the Federal Reserve System, September 11, 2020.

**Yao-Chin Chao,**

*Assistant Secretary of the Board.*

[FR Doc. 2020–20432 Filed 9–15–20; 8:45 am]

**BILLING CODE 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 October 16, 2020.

*A. Federal Reserve Bank of Dallas* (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Snyder Holding Company, Andrews, Texas;* to become a bank holding company by acquiring the voting shares of West Texas State Bank, Snyder, Texas.

*B. Federal Reserve Bank of San Francisco* (Sebastian Astrada, Director, Applications) 101 Market Street, San Francisco, California 94105–1579:

1. *Carpenter Acquisition Corporation, Newport Beach, California;* to become a bank holding company by acquiring the voting shares of First Colorado Financial Corp., and thereby indirectly acquire First Colorado National Bank, both of Paonia, Colorado.

*C. Federal Reserve Bank of St. Louis* (David L. Hubbard, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org*:

1. *Rhineland Bancshares, Inc., Rhineland, Missouri;* to acquire the voting shares of Clifford Bancshares, Inc., Troy, Missouri, and thereby indirectly acquire CBC Bank, St. Peters, Missouri.

Board of Governors of the Federal Reserve System, September 11, 2020.

**Yao-Chin Chao,**

*Assistant Secretary of the Board.*

[FR Doc. 2020–20433 Filed 9–15–20; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Proposed Information Collection Activity; Social Services Block Grant (SSBG) Post-Expenditure Report (OMB #0970–0234)

**AGENCY:** Office of Community Services, Administration for Children and Families, HHS.

**ACTION:** Request for Public Comment.

**SUMMARY:** The Administration for Children and Families (ACF) is requesting a 3-year extension of the Social Services Block Grant (SSBG) Post-Expenditure Report (OMB #0970–0234, expiration 1/31/2021). ACF is proposing to reduce the burden estimates in the previously approved request by removing use of the form for the Pre-Expenditure Report.

**DATES:** *Comments due within 60 days of publication.* In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

**ADDRESSES:** Copies of the proposed collection of information can be obtained and comments may be forwarded by emailing *infocollection@acf.hhs.gov.* Alternatively, copies can also be obtained by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation (OPRE), 330 C Street SW, Washington, DC 20201, Attn: ACF Reports Clearance Officer. All requests, emailed or written, should be identified by the title of the information collection.

**SUPPLEMENTARY INFORMATION:**

*Description:* On an annual basis, states and territories are required to submit a Post-Expenditure Report that details their use of SSBG funds in each of the 29 service categories. Grantees are required to submit their Post-Expenditure Report within 6 months of the end of the period covered by the report.

In the previous approval request for the Post-Expenditure Report, OCS also requested that states voluntarily use the Post-Expenditure Reporting form to create a Pre-Expenditure Report, which provides estimates of the expenditures and number of recipients by service category. ACF is proposing to remove the burden associated with the use of the Post-Expenditure Report form for Pre-Expenditure reporting and intends to submit a separate request to establish a form specific to the Pre-Expenditure Report.

*Respondents:* Agencies that administer the SSBG at the state or territory level, including the 50 States; District of Columbia; Puerto Rico; and the territories of American Samoa, Guam, the Virgin Islands, and the Commonwealth of Northern Mariana Islands.

ANNUAL BURDEN ESTIMATES

| Instrument | Annual number of respondents | Annual number of responses per respondent | Average burden hours per response | Total/annual burden hours |
|---|---|---|---|---|
| Post-Expenditure Reporting Form | 56 | 1 | 110 | 6,160 |

*Estimated Total Annual Burden Hours:* 6,160.

*Comments:* The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

**Authority:** 42 U.S.C. 1397 through 1397e.

**John M. Sweet Jr.,**

*ACF/OPRE Certifying Officer.*

[FR Doc. 2020–20447 Filed 9–15–20; 8:45 am]

**BILLING CODE 4184–24–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2020–N–0026]**

### Issuance of Priority Review Voucher; Rare Pediatric Disease Product

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the issuance of a priority review voucher to the sponsor of a rare pediatric disease product application. The Federal Food, Drug, and Cosmetic Act (FD&C Act), as amended by the Food and Drug Administration Safety and Innovation Act (FDASIA), authorizes FDA to award priority review vouchers to sponsors of approved rare pediatric disease product applications that meet certain criteria. FDA is required to publish notice of the award of the priority review voucher. FDA has determined that KOSELUGO (selumetinib, AZD6244), manufactured by AstraZeneca Pharmaceuticals, LP, meets the criteria for a priority review voucher.

**FOR FURTHER INFORMATION CONTACT:** Althea Cuff, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–4061, Fax: 301–796–9856, email: *althea.cuff@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** FDA is announcing the issuance of a priority review voucher to the sponsor of an approved rare pediatric disease product application. Under section 529 of the FD&C Act (21 U.S.C. 360ff), which was added by FDASIA, FDA will award priority review vouchers to sponsors of approved rare pediatric disease product applications that meet certain criteria. FDA has determined that KOSELUGO (selumetinib, AZD6244), manufactured by AstraZeneca Pharmaceuticals, LP, meets the criteria for a priority review voucher.

KOSELUGO (selumetinib, AZD6244) is indicated for the treatment of pediatric patients 2 years of age and older with neurofibromatosis type 1 who have symptomatic, inoperable plexiform neurofibromas.

For further information about the Rare Pediatric Disease Priority Review Voucher Program and for a link to the full text of section 529 of the FD&C Act, go to *http://www.fda.gov/ForIndustry/DevelopingProductsforRareDiseasesConditions/RarePediatricDiseasePriorityVoucherProgram/default.htm.* For further information about KOSELUGO (selumetinib, AZD6244), go to the ''Drugs@FDA'' website at *http://www.accessdata.fda.gov/scripts/cder/daf/.*

Dated: September 10, 2020.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2020–20387 Filed 9–15–20; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2020–D–1621]**

### Geriatric Information in Human Prescription Drug and Biological Product Labeling; Draft Guidance for Industry; Availability

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

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Geriatric Information in Human Prescription Drug and Biological Product Labeling.'' This draft guidance is intended to assist applicants of human prescription drug and biological products in determining the appropriate placement and content of geriatric information in labeling. The goal of this draft guidance is to provide recommendations to help ensure that appropriate information on the use of prescription drugs and biological products in geriatric patients is consistently placed in the proper sections and subsections within labeling so that the information is clear and accessible to health care practitioners and includes content that guides the safe and effective use in geriatric patients. This draft guidance provides additional examples of geriatric use statements in labeling and examples of when the labeling regulations authorize FDA to permit applicants to omit or revise specific information otherwise required in the *Geriatric Use* subsection. We are withdrawing the guidance for industry entitled ''Content and Format for Geriatric Labeling'' (October 2001) and replacing it with this draft guidance.

**DATES:** Submit either electronic or written comments on the draft guidance by November 16, 2020 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

**ADDRESSES:** You may submit comments on any guidance at any time as follows:

*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–2020–D–1621 for ''Geriatric Information in Human Prescription Drug and Biological Product Labeling.'' Received comments 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.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002; or the Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

**FOR FURTHER INFORMATION CONTACT:** Eric Brodsky, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6485, Silver Spring, MD 20993–0002, 301–796–0855; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

**SUPPLEMENTARY INFORMATION:**

## I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Geriatric Information in Human Prescription Drug and Biological Product Labeling.''

Until the late 1990s, the majority of drug labeling contained minimal or no geriatric use information to guide safe and effective use in the geriatric population. In 1997, the FDA issued a final rule creating a *Geriatric Use* subsection of labeling to facilitate access to geriatric use information and improve the safe and effective use of prescription drugs and biological products in geriatric patients by specifying a location for summarizing geriatric use information in labeling (62 FR 45313, August 27, 1997). This regulation was intended to promote the consistent inclusion of all relevant geriatric information in labeling and to provide information on possible differences in the safety, effectiveness, pharmacodynamics, and/or pharmacokinetics between geriatric and younger adult patients in labeling.

In 2001, the FDA issued the now-withdrawn guidance for industry entitled ''Content and Format for Geriatric Labeling,'' which provided recommendations on the content and format of geriatric use information in the *Geriatric Use* subsection in the PRECAUTIONS section. In 2006, FDA published a final rule amending the requirements for the content and format of labeling for human prescription drug and biological products (71 FR 3922, January 24, 2006). This rule is known as the *physician labeling rule* because it addresses prescription drug labeling that is used by physicians and other health care practitioners. Under this rule, the *Geriatric Use* subsection was relocated in the USE IN SPECIFIC POPULATIONS section of labeling.

This draft guidance replaces the withdrawn guidance for industry entitled ''Content and Format for Geriatric Labeling'' and provides additional examples of geriatric use statements in labeling and examples of when the regulations authorize FDA to permit applicants to omit or revise specific information otherwise required in the *Geriatric Use* subsection.

This draft guidance provides recommendations on how to incorporate geriatric use information in labeling based on the following two scenarios:

• *Scenario 1:* the drug is approved for use in adult patients generally, including geriatric patients or a subset of the geriatric population or

• *Scenario 2:* the drug is approved for a geriatric-specific indication [*i.e.,* for a specific indication, the drug is indicated for use only in geriatric patients (or a subset of the geriatric population) and not in younger adult patients]

The *Geriatric Use* subsection of labeling regulations (21 CFR 201.57(c)(9)(v)) uses a variety of terms to refer to patients 65 years of age and older (*e.g., geriatric* patients, *elderly* patients, *persons 65 years of age and older*). Some terms may be sensitive or controversial among certain groups. Please comment and provide a rationale for the use of any of these terms or other terms to refer to patients 65 years of age and older in labeling.

This draft guidance provides several recommended options for summarizing geriatric exposure information in the *Geriatric Use* subsection. Please comment and provide a rationale for the use of any of these geriatric exposure examples or other geriatric exposure examples. Please describe when binning, nested cutoff, or other approaches should be used to summarize geriatric exposure information in this subsection.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA

on the ''*Geriatric Information in Human Prescription Drug and Biological Product Labeling.*'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

**II. Paperwork Reduction Act of 1995**

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The collection of information in 21 CFR 201.56 and 201.57 for preparing and submitting labeling has been approved under OMB control number 0910–0572.

**III. Electronic Access**

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances,* or *https://www.regulations.gov.*

Dated: September 10, 2020.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2020–20435 Filed 9–15–20; 8:45 am]

**BILLING CODE 4164–01–P**

---

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2019–D–0177]**

### Eosinophilic Esophagitis: Developing Drugs for Treatment; Guidance for Industry; Availability

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

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance for industry entitled ''Eosinophilic Esophagitis: Developing Drugs for Treatment.'' This guidance is intended to describe the Agency's current thinking and recommended approach for the development of drugs and therapeutic biologics for the treatment of patients with eosinophilic esophagitis. This guidance finalizes the draft guidance of the same name issued February 6, 2019.

**DATES:** The announcement of the guidance is published in the **Federal Register** on September 16, 2020.

**ADDRESSES:** You may submit either electronic or written comments on Agency guidances at any time as follows:

*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–D–0177 for ''Eosinophilic Esophagitis: Developing Drugs for Treatment.'' Received comments 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.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

**FOR FURTHER INFORMATION CONTACT:** Erica Lyons, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 5373, Silver Spring, MD 20993–0002, 301–796–8023.

**SUPPLEMENTARY INFORMATION:**

## I. Background

FDA is announcing the availability of a final guidance for industry entitled ''Eosinophilic Esophagitis: Developing Drugs for Treatment.'' This guidance provides FDA's current recommendations regarding clinical trials for drugs and therapeutic biologics for the treatment of eosinophilic esophagitis, including attributes of patients for enrollment, trial designs, efficacy considerations, safety assessments, and pediatric considerations.

This guidance finalizes the draft guidance of the same name issued February 6, 2019 (84 FR 2237). Changes to the guidance took into consideration public comments received. Major changes included:

- Removal of the recommendation for the proton pump inhibitor trial before patient enrollment;
- removal of the recommendation for exclusion of patients with significant strictures;
- addition of a clarification that FDA does not recommend a randomized withdrawal design for trials of drugs with the potential to induce immunogenicity;
- addition of a recommendation to report eosinophil density per square millimeter ($mm^2$) as well as per high-power field;
- creation of a statistical section with recommendations on estimands; and
- addition of a clarification on the recommendation for the number of adolescent patients to be included in adult trials.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Eosinophilic Esophagitis: Developing Drugs for Treatment.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

## II. Paperwork Reduction Act of 1995

This final guidance contains no collection of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required.

However, this final guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by OMB under the PRA. The collections of information in 21 CFR part 312 (investigational new drug applications) have been approved under OMB control number 0910–0014. The collections of information in part 314 (new drug applications) have been approved under OMB control number 0910–0001. The collections of information in part 601 (biologics license applications) have been approved under OMB control number 0910–0338. The collections of information in parts 50 and 56 (protection of human subjects and institutional review boards) have been approved under OMB control number 0910–0130. The collections of information in the guidance for industry entitled ''Expedited Programs for Serious Conditions—Drugs and Biologics'' (available at *https://www.fda.gov/media/86377/download*) have been approved under OMB control number 0910–0765.

## III. Electronic Access

Persons with access to the internet may obtain the guidance at either *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs* or *https://www.regulations.gov.*

Dated: September 11, 2020.

**Lowell J. Schiller,**

*Principal Associate Commissioner for Policy.*

[FR Doc. 2020–20436 Filed 9–15–20; 8:45 am]

BILLING CODE 4164–01–P

---

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2020–N–0008]**

### Circulatory System Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Circulatory System Devices Panel of the Medical Devices Advisory Committee. The general function of the committee is to provide advice and recommendations to the Agency on FDA's regulatory issues. The meeting will be open to the public.

**DATES:** The meeting will take place virtually on October 27, 2020, from 9 a.m. Eastern Time to 6 p.m. Eastern Time.

**ADDRESSES:** Please note that due to the impact of this COVID–19 pandemic, all meeting participants will be joining this advisory committee meeting via an online teleconferencing platform. Answers to commonly asked questions about FDA advisory committee meetings may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

**FOR FURTHER INFORMATION CONTACT:** Aden Asefa, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5214, Silver Spring, MD 20993–0002, 301–796–0400, *aden.asefa@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's website at *https://www.fda.gov/AdvisoryCommittees* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before the meeting.

**SUPPLEMENTARY INFORMATION:**

*Agenda:* The meeting presentations will be heard, viewed, captioned, and recorded through an online teleconferencing platform. On October 27, 2020, the committee will discuss, make recommendations, and vote on information regarding the premarket approval application for the Neovasc Reducer System sponsored by Neovasc, Inc. The proposed Indication for Use of the Neovasc Reducer System is for patients suffering from refractory angina pectoris despite guideline directed medical therapy, who are unsuitable for revascularization by coronary artery bypass grafting or by percutaneous coronary intervention.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available on FDA's website at the time of the advisory committee meeting, and the background materials will be posted on FDA's website after the meeting. Background material and the link to the online teleconference meeting room will be available at *https://www.fda.gov/advisory-committees/medical-devices-advisory-committee/circulatory-system-devices-panel.*

Select the link for the 2020 Meeting Materials. The meeting will include

slide presentations with audio components to allow the presentation of materials in a manner that most closely resembles an in-person advisory committee meeting.

*Procedure:* Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before October 9, 2020. Oral presentations from the public will be scheduled on October 27, 2020, between approximately 1 p.m. Eastern Time and 2 p.m. Eastern Time. Those individuals interested in making formal oral presentations should notify the contact person (see **FOR FURTHER INFORMATION CONTACT**). The notification should include a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before October 1, 2020. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by October 2, 2020.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact AnnMarie Williams at *Annmarie.Williams@fda.hhs.gov* or 301–796–5966 at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: September 11, 2020.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2020–20446 Filed 9–15–20; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Extension of Comment Period for Proposed Updates to the Bright Futures Periodicity Schedule as Part of the HRSA-Supported Preventive Services Guidelines for Infants, Children, and Adolescents

**AGENCY:** Health Resources and Services Administration (HRSA), Department of Health and Human Services.

**ACTION:** Notice.

**SUMMARY:** HRSA is providing notice of a technical issue in the collection of public comments responding to a previous **Federal Register** notice, dated August 20, 2020, submitted to the American Academy of Pediatrics through its publicly available web-based portal during the period from August 20–27, 2020. After receiving no comments during this timeframe, a routine test found that the database that records public comments was not connected to the comment form on the web page. This technical issue has been resolved and the system is functional and collecting comments. HRSA encourages members of the public who may have previous submitted comments to resubmit and is extending the time period for public comments in response to proposed updates to the Periodicity Schedule of the Bright Futures Recommendations for Pediatric Preventive Health Care (''Bright Futures Periodicity Schedule''). The Bright Futures Periodicity Schedule is part of the HRSA-supported preventive service guidelines for infants, children, and adolescents under, and is maintained, in part, through a national cooperative agreement, the Bright Futures Pediatric Implementation Program.

**DATES:** The comment period published in the **Federal Register** on August 20, 2020, at 85 FR 51454–01 is extended. Members of the public are invited to provide written comments no later than October 16, 2020. All comments received on or before this date will be reviewed and considered by the Bright Futures Periodicity Schedule Workgroup and provided for further consideration by HRSA in determining the recommended updates that it will support.

**ADDRESSES:** Members of the public interested in providing comments can do so by accessing the public comment web page at: *https://mchb.hrsa.gov/maternal-child-health-topics/child-health/bright-futures.html.*

**FOR FURTHER INFORMATION CONTACT:** Bethany Miller, HRSA, Maternal and Child Health Bureau, email: *BMiller@hrsa.gov,* telephone: (301) 945–5156.

**SUPPLEMENTARY INFORMATION:** On August 20, 2020, HRSA published a notice soliciting public comments regarding proposed updates to the Bright Futures Periodicity Schedule (85 FR 51454–01). Due to technical issues, comments that may have been submitted between August 20, 2020, and August 27, 2020, were not captured. To ensure that all comments are received and considered, the public is encouraged to resubmit any comments that were provided in response to the notice published on August 20, 2020 (85 FR 51454–01) and also is extending the time period for public comments.

HRSA has funded the Bright Futures Program as a cooperative agreement since 1990. A primary focus of this program is for the funding recipient to maintain and update the Bright Futures Guidelines for Health Supervision of Infants, Children and Adolescents, a set of materials and tools for providing quality preventive care screenings and well-child visits. One component of these tools is the Bright Futures Periodicity Schedule, a chart that identifies the recommended screenings, assessments, physical examinations, and procedures to be delivered within preventive checkups at each age milestone. Over the program's existence, the Bright Futures Periodicity Schedule has become the accepted schedule within the United States for preventive health services through the course of a child's development.

Under section 2713 of the Public Health Service Act, 42 U.S.C. 300gg–13, non-grandfathered group health plans and health insurance issuers must include coverage, without cost sharing, for certain preventive services, for plan years (in the individual market, policy years) that begin on or after the date that is one year after the date the recommendation or guideline is issued. These include preventive health services provided for in the Bright Futures Periodicity Schedule as part of the HRSA-supported Preventive Services Guidelines for Infants, Children, and Adolescents. A panel of pediatric primary care experts convened to review the latest evidence and recommends updating the Bright Futures Periodicity Schedule to include screening all individuals ages 18 and older at least once for hepatitis C virus infection. This proposed update aligns with the United States Preventive Services Task Force's recommendation that all adults ages 18 to 79 be screened

at least once for hepatitis C virus infection.

The American Academy of Pediatrics, which has been the HRSA cooperative agreement recipient for this program since 2007, maintains the Periodicity Schedule. Under HRSA's cooperative agreement with the American Academy of Pediatrics, the Bright Futures Program is required to administer a process for developing and regularly recommending, as needed, updates to the Bright Futures Periodicity Schedule. As described in the Notice of Funding Opportunity for the Bright Futures Program (HRSA–18–078), the consideration of potential updates is expected to be ''a comprehensive, objective, and transparent review of available evidence that incorporates opportunity for public comment.''

**Thomas J. Engels,**

*Administrator.*

[FR Doc. 2020–20380 Filed 9–15–20; 8:45 am]

**BILLING CODE 4165–15–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Meeting of the National Advisory Council on Migrant Health

**AGENCY:** Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, this notice announces that the Secretary's National Advisory Council on Migrant Health (NACMH or Council) has scheduled a public meeting. Information about NACMH and the agenda for this meeting can be found on the NACMH website at: *https://bphc.hrsa.gov/qualityimprovement/strategicpartnerships/nacmh.*

**DATES:** October 20–23, 2020; 1:00 p.m. to 5:00 p.m. Eastern Time (ET).

**ADDRESSES:** This meeting will be held by webinar. Instructions for joining the meetings will be posted on the NACMH website 30 calendar days before the date of the meeting. For meeting information updates, go to the NACMH website at: *https://bphc.hrsa.gov/qualityimprovement/strategicpartnerships/nacmh.*

**FOR FURTHER INFORMATION CONTACT:** Esther Paul, NACMH Designated Federal Officer (DFO), Strategic Initiatives and Planning Division, Office of Policy and Program Development, Bureau of Primary Health Care, HRSA, 5600 Fishers Lane, Rockville, Maryland 20857; 301–594–4300; or *epaul@hrsa.gov.*

**SUPPLEMENTARY INFORMATION:** NACMH advises, consults with, and makes recommendations to the Secretary of HHS on policy, program development, and other matters of significance concerning the activities under section 217 of the Public Health Service (PHS) Act, as amended (42 U.S.C. 218). Specifically, NACMH provides recommendations concerning policy related to the organization, operation, selection, and funding of migrant health centers, and other entities under grants and contracts under section 330 of the PHS Act (42 U.S.C. 254b). NACMH meets twice each calendar year, or at the discretion of the DFO in consultation with the NACMH Chair.

Since priorities dictate meeting times, be advised that times and agenda items are subject to change. The agenda items for the meeting may include, but are not limited to, topics and issues related to migratory and seasonal agricultural worker health.

Refer to the NACMH website listed above for all current and updated information concerning the October 2020 NACMH meeting, including draft agenda and meeting materials that will be posted 30 calendar days before the meeting.

Members of the public will have the opportunity to provide comments. Public participants may submit written statements in advance of the scheduled meeting. Oral comments will be honored in the order they are requested and may be limited as time allows. Requests to submit a written statement or make oral comments to the NACMH meeting should be sent to Esther Paul using the contact information above at least 5 business days before the meeting.

Individuals who need special assistance or another reasonable accommodation should notify Esther Paul using the contact information listed above at least 10 business days before the meeting. All attendees are required to register to attend the meeting prior to entry. Instructions for how to register and join will be posted on the NACMH website 30 calendar days before the meeting.

**Maria G. Button,**

*Director, Executive Secretariat.*

[FR Doc. 2020–20420 Filed 9–15–20; 8:45 am]

**BILLING CODE 4165–15–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Submission for OMB Review; 30-Day Comment Request; Bench to Bedside: Integrating Sex and Gender To Improve Human Health & Sex as a Biological Variable: A Primer (Office of the Director)

**AGENCY:** National Institutes of Health, HHS.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

**DATES:** Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Dr. Chyren Hunter, Associate Director, Basic and Translational Research, Office of Research on Women's Health, 6707 Democracy Blvd., Room 437, Bethesda, Maryland 20817 or call non-toll-free number (301) 496–7849 or email your request to *ORWHCourses@od.nih.gov.*

**SUPPLEMENTARY INFORMATION:** This proposed information collection was previously published in the **Federal Register** on April 30, 2020, pages 23978–23980 and allowed 60 days for public comment. One comment was received. The purpose of this notice is to allow an additional 30 days for public comment.

The Office of Research on Women's Health, National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

*Proposed Collection:* Bench to Bedside: Integrating Sex and Gender to Improve Human Health and Sex as a Biological Variable: A Primer—0925–New—expiration date, Office of Research on Women's Health (ORWH), Office of the Director (OD), National Institutes of Health (NIH).

*Need and Use of Information Collection:* Bench to Bedside: Integrating Sex and Gender to Improve Human Health'' is an online course developed by ORWH, the FDA Office of Women's Health, and other non-federal subject matter experts. ''Sex as a Biological Variable: A Primer'' is an online course developed by ORWH, the National Institute of General Medical Sciences, and other non-federal subject matter experts. Together, these two courses will provide learners a rationale for the study of biological differences between the sexes, the impact of sex and gender difference on illness, guidance on incorporating the NIH policy on sex as a biological variable (SABV) into studies, and an exploration of sex- and gender-related differences in key disease areas. The Bench to Bedside course will also offer free continuing medical education credits.

In conjunction with these two courses, ORWH will collect information through registration information and surveys (knowledge checks, attitude assessments, and course evaluations). The information collected will be used in the following ways: 1. To assess uptake and learning of concepts in each lesson; 2. To identify demographic trends across learners in order to inform targeted outreach; 3. To assess effectiveness of course materials; and 4. To identify areas of focus for future course improvement, modifications, and expansion.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 4,060.

ESTIMATED ANNUALIZED BURDEN HOURS

| Form name | Type of respondents | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total annual burden hours |
|---|---|---|---|---|---|
| **Bench to Bedside: Immunology Module** | | | | | |
| Attitude survey pre- and post-test | Private sector | 105 | 2 | 5/60 | 18 |
| | Federal government | 180 | 2 | 5/60 | 30 |
| | Individual | 15 | 2 | 5/60 | 3 |
| Module completion | Private sector | 105 | 1 | 1 | 105 |
| | Federal government | 180 | 1 | 1 | 180 |
| | Individual | 15 | 1 | 1 | 15 |
| Knowledge check | Private sector | 105 | 1 | 10/60 | 18 |
| | Federal government | 180 | 1 | 10/60 | 30 |
| | Individual | 15 | 1 | 10/60 | 3 |
| Module evaluation | Private sector | 17 | 1 | 5/60 | 1 |
| | Federal government | 30 | 1 | 5/60 | 3 |
| | Individual | 3 | 1 | 5/60 | 0 |
| Outcomes evaluation | Private sector | 17 | 1 | 5/60 | 1 |
| | Federal government | 30 | 1 | 5/60 | 3 |
| | Individual | 3 | 1 | 5/60 | 0 |
| **Bench to Bedside: Cardiovascular Module** | | | | | |
| Attitude survey pre- and post-test | Private sector | 105 | 2 | 5/60 | 18 |
| | Federal government | 180 | 2 | 5/60 | 30 |
| | Individual | 15 | 2 | 5/60 | 3 |
| Module completion | Private sector | 105 | 1 | 1 | 105 |
| | Federal government | 180 | 1 | 1 | 180 |
| | Individual | 15 | 1 | 1 | 15 |
| Knowledge check | Private sector | 105 | 1 | 10/60 | 18 |
| | Federal government | 180 | 1 | 10/60 | 30 |
| | Individual | 15 | 1 | 10/60 | 3 |
| Module evaluation | Private sector | 17 | 1 | 5/60 | 1 |
| | Federal government | 30 | 1 | 5/60 | 3 |
| | Individual | 3 | 1 | 5/60 | 0 |
| Outcomes evaluation | Private sector | 17 | 1 | 5/60 | 1 |
| | Federal government | 30 | 1 | 5/60 | 3 |
| | Individual | 3 | 1 | 5/60 | 0 |
| **Bench to Bedside: Pulmonary Disease Module** | | | | | |
| Attitude survey pre- and post-test | Private sector | 105 | 2 | 5/60 | 18 |
| | Federal government | 180 | 2 | 5/60 | 30 |
| | Individual | 15 | 2 | 5/60 | 3 |
| Module completion | Private sector | 105 | 1 | 1 | 105 |
| | Federal government | 180 | 1 | 1 | 180 |
| | Individual | 15 | 1 | 1 | 15 |
| Knowledge check | Private sector | 105 | 1 | 10/60 | 18 |
| | Federal government | 180 | 1 | 10/60 | 30 |
| | Individual | 15 | 1 | 10/60 | 3 |

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

| Form name | Type of respondents | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total annual burden hours |
|---|---|---|---|---|---|
| Module evaluation | Private sector | 17 | 1 | 5/60 | 1 |
| | Federal government | 30 | 1 | 5/60 | 3 |
| | Individual | 3 | 1 | 5/60 | 0 |
| Outcomes evaluation | Private sector | 17 | 1 | 5/60 | 1 |
| | Federal government | 30 | 1 | 5/60 | 3 |
| | Individual | 3 | 1 | 5/60 | 0 |
| **Bench to Bedside: Neurology Module** | | | | | |
| Attitude survey pre- and post-test | Private sector | 105 | 2 | 5/60 | 18 |
| | Federal government | 180 | 2 | 5/60 | 30 |
| | Individual | 15 | 2 | 5/60 | 3 |
| Module completion | Private sector | 105 | 1 | 1 | 105 |
| | Federal government | 180 | 1 | 1 | 180 |
| | Individual | 15 | 1 | 1 | 15 |
| Knowledge check | Private sector | 105 | 1 | 10/60 | 18 |
| | Federal government | 180 | 1 | 10/60 | 30 |
| | Individual | 15 | 1 | 10/60 | 3 |
| Module evaluation | Private sector | 17 | 1 | 5/60 | 1 |
| | Federal government | 30 | 1 | 5/60 | 3 |
| | Individual | 3 | 1 | 5/60 | 0 |
| Outcomes evaluation | Private sector | 17 | 1 | 5/60 | 1 |
| | Federal government | 30 | 1 | 5/60 | 3 |
| | Individual | 3 | 1 | 5/60 | 0 |
| **Bench to Bedside: Endocrinology Module** | | | | | |
| Attitude survey pre- and post-test | Private sector | 105 | 2 | 5/60 | 18 |
| | Federal government | 180 | 2 | 5/60 | 30 |
| | Individual | 15 | 2 | 5/60 | 3 |
| Module completion | Private sector | 105 | 1 | 1 | 105 |
| | Federal government | 180 | 1 | 1 | 180 |
| | Individual | 15 | 1 | 1 | 15 |
| Knowledge check | Private sector | 105 | 1 | 10/60 | 18 |
| | Federal government | 180 | 1 | 10/60 | 30 |
| | Individual | 15 | 1 | 10/60 | 3 |
| Module evaluation | Private sector | 17 | 1 | 5/60 | 1 |
| | Federal government | 30 | 1 | 5/60 | 3 |
| | Individual | 3 | 1 | 5/60 | 0 |
| Outcomes evaluation | Private sector | 17 | 1 | 5/60 | 1 |
| | Federal government | 30 | 1 | 5/60 | 3 |
| | Individual | 3 | 1 | 5/60 | 0 |
| **Bench to Bedside: Mental Health Module** | | | | | |
| Attitude survey pre- and post- test | Private sector | 105 | 2 | 5/60 | 18 |
| | Federal government | 180 | 2 | 5/60 | 30 |
| | Individual | 15 | 2 | 5/60 | 3 |
| Module completion | Private sector | 105 | 1 | 1 | 105 |
| | Federal government | 180 | 1 | 1 | 180 |
| | Individual | 15 | 1 | 1 | 15 |
| Knowledge check | Private sector | 105 | 1 | 10/60 | 18 |
| | Federal government | 180 | 1 | 10/60 | 30 |
| | Individual | 15 | 1 | 10/60 | 3 |
| Module evaluation | Private sector | 17 | 1 | 5/60 | 1 |
| | Federal government | 30 | 1 | 5/60 | 3 |
| | Individual | 3 | 1 | 5/60 | 0 |
| Outcomes evaluation | Private sector | 17 | 1 | 5/60 | 1 |
| | Federal government | 30 | 1 | 5/60 | 3 |
| | Individual | 3 | 1 | 5/60 | 0 |
| **SABV Primer** | | | | | |
| Attitude survey pre- and post-test | Private sector | 105 | 8 | 5/60 | 70 |
| | Federal government | 180 | 8 | 5/60 | 120 |
| | Individual | 15 | 8 | 5/60 | 10 |
| Course completion | Private sector | 105 | 4 | 1 | 420 |
| | Federal government | 180 | 4 | 1 | 720 |
| | Individual | 15 | 4 | 1 | 60 |
| Knowledge check | Private sector | 105 | 4 | 10/60 | 70 |

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

| Form name | Type of respondents | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total annual burden hours |
|---|---|---|---|---|---|
| | Federal government | 180 | 4 | 10/60 | 120 |
| | Individual | 15 | 4 | 10/60 | 10 |
| Total | | 600 | 12,570 | | 4,060 |

Dated: September 6, 2020.

**Lawrence A. Tabak,**

*Principal Deputy Director, National Institutes of Health.*

[FR Doc. 2020–20232 Filed 9–15–20; 8:45 am]

BILLING CODE 4140–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Standards of Care for Chimpanzees Held in the Federally Supported Sanctuary System; Correction

**AGENCY:** National Institutes of Health, Health and Human Services (HHS).

**ACTION:** Notice; correction.

**SUMMARY:** The Department of Health and Human Services, National Institutes of Health published a Final rule; technical amendments document in the **Federal Register** on September 1, 2020. That document requires a correction in the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** Daniel Hernandez, Acting NIH Regulations Officer, Office of Management Assessment, Division of Management Support, 6011 Executive Boulevard, Suite 601, Rockville, Maryland 20852–7669, telephone 301–435–3343, email *dhernandez@od.nih.gov.*

**SUPPLEMENTARY INFORMATION:** *Correction:*

In the **Federal Register** of September 1, 2020, in FR Doc. 2020–17090, on page 54273, in the first column, in section 42 CFR 9.3 [Amended], 9.3b, it currently reads ''In paragraph (a)(8)'' and should read ''In paragraph (a)(2)(xiii)(F)(8)''.

Dated: September 8, 2020.

**Wilma Robinson,**

*Deputy Executive Secretary, Department of Health and Human Services.*

[FR Doc. 2020–20416 Filed 9–15–20; 8:45 am]

BILLING CODE 4140–01–P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

**[Docket No. USCG–2020–0491]**

### Termination of the U.S. Coast Guard Federal Advisory Committee

**AGENCY:** U.S. Coast Guard, Department of Homeland Security.

**ACTION:** Termination of Federal Advisory Committee.

**SUMMARY:** Under the provisions of the Federal Advisory Committee Act and the Government in the Sunshine Act of 1976, effective September 30, 2020, the U.S. Coast Guard gives notice that is it terminating the Lower Mississippi River Waterway Safety Advisory Committee.

**FOR FURTHER INFORMATION CONTACT:** Ms. Melanee G. Libby, Group Federal Officer for the U.S. Coast Guard, telephone (202) 372–4572, or email *melanee.g.libby@uscg.mil.*

Dated: September 8, 2020.

**Wayne R. Arguin Jr.,**

*Captain, U.S. Coast Guard, Director of Inspections and Compliance.*

[FR Doc. 2020–20375 Filed 9–15–20; 8:45 am]

BILLING CODE 9110–04–P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2020–0002; Internal Agency Docket No. FEMA–B–2051]**

### Proposed Flood Hazard Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report, once effective, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings.

**DATES:** Comments are to be submitted on or before December 15, 2020.

**ADDRESSES:** The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://www.fema.gov/preliminaryfloodhazarddata* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2051, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

**FOR FURTHER INFORMATION CONTACT:** Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://*

*www.floodmaps.fema.gov/fhm/fmx_main.html.*

**SUPPLEMENTARY INFORMATION:** FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP and are used to calculate the appropriate flood insurance premium rates for new buildings built after the FIRM and FIS report become effective.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://www.fema.gov/preliminaryfloodhazarddata* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

**Michael M. Grimm,**

*Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.*

| Community | Community map repository address |
|---|---|
| **Shasta County, California and Incorporated Areas<br>Project: 18–09–0011S Preliminary Date: April 23, 2020** | |
| Unincorporated Areas of Shasta County | Resource Management & Public Works Building, 1855 Placer Street, Redding, CA 96001. |
| **Pennington County, Minnesota and Incorporated Areas<br>Project: 17–05–1532S Preliminary Date: March 31, 2020** | |
| City of Goodridge | City Hall, 305 Vaughn Main Street East, Goodridge, MN 56725. |
| City of St. Hilaire | City Hall, 302 Broadway Avenue North, St. Hilaire, MN 56754. |
| City of Thief River Falls | City Hall, 405 Third Street East, Thief River Falls, MN 56701. |
| Red Lake Band of Chippewa Tribe | Red Lake Nation Government Center, 15484 Migizi Drive, Red Lake, MN 56671. |
| Unincorporated Areas of Pennington County | Pennington County Courthouse, 101 Main Avenue North, Thief River Falls, MN 56701. |
| **Clinton County, New York (All Jurisdictions)<br>Project: 18–02–0003S Preliminary Date: February 27, 2020** | |
| City of Plattsburgh | City Hall, 41 City Hall Place, Plattsburgh, NY 12901. |
| Town of Altona | Town Hall, 3124 Miner Farm Road, Altona, NY 12910. |
| Town of Ausable | Ausable Town Hall, 111 Ausable Street, Keeseville, NY 12944. |
| Town of Beekmantown | Beekmantown Town Hall, 571 Spellman Road, West Chazy, NY 12992. |
| Town of Black Brook | Black Brook Town Hall, 18 North Main Street, Ausable Forks, NY 12912. |
| Town of Champlain | Town Hall, 10729 Route 9, Champlain, NY 12919. |
| Town of Chazy | Town Hall, 9631 State Route 9, Chazy, NY 12921. |
| Town of Clinton | Churubusco Town Hall, 23 Smith Street, Churubusco, NY 12923. |
| Town of Dannemora | Town of Dannemora, 78 Higby Road, Ellenburg Depot, NY 12935. |
| Town of Ellenburg | Ellenburg Town Municipal Building, 16 St. Edmunds Way, Ellenburg Center, NY 12934. |
| Town of Mooers | Town Hall, 2508 State Route 11, Mooers, NY 12958. |
| Town of Peru | Town Hall, 3036 Main Street, Peru, NY 12972. |
| Town of Plattsburgh | Town Hall, 151 Banker Road, Plattsburgh, NY 12901. |
| Town of Saranac | Town Hall, 3662 Route 3, Saranac, NY 12981. |
| Town of Schuyler Falls | Schuyler Falls Town Hall, 997 Mason Street, Morrisonville, NY 12962. |
| Village of Champlain | Village of Champlain Office, 11104 Route 9, Champlain, NY 12919. |
| Village of Dannemora | Village Office, 40 Emmons Street, Dannemora, NY 12929. |

| Community | Community map repository address |
|---|---|
| Village of Rouses Point | Village Office, 139 Lake Street, Rouses Point, NY 12979. |

[FR Doc. 2020–20349 Filed 9–15–20; 8:45 am]
**BILLING CODE 9110–12–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2020–0002; Internal Agency Docket No. FEMA–B–2054]**

### Changes in Flood Hazard Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Notice.

**SUMMARY:** This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

**DATES:** These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

**ADDRESSES:** The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

**SUPPLEMENTARY INFORMATION:** The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

**Michael M. Grimm,**

*Assistant Administrator for Risk Management,Department of Homeland Security,Federal Emergency Management Agency.*

| State and county | Location and case No. | Chief executive officer of community | Community map repository | Online location of letter of map revision | Date of modification | Community No. |
|---|---|---|---|---|---|---|
| Arizona: Maricopa | Town of Gilbert (20–09–0521P). | The Honorable Jenn Daniels, Mayor, Town of Gilbert, 50 East Civic Center Drive, Gilbert, AZ 85296. | Development Services Department, 90 East Civic Center Drive, Gilbert, AZ 85296. | *https://msc.fema.gov/portal/advanceSearch.* | Nov. 13, 2020 | 040044 |
| Arkansas: Washington. | City of Fayetteville (19–06–3968P). | The Honorable Lioneld Jordan, Mayor, City of Fayetteville, 113 West Mountain Street, Fayetteville, AR 72701. | City Hall, 113 West Mountain Street, Fayetteville, AR 72701. | *https://msc.fema.gov/portal/advanceSearch.* | Dec. 7, 2020 | 050216 |

| State and county | Location and case No. | Chief executive officer of community | Community map repository | Online location of letter of map revision | Date of modification | Community No. |
|---|---|---|---|---|---|---|
| Colorado: Jefferson. | City of Lakewood (20–08–0105P). | The Honorable Adam Paul, Mayor, City of Lakewood, 480 South Allison Parkway, Lakewood, CO 80226. | City Hall, 480 South Allison Parkway, Lakewood, CO 80226. | *https://msc.fema.gov/portal/advanceSearch.* | Nov. 20, 2020 | 085075 |
| Delaware: Sussex | Town of South Bethany (20–03–1169P). | The Honorable Tim Saxton, Mayor, Town of South Bethany, 402 Evergreen Road, South Bethany, DE 19930. | Town Hall, 402 Evergreen Road, South Bethany, DE 19930. | *https://msc.fema.gov/portal/advanceSearch.* | Dec. 18, 2020 | 100051 |
| Florida: | | | | | | |
| Broward | City of Coral Springs (20–04–1557P). | Mr. Frank Babinec, Manager, City of Coral Springs, 9500 West Sample Road, Coral Springs, FL 33065. | City Hall, 9500 West Sample Road, Coral Springs, FL 33065. | *https://msc.fema.gov/portal/advanceSearch.* | Nov. 30, 2020 | 120033 |
| Miami-Dade | City of Florida City (19–04–6515P). | The Honorable Otis T. Wallace, Mayor, City of Florida City, 404 West Palm Drive, Florida City, FL 33034. | Building and Zoning Department, 404 West Palm Drive, Florida City, FL 33034. | *https://msc.fema.gov/portal/advanceSearch.* | Nov. 18, 2020 | 120641 |
| Miami-Dade | City of Homestead (19–04–6515P). | The Honorable Steven D. Losner, Mayor, City of Homestead, 100 Civic Court, Homestead, FL 33030. | Development Services Department, 100 Civic Court, Homestead, FL 33030. | *https://msc.fema.gov/portal/advanceSearch.* | Nov. 18, 2020 | 120645 |
| Miami-Dade | City of Sunny Isles Beach (20–04–4036P). | The Honorable George ''Bud'' Scholl, Mayor, City of Sunny Isles Beach, 18070 Collins Avenue, Sunny Isles Beach, FL 33160. | Building Department, 18070 Collins Avenue, Sunny Isles Beach, FL 33160. | *https://msc.fema.gov/portal/advanceSearch.* | Nov. 19, 2020 | 120688 |
| Miami-Dade | Unincorporated areas of Miami-Dade County (19–04–6515P). | The Honorable Carlos A. Gimenez, Mayor, Miami-Dade County, 111 Northwest 1st Street, 29th Floor, Miami, FL 33128. | Miami-Dade County Environmental Resources Management Department, 701 Northwest 1st Court, Suite 500, Miami, FL 33136. | *https://msc.fema.gov/portal/advanceSearch.* | Nov. 18, 2020 | 120635 |
| Monroe | Unincorporated areas of Monroe County (20–04–1572P). | The Honorable Heather Carruthers, Mayor, Monroe County Board of Commissioners, 500 Whitehead Street, Suite 102, Key West, FL 33040. | Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050. | *https://msc.fema.gov/portal/advanceSearch.* | Nov. 30, 2020 | 125129 |
| Monroe | Unincorporated areas of Monroe County (20–04–3363P). | The Honorable Heather Carruthers, Mayor, Monroe County Board of Commissioners, 500 Whitehead Street, Suite 102, Key West, FL 33040. | Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050. | *https://msc.fema.gov/portal/advanceSearch.* | Nov. 30, 2020 | 125129 |
| Monroe | Unincorporated areas of Monroe County (20–04–3364P). | The Honorable Heather Carruthers, Mayor, Monroe County Board of Commissioners, 500 Whitehead Street, Suite 102, Key West, FL 33040. | Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050. | *https://msc.fema.gov/portal/advanceSearch.* | Dec. 7, 2020 | 125129 |
| Pasco | Unincorporated areas of Pasco County (20–04–2795P). | The Honorable Mike Moore, Chairman, Pasco County Board of Commissioners, 8731 Citizens Drive, New Port Richey, FL 34654. | Pasco County Development Review Division, 7530 Little Road, New Port Richey, FL 34654. | *https://msc.fema.gov/portal/advanceSearch.* | Dec. 17, 2020 | 120230 |
| Sarasota | Unincorporated areas of Sarasota County (20–04–3149P). | The Honorable Michael A. Moran, Chairman, Sarasota County Board of Commissioners, 1660 Ringling Boulevard, Sarasota, F4034236. | Sarasota County Planning and Development Services Department, 1001 Sarasota Center Boulevard, Sarasota, FL34240. | *https://msc.fema.gov/portal/advanceSearch.* | Dec. 3, 2020 | 125144 |
| Seminole | Unincorporated areas of Seminole County (20–04–1621P). | The Honorable Jay Zembower, Chairman, Seminole County Board of Commissioners, 1101 East 1st Street, Sanford, FL 32771. | Seminole County Services Building, 1101 East 1st Street, Sanford, FL 32771. | *https://msc.fema.gov/portal/advanceSearch.* | Dec. 16, 2020 | 120289 |
| Georgia: Gwinnett | City of Duluth (20–04–1631P). | Mr. James Riker, Manager, City of Duluth, 3167 Main Street, Duluth, GA 30096. | Department of Planning and Development, 3167 Main Street, Duluth, GA 30096. | *https://msc.fema.gov/portal/advanceSearch.* | Nov. 19, 2020 | 130098 |

| State and county | Location and case No. | Chief executive officer of community | Community map repository | Online location of letter of map revision | Date of modification | Community No. |
|---|---|---|---|---|---|---|
| Mississippi: Panola | Unincorporated areas of Panola County (20–04–1139P). | The Honorable Cole Flint, President, Panola County Board of Supervisors, 151 Public Square, Batesville, MS 38606. | Panola County Land Development Commission, 245 Eureka Street, Batesville, MS 38606. | *https://msc.fema.gov/portal/advanceSearch.* | Dec. 3, 2020 | 280125 |
| North Carolina: Columbus. | Town of Sandyfield (20–04–3325P). | The Honorable Garry Keaton, Mayor, Town of Sandyfield, 1795 Woodyard Road, Riegelwood, NC 28546. | Town Hall, 1795 Woodyard Road, Riegelwood, NC 28546. | *https://msc.fema.gov/portal/advanceSearch.* | Dec. 7, 2020 | 370644 |
| Pennsylvania: Northampton. | Township of Lower Nazareth (20–03–0708P). | The Honorable James S. Pennington, Chairman, Township of Lower Nazareth, Board of Supervisors, 623 Municipal Drive, Nazareth, PA 18064. | Planning and Zoning Department, 623 Municipal Drive, Nazareth, PA 18064. | *https://msc.fema.gov/portal/advanceSearch.* | Dec. 14, 2020 | 422253 |
| Texas: | | | | | | |
| Collin | City of Plano (20–06–0790P). | The Honorable Harry LaRosiliere, Mayor, City of Plano, 1520 K Avenue, Suite 300, Plano, TX 75074. | Department of Engineering, 1520 K Avenue, Suite 250, Plano, TX 75074. | *https://msc.fema.gov/portal/advanceSearch.* | Dec. 14, 2020 | 480140 |
| Dallas | City of Dallas (20–06–1597P). | The Honorable Eric Johnson, Mayor, City of Dallas, 1500 Marilla Street, Suite 5EN, Dallas, TX 75201. | Water Utilities Department, 312 East Jefferson Boulevard, Room 307, Dallas, TX 75203. | *https://msc.fema.gov/portal/advanceSearch.* | Dec. 7, 2020 | 480171 |
| Gillespie | City of Fredericksburg (19–06–2756P). | The Honorable Gary Neffendorf, Mayor, City of Fredericksburg, 126 West Main Street, Fredericksburg, TX 78624. | City Hall, 126 West Main Street, Fredericksburg, TX 78624. | *https://msc.fema.gov/portal/advanceSearch.* | Nov. 19, 2020 | 480252 |
| Hood | Unincorporated areas of Hood County (20–06–2645P). | The Honorable Ron Massing III, Hood County Judge, 100 East Pearl Street, Granbury, TX 76048. | Hood County Development and Compliance Department, 1402 West Pearl Street, Suite 2, Granbury, TX 76048. | *https://msc.fema.gov/portal/advanceSearch.* | Dec. 3, 2020 | 480356 |
| Tarrant | City of Fort Worth (20–06–1450P). | The Honorable Betsy Price, Mayor, City of Fort Worth, 200 Texas Street, Fort Worth, TX 76102. | Transportation and Public Works Department, Engineering Vault, 200 Texas Street, Fort Worth, TX 76102. | *https://msc.fema.gov/portal/advanceSearch.* | Dec. 14, 2020 | 480596 |
| Tarrant | City of Haltom City (20–06–1525P). | The Honorable An Truong, Mayor, City of Haltom City, 5024 Broadway Avenue, Haltom City, TX 76117. | Public Works Services Department, 5024 Broadway Avenue, Haltom City, TX 76117. | *https://msc.fema.gov/portal/advanceSearch.* | Dec. 14, 2020 | 480599 |
| Utah: Cache | City of Hyrum (20–08–0206P). | The Honorable Stephanie Miller, Mayor, City of Hyrum, 60 West Main Street, Hyrum, UT 84319. | City Hall, 60 West Main Street, Hyrum, UT 84319. | *https://msc.fema.gov/portal/advanceSearch.* | Dec. 2, 2020 | 490017 |
| Virginia: | | | | | | |
| Independent City. | City of Newport News (20–03–0336P). | The Honorable McKinley L. Price, Mayor, City of Newport News, 2400 Washington Avenue, 10th Floor, Newport News, VA 23607. | City Hall, 2400 Washington Avenue, Newport News, VA 23607. | *https://msc.fema.gov/portal/advanceSearch.* | Dec. 22, 2020 | 510103 |
| Prince William | City of Manassas (20–03–0476P). | The Honorable Harry J. Parrish, II, Mayor, City of Manassas, 9027 Center Street, Suite 101, Manassas, VA 20110. | Public Works Department, 8500 Public Works Drive, Manassas, VA 20110. | *https://msc.fema.gov/portal/advanceSearch.* | Dec. 17, 2020 | 510122 |
| Prince William | Unincorporated areas of Prince William County, (20–03–0476P). | Mr. Christopher E. Martino, Prince William County Executive, 1 County Complex Court, Prince William, VA 22192. | Prince William County Department of Public Works, Watershed Management Branch, 5 County Complex Court, Prince William, VA 22192. | *https://msc.fema.gov/portal/advanceSearch.* | Dec. 17, 2020 | 510119 |
| York | Unincorporated areas of York County (20–03–0336P). | Mr. Neil A. Morgan, York County Administrator, P.O. Box 532, Yorktown, VA 23692. | York County Department of Public Works, 105 Service Drive, Yorktown, VA 23692. | *https://msc.fema.gov/portal/advanceSearch.* | Dec. 22, 2020 | 510182 |

| State and county | Location and case No. | Chief executive officer of community | Community map repository | Online location of letter of map revision | Date of modification | Community No. |
|---|---|---|---|---|---|---|
| Wyoming: Teton ... | Unincorporated areas of Teton County (19–08–1023P). | The Honorable Natalia Macker, Chair, Teton County Board of Commissioners, P.O. Box 3594, Jackson, WY 83001. | Teton County Public Works Department, 320 South King Street, Jackson, WY 83001. | *https://msc.fema.gov/portal/advanceSearch.* | Dec. 3, 2020 | 560094 |

[FR Doc. 2020–20347 Filed 9–15–20; 8:45 am]

**BILLING CODE 9110–12–P**

## DEPARTMENT OF HOMELAND SECURITY

**[Docket No. CISA–2020–0012]**

## Notice of President's National Security Telecommunications Advisory Committee Meeting

**AGENCY:** Cybersecurity and Infrastructure Security Agency, Department of Homeland Security.

**ACTION:** Notice of Federal Advisory Committee Act (FACA) meeting; request for comments.

**SUMMARY:** The Cybersecurity and Infrastructure Security Agency (CISA) is publishing this notice to announce the following President's National Security Telecommunications Advisory Committee (NSTAC) meeting. This meeting is open to the public.

**DATES:** *Meeting Registration:* Registration to attend the meeting is required and must be received no later than 5:00 p.m. Eastern Time (ET) on September 29, 2020.

*Speaker Registration:* Registration to speak during the meeting's public comment period must be received no later than 5:00 p.m. ET on September 29, 2020.

*Meeting Date:* The NSTAC will meet on October 6, 2020 from 1:30 p.m. to 2:00 p.m. ET. The meeting may close early if the committee has completed its business.

**ADDRESSES:** The meeting will be held via conference call. For access to the conference call bridge, information on services for individuals with disabilities, or to request special assistance to participate, please email *NSTAC@cisa.dhs.gov* by 5:00 p.m. ET on September 29, 2020.

*Comments:* Members of the public are invited to provide comment on the issues that will be considered by the committee as listed in the **SUPPLEMENTARY INFORMATION** section below. Associated materials that participants may discuss during the meeting will be available at *www.dhs.gov/cisa/national-security-telecommunications-advisory-committee* for review as of September 21, 2020. Comments may be submitted by 5:00 p.m. ET on September 29, 2020 and must be identified by Docket Number CISA–2020–0012. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Please follow the instructions for submitting written comments.
- *Email: NSTAC@cisa.dhs.gov.* Include the Docket Number CISA–2020–0012 in the subject line of the email.

*Instructions:* All submissions received must include the words ''Department of Homeland Security'' and the Docket Number for this action. Comments received will be posted without alteration at *www.regulations.gov,* including any personal information provided.

*Docket:* For access to the docket and comments received by the NSTAC, please go to *www.regulations.gov* and enter docket number CISA–2020–0012.

A public comment period may be held during the meeting from 1:45 p.m. to 1:55 p.m. ET. Speakers who wish to participate in the public comment period must register by emailing *NSTAC@cisa.dhs.gov.* Speakers are requested to limit their comments to three minutes and will speak in order of registration. Please note that the public comment period may end before the time indicated, following the last request for comments.

**FOR FURTHER INFORMATION CONTACT:** Sandy Benevides, 703–705–6232, *sandra.benevides@cisa.dhs.gov.*

**SUPPLEMENTARY INFORMATION:** The NSTAC was established by Executive Order (E.O.) 12382, 47 FR 40531 (September 13, 1982), as amended and continued under the authority of E.O. 13889, dated September 27, 2019. Notice of this meeting is given under FACA, 5 U.S.C. Appendix (Pub. L. 92–463). The NSTAC advises the President on matters related to national security and emergency preparedness (NS/EP) telecommunications and cybersecurity policy.

*Agenda:* The NSTAC will hold a conference call on Tuesday, October 6, 2020, to discuss committee activities and the Administration's NS/EP priorities with CISA leadership and other senior Government officials. The meeting will also include a deliberation and vote on the *NSTAC Letter to the President on Communications Resiliency.*

**Sandra J. Benevides,**

*Designated Federal Officer, National Security Telecommunications Advisory Committee, Cybersecurity and Infrastructure Security Agency, Department of Homeland Security.*

[FR Doc. 2020–20372 Filed 9–15–20; 8:45 am]

**BILLING CODE 9110–9P–P**

## DEPARTMENT OF HOMELAND SECURITY

**[Docket Number DHS–2020–0019]**

## Agency Information Collection Activities: Generic Clearance for Improving Customer Experience (OMB Circular A–11, Section 280 Implementation)

**AGENCY:** Department of Homeland Security (DHS).

**ACTION:** 30-Day Notice and request for comments; New Collection, 1601–NEW.

**SUMMARY:** The Department of Homeland Security (DHS) as part of its continuing effort to reduce paperwork and respondent burden, is announcing an opportunity for public comment on a new proposed collection of information by the Agency. DHS previously published this information collection request (ICR) in the **Federal Register** on Monday, May 18, 2020 for a 60-day public comment period. One (1) comment was received by DHS. The purpose of this notice is to allow an additional 30-days for public comments.

**DATES:** Comments are encouraged and will be accepted until October 16, 2020. This process is conducted in accordance with 5 CFR 1320.1.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

**SUPPLEMENTARY INFORMATION:** On September 11, 1993, President Clinton issued Executive Order 12862, ''Setting Customer Service Standards'' which clearly define his vision that the Federal agencies will put the people first. Executive Order 12862 directs Federal agencies to provide service to the public that matches or exceeds the best service available in the private sector. Section 1(b) of Executive Order 12862 requires government agencies to ''survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services'' and Section 1(e) requires agencies ''survey front-line employees on barriers to, and ideas for, matching the best in business.''

On March 30, 2016, President Obama established the Core Federal Services Council, which again emphasized the need to deliver world-class customer service to the American people. The Council, composed of the major high-volume, high-impact Federal programs that provide transactional services directly to the public, were encouraged ''to improve the customer experience by using public and private sector management best practices, such as conducting self-assessments and journey mapping, collecting transactional feedback data, and sharing such data with frontline and other staff.''

In March 2018, the Administration of President Trump launched the President's Management Agenda (PMA) and established new Cross-Agency Priority (CAP) Goals. Excellent service was established as a core component of the mission, service, stewardship model that frames the entire PMA, embedding a customer-focused approach in all of the PMA's initiatives. This model was also included in the 2018 update of the Federal Performance Framework in Circular A–11, ensuring 'excellent service' as a focus in future agency strategic planning efforts. The PMA included a CAP Goal on Improving Customer Experience with Federal Services, with a primary strategy to drive improvements within 25 of the nation's highest impact programs. This effort is supported by an interagency team and guidance in Circular A–11 requiring the collection of customer feedback data and increasing the use of industry best practices to conduct customer research.

These Presidential actions and requirements establish an ongoing process of collecting customer insights and using them to improve services. This new request will enable the Department of Homeland Security (hereafter ''the Agency'') to act in accordance with OMB Circular A–11 Section 280 to ultimately transform the experience of its customers to improve both efficiency and mission delivery, and increase accountability by communicating about these efforts with the public.

The Agency will collect, analyze, and interpret information gathered through this generic clearance to identify services' accessibility, navigation, and use by customers, and make improvements in service delivery based on customer insights gathered through developing an understanding of the user experience interacting with Government.

For the purposes of this request, ''customers'' are individuals, businesses, and organizations that interact with a Federal Government agency or program, either directly or via a Federal contractor.

''Service delivery'' or ''services'' refers to the multitude of diverse interactions between a customer and Federal agency such as applying for a benefit or loan, receiving a service such as healthcare or small business counseling, requesting a document such as a passport or social security card, complying with a rule or regulation such as filing taxes or declaring goods, utilizing resources such as a park or historical site, or seeking information such as public health or consumer protection notices.

Under this request, three types of activities will be conducted to generate customer insights:

Customer Research (e.g., User Persona and Journey Map Development): A critical first component of understanding customer experience is to develop customer personas and journey maps. This process enables the Agency to more deeply understand the customer segments they serve and to organize the processes customers interact with throughout their engagement with the Federal entity to accomplish a task or meet a need. In order to adequately capture the perspective of the customer and the barriers or supports that exist as they navigate these journeys, it is necessary to directly interact with customers rather than relying solely upon the Agency's stated policy of how a process should work or employees' interpretation of how services are delivered. This can occur through a variety of information collection mechanisms that include focus groups, individual intercept interviews at a service site, shadowing a user as they navigate a Federal service and documenting their reactions and frustrations, customer free-response comment cards, or informal small discussion groups.

Regardless of the format, the Agency will apply Human Centered Design (HCD) Discovery methods to generate personas and journey maps, ultimately identifying customer insights. An approach to recruiting participants, resources for preparing and structuring interviews, and a consent form for interviewees can be found at *https://www.gsa.gov/cdnstatic/HCD-Discovery-Guide-Interagency-v12-1.pdf.* This document is also included in the package.

Insights documented, summarized and presented in customer personas and journey maps can then be shared across the program, the Agency, other Federal, State, and Local government stakeholders and even with the public to validate and discuss common themes identified. These products can be used as ''indicator lights'' for where more rigorous qualitative and quantitative research can be conducted to improve Federal service delivery.

Publicly shared personas and journey maps will include language that qualifies their use (see question #16), and high-level, non-identifying descriptive statistics of the population(s) interviewed to develop it (ex. ''25 Service members that transitioned to civilian employment within the last decade, 14 female, 11 male, 21 enlisted and 4 officers) to ensure that the perspective represented is understood. Quotes or insights will never be associated with an actual individual unless they have signed a release form (see link above for template) and this was included in the specific collection request.

Customer Feedback (Satisfaction Survey): Surveys to be considered under this generic clearance will only include those surveys modeled on the OMB Circular A–11 CX Feedback survey to improve customer service by collecting feedback at a specific point during a customer journey. This could include upon submitting a form online on a Federal website, speaking with a call center representative, paying off a loan, or visiting a Federal service center.

In an effort to develop comparable, government-wide scores that will enable cross-agency or industry benchmarking (when relevant) and a general indication of an agency's overall customer satisfaction, OMB Circular A–11 Section 280 requires high impact services to measure their touchpoint/transactional performance in as a real-time manner as possible, with respect to satisfaction and confidence/trust using the following questions, without modification. Responses will typically be assessed on a 5-point Likert scale (1 (strongly disagree) to 5 (strongly agree)). These

questions align to drivers of experience developed in consultation with leading organizations in customer experience both in the private sector and industry groups that study the most critical drivers of customer experience.

- 5 point Likert scale: *I am satisfied with the service I received from [Program/Service name].*
- 5 point Likert scale: *This interaction increased my confidence in [Program/Service name].* OR *I trust [Agency/Program/Service name] to fulfill our country's commitment to [relevant population].*
- Free response: *Any additional feedback on your scores above?*
- 5 point Likert scale: *My need was addressed* OR *My issue was resolved.* OR *I found what I was looking for.*
- 5 point Likert scale: *It was easy to complete what I needed to do.*
- 5 point Likert scale: *It took a reasonable amount of time to do what I needed to do.*
- 5 point Likert scale: *I was treated fairly.*
- 5 point Likert scale: *Employees I interacted with were helpful.*
- Free response: *Any additional feedback for [Program/Service name]?*

The surveys shall include no more than 15 questions in total. The Agency may add a few additional questions to those listed above to clarify type of service received, inquiry type, service center location, or other program-specific questions that can help program managers to filter and make use of the feedback data.

As part of the Customer Experience CAP goal's strategy to increase transparency to drive accountability, the feedback data collected through the A–11 Standard Feedback survey is meant to be shared with the public. This collection is part of the government-wide effort to embed standardized customer metrics within high-impact programs to create government-wide performance dashboards. Data collected from the questions listed above will be submitted by the Agency to OMB at a minimum quarterly for updating of customer experience dashboards on *performance.gov*. This dashboard will also include the total volume of customers that passed through the transaction point at which the survey was offered, the number of customers the survey was presented to, the number of responses, and the mode of presentation and response (online survey, in-person, post-call touchtone, mobile, email). This will help to qualify the data's representation by showing both the response rate and total number of actual responses.

User Testing of Services and Digital Products: Agencies should continually review, update and refine their service delivery, including communication materials, processes, supporting reference materials, and digital products associated with a Federal program. This often requires ''field testing'' program informational materials, process updates, forms, or digital products (such as websites or mobile applications) by interacting with past, existing, or future customers and soliciting feedback. These activities can include cognitive laboratory studies, such as those used to refine questions on a program form to ensure clarity, demo kiosks at a service center where customers can provide informal feedback while waiting for a service, or more formally scheduled in-person observation testing (*e.g.,* website or software usability tests). These information collection activities are more specific than broad customer research and related to a particular artifact/product of a Federal program. As such, there will be a more structured interview/set of questions than more open-ended customer research. Findings from these activities are meant to support the design and implementation of Federal program services and digital products, and may only be shared in an anonymized/in aggregate if a particular insight is useful to include as part of a customer persona, journey map, or common lesson learned for improving service delivery.

The Agency will only submit under this generic clearance if it meets the following conditions:

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are non-controversial and do not raise issues of concern to other Federal agencies;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- Information gathered is intended to be used for general service improvement and program management purposes
- Upon agreement between OMB and the agency all or a subset of information may be released as part of A–11, Section 280 requirements only on *performance.gov*. Additionally, summaries of customer research and user testing activities may be included in public-facing customer journey maps and summaries.
- Additional release of data must be done coordinated with OMB.

This clearance will help the Agency to establish a process where customer experience is regularly monitored and measured. The results will assist the Agency in the planning and decision-making processes to improve the quality of the Agency's products and services.

Results from feedback activities and surveys will be used to measure against established baseline standards and for measuring the Agency's progress toward defined goals.

There are neither legal nor technical obstacles to the use of technology in these information collection activities. The determination to use technology, and which technology to use, will be based on the type of information collected and the utility and the availability of specific technology to each respondent in a proposed customer research activity or feedback survey.

The Agency will work to ensure the streamlining of all customer research and feedback surveys under this clearance. The Agency will also work to reduce existing customer feedback surveys and questions into alignment with the A–11 Standard CX Feedback survey as part of a coordinated Agency-wide customer program. The information to be supplied on these surveys will not be duplicated on any other information collection.

The information collected in these surveys will represent the minimum burden necessary to evaluate customer experience with the Agency's programs and processes. The Agency will minimize the burden on respondents by sampling as appropriate, asking for readily available information, and using short, easy-to-complete information collection instruments.

Without regular mechanisms for collecting and generating customer insights, the Agency is not able to provide the public with the highest level of service. These activities will be coordinated to ensure that most individual respondents will not be asked to respond to more than one survey instrument per transaction or to participate in more than one qualitative feedback or testing activity.

These surveys will be consistent with all the guidelines in 5 CFR 1320.5, especially those provisions in subsection (g) which require that a statistical survey be designed to produce results that can be generalized to the universe of study. There are no special circumstances that would cause this information collection to be conducted in an unusual or intrusive manner. All

participation will be voluntary. Should the Agency need to deviate from the requirements outlined in 5 CFR 1320, individual justification will be provided to OMB on a case-by-case basis.

No attempt will be made to generalize the findings from these three groups of activities to be nationally representative or statistically valid. They are meant to compliment and help to contextualize performance and evaluation data as part of a three-pronged approach to understanding Federal program implementation and opportunities for improvement (Performance, Evaluation, and ''Feedback'' data [1]).

Customer Research: Insights gleaned from qualitative customer research may be presented publicly in the format of a conceptual user persona or customer journey map. Customer research can take anywhere from 6 weeks for a short sprint to a full fiscal year, depending on the specific project. The Agency expects most journey mapping efforts to last approximately 6 months, with a user persona and journey maps ready for feedback (both from internal and external to government stakeholders) within one month of completing customer research.

Publicly available Journey maps will include specific language to contextualize their use and will be included in specific requests. This language can include something like: *What should I know about journey maps?*

Journey maps are living documents—continually refined and revisited. There is never a ''final'' version, and these maps are meant to serve as a summary of the voices of actual customers of U.S. Government services. A map may not precisely document the way a Government program is meant to be navigated, accessed, or used. It might not capture every government program or resource available to a customer segment.

However, it is the product of a qualitative research approach to gather insights from customers' actual experiences. These findings can help us to identify areas for high-impact improvements across delivery channels and organizational silos.

Customer Feedback: Once touchpoint surveys are implemented at transaction points along the customer journey interacting with Federal services, data from the A–11 Standard CX Feedback survey will be submitted to OMB quarterly for review and publication in a summary dashboard on *performance.gov.*

This data will include:

- Specific transaction point at which the survey was administered
- Total volume of customers that interacted at this transaction point during the given quarter
- Total volume of customers that were presented the survey
- Total number of customers who completed the survey
- Mode(s) of collection (ex. online, over mobile, over the phone, paper form)
- Specific survey instrument that shows the Agency's wording of standard A–11 CX Feedback survey
- Distribution of the responses across the 5 point Likert scale for each of the standard questions

The purpose of collecting volume and response numbers is to share customer feedback measures in context of the response rate and total volume of responses to qualify interpretation of the CX feedback data.

Testing of Services and Digital Products: Similar to Customer Research, this can range from a short two-day rapid feedback from users within an Agile product development sprint or longer effort to gather more extensive feedback from multiple physical locations.

DHS is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

## Analysis

*Agency:* Department of Homeland Security DHS.

*Title:* Generic Clearance for Improving Customer Experience (OMB Circular A–11, Section 280 Implementation).

*OMB Number:* 1601–NEW.

*Frequency:* On Occasion.

*Affected Public:* Individuals.

*Number of Respondents:* 2,001,550.

*Estimated Time Per Respondent:* 3 mins or up to 2 hours.

*Total Burden Hours:* 101,125.

**Robert Dorr,**

*Acting Executive Director, Business Management Directorate.*

[FR Doc. 2020–20404 Filed 9–15–20; 8:45 am]

BILLING CODE 9112–FL–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[20X LLUTY02000 L17110000.PN0000 LXSSJ0650000]**

### Notice of Public Meeting, Bears Ears National Monument Advisory Committee, Utah

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of public meeting.

**SUMMARY:** In accordance with the Federal Land Policy and Management Act, as amended, the Federal Advisory Committee Act, and the Federal Lands Recreation Enhancement Act, the U.S. Department of the Interior, Bureau of Land Management's (BLM) Bears Ears National Monument Advisory Committee (BENM MAC) will meet as indicated below.

**DATES:** The BENM MAC will hold a virtual meeting on Oct. 16, 2020, from 8 a.m. to 4 p.m. The meeting is open to the public.

**ADDRESSES:** The agenda and meeting access information (including how to log in and participate) will be announced on the BENM MAC web page 30 days before the meeting at *https://www.blm.gov/get-involved/rac-near-you/utah/benm-mac.*

**FOR FURTHER INFORMATION CONTACT:** Jake Palma, Bears Ears National Monument Manager, P.O. Box 7, Monticello, Utah 84535, via email with the subject line ''BENM MAC'' to *blm_ut_mt_mail@blm.gov,* or by calling the Monticello Field Office at (435) 587–1500. Persons who use a telecommunications device for the deaf may call the Federal Relay Service (FRS) at 1–800–877–8339 to leave a message or question for the above individual. The FRS is available 24 hours a day, seven days a week. Replies are provided during normal business hours.

**SUPPLEMENTARY INFORMATION:** Proclamation 9558 established the BENM MAC to provide advice and information to the Secretary of the Interior through the Director of the BLM, and to the Secretary of Agriculture, through the Chief of the U.S. Forest Service, to consider for managing the Bears Ears National

Monument. The 15-member committee represents a wide range of interests including local and state government, paleontological and archaeological expertise, conservation community, livestock grazing permittees, tribal, developed and dispersed recreation, private landowners, local business owners, and the public at large. More information can be found on the BENM MAC web page at *https://www.blm.gov/get-involved/rac-near-you/utah/benm-mac.*

Planned agenda items for the meeting include ethics training, discussing and receiving input on implementation-level plans such as cultural resources and recreation area management plans, and other issues as appropriate. A public comment period will be offered during the meeting. Depending on the number of people wishing to comment and the time available, the time for individual comments may be limited. Written comments may also be sent to the Monticello Field Office at the address listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice. All comments received prior to the meeting will be provided to the BENM MAC.

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.

Detailed meeting minutes for the BENM MAC meeting will be maintained in the Canyon Country District Office and will be available for public inspection and reproduction during regular business hours within 90 days following the meeting. Minutes will also be posted to the BENM MAC web page.

**Authority:** 43 CFR 1784.4–2.

**Gregory Sheehan,**

*State Director.*

[FR Doc. 2020–20407 Filed 9–15–20; 8:45 am]

**BILLING CODE 4310–DQ–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[20X LLUT920000 L13200000.EL0000]**

### Notice of Availability of the Environmental Assessment for Williams Draw Coal Tract Lease-by-Application UTU–80043, Emery County, Utah, and Notice of Online Public Hearing and Request for Comments on the Environmental Assessment, Fair Market Value, and Maximum Economic Recovery

**AGENCY: Bureau of Land Management, Interior**

**ACTION:** Notice of availability; and online public hearing.

**SUMMARY:** The Bureau of Land Management (BLM) Utah State Office announces the availability of the Williams Draw Environmental Assessment (EA) for the Lease-By-Application (LBA) UTU–80043 for public review and comment. The BLM is also announcing an online public hearing to receive comments on the EA, Fair Market Value (FMV), and Maximum Economic Recovery (MER) of the coal resources contained in the proposed lease tract.

**DATES:** The online public hearing will be held on Sept. 30, 2020, from 7 p.m. to 9 p.m. (Mountain Daylight Time). Written comments for the EA should be received no later than Oct. 15, 2020. Written comments for the FMV and MER should be received no later than Oct. 30, 2020.

**ADDRESSES:** The online public hearing details, including the registration form link, meeting agenda, PowerPoint presentation, and transcript of the hearing, will be posted on the BLM'S ePlanning website at *https://eplanning.blm.gov/eplanning-ui/project/1502605/510.*

Registration is required for all participants. For participants who do not have online access or wish to participate via telephone, contact Andrea Johnson in the BLM Price Field Office at (435) 636–3600.

Written comments for the EA may be submitted through the BLM's e-planning site at *https://eplanning.blm.gov/eplanning-ui/project/1502605/510,* emailed to *BLM_UT_PR_Comments@blm.gov,* or mailed to Bureau of Land Management, Price Field Office, Attention: Williams Draw EA, 125 South 600 West, Price, Utah 84501.

Written comments for the FMV and MER should be addressed to Stan Perkes, BLM Utah State Office, Division of Lands and Minerals, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101, or emailed to *sperkes@blm.gov.* A copy of the comments for FMV and MER, except those portions marked as ''CONFIDENTIAL,'' identified as proprietary by the author, and meeting one of the exemptions in the Freedom of Information Act, will be available for public review upon request at the Utah State Office.

**FOR FURTHER INFORMATION CONTACT:** Availability and information on the EA can be obtained by contacting Don Stephens at (435) 636–3608 or (*dstephen@blm.gov*). Persons who use a telecommunications device for the deaf may call the Federal Relay Service (FRS) at 1–800–877–8339 to leave a message or question for the above individual. The FRS is available 24 hours a day, 7 days a week. Replies are provided during normal business hours.

**SUPPLEMENTARY INFORMATION:** On March 1, 2002, UtahAmerican Energy Inc. (UEI) submitted an application for the coal lease. If the lease is obtained, UEI plans to mine the coal as an extension of its existing Lila Canyon Mine. The EA analyzes and discloses the potential direct, indirect, and cumulative impacts of leasing and subsequent mining of the proposed LBA tract. The Williams Draw coal tract has one minable coalbed called the Lower Sunnyside bed with underground minable portions of the coalbed ranging from approximately 4.2 to 13.1 feet in thickness. The tract contains approximately 64.6 million tons of high-volatile A bituminous coal in-place and, at an estimated 50 percent recovery, 32.3 million tons recoverable. The quality in the coal beds on an ''as received basis'' is as follows: 13,151 Btu/lb., 6.80 percent moisture, 9.85 percent ash, 40.50 percent volatile matter, 50.53 percent fixed carbon and 1.2 percent sulfur.

The tract is located in Emery County in the Book Cliffs coal field, approximately 125 miles southeast of Salt Lake City. The lands are described as follows:

**Salt Lake Meridian, Utah**

T. 16 S., R. 14 E.,
  sec. 25, S1/2;
  sec. 26, SE1/4 and SW1/4NE1/4;
  sec. 35, NE1/4.
T. 16 S., R. 15 E.,
  sec. 30, lots 3 and 4, and E1/2SW1/4;
  sec. 31.
T. 17 S., R. 14 E.,
  sec. 1, lots 1 thru 3, lots 6 thru 8, S1/2NE1/4, SE1/4NW1/4, E1/2SW1/4 and SE1/4;
  sec. 12, NE1/4, E1/2NW1/4, NE1/4SW1/4, and N1/2SE1/4;
T. 17 S., R. 15 E.,
  sec. 5, lots 3 and 4, S1/2NW1/4 and SW1/4;
  secs. 6 and 7;

sec. 8, W1/2.

The area described contains 4,231.40 acres, according to the official plats of the surveys on file with the BLM.

The BLM online public hearing will require public registration, which will commence upon publication of the **Federal Register** Notice. Notices announcing the public hearing will be published in the *Emery County Progress* and *Carbon County Sun Advocate.*

The BLM will make every effort to accommodate speakers who register, although preference will be given to participants from the local area.

Each commenter will have three minutes to provide oral testimony.

Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the online public hearing.

Proprietary data must be marked ''CONFIDENTIAL'' and shall be treated in accordance with the laws and regulations governing confidentiality of such information. Comments on the FMV and MER may include, but need not be limited to, the following topics:

1. The quality of the coal resource;
2. The mining methods or methods which would achieve MER of the coal, including specifications of seams to be mined and the most desirable timing and rate of production, restriction of mining, and the inclusion of the tracts in an existing or proposed mining operation;
3. Whether this tract is likely to be mined as part of an existing or a proposed mine and evaluated on a realistic incremental basis, in relation to the mine which has the greatest value;
4. Whether the tract should be evaluated as part of an existing mine or as a portion of a new potential mine;
5. Restrictions to mining that may affect coal recovery;
6. The price the mined coal would bring when sold;
7. Costs, including mining and reclamation, and the anticipated timing of production;
8. The percentage rate at which anticipated income streams should be discounted, either with inflation or in the absence of inflation, in which case the anticipated rate of inflation should be given;
9. Depreciation, depletion, amortization and other tax accounting factors;
10. Documented information on the terms and conditions of recent and similar coal land transactions in the lease sale area;
11. The value of any privately held mineral or surface estate in the lease sale area; and
12. Any potential or known competitive interest in the lease sale area.

Before including your address, phone number, email address, or other personal identifying information in your comment, please be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you may request in your comment to withhold your personal identifying information from public review, the BLM cannot guarantee that it will be able to do so.

**Authority:** 40 CFR 1506.6, 43 CFR 3422.1, 3425.3, and 3425.4

**Gregory Sheehan,**

*State Director.*

[FR Doc. 2020–20033 Filed 9–15–20; 8:45 am]

**BILLING CODE 4310–DQ–P**

## INTERNATIONAL TRADE COMMISSION

**[Inv. No. 731–TA–1012 (Third Review)]**

### Certain Frozen Fish Fillets From Vietnam; Cancellation of Hearing for Third Full Five-Year Review

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**DATES:** September 8, 2020.

**FOR FURTHER INFORMATION CONTACT:** Stamen Borisson (202) 205–3125, Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

**SUPPLEMENTARY INFORMATION:** Effective May 11, 2020, the Commission established a schedule for the conduct of this review (85 FR 28981, May 14, 2020). Counsel for Catfish Farmers of America, an association of domestic catfish growers and processors, 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; Guidry's Catfish, Inc.; Heartland Catfish Company; Magnolia Processing, Inc. d/b/a Pride of the Pond; and Simmons Farm Raised Catfish, Inc., domestic producers, filed a request to appear at the hearing. Counsel for the domestic parties also filed a request for consideration of cancellation of the hearing. Counsel indicated a willingness to submit written responses to any Commission questions in lieu of an actual hearing. No other party has entered an appearance in this review. Upon consideration of the request, the Commission determined that, in lieu of the public hearing in connection with this review, scheduled to begin at 9:30 a.m. on Tuesday, September 15, 2020, interested parties who timely made a request to appear at the hearing are invited to respond to any written questions posed by the Commission in their posthearing briefs, which are due to be filed on September 22, 2020.

For further information concerning this review see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

**Authority:** This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: September 10, 2020.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2020–20411 Filed 9–15–20; 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 Video Processing Devices, Components Thereof, and Digital Smart Televisions Containing the Same, DN 3489;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the

Commission's Rules of Practice and Procedure.

**FOR FURTHER INFORMATION CONTACT:** Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.*

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov* . The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of DivX, LLC on September 10, 2020. 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 video processing devices, components thereof, and digital smart televisions containing the same. The complaint names as respondents: Samsung Electronics Co., Ltd. of Korea; Samsung Electronics America, Inc. of Ridgefield Park, NJ; Samsung Electronics HCME CE Complex, Co., Ltd. of Vietnam; LG Electronics Inc. of Korea; LG Electronics USA, Inc. of Englewood Cliffs, NJ; TCL Corporation of China; TCL Technology Group Corporation of China; TCL Electronics Holdings Limited of China; TTE Technology, Inc. of Corona, CA; Shenzhen TCL New Technologies Co. Ltd. of China; TCL King Electrical Appliances (Huizhou) Co. Ltd. of China; TCL MOKA International Limited of Hong Kong; TCL Smart Device (Vietnam) Co., Ltd. of Vietnam; MediaTek Inc. of Taiwan; MediaTek USA Inc. of San Jose, CA; MStar Semiconductor, Inc. of Taiwan; 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 respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. 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. 3489'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov.*) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.*

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

Issued: September 11, 2020.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2020–20445 Filed 9–15–20; 8:45 am]

**BILLING CODE 7020–02–P**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice: (20–073)]**

### Aerospace Safety Advisory Panel; Meeting

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, the National Aeronautics and Space Administration announces a forthcoming meeting of the Aerospace Safety Advisory Panel (ASAP).

**DATES:** Thursday, October 1, 2020, 11:30 a.m. to 1:00 p.m., Eastern Time.

**ADDRESSES:** This will be a virtual meeting via teleconference.

**FOR FURTHER INFORMATION CONTACT:** Ms. Lisa M. Hackley, ASAP Administrative Officer, NASA Headquarters, Washington, DC 20546, (202) 358–1947 or *lisa.m.hackley@nasa.gov.*

**SUPPLEMENTARY INFORMATION:** The Aerospace Safety Advisory Panel (ASAP) will hold its Fourth Quarterly Meeting for 2020. This discussion is pursuant to carrying out its statutory duties for which the Panel reviews, identifies, evaluates, and advises on those program activities, systems, procedures, and management activities that can contribute to program risk. Priority is given to those programs that involve the safety of human flight. The agenda will include:

—Updates on the International Space Station Program
—Updates on the Commercial Crew Program
—Updates on Exploration System Development Program
—Updates on Advanced Exploration Systems Program

This meeting is a virtual meeting, and only available telephonically. Any interested person may call the USA toll free conference call number 888–566–6133; passcode 8343253 and then the # sign. At the beginning of the meeting, members of the public may make a verbal presentation to the Panel on the subject of safety in NASA, not to exceed 5 minutes in length. To do so, members of the public must contact Ms. Lisa M. Hackley at *lisa.m.hackley@nasa.gov* or at (202) 358–1947 at least 48 hours in advance. Any member of the public is permitted to file a written statement with the Panel via electronic submission to Ms. Hackley at the email address previously noted. Verbal presentations and written statements should be limited to the subject of safety in NASA. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

**Patricia Rausch,**

*Advisory Committee Management Officer, National Aeronautics and Space Administration.*

[FR Doc. 2020–20438 Filed 9–15–20; 8:45 am]

**BILLING CODE 7510–13–P**

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

**[NARA–20–0020; NARA–2020–062]**

### Records Schedules; Availability and Request for Comments

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Notice of availability of proposed records schedules; request for comments

**SUMMARY:** The National Archives and Records Administration (NARA) publishes notice of certain Federal agency requests for records disposition authority (records schedules). We publish notice in the **Federal Register** and on *regulations.gov* for records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on such records schedules.

**DATES:** NARA must receive comments by November 2, 2020.

**ADDRESSES:** You may submit comments by either of the following methods. You must cite the control number, which appears on the records schedule in parentheses after the name of the agency that submitted the schedule.

• *Federal eRulemaking Portal: http://www.regulations.gov*

• *Mail:* Records Appraisal and Agency Assistance (ACR); National Archives and Records Administration; 8601 Adelphi Road, College Park, MD 20740–6001

**FOR FURTHER INFORMATION CONTACT:** Kimberly Keravuori, Regulatory and External Policy Program Manager, by email at *regulation_comments@nara.gov.* For information about records schedules, contact Records Management Operations by email at *request.schedule@nara.gov,* by mail at the address above, or by phone at 301–837–1799.

**SUPPLEMENTARY INFORMATION:**

#### Public Comment Procedures

We are publishing notice of records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on these records schedules, as required by 44 U.S.C. 3303a(a), and list the schedules at the end of this notice by agency and subdivision requesting disposition authority.

In addition, this notice lists the organizational unit(s) accumulating the records or states that the schedule has agency-wide applicability. It also provides the control number assigned to each schedule, which you will need if you submit comments on that schedule. We have uploaded the records schedules and accompanying appraisal memoranda to the *regulations.gov* docket for this notice as ''other'' documents. Each records schedule contains a full description of the records at the file unit level as well as their proposed disposition. The appraisal memorandum for the schedule includes information about the records.

We will post comments, including any personal information and attachments, to the public docket unchanged. Because comments are public, you are responsible for ensuring that you do not include any confidential or other information that you or a third party may not wish to be publicly posted. If you want to submit a comment with confidential information or cannot otherwise use the *regulations.gov* portal, you may contact *request.schedule@nara.gov* for instructions on submitting your comment.

We will consider all comments submitted by the posted deadline and consult as needed with the Federal agency seeking the disposition authority. After considering comments, we will post on *regulations.gov* a ''Consolidated Reply'' summarizing the comments, responding to them, and noting any changes we have made to the proposed records schedule. We will then send the schedule for final approval by the Archivist of the United States. You may elect at *regulations.gov* to receive updates on the docket, including an alert when we post the Consolidated Reply, whether or not you submit a comment. If you have a question, you can submit it as a comment, and can also submit any concerns or comments you would have to a possible response to the question. We will address these items in

consolidated replies along with any other comments submitted on that schedule.

We will post schedules on our website in the Records Control Schedule (RCS) Repository, at *https://www.archives.gov/records-mgmt/rcs,* after the Archivist approves them. The RCS contains all schedules approved since 1973.

## Background

Each year, Federal agencies create billions of records. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval. Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. The records schedules authorize agencies to preserve records of continuing value in the National Archives or to destroy, after a specified period, records lacking continuing administrative, legal, research, or other value. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

Agencies may not destroy Federal records without the approval of the Archivist of the United States. The Archivist grants this approval only after thorough consideration of the records' administrative use by the agency of origin, the rights of the Government and of private people directly affected by the Government's activities, and whether or not the records have historical or other value. Public review and comment on these records schedules is part of the Archivist's consideration process.

*Schedules Pending*

1. Department of Defense, Office of the Secretary of Defense, Records of the Office of Military Commissions (DAA–0330–2014–0005).

2. Department of Homeland Security, U.S. Citizenship and Immigration Services, Humanitarian Benefits (DAA–0566–2019–0032).

**Laurence Brewer,**

*Chief Records Officer for the U.S. Government.*

[FR Doc. 2020–20450 Filed 9–15–20; 8:45 am]

BILLING CODE 7515–01–P

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–397; NRC–2020–0213]**

## Columbia Generating Station; Issuance of License Amendment Revising Technical Specification 3.8.7

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** License amendment application; opportunity to request a hearing and to petition for leave to intervene.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) approved a request by Energy Northwest (the licensee) for an amendment to Renewed Facility Operating License No. NPF–21, issued to the licensee for operation of the Columbia Generating Station, located in Benton County, Washington. The amendment adds a one-time extension to the completion time of Technical Specification (TS) 3.8.7, ''Distribution Systems—Operating,'' Condition A, from 8 hours to 16 hours, specifically associated with Division 2 alternating current electrical power distribution inoperability caused by inoperability of 120/240-volt power panel E–PP–8AE during repairs on its supply transformer E–TR–8A/1.

**DATES:** A request for a hearing or petition for leave to intervene must be filed by November 16, 2020.

**ADDRESSES:** Please refer to Docket ID NRC–2020–0213 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–2020–0213. Address questions about Docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@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 reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The license amendment and the NRC staff's safety evaluation are available in ADAMS under Accession No. ML20242A002.

**FOR FURTHER INFORMATION CONTACT:** Mahesh L. Chawla, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–8371, email: *Mahesh.Chawla@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Introduction

The NRC has issued an amendment to Renewed Facility Operating License No. NPF–21, issued to Energy Northwest for operation of Columbia Generating Station. The amendment consists of changes to the TSs in response to the licensee's application dated August 20, 2020 (ADAMS Accession No. ML20233A976), as supplemented by letters dated August 24, 2020; August 27, 2020; and September 1, 2020 (ADAMS Accession Nos. ML20238A706, ML20240A345, and ML20245E682, respectively). The licensee stated that a supply transformer E–TR–8A/1 was currently in degraded condition (but still operable) and required urgent repairs or replacement. Further, the licensee stated that during repairs or replacement of this transformer, the associated required Division 2, 120/240 V Power Panel E–PP–8AE would become inoperable.

The NRC staff found that the application for the license amendment complied with the requirements of the Atomic Energy Act of 1954, as amended, and the NRC's regulations. The NRC staff's evaluation may be obtained and examined at ADAMS Accession No. ML20242A002.

In its license amendment request dated August 20, 2020, the licensee requested that the proposed amendment be processed by the NRC on an exigent basis in accordance with the provisions in title 10 of the *Code of Federal Regulations* (10 CFR) section 50.91(a)(6). The licensee provided the following information to explain the exigency of the amendment. In the license amendment request, the licensee stated that replacement of transformer E–TR–8A/1 and post-maintenance testing would take approximately 14 hours, exceeding the current completion time of TS 3.8.7 Condition A by approximately 6 hours. The station acted to address an unforeseen degraded condition on a transformer that feeds one of the required Class 1E AC electrical panels. Extending the allowed completion time to 16 hours allows for corrective maintenance and subsequent retest and prevents the station from an unnecessary plant shutdown without a corresponding health and safety benefit.

The NRC staff considered the circumstances and found exigent circumstances exist in that the licensee

and the Commission must act quickly to allow the earliest opportunity for repair and replacement of supply transformer E–TR–8A/1 and avoid any further plant impact that may be created should the transformer continue to degrade and that time did not permit the Commission to publish a **Federal Register** notice allowing 30 days for prior public comment. The NRC staff also determined that the amendment involved no significant hazards considerations. Under the provisions in 10 CFR 50.91(a)(6), the NRC notifies the public in one of two ways when exigent circumstances exist: (1) By issuing a **Federal Register** notice providing an opportunity for hearing and allowing at least 2 weeks from the date of the notice for prior public comments; or (2) by using local media to provide reasonable notice to the public in the area surrounding the licensee's facility. In this case, the NRC used local media and published a public notice in the *Tri-City Herald,* located in Kennewick, Washington (*https://www.tri-cityherald.com*), a newspaper local to the licensee's facility, from August 23, 2020, through August 25, 2020. The notice indicated that the public could provide comments by August 31, 2020.

The licensee's supplements dated August 24, 2020; August 27, 2020; and September 1, 2020, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the *Tri-City Herald,* located in Kennewick, Washington (*https://www.tri-cityherald.com*), from August 23, 2020, through August 25, 2020. No public comments were received.

## II. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *https://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any

prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

**III. Electronic Submissions (E-Filing)**

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov*, or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov*, or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Dated: September 11, 2020.

For the Nuclear Regulatory Commission.

**Jennifer L. Dixon-Herrity,**

*Chief, Plant Licensing Branch IV, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

[FR Doc. 2020–20442 Filed 9–15–20; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 11005897; NRC–2020–0118]**

## EnergySolutions Services, Inc.

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Export license amendment application and renewal; opportunity to provide comments, request a hearing, and petition for leave to intervene.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) received and is considering an application (XW018/02) from Energy*Solutions* Services, Inc. (ESSI) to amend and renew an existing export license authorizing the export of radioactive waste to Germany. The NRC is providing notice of the opportunity to submit written comments, request a hearing, or a petition for leave to intervene on ESSI's application.

**DATES:** Submit comments by October 16, 2020. A request for a hearing or a petition for leave to intervene must be filed by October 16, 2020.

**ADDRESSES:** You may submit comments by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0118. Address questions about Docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Hearing.Docket@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Stephen C. Baker, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–287–9059, email: *Stephen.Baker@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Obtaining Information and Submitting Comments

### *A. Obtaining Information*

Please refer to NRC–2020–0118 or Docket No. 11005897 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0118.
- *NRC's Public Website:* Go to *https://www.nrc.gov* and search for XW018/02, Docket No. 11005897, Docket ID NRC–2020–0118, or ADAMS Accession No. ML20211L811.
- *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 reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The export license amendment application from ESSI is available in ADAMS under Accession No. ML20211L811.

### *B. Submitting Comments*

Please include NRC–2020–0118 or Docket No. 11005897 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

## II. Discussion

In accordance with paragraph 110.70(b) of title 10 of the *Code of Federal Regulations* (10 CFR), the NRC is noticing the receipt of an export license amendment application submitted by ESSI on July 28, 2020, to amend and renew an existing export license authorizing the export of German-origin radioactive waste from ESSI processing facilities in the State of Tennessee to Germany. The existing export license (XW018/01), which expires on December 31, 2021, authorizes the export of up to 1,000 tons of low-level radioactive waste consisting of hearth ash from the incineration of dry active material previously imported from Germany, including personal protective equipment, laboratory wastes, contaminated filters, insulating materials, plastic shielding, hoses and tubing, and empty contaminated bulk storage and waste tanks contaminated with byproduct and special nuclear material in amounts not to exceed the recipient's domestic possession license. The application requests: (1) Renewal of the cumulative radioactivity limits for XW018 of the total quantities of radioactive material/waste of radioactive material/waste exported to Germany; and (2) a new expiration date of December 31, 2026. The NRC is noticing the request to amend the license to export radioactive waste; open the opportunity for public comment; and open the opportunity to file a request for a hearing or petition for leave to intervene for a period of 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner in accordance with 10 CFR 110.89. Hearing requests and intervention petitions must include the information specified in 10 CFR 110.82(b).

A request for a hearing or petition for leave to intervene may be filed with the NRC electronically in accordance with NRC's E-Filing rule promulgated in August 2007 (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). Information about filing electronically is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html.* To ensure timely electronic filing, at least 10 days prior to the filing deadline, the petitioner/requestor should contact the Office of the Secretary by email at *Hearing.Docket@nrc.gov,* or by calling 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

The information concerning this application for an export license amendment follows.

NRC EXPORT LICENSE AMENDMENT/RENEWAL APPLICATION

| | |
|---|---|
| Application Information: | |
| Name of Applicant | Energy Solutions Services, Inc. |
| Date of Application | July 14, 2020. |
| Date Received | July 28, 2020. |
| Application No. | XW018/02. |
| Docket No. | 11005897. |
| ADAMS Accession No. | ML20211L811. |
| Description of Material: | |
| Material Type | Radioactive material consisting of hearth ash from the incineration dry active material. Exported material may also include non-incinerable or non-conforming material identified during inspection prior to incineration. |
| Total Quantity [1] | Authorization to export a total maximum quantity of 206.164 TBq, and 350 grams of SNM based on the maximum activity authorized for possession at Energy Solutions Canada, Inc. ES Walker Operations as follows: H–3: 18.5 TBq, C–14: 18.5 Tbq, Ra-226: 0.74 TBq, Fe-55: 55.5 TBq, Th-232: 0.74 TBq, Po-210: 0.37 TBq, Uranium (natural or depleted): 7.4 TBq, Uranium (not U–233, U–235 or U–238): 0.074 TBq Atomic number 3 to 83 (excluding C–15 or Fe-55): 111 TBq, Atomic number 84 to 91 (total): 0.185, Transuranics (TRU): 0.185 TBq, Am-241: 0.37 TBq, and SNM, 235U equivalent: 350 grams.[2] |
| End Use | Return of non-conforming waste and/or waste resulting from processing materials for storage and disposal in Germany. The amendment requests: (1) renewing the radioactive limits for XW018 of the total quantities of radioactive material/waste and weights exported to Germany; (2) revising the route of shipments; (3) extending the expiration date of the license from December31, 2021 until December 31, 2026. |
| Country of Destination | Germany. |

[1] The permit activity limits are the cumulative total maximums over the term of the permit.
[2] Uranium 235 gram equivalent by weight of 350 grams (ESSI will not import enrichment level that exceed 20% by weight U–235)

Dated: September 11, 2020.

For the Nuclear Regulatory Commission.

**David L. Skeen,**

*Deputy Director, Office of International Programs.*

[FR Doc. 2020–20418 Filed 9–15–20; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 11006380; NRC–2020–0198]**

## Perma-Fix Northwest Richland, Inc.

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Export license application; opportunity to provide comments, request a hearing, and petition for leave to intervene.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) received and is considering issuing an export license (XW027), received from Perma-Fix Northwest Richland, Inc. (PFNW). The request seeks the NRC's approval for an existing license authorizing the export of radioactive waste to Germany. The NRC is providing notice of the opportunity to comment, request a hearing, and petition to intervene on PFNW's application.

**DATES:** Submit comments by October 16, 2020. A request for a hearing or a petition for leave to intervene must be filed by October 16, 2020.

**ADDRESSES:** You may submit comments by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0198. Address questions about Docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Hearing.docket@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Stephen C. Baker, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–287–9059, email: *Stephen.Baker@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Obtaining Information and Submitting Comments

*A. Obtaining Information*

Please refer to NRC–2020–0198 or Docket No. 11006380 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0198.
- *NRC's Public Website:* Go to *https://www.nrc.gov* and search for XW027, Docket No. 11006380, Docket ID NRC–2020–0198, or ADAMS Accession No. ML20126G236.
- *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 reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The export license application from PFNW is available in ADAMS under Accession No. ML20126G236.

*B. Submitting Comments*

Please include NRC–2020–0198 or Docket No. 11006380 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include

identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

**II. Discussion**

In accordance with paragraph 110.70(b) of title 10 of the *Code of Federal Regulations* (10 CFR) the NRC is noticing the receipt of an export license application submitted by PFNW on May 4, 2020, for the export of German-origin radioactive waste from PFNW processing facilities to Germany. The application seeks authorization to export no greater than 20,000 kilograms and 0.0153 terabecquerels of low-level radioactive waste in the form of residual ash and residual metal or non-combustible material. The application requests an expiration date of September 1, 2025.

The NRC is noticing the receipt of the application; providing the opportunity to submit written comments concerning the application; and providing the opportunity to request a hearing or petition for leave to intervene, for a period of 30 days after publication of this notice in the **Federal Register**. Any request for a hearing or petition for leave to intervene shall be served by the requestor or petitioner in accordance with 10 CFR 110.89. A hearing request or petition for leave to intervene must include the information specified in 10 CFR 110.82(b).

A request for a hearing or petition for leave to intervene may be filed with the NRC electronically in accordance with NRC's E-Filing rule promulgated in August 2007 (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). Information about filing electronically is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html.* To ensure timely electronic filing, at least 10 days prior to the filing deadline, the petitioner/requestor should contact the Office of the Secretary by email at *Hearing.Docket@nrc.gov,* or by calling 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

The information concerning this application for an export license amendment follows.

NRC EXPORT LICENSE APPLICATION

| | |
|---|---|
| Application Information: | |
| Name of Applicant | Perma-Fix Northwest Richland, Inc. (PFNW). |
| Date of Application | April 27, 2020. |
| Date Received | May 4, 2020. |
| Application No. | XW027. |
| Docket No. | 11006380. |
| ADAMS Accession No. | ML20126G236. |
| Description of Material: | |
| Material Type | Radioactive material consisting of dry active waste, incinerable dry active material including personal protective equipment, paper, plastic, glass and liquid. The waste was generated by medical and pharmaceutical research projects and other industries (excluding Nuclear Power Plants). |
| Total Quantity | Authorization to export a total maximum quantity of not to exceed 2.4 TBq as follows: H–3: 0.0123 TBq, C–14: 0.00815 Tbq, Cs-137, Co-60, Sr-90, Ra-226, Tc-99, and Fe-55: 0.40 MBq, Ni-63: 2.38 TBq. |
| End Use | Disposal in Germany. |
| Country of Destination | Germany. |

Dated: September 11, 2020.

For the Nuclear Regulatory Commission.

**David L. Skeen,**

*Deputy Director, Office of International Programs.*

[FR Doc. 2020–20417 Filed 9–15–20; 8:45 am]

**BILLING CODE 7590–01–P**

## OFFICE OF PERSONNEL MANAGEMENT

### Submission for Renewal of a Previously Approved Information Collection 3206–0258: Questionnaire for Public Trust Positions (SF 85P) and Supplemental Questionnaire for Selected Positions (SF 85P–S)

**AGENCY:** Office of Personnel Management.

**ACTION:** 60-day notice and request for comments.

**SUMMARY:** The Office of Personnel Management (OPM) proposes to request the Office of Management and Budget (OMB) renew a previously-approved information collection, Questionnaire for Public Trust Positions (SF 85P) and Supplemental Questionnaire for Selected Positions (SF 85P–S).

**DATES:** Comments are encouraged and will be accepted until November 16, 2020. This process is conducted in accordance with 5 CFR 1320.8(d)(1).

**ADDRESSES:** You may submit comments, identified by docket number and title, by the following method:

*Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

All submissions received must include the agency name and docket number for this document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** A copy of this ICR, with applicable supporting documentation, may be obtained by contacting Lisa Loss, 202–606–1800, or U. S. Office of Personnel Management, Suitability Executive Agent Programs, P. O. Box 699, Slippery Rock, PA 16057, or sent by email to *SuitEA@opm.gov.*

**SUPPLEMENTARY INFORMATION:** OPM is soliciting comments for this collection as required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2). The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

The Questionnaire for Public Trust Positions, SF 85P and Supplemental Questionnaire for Selected Positions, SF 85P–S, are information collections completed by applicants for, or incumbents of, Federal Government civilian positions, or positions in private entities performing work for the Federal Government under contract (SF 85P only). The collections are used as the basis of information for background investigations to establish that such persons are:

- Suitable for employment or retention in Federal employment in a public trust position or fit for employment or retention in Federal employment in the excepted service when the duties to be performed are equivalent in degree of trust reposed in the incumbent to a public trust position;
- Fit to perform work on behalf of the Federal Government pursuant to the Government contract, when the duties to be performed are equivalent in degree of trust reposed in the individual to a public trust position;
- Eligible for physical and logical access to federally controlled facilities or information systems, when the duties to be performed by the individual are equivalent to the duties performed by an employee in a public trust position.

For applicants, the SF 85P and SF 85P–S are to be used only after a conditional offer of employment has been made. The SF 85P–S is supplemental to the SF 85P and is used only as approved by OPM, for certain positions such as those requiring carrying of a firearm. e-QIP (Electronic Questionnaires for Investigations Processing) is a web-based system application that houses the SF 85P and SF 85P–S. A variable in assessing burden hours is the nature of the electronic application. The electronic application includes branching questions and instructions which provide for a tailored collection from the respondent based on varying factors in the respondent's personal history. The burden on the respondent is reduced when the respondent's personal history is not relevant to particular question, since the question branches, or expands for additional details, only for those persons who have pertinent information to provide regarding that line of questioning. Accordingly, the burden on the respondent will vary depending on whether the information collection relates to the respondent's personal history.

OPM recommends renewal of the form without any proposed changes, except to underlying authorities, which have been revised in the period since the last renewal, and the Privacy Act Information Statement, to acknowledge the transfer of background investigations files from OPM to the Defense Counterintelligence and Security Agency. No other changes are recommended at this time. Ongoing assessments will occur to ensure the SF 85P and SF 85P–S reflect and collect pertinent information for the investigative process and align with governing policies, rules, and regulations requiring use of these forms.

**Analysis**

*Agency:* Office of Personnel Management.

*Title:* Questionnaire for Public Trust Positions (SF 85P) and Supplemental Questionnaire for Selected Positions (SF 85P–S).

*OMB Number:* 3206–0258.

*Affected Public:* Individuals.

*Number of Respondents:* 112,894 (SF 85P); 11,717 (SF 85P–S).

*Estimated Time per Respondent:* 155 minutes (SF 85P); 10 minutes (SF 85P–S).

*Total Burden Hours:* 282,235 (SF 85P); 1,953 (SF 85P–S).

Office of Personnel Management.

**Alexys Stanley,**

*Regulatory Affairs Analyst.*

[FR Doc. 2020–20346 Filed 9–15–20; 8:45 am]

BILLING CODE 6325–53–P

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–89820; File No. SR–CboeBYX–2020–021]**

## Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Introduce Periodic Auctions for the Trading of U.S. Equity Securities

September 10, 2020.

On July 17, 2020, Cboe BYX Exchange, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to introduce periodic auctions for the trading of U.S. equity securities. The proposed rule change was published for comment in the **Federal Register** on August 4, 2020.[3] The Commission has received comment letters on the proposed rule change.[4]

Section 19(b)(2) of the Act [5] 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 will 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 September 18, 2020. The Commission is extending this 45-day time period.

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, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates November 2, 2020 as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 89424 (July 29, 2020), 85 FR 47262.

[4] Comments on the proposed rule change can be found on the Commission's website at: *https://www.sec.gov/comments/sr-cboebyx-2020-021/srcboebyx2020021.htm.*

[5] 15 U.S.C. 78s(b)(2).

[6] *Id.*

disapprove, the proposed rule change (File No. SR–CboeBYX–2020–021).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–20360 Filed 9–15–20; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–89824; File No. SR–NYSEArca–2020–83]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.37–E To Update the Exchange's Source of Data Feeds From MIAX PEARL, LLC

September 10, 2020.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on September 3, 2020, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.37–E to update the Exchange's source of data feeds from MIAX PEARL, LLC (''MIAX PEARL'') for purposes of order handling, order execution, order routing, and regulatory compliance. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to update and amend the use of data feeds table in Rule 7.37–E, which sets forth on a market-by-market basis the specific securities information processor (''SIP'') and proprietary data feeds that the Exchange utilizes for the handling, execution, and routing of orders, and for performing the regulatory compliance checks related to each of those functions. Specifically, the Exchange proposes to amend the table in Rule 7.37–E(d) to specify that, with respect to MIAX PEARL, the Exchange will receive the SIP feed as its primary source of data for order handling, order execution, order routing, and regulatory compliance. The Exchange will not have a secondary source for data from MIAX PEARL.

The Exchange proposes that this proposed rule change would be operative on the day that MIAX PEARL launches operations as an equities exchange, which is currently expected on September 25, 2020.[4]

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5),[6] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes its proposal to amend the table in Rule 7.37–E(d) to update the data feed source for MIAX PEARL will ensure that Rule 7.37–E correctly identifies and publicly states on a market-by-market basis all of the specific securities information processor and proprietary data feeds that the Exchange utilizes for the handling, execution, and routing of orders, and for performing the regulatory compliance checks for each of those functions. The proposed rule change also removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest by providing additional specificity, clarity, and transparency in the Exchange's rules.

*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 proposed change is not designed to address any competitive issue, but rather would provide the public and market participants with up-to-date information about the data feeds the Exchange will use for the handling, execution, and routing of orders, as well as for regulatory compliance.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[9] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[10] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the

[7] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See https://www.miaxoptions.com/sites/default/files/press_release-files/MIAX_Press_Release_08182020.pdf.*

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately. According to the Exchange, such waiver is consistent with the protection of investors and the public interest because MIAX PEARL is expected to begin operating as an equities exchange in fewer than 30 days, and waiver of the operative delay would allow the Exchange to immediately provide transparency in its rules regarding its source of MIAX PEARL data for order handling, order execution, order routing, and regulatory compliance. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as doing so will ensure that the rule change becomes operative on or before the day that MIAX PEARL launches operations as an equities exchange, which is currently expected on September 25, 2020. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[11]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2020–83 on the subject line.

*Paper Comments*

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

All submissions should refer to File Number SR–NYSEArca–2020–83. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2–2020–83 and should be submitted on or before October 7, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–20362 Filed 9–15–20; 8:45 am]

**BILLING CODE 8011–01–P**

[11] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–89819; File No. SR–BX–2020–027]**

## Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Decommission TradeInfo

September 10, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 9, 2020, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to no longer offer TradeInfo, which interface is described within Options 3, Section 23(b)(2).

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/bx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to no longer offer TradeInfo, which interface is described within Options 3, Section

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

23(b)(2). TradeInfo is a user interface which permits a Participant to: (i) Search all orders submitted in a particular security or all orders of a particular type, regardless of their status (open, canceled, executed, etc.); (ii) cancellation of open orders at the order, port or firm mnemonic level; (iii) a view of orders and executions; and (iv) download of orders and executions for recordkeeping purposes.[3] This interface is not utilized by BX Participants at this time [4] and the Exchange desires to decommission the TradeInfo interface in connection with a technology migration to an enhanced Nasdaq, Inc. (''Nasdaq'') functionality which will result in higher performance, scalability, and more robust architecture.

FIX,[5] FIX DROP,[6] and the Clearing Trade Interface,[7] which are available to all Participants,[8] can be utilized to obtain order information which is currently available within TradeInfo, and cancel orders. The Exchange intends to decommission TradeInfo on September 14, 2020. The Exchange has issued an Options Trader Alert to provide notice of the decommission.[9]

Today, Participants pay $95 per user, per month for the TradeInfo interface. The Exchange intends to separately file a proposed rule change to credit any fees paid by Participants for TradeInfo in September 2020.

Finally, the Exchange proposes to add the word ''has'' to Options 3, Section 23(b)(3) to correct a grammatical error.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(5) of the Act,[11] in particular, in that it is designed to promote just and equitable principles of trade, 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, by decommissioning TradeInfo, which is currently not being utilized by BX Participants.

In connection with BX's upcoming technology migration, the Exchange proposes to no longer support TradeInfo as the interface is not utilized,[12] and FIX, FIX DROP, and the CTI can be utilized to obtain order information which is currently available within TradeInfo, and cancel orders.

Today, Participants pay $95 per user, per month for the TradeInfo interface. The Exchange intends to separately file a proposed rule change to credit any fees paid by Participants for TradeInfo in September 2020.

The Exchange's proposal to correct a grammatical error within Options 3, Section 23(b)(3) is non-substantive.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. No BX Participant [13] will be able to utilize TradeInfo after September 14, 2020. However, FIX, FIX DROP, and CTI can be utilized to obtain order information that is currently available within TradeInfo, or cancel orders.

The Exchange's proposal to correct a grammatical error within Options 3, Section 23(b)(3) is non-substantive.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [14] and Rule 19b–4(f)(6) thereunder.[15] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[16]

A proposed rule change filed under Rule 19b–4(f)(6) [17] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[18] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing to permit the Exchange to decommission TradeInfo on September 14, 2020 in connection with BX's upcoming technology migration to an enhanced platform. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the Exchange has stated that the TradeInfo interface is not utilized, and FIX, FIX DROP, and CTI can be utilized to obtain order information that is currently available within TradeInfo, or cancel orders. The Commission believes that waiver of the operative delay would allow the Exchange, before September 14, 2020, to avoid any additional testing and other technology efforts necessary to offer TradeInfo on the new platform. Accordingly, the Commission waives the 30-day operative delay and

[3] *See* Options 3, Section 23(b)(2).

[4] No Participant logged into TradeInfo in 2020.

[5] ''Financial Information eXchange'' or ''FIX'' is an interface that allows Participants and their Sponsored Customers to connect, send, and receive messages related to orders and auction orders and responses to and from the Exchange. Features include the following: (1) Execution messages; (2) order messages; and (3) risk protection triggers and cancel notifications. *See* Options 3, Section 7(d)(1)(A).

[6] FIX DROP is a real-time order and execution update message that is sent to a Participant after an order been received/modified or an execution has occurred and contains trade details specific to that Participant. The information includes, among other things, the following: (i) Executions; (ii) cancellations; (iii) modifications to an existing order and (iv) busts or post-trade corrections. *See* Options 3, Section 23(b)(3).

[7] The Clearing Trade Interface or ''CTI'' is a real-time clearing trade update message that is sent to a Participant after an execution has occurred and contains trade details specific to that Participant. The information includes, among other things, the following: (i) The Clearing Member Trade Agreement or ''CMTA'' or The Options Clearing Corporation or ''OCC'' number; (ii) Exchange badge or house number; (iii) the Exchange internal firm identifier; (iv) an indicator which will distinguish electronic and non-electronically delivered orders; (v) liquidity indicators and transaction type for billing purposes; and (vi) capacity. *See* Options 3, Section 23(b)(1).

[8] Today, all Participants have at least FIX, FIX DROP, or CTI.

[9] *See* Options Trader Alert #2020–23. The Exchange contacted Participants that are currently subscribed to TradeInfo and informed them about the decommission date. As noted above, today, these Participants utilize FIX, FIX DROP, or CTI to obtain or download order information or to cancel orders. The Exchange did not receive any comments from market participants regarding the proposed decommission.

[10] 15 U.S.C. 78f(b)

[11] 15 U.S.C. 78f(b)(5).

[12] *See* note 4 above.

[13] *Id.*

[14] 15 U.S.C. 78s(b)(3)(A)(iii).

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[17] 17 CFR 240.19b–4(f)(6).

[18] 17 CFR 240.19b–4(f)(6)(iii).

designates the proposed rule change operative upon filing.[19]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[20] of the Act to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BX–2020–027 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–BX–2020–027. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–BX–2020–027 and should be submitted on or before October 7, 2020September 16, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–20359 Filed 9–15–20; 8:45 am]

**BILLING CODE 8011–01–P**

[19] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[20] 15 U.S.C. 78s(b)(2)(B).

[21] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meetings

**TIME AND DATE:** Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission Investor Advisory Committee will hold a public meeting on Thursday September 24, 2020, by remote means and/or at the Commission's headquarters, 100 F St. NE, Washington, DC 20549.

The meeting will begin at 10:00 a.m. (ET) and will be open to the public via remote means.

**PLACE:** The meeting will be conducted by remote means and/or at the Commission's headquarters, 100 F St. NE, Washington, DC 20549. Members of the public may watch the webcast of the meeting on the Commission's website at *www.sec.gov.*

**STATUS:** This Sunshine Act notice is being issued because a majority of the Commission may attend the meeting. On August 31, 2020, the Commission published notice of the Committee meeting (Release Nos. 33–10830; 34–89713), indicating that the meeting is open to the public and inviting the public to submit written comments to the Committee.

**MATTERS TO BE CONSIDERED:** The agenda for the meeting includes: Welcome remarks; approval of previous meeting minutes; a panel discussion regarding self-directed IRAs; a panel discussion regarding minority community investor inclusion; a discussion of a recommendation to restate and amend the by-laws of the Committee; subcommittee reports; and a non-public administrative session.

**CONTACT PERSON FOR MORE INFORMATION:** For further information and to ascertain what, if any, matters have been added, deleted or postponed; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: September 14, 2020.

**Vanessa A. Countryman,**

*Secretary.*

[FR Doc. 2020–20539 Filed 9–14–20; 4:15 pm]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–89823; File No. SR–NASDAQ–2020–017]**

### Self-Regulatory Organizations; the Nasdaq Stock Market LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Amend Nasdaq Rule 5704

September 10, 2020.

On July 23, 2020, The Nasdaq Stock Market LLC (''Nasdaq'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Nasdaq Rule 5704 to: (1) Remove the requirement that a series of Exchange Traded Fund Shares have at least 50 beneficial holders following twelve months after listing on Nasdaq; and (2) replace the requirement that Nasdaq must establish a minimum number of shares of a series of Exchange Traded Fund Shares to be outstanding at the time of initial listing, with the requirement that a series of Exchange Traded Fund Shares must have a minimum number of shares outstanding to facilitate the formation of at least one creation unit on an initial and continued listing basis. The proposed rule change was published for comment in the **Federal Register** on August 7, 2020.[3] The Commission has received no comments on the proposed rule change.

Section 19(b)(2) of the Act[4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 89464 (August 4, 2020), 85 FR 48012.

[4] 15 U.S.C. 78s(b)(2).

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 September 21, 2020. The Commission is extending this 45-day time period.

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, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates November 5, 2020 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–NASDAQ–2020–017).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–20361 Filed 9–15–20; 8:45 am]

**BILLING CODE 8011–01–P**

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–89825; File No. SR–NYSENAT–2020–29]**

## Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.37 To Update the Exchange's Source of Data Feeds From MIAX PEARL, LLC

September 10, 2020.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on September 3, 2020, NYSE National, Inc. (''NYSE National'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.37 to update the Exchange's source of data feeds from MIAX PEARL, LLC (''MIAX PEARL'') for purposes of order handling, order execution, order routing, and regulatory compliance. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to update and amend the use of data feeds table in Rule 7.37, which sets forth on a market-by-market basis the specific securities information processor (''SIP'') and proprietary data feeds that the Exchange utilizes for the handling, execution, and routing of orders, and for performing the regulatory compliance checks related to each of those functions. Specifically, the Exchange proposes to amend the table in Rule 7.37(d) to specify that, with respect to MIAX PEARL, the Exchange will receive the SIP feed as its primary source of data for order handling, order execution, order routing, and regulatory compliance. The Exchange will not have a secondary source for data from MIAX PEARL.

The Exchange proposes that this proposed rule change would be operative on the day that MIAX PEARL launches operations as an equities exchange, which is currently expected on September 25, 2020.[4]

[4] *See https://www.miaxoptions.com/sites/default/files/press_release-files/MIAX_Press_Release_08182020.pdf.*

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5),[6] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes its proposal to amend the table in Rule 7.37(d) to update the data feed source for the MIAX PEARL will ensure that Rule 7.37 correctly identifies and publicly states on a market-by-market basis all of the specific SIP and proprietary data feeds that the Exchange utilizes for the handling, execution, and routing of orders, and for performing the regulatory compliance checks for each of those functions. The proposed rule change also removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest by providing additional specificity, clarity, and transparency in the Exchange's rules.

*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 proposed change is not designed to address any competitive issue, but rather would provide the public and market participants with up-to-date information about the data feeds the Exchange will use for the handling, execution, and routing of orders, as well as for regulatory compliance.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [7] and Rule 19b–4(f)(6) thereunder.[8]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [9] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [10] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative immediately. According to the Exchange, such waiver is consistent with the protection of investors and the public interest because MIAX PEARL is expected to begin operating as an equities exchange in fewer than 30 days, and waiver of the operative delay would allow the Exchange to immediately provide transparency in its rules regarding its source of MIAX PEARL data for order handling, order execution, order routing, and regulatory compliance. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as doing so will ensure that the rule change becomes operative on or before the day that MIAX PEARL launches operations as an equities exchange, which is currently expected on September 25, 2020. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[11]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSENAT–2020–29 on the subject line.

*Paper Comments*

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

All submissions should refer to File Number SR–NYSENAT–2020–29. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSENAT–2020–29 and should be submitted on or before October 7, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–20363 Filed 9–15–20; 8:45 am]

**BILLING CODE 8011–01–P**

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–89809; File No. SR–OCC–2020–008]**

## Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving Proposed Rule Change To Enhance OCC's Stock Loan Close-Out Process

September 10, 2020.

## I. Introduction

On July 14, 2020, the Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–OCC–2020–008 (''Proposed Rule Change'') pursuant to Section 19(b) of the Securities Exchange Act of 1934 (''Exchange Act'') [1] and Rule 19b–4 [2] thereunder to require Clearing Members that OCC instructs to buy-in or sell-out securities to execute such transactions and provide OCC notice of such action by the settlement time on the business day after OCC gives the instruction.[3] The Proposed Rule Change was published for public comment in the **Federal Register** on July 30, 2020.[4] The Commission has received no comments regarding the Proposed Rule Change.[5] This order approves the Proposed Rule Change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Notice of Filing *infra* note 4, 85 FR at 45943.

[4] Securities Exchange Act Release No. 89393 (Jul. 24, 2020), 85 FR 45943 (Jul. 30, 2020) (File No. SR–OCC–2020–008) (''Notice of Filing''). OCC also filed a related advance notice (SR–OCC–2020–805) (''Advance Notice'') with the Commission pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, entitled the Payment, Clearing, and Settlement Supervision Act of 2010 and Rule 19b–4(n)(1)(i) under the Exchange Act. 12 U.S.C. 5465(e)(1). 15 U.S.C. 78s(b)(1) and 17 CFR 240.19b–4, respectively. The Advance Notice was published in the **Federal Register** on August 14, 2020. Securities Exchange Act Release No. 89515 (Aug. 10, 2020), 85 FR 49697 (Aug. 14, 2020) (File No. SR–OCC–2020–805).

[5] Since the proposal contained in the Proposed Rule Change was also filed as an advance notice, all public comments received on the proposal are considered regardless of whether the comments are submitted on the Proposed Rule Change or Advance Notice.

## II. Background

OCC serves as the sole clearing agency for standardized U.S. securities options listed on Commission-registered national securities exchanges (''listed options'').[6] OCC also operates two programs under which it clears stock loan transactions (the ''Stock Loan Programs'').[7] As described in more detail below, OCC proposes to align the timeframes for closing out the open stock loan and non-stock loan positions of a defaulting Clearing Member.

In the event of a Clearing Member default, OCC would close out the defaulting Clearing Member's open positions, liquidate collateral, and deposit the proceeds from such a close-out into a Liquidating Settlement Account.[8] Generally, OCC would seek to close out the defaulting Clearing Member's open positions through an auction conducted, before market open, on the day after a default occurs. Under its rules, however, OCC may also seek to close out open positions cleared under its Stock Loan Programs by instructing non-defaulting Clearing Member counterparties to the open position to execute buy-in or sell-out transactions by the end of the business day following the default.[9] In the event that a Clearing Member counterparty fails to execute buy-in or sell-out transactions as instructed, OCC would terminate the relevant stock loan positions based on end of day prices from the business day following the default. Pursuant to the Proposed Rule Change, OCC proposes to change (1) the time by which buy-in or sell-out transactions for defaulted open stock loan positions must be executed and (2) the price at which OCC would terminate positions not closed out through the execution of buy-in or sell-out transactions.

*Current rules.* Under its Rule 2211 and Rule 2211A, OCC may instruct a Clearing Member who is a party to stock loan transactions with a defaulting Clearing Member to execute buy-in or sell-out transactions, as applicable, with respect to each open stock borrow or loan position of the defaulting Clearing Member.[10] Currently, a Clearing Member so instructed is obligated to execute the required transactions and provide notice of such execution to OCC by the close of the business on the day following receipt of such an instruction. If a Clearing Member fails to execute buy-in or sell-out transactions as instructed, OCC may terminate the relevant stock loan transactions. OCC would terminate such transactions based on prices from the end of the day after OCC issued buy-in or sell-out instructions (*i.e.,* the same day by which the Clearing Member was obligated to execute the buy-in or sell-out transactions).

*Proposed change to execution time.* OCC proposes to amend its Rules 2211 and 2211A with regard to the time by which a Clearing Member must execute buy-in or sell-out transactions and provide notice to OCC of such transactions. OCC would continue to require that such transactions be executed by or before the business day following receipt of the instruction to execute such transaction. OCC proposes, however, to move up the time by which the transaction must be executed from the close of business to ''settlement time,'' which OCC's current rules define as 9:00 a.m. Central Time.[11]

OCC considered requiring the execution of buy-in or sell-out transaction by the close of business on the day it instructed a Clearing Member to execute such transactions; however, Clearing Members expressed a preference for setting the deadline at 9:00 a.m. Central Time the following business day because doing so would allow a non-defaulting Clearing Member the opportunity to trade at market opening.[12] Because OCC typically issues buy-in or sell-out instructions on the day of default, the proposed rule would require such transactions to be executed by 9:00 a.m. Central Time on the business day following the default. The required transactions would, therefore, be executed on the same day on which OCC seeks to close out a defaulting Clearing Member's other positions through its auction procedures. OCC believes allowing non-defaulting Clearing Members to trade at market opening on the morning following default would provide additional time to execute the buy-in and sell-out transactions in a manner consistent with OCC's two-day liquidation assumption.[13] The proposed change would provide OCC with authority under its rules to compel execution of buy-in or sell out transactions designed to close out a defaulting Clearing Member's stock loan positions at a point in time closer to OCC's other default management processes (*i.e.,* auctions) than is currently permitted under OCC's rules.

*Proposed change to termination price.* OCC also proposes to amend its Rules 2211 and 2211A with regard to the price on which termination of stock loan positions would be based if a Clearing Member fails to execute buy-in or sell-out transactions within the required timeframes. Under the proposal, OCC would close out such positions based on end-of-day prices from the same day on which OCC instructed the Clearing Member to execute buy-in or sell-out transactions (*i.e.,* the day before the Clearing Member was obligated to execute the buy-in or sell-out transactions).[14] Such a price would be the last settlement price captured in OCC's systems prior to the time by which the non-defaulting Clearing Member was required to execute buy-in or sell-out transactions.[15] OCC believes that using such a price, already available in its system, would be superior to other options because it would allow for an automated process not susceptible to the delays and errors of manually pulling price information.[16]

## III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Exchange Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to such organization.[17] After carefully considering the Proposed Rule Change,

[6] *See* Securities Exchange Act Release No. 85121 (Feb. 13, 2019), 84 FR 5157 (Feb. 20, 2019) (File No. SR–OCC–2015–02).

[7] OCC's two Stock Loan Programs are the ''Stock Loan/Hedge Program'' and the ''Market Loan Program.'' Under its Stock Loan/Hedge Program, OCC clears transactions initiated directly between Clearing Members on a bilateral basis. Under its Market Loan Program, OCC clears transactions initiated on either a broker-to-broker basis or anonymously through the matching of bids and offers.

[8] *See* OCC Rule 1104; *available at https://www.theocc.com/getmedia/9d3854cd-b782-450f-bcf7-33169b0576ce/occ_rules.pdf. See also* Notice of Filing, 85 FR at 45944.

[9] ''Buy-in'' refers to a non-defaulting lender purchasing replacement stock. ''Sell-out'' refers to a non-defaulting borrower selling the loaned securities in order to recoup its collateral. *See* Notice of Filing, 85 FR at 45943, n. 3.

[10] *See* OCC Rules 2211 and 2211A. Typically, OCC issues such instructions on the day of default. *See* Notice of Filing, 85 FR at 45944.

[11] *See* By-Law Article I, Section 1.S.(16); available at *https://www.theocc.com/getmedia/3309eceb-56cf-48fc-b3b3-498669a24572/occ_bylaws.pdf.*

[12] *See* Notice of Filing, 85 FR at 45944–45.

[13] *See* Notice of Filing, 85 FR at 45945.

[14] For example, OCC might rely on such end-of-day prices if Clearing Members were unable to execute buy-in or sell-out transactions to terminate open stock loan positions during the morning of the business day following the default because of circuit breaker activity. The use of the end-of-day prices from the day of default, as opposed to end-of-day prices following a full day of trading, would provide closer alignment of market conditions for OCC's auction and stock loan terminations than the current rules.

[15] *See* Notice of Filing, 85 FR at 45944.

[16] *See* Notice of Filing, 85 FR at 45945.

[17] 15 U.S.C. 78s(b)(2)(C).

the Commission finds that the proposal is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to OCC. More specifically, the Commission finds that the proposal is consistent with Section 17A(b)(3)(F) of the Exchange Act [18] and Rule 17Ad–22(e)(13) thereunder.[19]

*A. Consistency With Section 17A(b)(3)(F) of the Exchange Act*

Section 17A(b)(3)(F) of the Exchange Act requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.[20] Based on its review of the record, the Commission believes that the changes proposed in the Proposed Rule Change are consistent with the promotion of prompt and accurate clearance and settlement of securities transactions for the reasons described below.

As a central counterparty and SIFMU,[21] it is imperative that OCC maintain default management processes designed to contain losses. As described above, OCC may, in the event of a Clearing Member default, seek to close out stock loan positions by requiring Clearing Members to execute buy-in or sell-out transactions while closing out non-stock loan positions and liquidating collateral via an auction. Pursuant to the Proposed Rule Change, OCC proposes to more closely align the timeframe within which buy-in and sell-out transactions would occur with the timeframe of a default auction. In the event that such transactions do not occur within the required timeframes, OCC further proposes to terminate such stock loan transactions based on end of day prices from the same day on which OCC instructed the Clearing Member to execute buy-in or sell-out transactions. Such prices would likely represent the last market price received before OCC would auction off the rest of the defaulting Clearing Member's portfolio prior to the market open on the following morning.

Aligning the timeframes for closing out stock loan positions and non-stock loan positions and collateral would reduce the potential for significant market movements occurring between the time by which OCC closes out positions and liquidates collateral related to such positions. Avoiding the potential for such market movements would, in turn, increase the likelihood that such collateral would be sufficient to mitigate losses arising out of the close out of stock loan positions. Mitigating such losses would increase likelihood that OCC could liquidate a defaulting Clearing Member's portfolio without realizing severe credit losses.

OCC is the sole registered clearing agency for the U.S. listed options markets. Increasing the likelihood that OCC could liquidate a defaulting Clearing Member's portfolio without realizing severe credit losses strengthens OCC's ability to manage Clearing Member defaults, which, in turn, facilitates the clearance and settlement of listed options. The Commission believes that the Proposed Rule Change would promote the prompt and accurate clearance and settlement of securities transactions and is, therefore, consistent with the requirements of Section 17A(b)(3)(F) of the Exchange Act.[22]

*B. Consistency With Rule 17Ad–22(e)(13) Under the Exchange Act*

Rule 17Ad–22(e)(13) under the Exchange Act requires that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to ensure the covered clearing agency has the authority and operational capacity to take timely action to contain losses and liquidity demands and continue to meets its obligations.[23]

As described above OCC, proposes to use its authority to alter the time when OCC will close out a defaulting Clearing Member's open stock loan positions. The proposed change would move the point in time by which OCC can close out open stock loan positions closer to the point in time by which OCC would seek to close the defaulting Clearing Member's non-stock loan positions and liquidate the defaulting Clearing Member's collateral via an auction. Aligning the timeframes for closing out stock loan positions and non-stock loan positions and collateral would reduce the potential for significant market movements occurring between the time by which OCC closes out positions and liquidates collateral related to such positions. Avoiding the potential for such market movements would, in turn, increase the likelihood that such collateral would be sufficient to mitigate losses arising out of the close out of stock loan positions.

OCC also proposes to terminate stock loan positions not closed out through buy-in or sell-out transactions based on end of day prices from the same day on which OCC instructed the Clearing Member to execute buy-in or sell-out transactions. As described above, such prices would likely represent the last market price received before OCC would auction off the rest of the defaulting Clearing Member's portfolio prior to the market open on the following morning. Similar to the change in the time by which Clearing Members would be instructed to execute buy-in or sell-out transactions, the proposed change in termination price would mitigate losses arising out of the close out of open stock loan positions by reducing the potential for significant market movements between the close out of positions and liquidation of related collateral. Taken together, the Commission believes that proposed changes regarding the close out a defaulting Clearing Member's open stock loan positions would enhance OCC's authority to take timely action to contain losses.

Accordingly, the Commission believes that Proposed Rule Change would be consistent with Rule 17Ad–22(e)(13) under the Exchange Act.[24]

## IV. Conclusion

On the basis of the foregoing, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Exchange Act, and in particular, the requirements of Section 17A of the Exchange Act [25] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[26] that the Proposed Rule Change (SR–OCC–2020–008) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–20358 Filed 9–15–20; 8:45 am]

**BILLING CODE 8011–01–P**

[18] 15 U.S.C. 78q–1(b)(3)(F).

[19] 17 CFR 240.17Ad–22(e)(13).

[20] 15 U.S.C. 78q–1(b)(3)(F).

[21] *See* Financial Stability Oversight Council (''FSOC'') 2012 Annual Report, Appendix A, available at *https://www.treasury.gov/initiatives/fsoc/Documents/2012%20Annual%20Report.pdf.*

[22] 15 U.S.C. 78q–1(b)(3)(F).

[23] 17 CFR 240.17Ad–22(e)(13).

[24] 17 CFR 240.17Ad–22(e)(13).

[25] In approving this Proposed Rule Change, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[26] 15 U.S.C. 78s(b)(2).

[27] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–89826; File No. SR–CBOE–2020–086]**

## Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend its Fees Schedule in Connection With Migration

September 10, 2020.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 2, 2020, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') 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 the Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend its Fees Schedule in connection with migration. The text of the proposed rule change is provided in Exhibit 5.[3]

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

In 2016, the Exchange's parent company, Cboe Global Markets, Inc. (formerly named CBOE Holdings, Inc.) (''Cboe Global''), which is also the parent company of Cboe C2 Exchange, Inc. (''C2''), acquired Cboe EDGA Exchange, Inc. (''EDGA''), Cboe EDGX Exchange, Inc. (''EDGX'' or ''EDGX Options''), Cboe BZX Exchange, Inc. (''BZX'' or ''BZX Options''), and Cboe BYX Exchange, Inc. (''BYX'' and, together with Cboe Options, C2, EDGX, EDGA, and BZX, the ''Affiliated Exchanges''). The Cboe Affiliated Exchanges recently aligned certain system functionality, including with respect to connectivity, retaining only intended differences between the Affiliated Exchanges, in the context of a technology migration. The Exchange migrated its trading platform to the same system used by the Affiliated Exchanges, which the Exchange completed on October 7, 2019 (the ''migration''). As a result of this migration, the Exchange's pre-migration connectivity architecture was rendered obsolete, and as such, the Exchange now offers new functionality, including new logical connectivity, and therefore proposes to adopt corresponding fees.[4] In determining the proposed fee changes, the Exchange assessed the impact on market participants to ensure that the proposed fees would not create an undue financial burden on any market participants, including smaller market participants. While the Exchange has no way of predicting with certainty the impact of the proposed changes, the Exchange had anticipated its post-migration connectivity revenue[5] to be approximately 1.75% lower than connectivity revenue pre-migration.[6] In addition to providing a consistent technology offering across the Cboe Affiliated Exchanges, the migration also provided market participants a latency equalized infrastructure, improved system performance, and increased sustained order and quote per second capacity, as discussed more fully below. Accordingly, in connection with the migration and in order to more closely align the Exchange's fee structure with that of its Affiliated Exchanges, the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] The Exchange notes that subsequent to the Original Filing that proposed these changes on October 1 and 2, 2019 (SR–CBOE–2019–077 and SR–CBOE–2019–082) and subsequent to the Second Proposed Rule Change and Third Proposed Rule Change Filings that proposed these changes on November 29, 2019 (SR–CBOE–2019–111) and January 28, 2020 (SR–CBOE–2020–005), the Exchange submitted SR–CBOE–2020–021 which adopted Footnote 12. Footnote 12 governs pricing changes in the event the Exchange trading floor becomes inoperable and is appended to the Market-Maker Tier Appointment Fees and Floor Broker Trading Permit Sliding Scales tables. Additionally, subsequent to the Fourth Proposed Rule Change filed on March 27, 2020 (SR–CBOE–2020–028), the Exchange submitted SR–CBOE–2020–044, which appended Footnotes 41 to the Market maker Tier Appointment Fees table and the Floor Broker Trading Surcharge. Lastly, subsequent to the Exchange's Fifth Proposed Rule Change filed on May 22, 2020 (SR–CBOE–2020–48), the Exchange submitted (1) SR–CBOE–2020–058, which adopted new Footnote 24, appended Footnote 24 in the Market-Maker Tier Appointment Fees table and Floor Trading Permit Sliding Scales Table, as well as added language to the Floor Broker ADV Discount Table and (2) SR–CBOE–2020–061 which added further language in Footnote 24. The additions proposed by filings SR–CBOE–2020–021, SR–CBOE–2020–044, SR–CBOE–2020–058 and SR–CBOE–2020–061 are double underlined in Exhibit 5A.

[4] As of October 7, 2019, market participants no longer have the ability to connect to the old Exchange architecture.

[5] Connectivity revenue post-migration includes revenue from physical port fees (other than for disaster recovery), Cboe Data Services Port Fee, logical port fees, Trading Permit Fees, Market-Maker EAP Appointment Unit fees, Tier Appointment Surcharges and Floor Broker Trading Surcharges, less the Floor Broker ADV discounts and discounts on BOE Bulk Ports via the Affiliate Volume Plan and the Market-Maker Access Credit program.

[6] For February 2020, the Exchange's connectivity revenue was approximately 2.5% higher than connectivity revenue pre-migration. For purposes of a fair comparison of the Exchange's initial projection of post-migration connectivity revenue to realized post-migration revenue connectivity, the Exchange excluded from the February 2020 calculation revenue from a Trading Permit Holder who became a Market-Maker post October 7, 2019, a Trading Permit Holder that grew it's footprint on the Exchange significantly, and revenue derived from incremental usage in light of the extreme volatility and volume experienced in February, as such circumstances were not otherwise anticipated or incorporated into the Exchange's original projection. As noted, the Exchange had no way of predicting with certainty the impact of the proposed changes, nor control over choices market participants ultimately decided to make. The Exchange notes connectivity revenue was higher than anticipated in part due to (1) a higher number of 10 Gb Physical Ports being maintained by TPHs than expected (although 34% of Trading Permit Holders maintained the same number of 10 Gb Physical and 44% reduced the amount of 10 Gb Physical Ports maintained), (2) a higher quantity of BOE/FIX Logical Ports being purchased than predicted, and (3) a significantly higher quantity of the optional Drop, GRP, Multicast PITCH/Top Spin Server Ports and Purge Ports being purchased than predicted. For April 2020, the Exchange's connectivity revenue was approximately 21.97% *less* than connectivity revenue pre-migration using the same calculation. For May 2020, the Exchange's connectivity revenue was approximately 22.32% *less* than connectivity revenue pre-migration using the same calculation. The Exchange notes that due to the closure of its trading floor on March 16, 2020 through June 15, 2020, it adopted a number of corresponding temporary pricing changes, including waiving floor Trading Permit fees. *See* Cboe Options Fees Schedule. The Exchange also notes that it has provided the dollar amounts of the Exchange's monthly connectivity revenue to the Securities and Exchange Commission (the ''Commission'') for the months of February—June 2020 with a confidential treatment request. The Exchange also intends to provide further information to the Commission relating to monthly connectivity revenue for additional months, which will also be subject to a confidential treatment request.

Exchange intends to update and simplify its fee structure with respect to access and connectivity and adopt new access and connectivity fees.

The Exchange initially filed the proposed fee changes on October 1, 2019 (SR–CBOE–2019–077) (the ''Original Filing'').[7] The Commission received only one comment letter on the Original Filing, six days after the comment period deadline ended.[8] On November 29, 2019, the Exchange withdrew the Original Filing and submitted SR–CBOE–2019–111 (''Second Proposed Rule Change'').[9] Among other things, the Second Proposed Rule Change was filed in response to, and addressed, the Commission's request for inclusion of the following information: clarity as to what revenue streams are included in the Exchange's calculation of ''connectivity'' revenue; an update on post-migration connectivity revenue;[10] further information regarding the Exchange's new latency equalized infrastructure including additional detail regarding the benefits of such structure; clarity on how the Cboe Data Services Port fee is applied; data regarding the number of market participants that connect directly versus indirectly and the volume attributed to each; enhanced discussion regarding products that compete with exclusively listed products; an update on whether any market participant terminated their direct connectivity or membership post-migration (and whether it was because of the fee changes); and generally provide an update on various projections made in the filing, including how many ports market participants purchased post-migration, how many Trading Permit Holders were paying higher or lower fees, and how many Trading Permit Holders achieved proposed incentive tiers. The Commission received no comment letters on the Second Proposed Rule Change.

On January 28, 2020, the Exchange withdrew the Second Proposed Rule Change filing and submitted SR–CBOE–2020–005 (''Third Proposed Rule Change'').[11] The Third Proposed Rule Change was filed in response to, and addressed, the Commission's request for further discussion regarding how competitive forces constrained fees, further detail on potential substitute products for the Exchange's exclusively listed products, updated data on the number of ports purchased post-migration and an update on the projected post-migration connectivity revenue.[12] The Exchange also provided updated data on how many Trading Permit Holders connected directly versus indirectly to the Exchange and the volume attributed to each. The Commission received no comment letters on the Third Proposed Rule Change.

On March 27, 2020, the Exchange submitted SR–CBOE–2020–028 (''Fourth Proposed Rule Change'').[13] The Fourth Proposed Rule Change was filed in response to the Commission's sole request to update the connectivity revenue collected in February 2020, as the transition of physical ports had been completed. The Commission received only one comment letter on the Fourth Proposed Rule Change.[14]

On May 21, 2020, the Exchange withdrew that filing and submitted SR–CBOE–20202–048 (''Fifth Proposed Rule Change'').[15] The Fifth Proposed Rule Change was filed in response to the Commission's request for (1) updated connectivity revenue for April 2020, (2) examples of alternative products to VIX and (3) any further evidence the Exchange had to support its argument that competitive forces constrain pricing. The Commission received no comments letters on the Fifth Proposed Rule Change.

On July 2, 2020, the Exchange withdrew the Fifth Proposed Rule Change and submitted SR–CBOE–2020–064 (''Sixth Proposed Rule Change'').[16] The Sixth Proposed Rule Change was filed to respond to the Commission's request for another update on the Exchange's post-migration connectivity revenue and to provide further data demonstrating competition in the marketplace. The Commission again received no negative comments letters on the Sixth Proposed Rule Change. Notably however, the Exchange did receive three positive comment letters on the Sixth Proposed Rule Change (one from a market-maker TPH and two from floor broker TPHs), each noting that they believe the proposed fees are reasonable and encouraging the Commission to allow the fees to remain effective and avoid an unnecessary suspension and disapproval proceeding.[17]

Today, the Exchange is withdrawing the Sixth Proposed Rule Change and is submitting this filing (''Seventh Proposed Rule Change''), as part of its ongoing efforts to adopt the post-migration connectivity fees and to respond to the Commission's most recent request for further dialog and information. The Exchange notes the proposed fees have been effective, and thus have been paid by Trading Permit Holders, for approximately eleven months. The Exchange believes it is notable that during this time no other industry group or exchange, and particularly no market participants who connect to the Exchange, have claimed in comment letters to the Commission that the Exchange's new fee structure is unreasonable. The Exchange also believes it's significant that, in addition to positive feedback regarding the improved connectivity under the new structure, it has also received feedback from a number of market participants that the Exchange's proposed fee changes are regarded as reasonable.

As discussed herein, the Exchange believes that the proposed changes are consistent with the Act because they are reasonable, equitably allocated, not unfairly discriminatory, and not an undue burden on competition, as they are are supported by evidence (including data and analysis) and are constrained by significant competitive forces. The Exchange also believes the proposed fees are reasonable as they are

[7] On business date October 2, 2019, due to a technical error, the Exchange withdrew that filing and submitted SR–CBOE–2019–082. *See* Securities Exchange Act Release No. 87304 (October 15, 2019), 84 FR 56240, (October 21, 2019) (''Original Filing'').

[8] *See* Letter from Tyler Gellasch, Executive Director, The Healthy Markets Association (''Healthy Markets''), to Vanessa Countryman, Secretary, Commission, dated November 18, 2019.

[9] *See* Securities Exchange Act Release No. 87727 (December 12, 2019), 84 FR 69428 (December 18, 2019).

[10] Many market participants were still transitioning to the new connectivity structure at that time and as such, the Exchange noted it did not expect its connectivity revenue projections regarding port purchases to be realized prior to February 2020.

[11] *See* Securities Exchange Act Release No. 88164 (February 11, 2020), 85 FR 8897, (February 18, 2020).

[12] Many market participants were still transitioning to the new connectivity structure at that time and as such, the Exchange again noted it did not expect its connectivity revenue projections regarding port purchases to be realized prior to February 2020.

[13] *See* Securities Exchange Act Release No. 88586 (April 8, 2020), 85 FR 20773, (April 14, 2020).

[14] *See* Letter from Tyler Gellasch, Executive Director, The Healthy Markets Association (''Healthy Markets''), to Vanessa Countryman, Secretary, Commission, dated May 5, 2020, which letter mischaracterized the Exchange's proposed fees as linking market data costs to trading volume, among other factual inaccuracies.

[15] The Exchange refiled the Fifth Proposed Rule Change on May 22, 2020 due to a technical error (SR–CBOE–2020–048). *See* Securities Exchange Act Release No. 88984 (June 1, 2020), 85 FR 34670, (June 6, 2020).

[16] *See* Securities Exchange Act Release No. 89239 (July 7, 2020), 85 FR 42042, (July 13, 2020).

[17] *See* Letters from Steve Crutchfield, Head of Market Structure, Chicago Trading Company (''CTC'') and William Ellington, Managing Member/CEO, X-Change Financial Access (''XFA'') to Vanessa Countryman, Secretary, Commission, dated August 27, 2020. *See also* Letter from Lakeshore Securities to Vanessa Countryman, Secretary, Commission, dated August 31, 2020.

in line with the amounts assessed by other exchanges for similar connectivity offerings. Additionally, the Exchange believes the proposed changes are consistent with the SEC Division of Trading and Markets (the ''Division'') issued non-rulemaking fee filing guidance titled ''Staff Guidance on SRO Rule Filings Relating to Fees'' (''Fee Guidance'') issued on May 21, 2020.[18] Accordingly, the Exchange believes that the Commission should find that the Proposed Fee Increases are consistent with the Act. The proposed rule change is immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.

Physical Connectivity

A physical port is utilized by a Trading Permit Holder (''TPH'') or non-TPH to connect to the Exchange at the data centers where the Exchange's servers are located. The Exchange currently assesses fees for Network Access Ports for these physical connections to the Exchange. Specifically, TPHs and non-TPHs can elect to connect to Cboe Options' trading system via either a 1 gigabit per second (''Gb'') Network Access Port or a 10 Gb Network Access Port. Pre-migration the Exchange assessed a monthly fee of $1,500 per port for 1 Gb Network Access Ports and a monthly fee of $5,000 per port for 10 Gb Network Access Ports for access to Cboe Options primary system. Through January 31, 2020, Cboe Options market participants will continue to have the ability to connect to Cboe Options' trading system via the current Network Access Ports. As of October 7, 2019, in connection with the migration, TPHs and non-TPHs may alternatively elect to connect to Cboe Options via new latency equalized Physical Ports.[19] The new Physical Ports similarly allow TPHs and non-TPHs the ability to connect to the Exchange at the data center where the Exchange's servers are located and TPHs and non-TPHs have the option to connect via 1 Gb or 10 Gb Physical Ports. As noted above, both the new 1 Gb and 10 Gb Physical Ports provide latency equalization, meaning that each market participant will be afforded the same latency for 1 Gb or 10 Gb Physical Ports in the primary data center to the Exchange's customer-facing switches regardless of location of the market participant's cage[20] in the primary data center relative to the Exchange's servers. Conversely, the legacy Network Access Ports are not latency equalized, meaning the location of a market participant's cage within the data center may affect latency. For example, in the legacy system, a cage located further from the Exchange's servers may experience higher latency than those located closer to the Exchange's servers.[21] As such, the proposed Physical Ports ensure all market participants connected to the Exchange via the new Physical Ports will receive the same respective latency for each port size and ensure that no market participant has a latency advantage over another market participant within the primary data center.[22] Additionally, the new infrastructure utilizes new and faster switches resulting in lower overall latency.

The Exchange proposes to assess the following fees for any physical port, regardless of whether the TPH or non-TPH connects via the current Network Access Ports or the new Physical Ports. Specifically, the Exchange proposes to continue to assess a monthly fee of $1,500 per port for 1 Gb Network Access Ports and new Physical Ports and increase the monthly fee for 10 Gb Network Access Ports and new Physical Ports to $7,000 per port. Physical port fees will be prorated based on the remaining trading days in the calendar month. The proposed fee for 10 Gb Physical Ports is in line with the amounts assessed by other exchanges for similar connections by its Affiliated Exchanges and other Exchanges that utilize the same connectivity infrastructure.[23]

In addition to the benefits resulting from the new Physical Ports providing latency equalization and new switches (*i.e.,* improved latency), TPHs and non-TPHs may be able to reduce their overall physical connectivity fees. Particularly, Network Access Port fees are assessed for unicast (orders, quotes) and multicast (market data) connectivity separately. More specifically, Network Access Ports may only receive one type of connectivity each (thus requiring a market participant to maintain two ports if that market participant desires both types of connectivity). The new Physical Ports however, allow access to both unicast and multicast connectivity with a single physical connection to the Exchange. Therefore, TPHs and non-TPHs that currently purchase two legacy Network Access Ports for the purpose of receiving each type of connectivity now have the option to purchase only one new Physical Port to accommodate their connectivity needs, which may result in reduced costs for physical connectivity.[24]

[18] Where possible, the Exchange is including numerical examples and percentages, including with respect to revenue impact. In addition, the Exchange is providing data to the Commission in support of its arguments herein, which is consistent with the Fee Guidance. The non-rulemaking Fee Guidance covers all aspects of a fee filing, but as acknowledged by the Commission, has ''no legal force or effect'', is ''not a rule, regulation or statement of the Commission'', does not ''alter or amend applicable law'' and ''creates no new or additional obligations for SROs and the Commission.'' *See* Chairman Jay Clayton, Statement on Division of Trading and Markets Staff Fee Guidance, June 12, 2019. The Exchange nonetheless has extensively addressed the Fee Guidance throughout this filing and prior versions of this filing.

[19] As previously noted, market participants will continue to have the option of connecting to Cboe Options via a 1 Gbps or 10 Gbps Network Access Port at the same rates as proposed, respectively.

[20] A market participant's ''cage'' is the cage within the data center that contains a market participant's servers, switches and cabling.

[21] The Exchange equalizes physical connectivity in the data center for its primary system by taking the farthest possible distance that a Cboe market participant cage may exist from the Exchange's customer-facing switches and using that distance as the cable length for any cross-connect.

[22] The Exchange notes that 10 Gb Physical Ports have an 11 microsecond latency advantage over 1 Gb Physical Ports. Other than this difference, there are no other means to receive a latency advantage as compared to another market participant in the new connectivity structure.

[23] *See* Cboe EDGA U.S. Equities Exchange Fee Schedule, Physical Connectivity Fees; Cboe EDGX U.S. Equities Exchange Fee Schedule, Physical Connectivity Fees; Cboe BZX U.S. Equities Exchange Fee Schedule, Physical Connectivity Fees; Cboe BYX U.S. Equities Exchange Fee Schedule, Physical Connectivity Fees; Cboe EDGX Options Exchange Fee Schedule, Physical Connectivity Fees; and Cboe BZX Options Exchange Fee Schedule, Physical Connectivity Fees (collectively, ''Affiliated Exchange Fee Schedules''). *See e.g.,* Nasdaq PHLX and ISE Rules, General Equity and Options Rules, General 8. Phlx and ISE each charge a monthly fee of $2,500 for each 1Gb connection, $10,000 for each 10Gb connection and $15,000 for each 10Gb Ultra connection. *See also* Nasdaq Price List—Trading Connectivity. Nasdaq charges a monthly fee of $7,500 for each 10Gb direct connection to Nasdaq and $2,500 for each direct connection that supports up to 1Gb. *See also* NYSE American Fee Schedule, Section V.B, and Arca Fees and Charges, Co-Location Fees. NYSE American and Arca each charge a monthly fee of $5,000 for each 1Gb circuit, $14,000 for each 10Gb circuit and $22,000 for each 10Gb LX circuit.

[24] The Exchange proposes to eliminate the current Cboe Command Connectivity Charges table in its entirety and create and relocate such fees in a new table in the Fees Schedule that addresses fees for physical connectivity, including fees for the current Network Access Ports, the new Physical Ports and Disaster Recovery (''DR'') Ports. The Exchange notes that it is not proposing any changes with respect to DR Ports other than renaming the DR ports from ''Network Access Ports'' to ''Physical Ports'' to conform to the new Physical Port terminology. The Exchange also notes that subsequent to the initial filings that proposed these fee changes on October 1 and 2, 2019 (SR–CBOE–2019–077 and SR–CBOE–2019–082), the Exchange amended the proposed port fees to waive fees for ports used for PULSe in filing No. SR–CBOE–2019–105. The additions proposed by filing SR–CBOE–2019–105 are double underlined in Exhibit 5A and the deletions are doubled bracketed in Exhibit 5A.

Cboe Data Services—Port Fees

The Exchange proposes to amend the ''Port Fee'' under the Cboe Data Services (''CDS'') Fees Schedule. Currently, the Port Fee is payable by any Customer [25] that receives data through two types of sources; a direct connection to CDS (''direct connection'') or through a connection to CDS provided by an extranet service provider (''extranet connection''). The Port Fee applies to receipt of any Cboe Options data feed but is only assessed once per data port. The Exchange proposes to amend the monthly CDS Port Fee to provide that it is payable ''per source'' used to receive data, instead of ''per data port''. The Exchange also proposes to increase the fee from $500 per data port/month to $1,000 per data source/month.[26] The Exchange notes the proposed change in assessing the fee (*i.e.,* per source vs per port) and the proposed fee amount are the same as the corresponding fee on its affiliate C2.[27]

In connection with the proposed change, the Exchange also proposes to rename the ''Port Fee'' to ''Direct Data Access Fee''. As the fee will be payable ''per data source'' used to receive data, instead of ''per data port'', the Exchange believes the proposed name is more appropriate and that eliminating the term ''port'' from the fee will eliminate confusion as to how the fee is assessed.

Logical Connectivity

Next, the Exchange proposes to amend its login fees. By way of background, Cboe Options market participants were able to access Cboe Command via either a CMI or a FIX Port, depending on how their systems are configured. Effective October 7, 2019, market participants are no longer able to use CMI and FIX Login IDs. Rather, the Exchange utilizes a variety of logical connectivity ports as further described below. Both a legacy CMI/FIX Login ID and logical port represent a technical port established by the Exchange within the Exchange's trading system for the delivery and/or receipt of trading messages—*i.e.,* orders, accepts, cancels, transactions, etc. Market participants that wish to connect directly to the Exchange can request a number of different types of ports, including ports that support order entry, customizable purge functionality, or the receipt of market data. Market participants can also choose to connect indirectly through a number of different third-party providers, such as another broker-dealer or service bureau that the Exchange permits through specialized access to the Exchange's trading system and that may provide additional services or operate at a lower mutualized cost by providing access to multiple members. In light of the discontinuation of CMI and FIX Login IDs, the Exchange proposes to eliminate the fees associated with the CMI and FIX login IDs and adopt the below pricing for logical connectivity in its place.

| Service | Cost per month |
|---|---|
| Logical Ports (BOE, FIX) 1 to 5 | $750 per port. |
| Logical Ports (BOE, FIX) >5 | 800 per port. |
| Logical Ports (Drop) | 750 per port. |
| BOE Bulk Ports 1 to 5 | 1,500 per port. |
| BOE Bulk Ports 6 to 30 | 2,500 per port. |
| BOE Bulk Ports >30 | 3,000 per port. |
| Purge ports | 850 per port. |
| GRP Ports | 750/primary (A or C Feed). |
| Multicast PITCH/Top Spin Server Ports. | 750/set of primary (A or C feed). |

The Exchange proposes to provide for each of the logical connectivity fees that new requests will be prorated for the first month of service. Cancellation requests are billed in full month increments as firms are required to pay for the service for the remainder of the month, unless the session is terminated within the first month of service. The Exchange notes that the proration policy is the same on its Affiliated Exchanges.[28]

*Logical Ports (BOE, FIX, Drop):* The new Logical Ports represent ports established by the Exchange within the Exchange's system for trading purposes. Each Logical Port established is specific to a TPH or non-TPH and grants that TPH or non-TPH the ability to operate a specific application, such as order/quote [29] entry (FIX and BOE Logical Ports) or drop copies (Drop Logical Ports). Similar to CMI and FIX Login IDs, each Logical Port will entitle a firm to submit message traffic of up to specified number of orders per second.[30] The Exchange proposes to assess $750 per port per month for all Drop Logical Ports and also assess $750 per port per month (which is the same amount currently assessed per CMI/FIX Login ID per month), for the first 5 FIX/BOE Logical Ports and thereafter assess $800 per port, per month for each additional FIX/BOE Logical Port. While the proposed ports will be assessed the same monthly fees as current CMI/FIX Login IDs (for the first five logical ports), the proposed logical ports provide for significantly more message traffic (and thus cost less per message sent) as shown below:

| | CMI/FIX login ids | | BOE/FIX logical ports |
|---|---|---|---|
| | Quotes | Orders | Quotes/orders |
| Bandwidth Limit per login | 5,000 quotes/3 sec [31] | 30 orders/sec | 15,000 quotes/orders/3 sec. |
| Cost | $750 each | $750 each | $750/$800 each. |
| Cost per Quote/Order Sent @Limit | $0.15 per quote/3 sec | $25.00 per order/sec | $0.05/$0.053 per quote/order/3 sec. |

[25] A Customer is any person, company or other entity that, pursuant to a market data agreement with CDS, is entitled to receive data, either directly from CDS or through an authorized redistributor (*i.e.,* a Customer or extranet service provider), whether that data is distributed externally or used internally.

[26] For example, under the pre-migration ''per port'' methodology, if a TPH maintained 4 ports that receive market data, that TPH would be assessed $2,000 per month (*i.e.,* $500 × 4 ports), regardless of how many sources it used to receive data. Under the proposed ''per source'' methodology, if a TPH maintains 4 ports that receive market data, but receives data through only one source (*e.g.,* a direct connection) that TPH would be assessed $1,000 per month (*i.e.,* $1000 × 1 source). If that TPH maintains 4 ports but receives data from both a direct connection and an extranet connection, that TPH would be assessed $2,000 per month (*i.e.,* $1,000 × 2 sources). Similarly, if that TPH maintains 4 ports and receives data from two separate extranet providers, that TPH would be assessed $2,000 per month (*i.e.,* $1,000 × 2).

[27] *See* Cboe C2 Options Exchange Fee Schedule, Cboe Data Services, LLC Fees, Section IV, Systems Fees.

[28] *See* Affiliated Exchange Fee Schedules, Logical Port Fees.

[29] As of October 7, 2019, the definition of quote in Cboe Options Rule 1.1 means a firm bid or offer a Market-Maker (a) submits electronically as an order or bulk message (including to update any bid or offer submitted in a previous order or bulk message) or (b) represents in open outcry on the trading floor.

[30] Login Ids restrict the maximum number of orders and quotes per second in the same way logical ports do, and Users may similarly have multiple logical ports as they may have Trading Permits and/or bandwidth packets to accommodate their order and quote entry needs.

[31] Each Login ID has a bandwidth limit of 80,000 quotes per 3 seconds. However, in order to place such bandwidth onto a single Login ID, a TPH or non-TPH would need to purchase a minimum of 15 Market-Maker Permits or Bandwidth Packets (each Market-Maker Permit and Bandwidth Packet provides 5,000 quotes/3 sec). For purposes of comparing ''quote'' bandwidth, the provided example assumes only 1 Market-Maker Permit or Bandwidth Packet has been purchased.

Logical Port fees will be limited to Logical Ports in the Exchange's primary data center and no Logical Port fees will be assessed for redundant secondary data center ports. Each BOE or FIX Logical Port will incur the logical port fee indicated in the table above when used to enter up to 70,000 orders per trading day per logical port as measured on average in a single month. Each incremental usage of up to 70,000 per day per logical port will incur an additional logical port fee of $800 per month. Incremental usage will be determined on a monthly basis based on the average orders per day entered in a single month across all of a market participant's subscribed BOE and FIX Logical Ports. The Exchange believes that the pricing implications of going beyond 70,000 orders per trading day per Logical Port encourage users to mitigate message traffic as necessary. The Exchange notes that the proposed fee of $750 per port is the same amount assessed not only for current CMI and FIX Login Ids, but also similar ports available on an affiliate exchange.[32]

The Exchange also proposes to provide that the fee for one FIX Logical Port connection to PULSe and one FIX Logical Port connection to Cboe Silexx will be waived per TPH. The Exchange notes that only one FIX Logical Port connection is required to support a firm's access through each of PULSe and Cboe Silexx FLEX.

*BOE Bulk Logical Ports:* The Exchange also offers BOE Bulk Logical Ports, which provide users with the ability to submit single and bulk order messages to enter, modify, or cancel orders designated as Post Only Orders with a Time-in-Force of Day or GTD with an expiration time on that trading day. While BOE Bulk Ports will be available to all market participants, the Exchange anticipates they will be used primarily by Market-Makers or firms that conduct similar business activity, as the primary purpose of the proposed bulk message functionality is to encourage market-maker quoting on exchanges. As indicated above, BOE Bulk Logical Ports are assessed $1,500 per port, per month for the first 5 BOE Bulk Logical Ports, assessed $2,500 per port, per month thereafter up to 30 ports and thereafter assessed $3,000 per port, per month for each additional BOE Bulk Logical Port. Like CMI and FIX Login IDs, and FIX/BOX Logical Ports, BOE Bulk Ports will also entitle a firm to submit message traffic of up to specified number of quotes/orders per second.[33] The proposed BOE Bulk ports also provide for significantly more message traffic (and thus cost less per message sent) as compared to current CMI/FIX Login IDs, as shown below:

| | CMI/FIX login ids | BOE bulk ports |
|---|---|---|
| | Quotes | Quotes [34] |
| Bandwidth Limit | 5,000 quotes/3 sec [35] | 225,000 quotes 3 sec. |
| Cost | $750 each | $1,500/$2,500/$3,000 each. |
| Cost per Quote/Order Sent @Limit | $0.15 per quote/3 sec | $0.006/$0.011/$0.013 per quote/3 sec. |

Each BOE Bulk Logical Port will incur the logical port fee indicated in the table above when used to enter up to 30,000,000 orders per trading day per logical port as measured on average in a single month. Each incremental usage of up to 30,000,000 orders per day per BOE Bulk Logical Port will incur an additional logical port fee of $3,000 per month. Incremental usage will be determined on a monthly basis based on the average orders per day entered in a single month across all of a market participant's subscribed BOE Bulk Logical Ports. The Exchange believes that the pricing implications of going beyond 30,000,000 orders per trading day per BOE Bulk Logical Port encourage users to mitigate message traffic as necessary. The Exchange notes that the proposed BOE Bulk Logical Port fees are similar to the fees assessed for these ports by BZX Options.[36]

*Purge Ports:* As part of the migration, the Exchange introduced Purge Ports to provide TPHs additional risk management and open order control functionality. Purge ports were designed to assist TPHs, in the management of, and risk control over, their quotes, particularly if the TPH is dealing with a large number of options. Particularly, Purge Ports allow TPHs to submit a cancelation for all open orders, or a subset thereof, across multiple sessions under the same Executing Firm ID (''EFID''). This would allow TPHs to seamlessly avoid unintended executions, while continuing to evaluate the direction of the market. While Purge Ports are available to all market participants, the Exchange anticipates they will be used primarily by Market-Makers or firms that conduct similar business activity and are therefore exposed to a large amount of risk across a number of securities. The Exchange notes that market participants are also able to cancel orders through FIX/BOE Logical Ports and as such a dedicated Purge Port is not required nor necessary. Rather, Purge Ports were specially developed as an optional service to further assist firms in effectively managing risk. As indicated in the table above, the Exchange proposes to assess a monthly charge of $850 per Purge Port. The Exchange notes that the proposed fee is in line with the fee assessed by other exchanges, including its Affiliated Exchanges, for Purge Ports.[37]

*Multicast PITCH/Top Spin Server and GRP Ports:* In connection with the migration, the Exchange also offers optional Multicast PITCH/Top Spin Server (''Spin'') and GRP ports and proposes to assess $750 per month, per port. Spin Ports and GRP Ports are used to request and receive a retransmission of data from the Exchange's Multicast PITCH/Top data feeds. The Exchange's Multicast PITCH/Top data feeds are available from two primary feeds, identified as the ''A feed'' and the ''C

[32] *See* Cboe BZX Options Exchange Fee Schedule, Options Logical Port Fees.

[33] The Exchange notes that while technically there is no bandwidth limit per BOE Bulk Port, there may be possible performance degradation at 15,000 messages per second (which is the equivalent of 225,000 quotes/orders per 3 seconds). As such, the Exchange uses the number at which performance may be degraded for purposes of comparison.

[34] *See* Cboe Options Rule 1.1.

[35] Each Login ID has a bandwidth limit of 80,000 quotes per 3 seconds. However, in order to place such bandwidth onto a single Login ID, a TPH or non-TPH would need to purchase a minimum of 15 Market-Maker Permits or Bandwidth Packets (each Market-Maker Permit and Bandwidth Packet provides 5,000 quotes/3 sec). For purposes of comparing ''quote'' bandwidth, the provided example assumes only 1 Market-Maker Permit or Bandwidth Packet has been purchased.

[36] *See* Cboe BZX Options Exchange Fee Schedule, Options Logical Port Fees.

[37] *See e.g.,* Nasdaq ISE Options Pricing Schedule, Section 7(C), Ports and Other Services. *See also* Cboe EDGX Options Exchange Fee Schedule, Options Logical Port Fees; Cboe C2 Options Exchange Fee Schedule, Options Logical Port Fees and Cboe BZX Options Exchange Fee Schedule, Options Logical Port Fees.

feed'', which contain the same information but differ only in the way such feeds are received. The Exchange also offers two redundant feeds, identified as the ''B feed'' and the ''D feed.'' All secondary feed Spin and GRP Ports will be provided for redundancy at no additional cost. The Exchange notes a dedicated Spin and GRP Port is not required nor necessary. Rather, Spin ports enable a market participant to receive a snapshot of the current book quickly in the middle of the trading session without worry of gap request limits and GRP Ports were specially developed to request and receive retransmission of data in the event of missed or dropped message. The Exchange notes that the proposed fee is in line with the fee assessed for the same ports on BZX Options.[38]

Access Credits

The Exchange next proposes to amend its Affiliate Volume Plan (''AVP'') to provide Market-Makers an opportunity to obtain credits on their monthly BOE Bulk Port Fees.[39] By way of background, under AVP, if a TPH Affiliate[40] or Appointed OFP[41] (collectively, an ''affiliate'') of a Market-Maker qualifies under the Volume Incentive Program (''VIP'') (*i.e.,* achieves VIP Tiers 2–5), that Market-Maker will also qualify for a discount on that Market-Maker's Liquidity Provider (''LP'') Sliding Scale transaction fees and Trading Permit fees. The Exchange proposes to amend AVP to provide that qualifying Market-Makers will receive a discount on Bulk Port fees (instead of Trading Permits) where an affiliate achieves VIP Tiers 4 or 5. As discussed more fully below, the Exchange is amending its Trading Permit structure, such that off-floor Market-Makers no longer need to hold more than one Market-Maker Trading Permit. As such, in place of credits for Trading Permits, the Exchange will provide credits for BOE Bulk Ports.[42] The proposed credits are as follows:

| Market-maker affiliate access credit | VIP tier | Percent credit on monthly BOE Bulk Port Fees |
|---|---|---|
| Credit Tier | 1 | 0 |
| | 2 | 0 |
| | 3 | 0 |
| | 4 | 15 |
| | 5 | 25 |

The Exchange believes the proposed change to AVP continues to allow the Exchange to provide TPHs that have both Market-Maker and agency operations reduced Market-Maker costs via the credits, albeit credits on BOE Bulk Port fees instead of Trading Permit fees. AVP also continues to provide incremental incentives for TPHs to strive for the higher tier levels, which provide increasingly higher benefits for satisfying increasingly more stringent criteria.

In addition to the opportunity to receive credits via AVP, the Exchange proposes to provide an additional opportunity for Market-Makers to obtain credits on their monthly BOE Bulk Port fees based on the previous month's make rate percentage. By way of background, the Liquidity Provider Sliding Scale Adjustment Table provides that Taker fees be applied to electronic ''Taker'' volume and a Maker rebate be applied to electronic ''Maker'' volume, in addition to the transaction fees assessed under the Liquidity Provider Sliding Scale.[43] The amount of the Taker fee (or Maker rebate) is determined by the Liquidity Provider's percentage of volume from the previous month that was Maker (''Make Rate'').[44] Market-Makers are given a Performance Tier based on their Make Rate percentage which currently provides adjustments to transaction fees. Thus, the program is designed to attract liquidity from traditional Market-Makers. The Exchange proposes to now also provide BOE Bulk Port fee credits if Market-Makers satisfy the thresholds of certain Performance Tiers. Particularly, the Performance Tier earned will also determine the percentage credit applied to a Market-Maker's monthly BOE Bulk Port fees, as shown below:

| Market-maker access credit | Liquidity provider sliding scale adjustment performance tier | Make rate (percent based on prior month) | Percent credit on monthly BOE Bulk Port Fees |
|---|---|---|---|
| Credit Tier | 1 | 0%–50% | 0 |
| | 2 | Above 50%–60% | 0 |
| | 3 | Above 60%–75% | 0 |
| | 4 | Above 75%–90% | 40 |
| | 5 | Above 90% | 40 |

The Exchange believes the proposal mitigates costs incurred by traditional Market-Makers that focus on adding liquidity to the Exchange (as opposed to those that provide and take, or just take). The Exchange lastly notes that both the Market-Maker Affiliate Access Credit under AVP and the Market-Maker Access Credit tied to Performance Tiers

[38] *See* Cboe BZX Options Exchange Fee Schedule, Options Logical Port Fees.

[39] As noted above, while BOE Bulk Ports will be available to all market participants, the Exchange anticipates they will be used primarily by Market Makers or firms that conduct similar business activity.

[40] For purposes of AVP, ''Affiliate'' is defined as having at least 75% common ownership between the two entities as reflected on each entity's Form BD, Schedule A.

[41] *See* Cboe Options Fees Schedule Footnote 23. Particularly, a Market-Maker may designate an Order Flow Provider (''OFP'') as its ''Appointed OFP'' and an OFP may designate a Market-Maker to be its ''Appointed Market-Maker'' for purposes of qualifying for credits under AVP.

[42] The Exchange notes that Trading Permits currently each include a set bandwidth allowance and 3 logins. Current logins and bandwidth are akin to the proposed logical ports, including BOE Bulk Ports which will primarily be used by Market-Makers.

[43] *See* Cboe Options Exchange Fees Schedule, Liquidity Provider Sliding Scale Adjustment Table.

[44] More specifically, the Make Rate is derived from a Liquidity Provider's electronic volume the previous month in all symbols excluding Underlying Symbol List A using the following formula: (i) The Liquidity Provider's total electronic automatic execution (''auto-ex'') volume (*i.e.,* volume resulting from that Liquidity Provider's resting quotes or single sided quotes/orders that were executed by an incoming order or quote), divided by (ii) the Liquidity Provider's total auto-ex volume (*i.e.,* volume that resulted from the Liquidity Provider's resting quotes/orders and volume that resulted from that LP's quotes/orders that removed liquidity). For example, a TPH's electronic Make volume in September 2019 is 2,500,000 contracts and its total electronic auto-ex volume is 3,000,000 contracts, resulting in a Make Rate of 83% (Performance Tier 4). As such, the TPH would receive a 40% credit on its monthly Bulk Port fees for the month of October 2019. For the month of October 2019, the Exchange will be billing certain incentive programs separately, including the Liquidity Provider Sliding Scale Adjustment Table, for the periods of October 1—October 4 and October 7—October 31 in light of the migration of its billing system. As such, a Market-Maker's Performance Tier for November 2019 will be determined by the Market-Maker's percentage of volume that was Maker from the period of October 7—October 31, 2019.

can both be earned by a TPH, and these credits will each apply to the total monthly BOE Bulk Port Fees including any incremental BOE Bulk Port fees incurred, before any credits/adjustments have been applied (*i.e.* an electronic MM can earn a credit from 15% to 65%).

Bandwidth Packets

As described above, post-migration, the Exchange utilizes a variety of logical ports. Part of this functionality is similar to bandwidth packets that were previously available on the Exchange. Bandwidth packets restricted the maximum number of orders and quotes per second. Post-migration, market participants may similarly have multiple Logical Ports and/or BOE Bulk Ports as they may have had bandwidth packets to accommodate their order and quote entry needs. As such, the Exchange proposes to eliminate all of the current Bandwidth Packet fees.[45] The Exchange believes that the proposed pricing implications of going beyond specified bandwidth described above in the logical connectivity fees section will be able to otherwise mitigate message traffic as necessary.

CAS Servers

By way of background, in order to connect to the legacy Cboe Command, which allowed a TPH to trade on the Cboe Options System, a TPH had to connect via either a CMI or FIX interface (depending on the configuration of the TPH's own systems). For TPHs that connected via a CMI interface, they had to use CMI CAS Servers. In order to ensure that a CAS Server was not overburdened by quoting activity for Market-Makers, the Exchange allotted each Market-Maker a certain number of CASs (in addition to the shared backups) based on the amount of quoting bandwidth that they had. The Exchange no longer uses CAS Servers, post-migration. In light of the elimination of CAS Servers, the Exchange proposes to eliminate the CAS Server allotment table and extra CAS Server fee.

Trading Permit Fees

By way of background, the Exchange may issue different types of Trading Permits and determine the fees for those Trading Permits.[46] Pre-migration, the Exchange issued the following three types of Trading Permits: (1) Market-Maker Trading Permits, which were assessed a monthly fee of $5,000 per permit; (2) Floor Broker Trading Permits, which were assessed a monthly fee of $9,000 per permit; and (3) Electronic Access Permits (''EAPs''), which were assessed a monthly fee of $1,600 per permit. The Exchange also offered separate Market-Maker and Electronic Access Permits for the Global Trading Hours (''GTH'') session, which were assessed a monthly fee of $1,000 per permit and $500 per permit respectively.[47] For further color, a Market-Maker Trading Permit entitled the holder to act as a Market-Maker, including a Market-Maker trading remotely, DPM, eDPM, or LMM, and also provided an appointment credit of 1.0, a quoting and order entry bandwidth allowance, up to three logins, trading floor access and TPH status.[48] A Floor Broker Trading Permit entitled the holder to act as a Floor Broker, provided an order entry bandwidth allowance, up to 3 logins, trading floor access and TPH status.[49] Lastly, an EAP entitled the holder to electronic access to the Exchange. Holders of EAPs must have been broker-dealers registered with the Exchange in one or more of the following capacities: (a) Clearing TPH, (b) TPH organization approved to transact business with the public, (c) Proprietary TPHs and (d) order service firms. The permit did not provide access to the trading floor. An EAP also provided an order entry bandwidth allowance, up to 3 logins and TPH status.[50] The Exchange also provided an opportunity for TPHs to pay reduced rates for Trading Permits via the Market Maker and Floor Broker Trading Permit Sliding Scale Programs (''TP Sliding Scales''). Particularly, the TP Sliding Scales allowed Market-Makers and Floor Brokers to pay reduced rates for their Trading Permits if they committed in advance to a specific tier that includes a minimum number of eligible Market-Maker and Floor Broker Trading Permits, respectively, for each calendar year.[51]

As noted above, Trading Permits were tied to bandwidth allocation, logins and appointment costs, and as such, TPH organizations may hold multiple Trading Permits of the same type in order to meet their connectivity and appointment cost needs. Post-Migration, bandwidth allocation, logins and appointment costs are no longer tied to a Trading Permit, and as such, the Exchange proposes to modify its Trading Permit structure. Particularly, in connection with the migration, the Exchange adopted separate on-floor and off-floor Trading Permits for Market-Makers and Floor Brokers, adopted a new Clearing TPH Permit, and proposes to modify the corresponding fees and discounts. As was the case pre-migration, the proposed access fees discussed below will continue to be non-refundable and will be assessed through the integrated billing system during the first week of the following month. If a Trading Permit is issued during a calendar month after the first trading day of the month, the access fee for the Trading Permit for that calendar month is prorated based on the remaining trading days in the calendar month. Trading Permits will be renewed automatically for the next month unless the Trading Permit Holder submits written notification to the Membership Services Department by 4 p.m. CT on the second-to-last business day of the prior month to cancel the Trading Permit effective at or prior to the end of the applicable month. Trading Permit Holders will only be assessed a single monthly fee for each type of electronic Trading Permit it holds.

First, TPHs no longer need to hold multiple permits for each type of electronic Trading Permit (*i.e.,* electronic Market-Maker Trading Permits and/or and Electronic Access Permits). Rather, for electronic access to the Exchange, a TPH need only purchase one of the following permit types for each trading function the TPH intends to perform: Market-Maker Electronic Access Permit (''MM EAP'') in order to act as an off-floor Market-Maker and which will continue to be assessed a monthly fee of $5,000, Electronic Access Permit (''EAP'') in order to submit orders electronically to the Exchange[52] and which will be assessed a monthly fee of $3,000, and a Clearing TPH Permit, for TPHs acting solely as a Clearing TPH, which will be assessed a monthly fee of $2,000 (and is more fully described below). For example, a TPH organization that wishes to act as a Market-Maker and also submit orders electronically in a non-Market Maker capacity would have to purchase one MM EAP and one EAP. TPHs will be assessed the monthly fee

[45] *See* Cboe Options Fees Schedule, Bandwidth Packet Fees.

[46] *See* Cboe Options Rules 3.1(a)(iv)–(v).

[47] The fees were waived through September 2019 for the first Market-Maker and Electronic Access GTH Trading Permits.

[48] *See* Cboe Options Fees Schedule.

[49] Id.

[50] Id.

[51] Due to the October 7 migration, the Exchange had amended the TP Sliding Scale Programs to provide that any commitment to Trading Permits under the TP Sliding Scales shall be in place through September 2019, instead of the calendar year. *See* Cboe Options Fees Schedule, Footnotes 24 and 25.

[52] EAPs may be purchased by TPHs that both clear transactions for other TPHs (*i.e.,* a ''Clearing TPH'') and submit orders electronically.

for each type of Permit once per electronic access capacity.

Next, the Exchange proposes to adopt a new Trading Permit, exclusively for Clearing TPHs that are approved to act solely as a Clearing TPH (as opposed to those that are also approved in a capacity that allows them to submit orders electronically). Currently any TPH that is registered to act as a Clearing TPH must purchase an EAP, whether or not that Clearing TPH acts solely as a Clearing TPH or acts as a Clearing TPH and submits orders electronically. The Exchange proposes to adopt a new Trading Permit, for any TPH that is registered to act solely as Clearing TPH at a discounted rate of $2,000 per month.[53]

Additionally, the Exchange proposes to eliminate its fees for Global Trading Hours Trading Permits. Particularly, the Exchange proposes to provide that any Market-Maker EAP, EAP and Clearing TPH Permit provides access (at no additional cost) to the GTH session.[54] Additionally, the Exchange proposes to amend Footnote 37 of the Fees Schedule regarding GTH in connection with the migration. Currently Footnote 37 provides that separate access permits and connectivity is needed for the GTH session. The Exchange proposes to eliminate this language as that is no longer the case post-migration (*i.e.,* an electronic Trading Permits will grant access to both sessions and physical and logical ports may be used in both sessions, eliminating the need to purchase separate connectivity). The Exchange also notes that in connection with migration, the Book used during Regular Trading Hours (''RTH'') will be the same Book used during GTH (as compared to pre-migration where the Exchange maintained separate Books for each session). The Exchange therefore also proposes to eliminate language in Footnote 37 stating that GTH is a segregated trading session and that there is no market interaction between the two sessions.

The Exchange next proposes to adopt MM EAP Appointment fees. By way of background, a registered Market-Maker may currently create a Virtual Trading Crowd (''VTC'') Appointment, which confers the right to quote electronically in an appropriate number of classes selected from ''tiers'' that have been structured according to trading volume statistics, except for the AA tier.[55] Each Trading Permit historically held by a Market-Maker had an appointment credit of 1.0. A Market-Maker could select for each Trading Permit the Market-Maker held any combination of classes whose aggregate appointment cost did not exceed 1.0. A Market-Maker could not hold a combination of appointments whose aggregate appointment cost was greater than the number of Trading Permits that Market-Maker held.[56]

As discussed, post-migration, bandwidth allocation, logins and appointment costs are no longer tied to a single Trading Permit and therefore TPHs no longer need to have multiple permits for each type of electronic Trading Permit. Market-Makers must still select class appointments in the classes they seek to make markets electronically.[57] Particularly, a Market-Maker firm will only be required to have one permit and will thereafter be charged for one or more ''Appointment Units'' (which will scale from 1 ''unit'' to more than 5 ''units''), depending on which classes they elect appointments in. Appointment Units will replace the standard 1.0 appointment cost, but function in the same manner. Appointment weights (formerly known as ''appointment costs'') for each appointed class will be set forth in Cboe Options Rule 5.50(g) and will be summed for each Market-Maker in order to determine the total appointment units, to which fees will be assessed. This was the manner in which the tier costs per class appointment were summed to meet the 1.0 appointment cost, the only difference being that if a Market-Maker exceeds this ''unit'', then their fees will be assessed under the ''unit'' that corresponds to the total of their appointment weights, as opposed to holding another Trading Permit because it exceeded the 1.0 ''unit''. Particularly, the Exchange proposes to adopt a new MM EAP Appointment Sliding Scale. Appointment Units for each assigned class will be aggregated for each Market-Maker and Market-Maker affiliate. If the sum of appointments is a fractional amount, the total will be rounded up to the next highest whole Appointment Unit. The following lists the progressive monthly fees for Appointment Units:[58]

| Market-maker EAP appointments | Quantity | Monthly fees (per unit) |
|---|---|---|
| Appointment Units | 1 | $0 |
| | 2 | 6,000 |
| | 3 to 5 | 4,000 |
| | >5 | 3,100 |

As noted above, upon migration the Exchange required separate Trading Permits for on-floor and off-floor activity. As such, the Exchange proposes to maintain a Floor Broker Trading Permit and adopt a new Market-Maker Floor Permit for on-floor Market-Makers. In addition, RUT, SPX, and VIX Tier Appointment fees will be charged separately for Permit, as discussed more fully below.

As briefly described above, the Exchange currently maintains TP Sliding Scales, which allow Market-Makers and Floor Brokers to pay reduced rates for their Trading Permits if they commit in advance to a specific tier that includes a minimum number of eligible Market-Maker and Floor Broker Trading Permits, respectively, for each calendar year. The Exchange proposes to eliminate the current TP Sliding Scales, including the requirement to commit to a specific tier, and replace it with new TP Sliding Scales as follows:[59]

| Floor TPH permits | Current permit Qty | Current monthly fee (per permit) | Proposed permit Qty | Proposed monthly fee (per permit) |
|---|---|---|---|---|
| Market-Maker Floor Permit | 1–10 | $5,000 | 1 | 6,000 |

[53] Cboe Option Rules provides the Exchange authority to issue different types of Trading Permits which allows holders, among other things, to act in one or more trading functions authorized by the Rules. *See* Cboe Options Rule 3.1(a)(iv). The Exchange notes that currently 17 out of 38 Clearing TPHs are acting solely as a Clearing TPH on the Exchange.

[54] The Exchange notes that Clearing TPHs must be properly authorized by the Options Clearing Corporation (''OCC'') to operate during the Global Trading Hours session and all TPHs must have a Letter of Guarantee to participate in the GTH session (as is the case today).

[55] *See* Cboe Options Rule 5.50 (Appointment of Market-Makers).

[56] For example, if a Market-Maker selected a combination of appointments that has an aggregate appointment cost of 2.5, that Market-Maker must hold at least 3 Market-Maker Trading Permits.

[57] *See* Cboe Options Rule 5.50(a).

[58] For example, if a Market-Maker's total appointment costs amount to 3.5 unites, the Market-Maker will be assessed a total monthly fee of $14,000 (1 appointment unit at $0, 1 appointment unit at $6,000 and 2 appointment units at $4,000) as and for appointment fees and $5,000 for a Market-Maker Trading Permit, for a total monthly sum of $19,000, where a Market-Maker currently (*i.e.,* prior to migration) with a total appointment cost of 3.5 would need to hold 4 Trading Permits and would therefore be assessed a monthly fee of $20,000.

[59] In light of the proposed change to eliminate the TP Sliding Scale, the Exchange proposes to eliminate Footnote 24 in its entirety.

| Floor TPH permits | Current permit Qty | Current monthly fee (per permit) | Proposed permit Qty | Proposed monthly fee (per permit) |
|---|---|---|---|---|
| | 11–20 | 3,700 | 2 to 5 | 4,500 |
| | 21 or more | 1,800 | 6 to 10 | 3,500 |
| | | | >10 | 2,000 |
| Floor Broker Permit | 1 | 9,000 | 1 | 7,500 |
| | 2–5 | 5,000 | 2 to 3 | 5,700 |
| | 6 or more | 3,000 | 4 to 5 | 4,500 |
| | | | >5 | 3,200 |

Floor Broker ADV Discount

Footnote 25, which governs rebates on Floor Broker Trading Permits, currently provides that any Floor Broker that executes a certain average of customer or professional customer/voluntary customer (collectively ''customer'') open-outcry contracts per day over the course of a calendar month in all underlying symbols excluding Underlying Symbol List A (except RLG, RLV, RUI, and UKXM), DJX, XSP, and subcabinet trades (''Qualifying Symbols''), will receive a rebate on that TPH's Floor Broker Trading Permit Fees. Specifically, any Floor Broker Trading Permit Holder that executes an average of 15,000 customer (''C'' origin code) and/or professional customer and voluntary customer (''W'' origin code) open-outcry contracts per day over the course of a calendar month in Qualifying Symbols will receive a rebate of $9,000 on that TPH's Floor Broker Trading Permit fees. Additionally, any Floor Broker that executes an average of 25,000 customer open-outcry contracts per day over the course of a calendar month in Qualifying Symbols will receive a rebate of $14,000 on that TPH's Floor Broker Trading Permit fees. The Exchange proposes to maintain, but modify, its discount for Floor Broker Trading Permit fees. First, the measurement criteria to qualify for a rebate will be modified to only include customer (''C'' origin code) open-outcry contracts executed per day over the course of a calendar month in all underlying symbols, while the rebate amount will be modified to be a percentage of the TPH's Floor Broker Permit total costs, instead of a straight rebate.[60] The criteria and corresponding percentage rebates are noted below[61].

| Floor broker ADV discount tier | ADV | Floor broker permit rebate (percent) |
|---|---|---|
| 1 | 0 to 99,999 | 0 |
| 2 | 100,000 to 174,999 | 15 |
| 3 | >174,999 | 25 |

Next, the Exchange proposes to modify its SPX, VIX and RUT Tier Appointment Fees. Currently, these fees are assessed to any Market-Maker TPH that either (i) has the respective SPX, VIX or RUT appointment at any time during a calendar month and trades a specified number of contracts or (ii) trades a specified number of contracts in open outcry during a calendar month. More specifically, the Fees Schedule provides that the $3,000 per month SPX Tier Appointment is assessed to any Market-Maker Trading Permit Holder that either (i) has an SPX Tier Appointment at any time during a calendar month and trades at least 100 SPX contracts while that appointment is active or (ii) conducts any open outcry transaction in SPX or SPX Weeklys at any time during the month. The $2,000 per month VIX Tier Appointment is assessed to any Market-Maker Trading Permit Holder that either (i) has an SPX Tier Appointment at any time during a calendar month and trades at least 100 VIX contracts while that appointment is active or (ii) conducts at least 1000 open outcry transaction in VIX at any time during the month. Lastly, the $1,000 RUT Tier Appointment is assessed to any Market-Maker Trading Permit Holder that either (i) has an RUT Tier Appointment at any time during a calendar month and trades at least 100 RUT contracts while that appointment is active or (ii) conducts at least 1000 open outcry transaction in RUT at any time during the month.

Because the Exchange is separating Market-Maker Trading Permits for electronic and open-outcry market-making, the Exchange will be assessing separate Tier Appointment Fees for each type of Market-Maker Trading Permit. The Exchange proposes that a MM EAP will be assessed the Tier Appointment Fee whenever the Market-Maker executes the corresponding specified number of contracts, if any. The Exchange also proposes to modify the threshold number of contracts a Market-Maker must execute in a month to trigger the fee for SPX, VIX and RUT. Particularly, for SPX, the Exchange proposes to eliminate the 100 contract threshold for electronic SPX executions.[62] The Exchange notes that historically, all TPHs that trade SPX electronically executed more than 100 contracts electronically each month (*i.e.,* no TPH electronically traded between 1 and 100 contracts of SPX). As no TPH would currently be negatively impacted by this change, the Exchange proposes to eliminate the threshold for SPX and align the electronic SPX Tier Appointment Fee with that of the floor SPX Tier Appointment Fee, which is

[60] As is the case today, the Floor Broker ADV Discount will be available for all Floor Broker Trading Permits held by affiliated Trading Permit Holders and TPH organizations.

[61] In light of the proposal to eliminate the TP Sliding Scales and the Floor Broker rebates currently set forth under Footnote 25, the Exchange proposes to eliminate Footnote 25 in its entirety.

[62] The Exchange notes that subsequent to the Original Filing that proposed these changes on October 1 and 2, 2019 (SR–CBOE–2019–077 and SR–CBOE–2019–082), and subsequent to the Second Proposed Rule Change filing that proposed these changes on November 29, 2019 (SR–CBOE–2019–111), the Exchange amended the proposed Market-Maker Tier Appointment fees to provide that the SPX Tier Appointment Fee will be assessed to any Market-Maker EAP that executes at least 1,000 contracts in SPX (including SPXW) excluding contracts executed during the opening rotation on the final settlement date of VIX options and futures with the expiration used in the VIX settlement calculation in filing No. SR–CBOE–2019–124. The additions proposed by filing SR–CBOE–2019–124 are double underlined in Exhibit 5A and the deletions are doubled bracketed in Exhibit 5A.

not subject to any executed volume threshold. For the VIX and RUT Tier appointments, the Exchange proposes to increase the threshold from 100 contracts a month to 1,000 contracts a month. The Exchange notes the Tier Appointment Fee amounts are not changing.[63] In connection with the proposed changes, the Exchange proposes to relocate the Tier Appointment Fees to a new table and eliminate the language in the current respective notes sections of each Tier Appointment Fee as it is no longer necessary.

Trading Permit Holder Regulatory Fee

The Fees Schedule provides for a Trading Permit Holder Regulatory Fee of $90 per month, per RTH Trading Permit, applicable to all TPHs, which fee helps more closely cover the costs of regulating all TPHs and performing regulatory responsibilities. In light of the changes to the Exchange's Trading Permit structure, the Exchange proposes to eliminate the TPH Regulatory Fee. The Exchange notes that there is no regulatory requirement to maintain this fee.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[64] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[65] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[66] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[67] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange first stresses that the proposed changes were not designed with the objective to generate an overall increase in access fee revenue, as demonstrated by the anticipated loss of revenue discussed above. Rather, the proposed changes were prompted by the Exchange's technology migration and the adoption of a new (and improved) connectivity infrastructure, rendering the pre-migration structure obsolete. Such changes accordingly necessitated an overhaul of the Exchange's previous access fee structure and corresponding fees. Moreover, the proposed changes more closely align the Exchange's access fees to those of its Affiliated Exchanges, and reasonably so, as the Affiliated Exchanges offer substantially similar connectivity and functionality and are on the same platform that the Exchange has now migrated to.

The Exchange also notes that it operates in a highly competitive environment. The SEC Division of Trading and Markets' Fee Guidance provides that in determining whether a proposed fee is constrained by significant competitive forces, the Commission will consider whether there are reasonable substitutes for the product or service that is the subject of a proposed fee. As described in further detail below, the Exchange believes substitutable products and services are in fact available to market participants, including, among other things, other options exchanges a market participant may connect to in lieu of the Exchange, indirect connectivity to the Exchange via a third-party reseller of connectivity and/or trading of any options product, including proprietary products, in the Over-the-Counter (OTC) markets. Indeed, there are currently 16 registered options exchanges that trade options, some of which have similar or lower connectivity fees.[68] Based on publicly available information, no single options exchange has more than 15% of the market share.[69] Further, low barriers to entry mean that new exchanges may rapidly and inexpensively enter the market and offer additional substitute platforms to further compete with the Exchange. For example, there have been 4 exchanges that have been added in the U.S. options markets in the last 5 years (*i.e.,* Cboe EDGX Inc., Nasdaq MRX, LLC, MIAX Pearl, LLC and MIAX Emerald LLC).

There is also no regulatory requirement that any market participant connect to any one options exchange, that any market participant connect at a particular connection speed or act in a particular capacity on the Exchange, or trade any particular product offered on an exchange. Moreover, membership is not a requirement to participate on the Exchange. A market participant may submit orders to the Exchange via a TPH broker.[70] Indeed, the Exchange is unaware of any one options exchange whose membership includes every registered broker-dealer. In fact, the Exchange believes that as of June 2020, only 9 broker-dealers out of approximately 250 broker-dealers that are members of at least one exchange that lists options for trading were members of all 16 options exchanges.[71] Additionally, several broker-dealers are members of only a single exchange that lists options for trading.[72] The Exchange has also identified numerous broker-dealers that are members of other options exchanges, but not the Exchange. For example, the Exchange has identified approximately 20 broker-dealers that are members of Nasdaq ISE, LLC (an exchange that lists only options), but not Cboe Exchange, Inc (which also lists only options). Similarly, the Exchange has identified at least 4 broker-dealers that trade options and are members of one or more of the Exchange's affiliated options exchanges, but not Cboe Exchange, Inc. Indeed, the number of members at each exchange that trades options varies greatly. Particularly, the number of members of

[63] Floor Broker Trading Surcharges for SPX/SPXW and VIX are also not changing. The Exchange however, is creating a new table for Floor Broker Trading Surcharges and relocating such fees in the Fees Schedule in connection with the proposal to eliminate fees currently set forth in the ''Trading Permit and Tier Appointment Fees'' Table.

[64] 15 U.S.C. 78f(b).

[65] 15 U.S.C. 78f(b)(5).

[66] 15 U.S.C. 78f(b)(4).

[67] 15 U.S.C. 78f(b)(5).

[68] *See e.g.,* Affiliated Exchange Fee Schedules. *See also e.g.,* BOX Options Fees Schedule, Section VI (Technology Fees) and Section IX (Participant Fees).

[69] *See* Cboe Global Markets U.S. Options Market Volume Summary (August 31, 2020), available at *https://markets.cboe.com/us/options/market_statistics/.*

[70] Such market participant would be subject to the fees of that broker. The Exchange notes that such broker is not required to publicize, let alone justify or file with the Commission its fees, and as such could charge the market participant any fees it deems appropriate, even if such fees would otherwise be considered potentially unreasonable or uncompetitive fees.

[71] *See* SEC June 2020 Active Broker Dealer Report, provided by the SEC Office of Managing Executive on June 4, 2020.

[72] *Id.* Approximately 10 broker-dealers are members of the Cboe Exchange, Inc. only, approximately 7 broker-dealers are members of only Nasdaq PHLX LLC, approximately 3 broker-dealers are members of only NYSE Arca, Inc., and approximately 3 broker-dealers are members of only NYSE American LLC.

exchanges that trade options vary between approximately 9 and 171 broker-dealers.[73] Even the number of members between the Exchange and its 3 other options exchange affiliates vary. Particularly, while the Exchange currently has 94 members, Cboe EDGX and Cboe C2 have 53 members that trade options and Cboe BZX has 63 members that trade options.

The rule structure for options exchanges are also fundamentally different from those of equities exchanges. In particular, options market participants are not forced to connect to (and purchase market data from) all options exchanges. For example, there are many order types that are available in the equities markets that are not utilized in the options markets, which relate to mid-point pricing and pegged pricing which require connection to the SIPs and each of the equities exchanges in order to properly execute those orders in compliance with best execution obligations. Additionally, in the options markets, the linkage routing and trade through protection are handled by the exchanges, not by the individual members. Thus not connecting to an options exchange or disconnecting from an options exchange does not potentially subject a broker-dealer to violate order protection requirements.[74] Gone are the days when the retail brokerage firms (such as Fidelity, Schwab, and eTrade) were members of the options exchanges—they are not members of the Exchange or its affiliates, they do not purchase connectivity to the Exchange, and they do not purchase market data from the Exchange.

The Exchange is also not aware of any reason why any particular market participant could not simply drop its connections and cease being a TPH of the Exchange if the Exchange were to establish ''unreasonable'' and uncompetitive price increases for its connectivity alternatives. As further evidence of the fact that market participants can and do disconnect from exchanges based on connectivity pricing, R2G Services LLC (''R2G'') filed a comment letter after BOX Exchange LLC (''BOX'') proposed rule changes to increase its connectivity fees (SR–BOX–2018–24, SRBOX–2018–37, and SR–BOX–2019–04).[75] The R2G Letter stated, ''[w]hen BOX instituted a $10,000/month price increase for connectivity; we had no choice but to terminate connectivity into them as well as terminate our market data relationship. The cost benefit analysis just didn't make any sense for us at those new levels.'' Accordingly, this example shows that if an exchange sets too high of a fee for connectivity and/or market data services for its relevant marketplace, market participants can choose to disconnect from the Exchange. Moreover, the Exchange does not assess any termination fee for a market participant to drop its connectivity or membership, nor is the Exchange aware of any other costs that would be incurred by a market participant to do so. The Exchange notes that in fact, a number of firms currently do not participate on the Exchange or participate on the Exchange though sponsored access arrangements with other broker-dealers rather than by becoming a member. Additionally, as noted above, only 9 broker-dealers are members of all 16 options exchanges, which the Exchange believes demonstrates that, in addition to the absence of a rule requirement to connect to every option exchange, there is no prevailing business model that would practically require a broker-dealer to connect to every single options exchange.[76]

Additionally, the Exchange notes that non-TPHs such as Service Bureaus and Extranets resell Cboe Options connectivity.[77] This indirect connectivity is another viable alternative for market participants to trade on the Exchange without connecting directly to the Exchange (and thus not pay the Exchange's connectivity fees), which alternative is already being used by non-TPHs and further constrains the price that the Exchange is able to charge for connectivity to its Exchange. The Exchange does not receive any connectivity revenue when connectivity is resold by a third-party, which often is resold to multiple customers, some of whom are agency broker-dealers that have numerous customers of their own.[78] Accordingly, in the event that a market participant views one exchange's direct connectivity and access fees as more or less attractive than the competition, they can choose to connect to that exchange indirectly or may choose not to connect to that exchange and connect instead to one or more of the other 15 options markets. For example, two TPHs that connected directly to the Exchange pre-migration, now connect indirectly via an extranet provider. The Exchange notes that it has not received any comments that, and has no evidence to suggest, the two TPHs that transitioned from direct connections to an indirect connections post-migration were the result of an undue financial burden resulting from the proposed fee changes.[79] Rather, the Exchange believes the transitions demonstrate that indirect connectivity is in fact a viable option for market participants, therefore reflecting a competitive environment.[80] It further demonstrates the manner in which market participants connect to the Exchange is entirely within the discretion of market participants, who can consider the fees charged by the Exchange and by resellers when making decisions.

Additionally, pre-migration, in August 2019, the Exchange had 97

[73] *See* SEC June 2020 Active Broker Dealer Report. More specifically, 1 exchange has 9 members, 4 exchanges have between 36–50 members, 5 exchanges have between 50–100 members, 4 exchanges have between 100–150 members and 2 exchanges have more than 150 members. The Exchange notes however that some of these exchanges also trade equities and the Exchange is therefore unable to determine how many members at each exchange trade options.

[74] The Exchange notes this discussion is consistent with the Fee Guidance suggestion that any discussion of alternatives should ''include a discussion of how regulatory requirements, particularly best execution obligations, Regulation NMS Rule 611 (the Order Protection Rule), and/or the Options Order Protection and Locked/Crossed Market Plan (Options Linkage Plan), as applicable, affect the competitive analysis.''

[75] See Letter from Stefano Durdic, R2G, to Vanessa Countryman, Acting Secretary, Commission, dated March 27, 2019 (the ''R2G Letter'').

[76] The Exchange further notes that these 9 broker-dealers represent different market participants. Particularly, 5 of these broker-dealers are bulge bracket banks (of which 1 is also a market-maker), 2 are brokerage firms and 2 are clearing firms.

[77] Prior to migration, there were 13 firms that resold Cboe Options connectivity. Post-migration, the Exchange anticipated that there would be 19 firms that resell Cboe Options connectivity (both physical and logical) and as of January 2020 there are 15 firms that resell Cboe Options connectivity. The Exchange does not have specific knowledge as to what latency a market participant may experience using an indirect connection versus a direct connection and notes it may vary by the service provided by the extranet provider and vary between extranet providers. The Exchange believes however, that there are extranet providers able to provide connections with a latency that is comparable to latency experienced using a direct connection.

[78] The Exchange notes that resellers are not required to publicize, let alone justify or file with the Commission their fees, and as such could charge the market participant any fees it deems appropriate (including connectivity fees higher than the Exchange's connectivity fees), even if such fees would otherwise be considered potentially unreasonable or uncompetitive fees.

[79] The Exchange notes that TPHs are not required to specify to the Exchange why it opts to no longer be a TPH, or why it cancels its ports, nor is a non-TPH market participating required to specify to the Exchange why it opts to not be a TPH and directly connect to the Exchange.

[80] As shown above, the availability of 15 alternative options exchanges in addition to the viable option of indirect connectivity demonstrates that substitute connectivity products and services do exist supporting the assertion the proposed fees are constrained by competitive forces.

members (TPH organizations), of which nearly half connected indirectly to the Exchange.[81] Similarly, in December 2019, after a new broker-dealer became a member of the Exchange in late November 2019,[82] the Exchange had 97 members, of which nearly half of the participants connected indirectly to the Exchange. More specifically, in December 2019, 47 TPHs connected directly to the Exchange and accounted for approximately 66% of the Exchange's volume, 46 TPHs connected indirectly to the Exchange and accounted for approximately 29% of the Exchange's volume and 4 TPHs utilized both direct and indirect connections and accounted for approximately 5% of the Exchange's volume. In December 2019, TPHs that connected directly to the Exchange purchased a collective 179 physical ports (including legacy physical ports), 144 of which were 10 Gb ports and 35 of which were 1 Gb ports.[83] The Exchange notes that of those market participants that do connect to the Exchange, it is the individual needs of each market participant that determine the amount and type of Trading Permits and physical and logical connections to the Exchange.[84] With respect to physical connectivity, many TPHs were able to purchase small quantities of physical ports. For example, approximately 36% of TPHs that connected directly to the Exchange purchased only one to two 1 Gb ports, approximately 40% purchased only one to two 10 Gb ports, and approximately 40% had purchased a combined total of one to two ports (for both 1 Gb and 10 Gb). Further, no TPHs that connected directly to the Exchange had more than five 1 Gb ports, and only 8.5% of TPHs that connected directly to the Exchange had between six and ten 10 GB ports and only 8.5% had between ten and fourteen 10 Gb ports. There were also a combined total of 41 ports used for indirect connectivity (twenty-one 1 Gb ports and twenty 10 Gb ports).[85] The Exchange notes that all types of members connected indirectly to the Exchange including Clearing firms, Floor Brokers, order flow providers, and on-floor and off-floor Market-Makers, further reflecting the fact that each type of market participant has the option to participate on an exchange without direct connectivity. Indeed, market participants choose if and how to connect to a particular exchange and because it is a choice, the Exchange must set reasonable connectivity pricing, otherwise prospective members would not connect and existing members would disconnect or connect through a third-party reseller of connectivity.

Moreover, the Exchange notes that the Commission itself has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Particularly, 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.'' [86] The number of available exchanges to connect to ensures increased competition in the marketplace, and constrains the ability of exchanges to charge supracompetitive fees for access to its market. The Exchange is also not aware of any evidence that has been offered or demonstrated that a market share of approximately 15% provides the Exchange with anti-competitive pricing power. Additionally, the Exchange notes that its affiliated options exchanges have substantially similar physical and logical connectivity fees, notwithstanding a much lower market share ranging from approximately 2.5%–9%.[87] As discussed, if an exchange sets too high of a fee for connectivity and/or market data services for its relevant marketplace, market participants can choose to disconnect from the Exchange.

The Exchange also believes that competition in the marketplace constrains the ability of exchanges to charge supracompetitive fees for access to its market, even if such market, like the Exchange, offers proprietary products exclusive to that market. Notably, just as there is no regulatory requirement to become a member of any one options exchange, there is also no regulatory requirement for any market participant to trade any particular product, nor is there any requirement that any Exchange create or indefinitely maintain any particular product.[88] The Exchange also highlights that market participants may trade an Exchange's proprietary products through a third-party without directly or indirectly connecting to the Exchange. Additionally, market participants may trade any options product, including proprietary products, in the unregulated Over-the-Counter (OTC) markets for which there is no requirement for fees related to those markets to be public. Given the benefits offered by trading options on a listed exchange, such as increased market transparency and heightened contra-party creditworthiness due to the role of the Options Clearing Corporation as issuer and guarantor, the Exchange generally seeks to incentivize market participants to trade options on an exchange, which further constrains connectivity pricing. Market participants may also access other exchanges to trade other similar or competing proprietary or multi-listed products. Alternative products to the Exchange's proprietary products may include other options products, including options on ETFs or options futures, as well as particular ETFs or futures. For example, exclusively listed SPX options may compete with the following products traded on other markets: multiply-listed SPY options (options on the ETF), E-mini S&P 500 Options (options on futures), and E-Mini S&P 500 futures (futures on index). Additionally, exclusively listed VIX options may compete with the following products traded on other markets: multiply-listed VXX options (options on the ETF) and exclusively listed SPIKES options on the Miami International

[81] The Exchange notes that one firm terminated in late September 2019, but that it believes it was unrelated to the migration and the proposed fee changes.

[82] In February 2020, such member also became a member of the Exchange's affiliated options exchanges, which have similar physical and logical connectivity fees to the proposed fees in this filing.

[83] Of the 4 TPHs that connected both directly and indirectly to the Exchange, 1 TPH had two 1 Gb Ports and the remaining 3 TPHs had a combined total of six 10 Gb ports.

[84] To assist market participants that are connected or considering connecting to the Exchange, the Exchange provides detailed information and specifications about its available connectivity alternatives in the Cboe C1 Options Exchange Connectivity Manual, as well as the various technical specifications. *See http://markets.cboe.com/us/options/support/technical/.*

[85] The Exchange notes that it does not know how many, and which kind of, connections each TPH that indirectly connects to the Exchange has.

[86] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[87] *See* Cboe Global Markets U.S. Options Market Volume Summary (August 31, 2020), available at *https://markets.cboe.com/us/options/market_statistics/.*

[88] If an option class is open for trading on another national securities exchange, the Exchange may delist such option class immediately. For proprietary products, the Exchange may determine to not open for trading any additional series in that option class; may restrict series with open interest to closing transactions, provided that, opening transactions by Market-Makers executed to accommodate closing transactions of other market participants and opening transactions by TPH organizations to facilitate the closing transactions of public customers executed as crosses pursuant to and in accordance with Rule 6.74(b) or (d) may be permitted; and may delist the option class when all series within that class have expired. *See* Cboe Rule 4.4, Interpretations and Policies .11.

Securities Exchange, LLC (''MIAX'').[89] Other options exchanges are also not precluded from creating new proprietary products that may achieve similar objectives to (and therefore compete with) the Exchange's existing proprietary products. For example, Nasdaq PHLX exclusively lists options on the Nasdaq-100, which options, like index options listed on the Exchange, offer investors an alternative method to manage and hedge portfolio exposure to the U.S. equity markets. Indeed, even though exclusively listed proprietary products may not be offered by competitors, a competitor could create similar products if demand were adequate. As noted above for example, MIAX created its exclusive product SPIKES specifically to compete against VIX options.[90] In connection with a recently proposed amendment to the National Market System Plan Governing the Consolidated Audit Trail (''CAT NMS Plan''),[91] the Commission discussed the existence of competition in the marketplace generally, and particularly for exchanges with unique business models. Specifically, the Commission contemplated the possibility of a forced exit by an exchange as a result of a proposed amendment that could reduce the amount of CAT funding a participant could recover if certain implementation milestones were missed. The Commission acknowledged that, even if an exchange were to exit the marketplace due to its proposed fee-related change, it would not significantly impact competition in the market for exchange trading services because these markets are served by multiple competitors.[92] The Commission explicitly stated that ''[c]onsequently, demand for these services in the event of the exit of a competitor is likely to be swiftly met by existing competitors.'' [93] The Commission further recognized that while some exchanges may have a unique business model that is not currently offered by competitors, a competitor could create similar business models if demand were adequate, and if they did not do so, the Commission believes it would be likely that new entrants would do so if the exchange with that unique business model was otherwise profitable.[94] Similarly, although the Exchange may have proprietary products not offered by other competitors, not unlike unique business models, a competitor could create similar products to an existing proprietary product if demand were adequate. As noted above, other exchanges, that have comparable connectivity fees, also currently offer exclusively listed products.[95] As such, the Exchange is still very much subject to competition and does not possess anti-competitive pricing power, even with its offering of proprietary products. Rather, the Exchange must still set reasonable connectivity pricing, otherwise prospective members would not connect, and existing members would disconnect or connect through a third-party reseller of connectivity, regardless of what products its offers.

For all the reasons discussed above, the Exchange believes its proposed fees are reasonable and that the Exchange was subject to significant competitive forces in setting its proposed fees. In addition, the Exchange believes its proposed fees are reasonable in light of the numerous benefits the new connectivity infrastructure provides market participants. As described, the post-migration connectivity architecture provides for a latency equalized infrastructure, improved system performance, and increased sustained order and quote per second capacity. As such, even where a fee for a particular type or kind of connectivity may be higher than it was to its pre-migration equivalent, such increase is reasonable given the increased benefits market participants are getting for a similar or modestly higher price. Moreover, as noted above, the objective of the proposed fee changes was not to generate an overall increase in access fee revenue, but rather adopt fees in connection with a new (and improved) connectivity infrastructure. Indeed, the Exchange tried to the best of its ability to approximate the overall connectivity revenue generated by the Exchange's pre-migration fees. Notably, the Exchange's pre-migration access fees were previously filed with the Commission and not suspended nor disapproved.[96] The Exchange further believes that the reasonableness of its proposed connectivity fees is demonstrated by the very fact that such fees are in line with, and in some cases lower than, the costs of connectivity at other Exchanges,[97] including its own affiliated exchanges which have the same connectivity infrastructure as the Exchange currently does since migration.[98] The Exchange notes these fees were similarly filed with the Commission and not suspended nor disapproved.[99]

[89] MIAX has described SPIKES options as ''designed specifically to compete head-to-head against Cboe's proprietary VIX® product.'' *See* MIAX Press Release, *SPIKES Options Launched on MIAX,* February 21, 2019, *available at https://www.miaxoptions.com/sites/default/files/press_release-files/MIAX_Press_Release_02212019.pdf.*

[90] *Id.*

[91] *See* Securities Exchange Act Release No. 86901 (September 9, 2019), 84 FR 48458 (September 13, 2019) (File No. S7–13–19).

[92] *Id.*

[93] *Id.*

[94] *Id.*

[95] *See e.g.,* Nasdaq PHLX LLC Rules, (Options 7 Pricing Schedule), Section 8A (Permit and Registration Fees) which provide for floor permit fees between $4,000 to $6,000 per permit and Section 9B (Port Fees), which provides various port fees ranging from $500 to $1,250 per port. *See also* Nasdaq PHLX LLC Rules, General 8 Connectivity, which provides for monthly physical connectivity fees including fees for 1 Gb physical connections priced at $2,500 per port and for 10 Gb physical connections starting at $10,000 per port and *see* MIAX Options Fees Schedule, Section 3b (Membership Fees, Monthly Trading Permit Fee), which provides for trading permit fees ranging from $1,500 to $22,000 per permit (which may include market-maker appointment costs) and Section 5 (System Connectivity Fees) which provides for monthly physical connectivity fees including fees for 1 Gb physical connections priced at $1,400 per port and for 10 Gb physical connections priced at $6,100 per port.

[96] Although the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the ''Dodd-Frank Act'') amended 19(b) of the Exchange Act to provide that SROs' fee changes become immediately effective on filing, the legislative history makes clear that while Congress intended to streamline SROs' rule filing procedures, the proposed change did not ''[diminish ]the SEC's authority to reject an improperly filed rule, disapprove a rule that is not consistent with the Exchange Act or [diminish] the applicable public notice and comment period.'' *See* S. Rep 111–176, at 106 (2010). The Commission therefore had every right to pursue a suspension and disapproval order of prior rule filings that adopted or amended connectivity fees that were in place prior to the migration if it had believed any proposed fees in those rule filings were not consistent with the Exchange Act. Additionally, the Commission did not request additional data or discussion in connection with prior rule filings regarding connectivity fees, as it has with respect to the proposed fees in this filing (and its previous versions). In the absence of such an order, the Exchange presumes that its pre-migration fees were reasonable and consistent with the Exchange Act.

[97] *See e.g.,* Nasdaq PHLX and ISE Rules, General Equity and Options Rules, General 8. Phlx and ISE each charge a monthly fee of $2,500 for each 1Gb connection, $10,000 for each 10Gb connection and $15,000 for each 10Gb Ultra connection. *See also* Nasdaq Price List—Trading Connectivity. Nasdaq charges a monthly fee of $7,500 for each 10Gb direct connection to Nasdaq and $2,500 for each direct connection that supports up to 1Gb. *See also* NYSE American Fee Schedule, Section V.B, and Arca Fees and Charges, Co-Location Fees. NYSE American and Arca each charge a monthly fee of $5,000 for each 1Gb circuit, $14,000 for each 10Gb circuit and $22,000 for each 10Gb LX circuit.

[98] *See e.g.,* Affiliated Exchange Fee Schedules, Physical Connectivity Fees. For example, Cboe BZX, Cboe EDGX and C2 each charge a monthly fee of $2,500 for each 1Gb connection and $7,500 for each 10Gb connection.

[99] For the same reason noted above, the Exchange presumes that the fees of other exchanges, including its affiliates, are reasonable, as required by the Exchange Act in the absence of any suspension or disapproval order by the Commission providing otherwise. The Exchange highlights the Exchange's affiliate C2 similarly underwent a migration of its trading platform to the same trading platform to which the Exchange migrated, overhauling its connectivity structure and adopting

Furthermore, in determining the proposed fee changes discussed above, the Exchange reviewed the current competitive landscape, considered the fees historically paid by market participants for connectivity to the pre-migration system, and also assessed the impact on market participants to ensure that the proposed fees would not create an undue financial burden on any market participants, including smaller market participants. Indeed, the Exchange received no comments from any TPH suggesting they were unduly burdened by the proposed changes described herein, which were first announced via Exchange Notice nearly two months in advance of the migration (*i.e.,* now over one year ago),[100] nor were any timely comment letters received by the Commission by the comment period submission deadline of November 12, 2019. The Exchange also underscores the fact that no comment letters were received in response to its Second, Third or Fifth Proposed Rule Change, nor its most recent Sixth Proposed Rule Change [sic], and that no individual market participant has provided any written comments specifically suggesting that the Exchange has failed to provide sufficient information in the Original Second, Third, Fourth, Fifth, or Sixth Proposed Rule Change to meets its burden to demonstrate its proposed fees are consistent with the requirements of the Exchange Act. Importantly, as noted above, the Exchange did recently receive *positive* comment letters from three of its members, all of which expressed their support for the proposed fees; noting the belief that the fees were reasonable and encouraging the Commission to allow the fees to remain effective.[101]

Furthermore, the Exchange wishes to highlight that two market participants have in fact expanded their connectivity footprint since the implementation of the proposed fee changes. One of those market participants was a TPH that had discussed terminating its membership from the Exchange altogether prior to migration. However, after that TPH reviewed the notice the Exchange issued describing the proposed post-migration fees, the TPH relayed to the Exchange that it would instead remain a member and add logical connectivity in light of the cost savings it expected to realize due to the proposed changes. The Exchange believes this further demonstrates competition within the market for exchange connectivity, which as a result constrains fees the Exchange may charge for that connectivity. Another TPH, that prior to migration acted only as a proprietary trading firm, added the trading function as a Market-Maker on the Exchange (which required the purchase of additional trading permits and connectivity). The Exchange also notes that since migration, one TPH terminated its membership with the Exchange but retained its membership with 10 other SROs.[102] The Exchange believes the fact that it lost only one TPH in the past eleven months demonstrates the proposed fees are appropriate and reasonable and not unduly burdensome. While the TPH that did terminate did not specify to the Exchange why it ended its membership, if it had in fact determined that the Exchange's proposed connectivity fees did not make business sense for itself, for all the reasons discussed above, it was free to leave the Exchange at no cost and retain its membership with other SROs and/or pursue new memberships.

The proposed connectivity structure and corresponding fees, like the pre-migration connectivity structure and fees, continue to provide market participants flexibility with respect to how to connect to the Exchange based on each market participants' respective business needs. For example, the amount and type of physical and logical ports are determined by factors relevant and specific to each market participant, including its business model, costs of connectivity, how its business is segmented and allocated and volume of messages sent to the Exchange. Moreover, the Exchange notes that it does not have unlimited system capacity to support an unlimited number of order and quote entry per second. Accordingly, the proposed connectivity fees, and connectivity structure are designed to encourage market participants to be efficient with their respective physical and logical port usage. While the Exchange has no way of predicting with certainty the amount or type of connections market participants will in fact purchase, if any, the Exchange anticipates that like today, some market participants will continue to decline to connect and participate on the Exchange, some will participate on the Exchange via indirect connectivity, some will only purchase one physical connection and/or logical port connection, and others will purchase multiple connections.

In sum, the Exchange believes the proposed fees are reasonable and reflect a competitive environment, as the Exchange seeks to amend its access fees in connection with the migration of its technology platform, while still attracting market participants to continue to be, or become, connected to the Exchange.

Physical Ports

The Exchange believes increasing the fee for the new 10 Gb Physical Port is reasonable because unlike, the current 10 Gb Network Access Ports, the new Physical Ports provides a connection through a latency equalized infrastructure with faster switches and also allows access to both unicast order entry and multicast market data with a single physical connection. As discussed above, legacy Network Access Ports do not permit market participants to receive unicast and multicast connectivity. As such, in order to receive both connectivity types pre-migration, a market participant needed to purchase and maintain at least two 10 Gb Network Access Ports. The proposed Physical Ports not only provide latency equalization (*i.e.,* eliminate latency advantages between market participants based on location) as compared to the legacy ports, but also alleviate the need to pay for two physical ports as a result

similar connectivity fees under similar circumstances as those proposed herein. *See* Securities Exchange Act Release No. 83201 (May 9, 2018), 83 FR 22546 (May 15, 2018) (SR–C2–2018–006). While the Commission had the opportunity to suspend that proposed rule change and institute proceedings to determine whether that proposed rule change should be approved or disapproved if the Commission believed C2 failed to meet its burden to demonstrate its proposal was reasonable, equitable and not unfairly discriminatory, it declined to do so. Additionally, the Exchange notes the Commission did not repeatedly request data regarding the proposed C2 connectivity fees as it has in connection with the Exchange's proposed migration fees. The Exchange lastly notes that the C2 migration filing was filed subsequent to the D.C. Circuit decision in *Susquehanna Int'l Grp., LLC* v. *SEC,* 866 F.3d 442 (D.C. Cir. 2017), meaning that such filing was subject to the same (and current) standard for SEC review and approval of rule change filings submitted by exchanges as this filing is subject to.

[100] *See* Exchange Notice ''Cboe Options Exchange Access and Capacity Fee Schedule Changes Effective October 1, 2019 and November 1, 2019'' Reference ID C2019081900.

[101] *See* Letters from Steve Crutchfield, Head of Market Structure, Chicago Trading Company (''CTC'') and William Ellington, Managing Member/CEO, X-Change Financial Access (''XFA'') to Vanessa Countryman, Secretary, Commission, dated August 27, 2020. *See also* Letter from Lakeshore Securities to Vanessa Countryman, Secretary, Commission, dated August 31, 2020.

[102] Two other Trading Permit Holders also terminated their respective memberships in the first quarter of 2020. The Exchange notes, however, that one TPH consolidated its membership with an affiliate and another TPH no longer appears to be a registered broker-dealer. Additionally, in the second quarter, another TPH terminated its membership with the Exchange but similarly merged its business with another TPH. Lastly, in August 2020, a TPH terminated its membership with the Exchange, along with all of its other SRO memberships as well.

of needing unicast and multicast connectivity. Accordingly, market participants who historically had to purchase two separate ports for each of multicast and unicast activity, will be able to purchase only one port, and consequently pay lower fees overall. For example, pre-migration if a TPH had two 10 Gb legacy Network Access Ports, one of which received unicast traffic and the other of which received multicast traffic, that TPH would have been assessed $10,000 per month ($5,000 per port). Under the proposed rule change, using the new Physical Ports, that TPH has the option of utilizing one single port, instead of two ports, to receive both unicast and multicast traffic, therefore paying only $7,000 per month for a port that provides both connectivity types. The Exchange notes that pre-migration, approximately 50% of TPHs maintained two or more 10 Gb Network Access Ports. While the Exchange has no way of predicting with certainty the amount or type of connections market participants will in fact purchase post-migration, the Exchange anticipated approximately 50% of the TPHs with two or more 10 Gb Network Access Ports to reduce the number of 10 Gb Physical Ports that they purchase and expected the remaining 50% of TPHs to maintain their current 10 Gb Physical Ports, but reduce the number of 1 Gb Physical Ports. Particularly, pre-migration, a number of TPHs maintained two 10 Gb Network Access Ports to receive multicast data and two 1 Gb Network Access Ports for order entry (unicast connectivity). As the new 10 Gb Physical Ports are able to accommodate unicast connectivity (order entry), TPHs may choose to eliminate their 1 Gb Network Access Ports and utilize the new 10 Gb Physical Ports for both multicast and unicast connectivity. The Exchange notes that in February 2020, approximately 78% of TPHs that maintained a 1 Gb Network Access Port pre-migration, no longer maintained a 1 Gb Physical Port. Additionally, as of February 2020, approximately 44% reduced the quantity of 10 Gb Physical Ports they maintained as compared to pre-migration.

As discussed above, if a TPH deems a particular exchange as charging excessive fees for connectivity, such market participants may opt to terminate their connectivity arrangements with that exchange, and adopt a possible range of alternative strategies, including routing to the applicable exchange through another participant or market center or taking that exchange's data indirectly. Accordingly, if the Exchange charges excessive fees, it would stand to lose not only connectivity revenues but also revenues associated with the execution of orders routed to it, and, to the extent applicable, market data revenues. The Exchange believes that this competitive dynamic imposes powerful restraints on the ability of any exchange to charge unreasonable fees for physical connectivity. The Exchange also notes that the proposal represents an equitable allocation of reasonable dues, fees and other charges as its fees for physical connectivity are reasonably constrained by competitive alternatives, as discussed above. The proposed amounts are in line with, and in some cases lower than, the costs of physical connectivity at other Exchanges,[103] including the Cboe Affiliated Exchanges, which have the same connectivity infrastructure the Exchange has migrated to and some of which also offer exclusive products.[104] The Exchange does not believe it is unreasonable to assess fees that are in line with fees that have already been established for the same physical ports used to connect to the same connectivity infrastructure and common platform. The Exchange believes the proposed Physical Port fees are equitable and not unreasonably discriminatory as the connectivity pricing is associated with relative usage of the various market participants (including smaller participants) and the Exchange has not been presented with any evidence to suggest its proposed fee changes would impose a barrier to entry for participants, including smaller participants. In fact, as noted above, the Exchange is unaware of any market participant that has terminated direct connectivity solely as a result of the proposed fee changes. The Exchange also believes increasing the fee for 10 Gb Physical Ports and charging a higher fee as compared to the 1 Gb Physical Port is equitable as the 1 Gb Physical Port is 1/10th the size of the 10 Gb Physical Port and therefore does not offer access to many of the products and services offered by the Exchange (*e.g.,* ability to receive certain market data products). Thus the value of the 1 Gb alternative is lower than the value of the 10 Gb alternative, when measured based on the type of Exchange access it offers. Moreover, market participants that purchase 10 Gb Physical Ports utilize the most bandwidth and therefore consume the most resources from the network. As such, the Exchange believes the proposed fees for the 1 and 10 Gb Physical Ports, respectively are reasonably and appropriately allocated.

Data Port Fees

The Exchange believes assessing the data port fee per data source, instead of per port, is reasonable because it may allow for market participants to maintain more ports at a lower cost and applies uniformly to all market participants. The Exchange believes the proposed increase is reasonable because, as noted above, market participants may pay lower fees as a result of charging per data source and not per data port. Indeed, while the Exchange has no way of predicting with certainty the impact of the proposed changes, the Exchange had anticipated approximately 76% of the 51 market participants who pay data port fees to pay the same or lower fees upon implementation of the proposed change. As of December 2019, 46 market participants[105] pay the proposed data port fees, of which approximately 78% market participants are paying the same or lower fees in connection with the proposed change. Monthly savings for firms paying lower fees range from $500 to $6,000 per month. The Exchange also anticipated that 19% of TPHs who pay data port fees would pay a modest increase of only $500 per month. In December 2019, approximately 22% market participants paid higher fees, with the majority of those market participants paying a modest monthly increase of $500 and only 3 firms paying either $1,000 or $1,500 more per month. Additionally, as discussed above, the Exchange's affiliate C2 has the same fee which is also assessed at the proposed rate and assessed by data source instead of per port. The proposed name change is also appropriate in light of the Exchange's proposed changes and may alleviate potential confusion.

[103] *See e.g.,* Nasdaq PHLX and ISE Rules, General Equity and Options Rules, General 8. Phlx and ISE each charge a monthly fee of $2,500 for each 1Gb connection, $10,000 for each 10Gb connection and $15,000 for each 10Gb Ultra connection. *See also* Nasdaq Price List—Trading Connectivity. Nasdaq charges a monthly fee of $7,500 for each 10Gb direct connection to Nasdaq and $2,500 for each direct connection that supports up to 1Gb. *See also* NYSE American Fee Schedule, Section V.B, and Arca Fees and Charges, Co-Location Fees. NYSE American and Arca each charge a monthly fee of $5,000 for each 1Gb circuit, $14,000 for each 10Gb circuit and $22,000 for each 10Gb LX circuit.

[104] *See e.g.,* Affiliated Exchange Fee Schedules, Physical Connectivity Fees. For example, Cboe BZX, Cboe EDGX and C2 each charge a monthly fee of $2,500 for each 1Gb connection and $7,500 for each 10Gb connection.

[105] The Exchange notes the reduction in market participants that pay the data port fee is due to firm consolidations and acquisitions.

Logical Connectivity

Port fees

The Exchange believes it's reasonable to eliminate certain fees associated with legacy options for connecting to the Exchange and to replace them with fees associated with new options for connecting to the Exchange that are similar to those offered at its Affiliated Exchanges. In particular, the Exchange believes it's reasonable to no longer assess fees for CMI and FIX Login IDs because the Login IDs were retired and rendered obsolete upon migration and because the Exchange is proposing to replace them with fees associated with the new logical connectivity options. The Exchange believes that it is reasonable to harmonize the Exchange's logical connectivity options and corresponding connectivity fees now that the Exchange is on a common platform as its Affiliated Exchanges. Additionally, the Exchange notes the proposed fees are the same as, or in line with, the fees assessed on its Affiliated Exchanges for similar connectivity.[106] The proposed logical connectivity fees are also equitable and not unfairly discriminatory because the Exchange will apply the same fees to all market participants that use the same respective connectivity options.

The Exchange believes the proposed Logical Port fees are reasonable as it is the same fee for Drop Ports and the first five BOE/FIX Ports that is assessed for CMI and FIX Logins, which the Exchange is eliminating in lieu of logical ports. Additionally, while the proposed ports will be assessed the same monthly fees as current CMI/FIX Login IDs, the proposed logical ports provide for significantly more message traffic. Specifically, the proposed BOE/FIX Logical Ports will provide for 3 times the amount of quoting[107] capacity and approximately 165 times order entry capacity. Similarly, the Exchange believes the proposed BOE Bulk Port fees are reasonable because while the fees are higher than the CMI and FIX Login Id fees and the proposed Logical Port fees, BOE Bulk Ports offer significantly more bandwidth capacity than both CMI and FIX Login Ids and Logical Ports. Particularly, a single BOE Bulk Port offers 45 times the amount of quoting bandwidth than CMI/FIX Login Ids[108] and 5 times the amount of quoting bandwidth than Logical Ports will offer. Additionally, the Exchange believes that its fees for logical connectivity are reasonable, equitable, and not unfairly discriminatory as they are designed to ensure that firms that use the most capacity pay for that capacity, rather than placing that burden on market participants that have more modest needs. Although the Exchange charges a ''per port'' fee for logical connectivity, it notes that this fee is in effect a capacity fee as each FIX, BOE or BOE Bulk port used for order/quote entry supports a specified capacity (*i.e.,* messages per second) in the matching engine, and firms purchase additional logical ports when they require more capacity due to their business needs.

An obvious driver for a market participant's decision to purchase multiple ports will be their desire to send or receive additional levels of message traffic in some manner, either by increasing their total amount of message capacity available, or by segregating order flow for different trading desks and clients to avoid latency sensitive applications from competing for a single thread of resources. For example, a TPH may purchase one or more ports for its market making business based on the amount of message traffic needed to support that business, and then purchase separate ports for proprietary trading or customer facing businesses so that those businesses have their own distinct connection, allowing the firm to send multiple messages into the Exchange's trading system in parallel rather than sequentially. Some TPHs that provide direct market access to their customers may also choose to purchase separate ports for different clients as a service for latency sensitive customers that desire the lowest possible latency to improve trading performance. Thus, while a smaller TPH that demands more limited message traffic may connect through a service bureau or other service provider, or may choose to purchase one or two logical ports that are billed at a rate of $750 per month each, a larger market participant with a substantial and diversified U.S. options business may opt to purchase additional ports to support both the volume and types of activity that they conduct on the Exchange. While the Exchange has no way of predicting with certainty the amount or type of logical ports market participants will in fact purchase post-migration, the Exchange anticipated approximately 16% of TPHs to purchase one to two logical ports, and approximately 22% of TPHs to not purchase any logical ports. In December 2019, 13% of TPHs purchased one to two logical ports and 27% have not purchased any logical ports. At the same time, market participants that desire more total capacity due to their business needs, or that wish to segregate order flow by purchasing separate capacity allocations to reduce latency or for other operational reasons, would be permitted to choose to purchase such additional capacity at the same marginal cost. The Exchange believes the proposal to assess an additional Logical and BOE Bulk port fee for incremental usage per logical port is reasonable because the proposed fees are modestly higher than the proposed Logical Port and BOE Bulk fees and encourage users to mitigate message traffic as necessary. The Exchange notes one of its Affiliated Exchanges has similar implied port fees.[109]

In sum, the Exchange believes that the proposed BOE/FIX Logical Port and BOE Bulk Port fees are appropriate as these fees would ensure that market participants continue to pay for the amount of capacity that they request, and the market participants that pay the most are the ones that demand the most resources from the Exchange. The Exchange also believes that its logical connectivity fees are aligned with the goals of the Commission in facilitating a competitive market for all firms that trade on the Exchange and of ensuring that critical market infrastructure has ''levels of capacity, integrity, resiliency, availability, and security adequate to maintain their operational capability and promote the maintenance of fair and orderly markets.''[110]

The Exchange believes waiving the FIX/BOE Logical Port fee for one FIX Logical Port used to access PULSe and Silexx (for FLEX Trading) is reasonable because it will allow all TPHs using PULSe and Silexx to avoid having to pay a fee that they would otherwise have to pay. The waiver is equitable and not unfairly discriminatory because TPHs using PULSe are already subject to a monthly fee for the PULSe Workstation, which the Exchange views as inclusive of fees to access the Exchange. Moreover, while PULSe users today do not require a FIX/CMI Login Id, post-migration, due to changes to the connectivity infrastructure, PULSe users will be required to maintain a FIX Logical Port and as such incur a fee they previously would not have been subject to. Similarly, the Exchange believes that the waiver for Silexx (for FLEX trading)

[106] *See* Affiliated Exchange Fee Schedules, Logical Port Fees.

[107] Based on the purchase of a single Market-Maker Trading Permit or Bandwidth Packet.

[108] Based on the purchase of a single Market-Maker Trading Permit or Bandwidth Packet.

[109] *See e.g.,* Cboe C2 Options Exchange Fees Schedule, Logical Connectivity Fees.

[110] *See* Securities Exchange Act Release No. 73639 (November 19, 2014), 79 FR 72251 (December 5, 2014) (File No. S7–01–13) (Regulation SCI Adopting Release).

will encourage TPHs to transact business using FLEX Options using the new Silexx System and encourage trading of FLEX Options. Additionally, the Exchange notes that it currently waives the Login Id fees for Login IDs used to access the CFLEX system.

The Exchange believes its proposed fee for Purge Ports is reasonable as it is also in line with the amount assessed for purge ports offered by its Affiliated Exchanges, as well as other exchanges.[111] Moreover, the Exchange believes that offering purge port functionality at the Exchange level promotes robust risk management across the industry, and thereby facilitates investor protection. Some market participants, and, in particular, larger firms, could build similar risk functionality on their trading systems that permit the flexible cancellation of orders entered on the Exchange. Offering Exchange level protections however, ensures that such functionality is widely available to all firms, including smaller firms that may otherwise not be willing to incur the costs and development work necessary to support their own customized mass cancel functionality. The Exchange operates in a highly competitive market in which exchanges offer connectivity and related services as a means to facilitate the trading activities of TPHs and other participants. As the proposed Purge Ports provide voluntary risk management functionality, excessive fees would simply serve to reduce demand for this optional product. The Exchange also believes that the proposed Purge Port fees are not unfairly discriminatory because they will apply uniformly to all TPHs that choose to use dedicated Purge Ports. The proposed Purge Ports are completely voluntary and, as they relate solely to optional risk management functionality, no TPH is required or under any regulatory obligation to utilize them. The Exchange believes that adopting separate fees for these ports ensures that the associated costs are borne exclusively by TPHs that determine to use them based on their business needs, including Market-Makers or similarly situated market participants. Similar to Purge Ports, Spin and GRP Ports are optional products that provide an alternative means for market participants to receive multicast data and request and receive a retransmission of such data. As such excessive fees would simply serve to reduce demand for these products, which TPHs are under no regulatory obligation to utilize. All TPHs that voluntarily select these service options (*i.e.,* Purge Ports, Spin Ports or GRP Ports) will be charged the same amount for the same respective services. All TPHs have the option to select any connectivity option, and there is no differentiation among TPHs with regard to the fees charged for the services offered by the Exchange.

Access Credits

The Exchange believes the proposal to adopt credits for BOE Bulk Ports is reasonable, equitable and not unfairly discriminatory because it provides an opportunity for TPHs to pay lower fees for logical connectivity. The Exchange notes that the proposed credits are in lieu of the current credits that Market-Makers are eligible to receive today for Trading Permits fees. Although only Market-Makers may receive the proposed BOE Bulk Port credits, Market-Makers are valuable market participants that provide liquidity in the marketplace and incur costs that other market participants do not incur. For example, Market-Makers have a number of obligations, including quoting obligations and fees associated with appointments that other market participants do not have. The Exchange also believes that the proposals provide incremental incentives for TPHs to strive for the higher tier levels, which provide increasingly higher benefits for satisfying increasingly more stringent criteria, including criteria to provide more liquidity to the Exchange. The Exchange believes the value of the proposed credits is commensurate with the difficulty to achieve the corresponding tier thresholds of each program.

First, the Exchange believes the proposed BOE Bulk Port fee credits provided under AVP will incentivize the routing of orders to the Exchange by TPHs that have both Market-Maker and agency operations, as well as incent Market-Makers to continue to provide critical liquidity notwithstanding the costs incurred with being a Market-Maker. More specifically, in the options industry, many options orders are routed by consolidators, which are firms that have both order router and Market-Maker operations. The Exchange is aware not only of the importance of providing credits on the order routing side in order to encourage the submission of orders, but also of the operations costs on the Market-Maker side. The Exchange believes the proposed change to AVP continues to allow the Exchange to provide relief to the Market-Maker side via the credits, albeit credits on BOE Bulk Port fees instead of Trading Permit fees. Additionally, the proposed credits may incentivize and attract more volume and liquidity to the Exchange, which will benefit all Exchange participants through increased opportunities to trade as well as enhancing price discovery. While the Exchange has no way of predicting with certainty how many and which TPHs will satisfy the required criteria to receive the credits, the Exchange had anticipated approximately two TPHs (out of approximately 5 TPHs that are eligible for AVP) to reach VIP Tiers 4 or 5 and consequently earn the BOE Bulk Port fee credits for their respective Market-Maker affiliate. For the month of October 2019, two TPHs received access credits under Tier 5 and no TPHs received credits under Tier 4. The Exchange notes that it believes its reasonable, equitable and not unfairly discriminatory to no longer provider access credits for Market-Makers whose affiliates achieve VIP Tiers 2 or 3 as the Exchange has adopted another opportunity for all Market-Makers, not just Market-Makers that are part of a consolidator, to receive credits on BOE Bulk Port fees (*i.e.,* credits available via the proposed Market-Maker Access Credit Program). More specifically, limiting the credits under AVP to the top two tiers enables the Exchange to provide further credits under the new Market-Maker Access Credit Program. Furthermore, the Exchange notes that it is not required to provide any credits at any tier level.

The Exchange believes the proposed BOE Bulk Port fee credits available for TPHs that reach certain Performance Tiers under the Liquidity Provider Sliding Scale Adjustment Table is reasonable as the credits provide for reduced connectivity costs for those Market-Makers that reach the required thresholds. The Exchange believe it's reasonable, equitable and not unfairly discriminatory to provide credits to those Market-Makers that primarily provide and post liquidity to the Exchange, as the Exchange wants to continue to encourage Market-Makers with significant Make Rates to continue to participate on the Exchange and add liquidity. Greater liquidity benefits all market participants by providing more trading opportunities and tighter spreads.

Moreover, the Exchange notes that Market-Makers with a high Make Rate percentage generally require higher amounts of capacity than other Market-Makers. Particularly, Market-Makers with high Make Rates are generally

[111] *See* Affiliated Exchange Fee Schedules, Logical Port Fees. *See also,* Nasdaq ISE Pricing Schedule, Section 7(C). ISE charges a fee of $1,100 per month for SQF Purge Ports.

streaming significantly more quotes than those with lower Make Rates. As such, Market-Makers with high Make Rates may incur more costs than other Market-Makers as they may need to purchase multiple BOE Bulk Ports in order to accommodate their capacity needs. The Exchange believes the proposed credits for BOE Bulk Ports encourages Market-Makers to continue to provide liquidity for the Exchange, notwithstanding the costs incurred by purchasing multiple ports. Particularly, the proposal is intended to mitigate the costs incurred by traditional Market-Makers that focus on adding liquidity to the Exchange (as opposed to those that provide and take, or just take). While the Exchange cannot predict with certainty which Market-Makers will reach Performance Tiers 4 and 5 each month, based on historical performance it anticipated approximately 10 Market-Makers would achieve Tiers 4 or 5. In October 2019, 12 Market-Makers achieved Tiers 4 or 5. Lastly, the Exchange notes that it is common practice among options exchanges to differentiate fees for adding liquidity and fees for removing liquidity.[112]

Bandwidth Packets and CMI CAS Server Fees

The Exchange believes it's reasonable to eliminate Bandwidth Packet fees and the CMI CAS Server fee because TPHs will not pay fees for these connectivity options and because Bandwidth Packets and CAS Servers have been retired and rendered obsolete as part of the migration. The Exchange believes that even though it will be discontinuing Bandwidth Packets, the proposed incremental pricing for Logical Ports and BOE Bulk Ports will continue to encourage users to mitigate message traffic. The proposed change is equitable and not unfairly discriminatory because it will apply uniformly to all TPHs.

Access Fees

The Exchange believes the restructuring of its Trading Permits is reasonable in light of the changes to the Exchange's connectivity infrastructure in connection with the migration and the resulting separation of bandwidth allowance, logins and appointment costs from each Trading Permit. The Exchange also believes that it is reasonable to harmonize the Exchange's Trading Permit structure and corresponding connectivity options to more closely align with the structures offered at its Affiliated Exchanges once the Exchange is on a common platform as its Affiliated Exchanges.[113] The proposed Trading Permit structure and corresponding fees are also in line with the structure and fees provided by other exchanges. The proposed Trading Permit fees are also equitable and not unfairly discriminatory because the Exchange will apply the same fees to all market participants that use the same type and number of Trading Permits.

With respect to electronic Trading Permits, the Exchange notes that TPHs previously requested multiple Trading Permits because of bandwidth, login or appointment cost needs. As described above, in connection with migration, bandwidth, logins and appointment costs are no longer tied to Trading Permits or Bandwidth Packets and as such, the need to hold multiple permits and/or Bandwidth Packets is obsolete. As such, the Exchange believes the structure to require only one of each type of applicable electronic Trading Permit is appropriate. Moreover, the Exchange believes offering separate marketing making permits for off-floor and on-floor Market-Makers provides for a cleaner, more streamlined approach to trading permits and corresponding fees. Other exchanges similarly provide separate and distinct fees for Market-Makers that operate on-floor vs off-floor and their corresponding fees are similar to those proposed by the Exchange.[114]

The Exchange believes the proposed fee for its MM EAP Trading Permits is reasonable as it is the same fee it assess today for Market-Maker Trading Permits (*i.e.,* $5,000 per month per permit). Additionally, the proposed fee is in line with, and in some cases even lower than, the amounts assessed for similar access fees at other exchanges, including its affiliate C2.[115] The Exchange believes the proposed EAP fee is also reasonable, and in line with the fees assessed by other Exchanges for non-Market-Maker electronic access.[116] The Exchange notes that while the Trading Permit fee is increasing, TPHs overall cost to access the Exchange may be reduced in light of the fact that a TPH no longer must purchase multiple Trading Permits, Bandwidth Packets and Login Ids in order to receive sufficient bandwidth and logins to meet their respective business needs. To illustrate the value of the new connectivity infrastructure, the Exchange notes that the cost that would be incurred by a TPH today in order to receive the same amount of order capacity that will be provided by a single Logical Port post-migration (*i.e.,* 5,000 orders per second), is approximately 98% higher than the cost for the same capacity post-migration. The following examples further demonstrate potential cost savings/value added for an EAP holder with modest capacity needs and an EAP holder with larger capacity needs:

| | Current fee structure | Post-migration fee structure |
|---|---|---|
| **TPH that holds 1 EAP, no Bandwidth Packets and 1 CMI login** | | |
| EAP | $1,600 | $3,000. |
| CMI Login/Logical Port | $750 | $750. |
| Bandwidth Packets | 0 | N/A. |
| Total Bandwidth Available | 30 orders/sec | 5,000 orders/sec. |
| Total Cost | $2,350 | $3,750. |
| Total Cost per message | $78.33/order/sec | $0.75/order/sec. |

[112] *See e.g.,* MIAX Options Fees Schedule, Section 1(a), Market Maker Transaction Fees.

[113] For example, the Exchange's affiliate, C2, similarly provides for Trading Permits that are not tied to connectivity, and similar physical and logical port options at similar pricings. *See* Cboe C2 Options Exchange Fees Schedule. Physical connectivity and logical connectivity are also not tied to any type of permits on the Exchange's other options exchange affiliates.

[114] *See e.g.,* PHLX Section 8A, Permit and Registration Fees. *See also,* BOX Options Fee Schedule, Section IX Participant Fees; NYSE American Options Fees Schedule, Section III(A) Monthly ATP Fees and NYSE Arca Options Fees and Charges, OTP Trading Participant Rights. For similar Trading Floor Permits for Floor Market Makers, Nasdaq PHLX charges $6,000; BOX charges up to $5,500 for 3 registered permits in addition to a $1,500 Participant Fee, NYSE Arca charges up to $6,000; and NYSE American charges up to $8,000.

[115] *See e.g.,* Cboe C2 Options Exchange Fees Schedule. *See also,* NYSE Arca Options Fees and Charges, General Options and Trading Permit (OTP) Fees, which assesses up to $6,000 per Market Maker OTP and NYSE American Options Fee Schedule, Section III. Monthly ATP Fees, which assess up to $8,000 per Market Maker ATP. *See also,* PHLX Section 8A, Permit and Registration Fees, which assesses up to $4,000 per Market Maker Permit.

[116] *See e.g.,* PHLX Section 8A, Permit and Registration Fees, which assesses up to $4,000 per Permit for all member and member organizations other than Floor Specialists and Market Makers.

| | Current fee structure | Post-migration fee structure |
|---|---|---|
| **TPH that holds 1 EAP, 4 Bandwidth Packets and 15 CMI logins** | | |
| EAP | $1,600 | $3,000. |
| CMI Login/Logical Port | $11,250 (15@750) | $750. |
| Bandwidth Packets | $6,400 (4@$1,600) | N/A. |
| Total Bandwidth Available | 150 orders/sec | 5,000 orders/sec. |
| Total Cost | $19,250 | $3,750. |
| Total Cost per message | $128.33/order/sec | $0.75/order/sec. |

The Exchange believes the proposal to adopt a new Clearing TPH Permit is reasonable because it offers TPHs that only clear transactions of TPHs a discount. Particularly, Clearing TPHs that also submit orders electronically to the Exchange would purchase the proposed EAP at $3,000 per permit. The Exchange believe it's reasonable to provide a discount to Clearing TPHs that only clear transactions and do not otherwise submit electronic orders to the Exchange. The Exchange notes that another exchange similarly charges a separate fee for clearing firms.[117]

The Exchange believes the proposed fee structure for on-floor Market-Makers is reasonable as the fees are in line with those offered at other Exchanges.[118] The Exchange believes that the proposed fee for MM Floor Permits as compared to MM EAPs is reasonable because it is only modestly higher than MM EAPs and Floor MMs don't have other costs that MM EAP holders have, such as MM EAP Appointment fees.

The Exchange believes its proposed fees for Floor Broker Permits are reasonable because the fees are similar to, and in some cases lower than, the fees the Exchange currently assesses for such permits. Specifically, based on the number of Trading Permits TPHs held upon migration, 60% of TPHs that hold Floor Broker Trading Permits will pay lower Trading Permit fees. Particularly, any Floor Broker holding ten or less Floor Broker Trading Permits will pay lower fees under the proposed tiers as compared to what they pay today. While the remaining 40% of TPHs holding Floor Broker Trading Permits (who each hold between 12–21 Floor Broker Trading Permits) will pay higher fees, the Exchange notes the monthly increase is de minimis, ranging from an increase of 0.6%—2.72%.[119]

The Exchange believes the proposed ADV Discount is reasonable because it provides an opportunity for Floor Brokers to pay lower FB Trading Permit fees, similar to the current rebate program offered to Floor Brokers. The Exchange notes that while the new ADV Discount program includes only customer volume (''C'' origin code) as compared to Customer and Professional Customer/Voluntary Professional, the amount of Professional Customer/Voluntary Professional volume was de minimis and the Exchange does not believe the absence of such volume will have a significant impact.[120] Additionally, the Exchange notes that while the ADV requirements under the proposed ADV Discount program are higher than are required under the current rebate program, the proposed ADV Discount counts volume from all products towards the thresholds as compared to the current rebate program which excludes volume from Underlying Symbol List A (except RLG, RLV, RUI, and UKXM), DJX, XSP, and subcabinet trades. Moreover, the ADV Discount is designed to encourage the execution of orders in all classes via open outcry, which may increase volume, which would benefit all market participants (including Floor Brokers who do not hit the ADV thresholds) trading via open outcry (and indeed, this increased volume could make it possible for some Floor Brokers to hit the ADV thresholds). The Exchange believes the proposed discounts are equitable and not unfairly discriminatory because all Floor Brokers are eligible. While the Exchange has no way of predicting with certainty how many and which TPHs will satisfy the various thresholds under the ADV Discount, the Exchange anticipated approximately 3 Floor Brokers to receive a rebate under the program. In December 2019, 2 Floor Brokers received a rebate under the program.

The Exchange believes its proposed MM EAP Appointment fees are reasonable in light of the Exchange's elimination of appointment costs tied to Trading Permits. Other exchanges also offer a similar structure with respect to fees for appointment classes.[121] Additionally, the proposed MM EAP Appointment fee structure results in approximately 36% electronic MMs paying lower fees for trading permit and appointment costs. For example, in order to have the ability to make electronic markets in every class on the Exchange, a Market-Maker would need 1 Market-Maker Trading Permit and 37 Appointment Units post-migration. Under, the current pricing structure, in order for a Market-Maker to quote the entire universe of available classes, a Market-Maker would need 33 Appointment Credits, thus necessitating 33 Market-Maker Trading Permits. With respect to fees for Trading Permits and Appointment Unit Fees, under the proposed pricing structure, the cost for a TPH wishing to quote the entire universe of available classes is approximately 29% less (if they are not eligible for the MM TP Sliding Scale) or approximately 2% less (if they are eligible for the MM TP Sliding Scale). To further demonstrate the potential cost savings/value added, the Exchange is providing the following examples comparing current Market-Maker connectivity and access fees to projected connectivity and access fees for different scenarios. The Exchange notes that the below examples not only compare Trading Permit and Appointment Unit costs, but also the cost incurred for logical connectivity and bandwidth. Particularly, the first example demonstrates the total minimum cost that would be incurred today in order for a Market-Maker to have the same amount of capacity as a Market-Maker post-migration that would have only 1 MM EAP and 1 Logical Port (*i.e.,* 15,000 quotes/3 sec). The Exchange is also providing examples that demonstrate the costs of

[117] *See e.g.,* NYSE Arca Options Fees and Charges, General Options and Trading Permit (OTP) Fees and NYSE American Options Fee Schedule, Section III. Monthly ATP Fees.

[118] *See e.g.,* PHLX Section 8A, Permit and Registration Fees, which assesses $6,000 per permit for Floor Specialists and Market Makers.

[119] The Floor Brokers whose fees are increasing have each committed to a minimum number of permits and therefore currently receive the rates set forth in the current Floor Broker TP Sliding Scale.

[120] Furthermore, post-migration the Exchange will not have Voluntary Professionals.

[121] *See e.g.,* PHLX Section 8. Membership Fees, B, Streaming Quote Trader (''SQT'') Fees and C. Remote Market Maker Organization (RMO) Fee.

(i) a Market-Maker with small capacity needs and appointment unit of 1.0 and (ii) a Market-Maker with large capacity needs and appointment cost/unit of 30.0:

| | Current fee structure | Post-migration fee structure |
|---|---|---|
| **Market-Maker that needs capacity of 15,000/quotes/3 seconds** | | |
| MM Permit/MM EAP | $5,000 | $5,000. |
| Appointment Unit Cost | N/A (1 appointment cost) | $0 (1 appointment unit). |
| CMI Login/Logical Port | $750 [122] | $750. |
| Bandwidth Packets | $5,500 (2@$2,750) | N/A. |
| Total Bandwidth Available | 15,000 quotes/3 sec | 15,000 quotes/3 sec. |
| Total Cost | $11,250 | $5,750. |
| Total Cost per message allowed | $0.75/quote/3 sec | $0.38/quote/3 sec. |
| **Market Maker that needs capacity of no more than 5,000 quotes/3 secs** | | |
| MM Permit/MM EAP | $5,000 | $5,000. |
| Appointment Unit Cost | N/A (1 appointment cost) | $0 (1 appointment unit). |
| CMI Login/Logical Port | $750 | $750. |
| Bandwidth Packets | 0 | N/A. |
| Total Bandwidth Available | 5,000 quotes/3 sec | 15,000 quotes/3 sec. |
| Total Cost | $5,750 | $5,750. |
| Total Cost per message allowed | $1.15/quote/3 sec | $0.38/quote/3 sec. |
| **Market-Maker that needs 30 Appointment Units and capacity of 300,000 quotes/3 sec** | | |
| MM Permits/MM EAP | $105,000 (30 MM Permits assumes eligible for MM TP Sliding Scale) [123]. | $5,000. |
| Appointment Units Cost | N/A (30 appointment costs) | $95,500 (30 appointment units). |
| CMI Logins/BOE Bulk Port | $3,000 (4@$750) [124] | $3,000 (2 BOE Bulk@$1,500). |
| Bandwidth Packets | $82,500(30@$2750) | N/A. |
| Total Bandwidth Available | 300,000 quotes/3 sec | *450,000 quotes/3 sec. |
| Total Cost | $190,500 | $103,500. |
| Total Cost per message allowed | $0.63/quotes/3 sec | $0.23/quote/3 sec. |

* possible performance degradation at 15,000 messages per second.

The Exchange believes its proposal to provide separate fees for Tier Appointments for MM EAPs and MM Floor Permits as the Exchange will be issuing separate Trading Permits for on-floor and off-floor market making as discussed above. The proposal to eliminate the volume threshold for the electronic SPX Tier Appointment fee is reasonable as no TPHs in the past several months have electronically traded more than 1 SPX contract or less than 100 SPX contracts per month and therefore will not be negatively impacted by the proposed change, and because it aligns the electronic SPX Tier Appointment with the floor SPX Tier Appointment, which has no volume threshold. The Exchange believes the proposal to increase the electronic volume thresholds for VIX and RUT are reasonable as those that do not regularly trade VIX or RUT in open-outcry will continue to not be assessed the fee. In fact, any TPH that executes more than 100 contracts but less than 1,000 in the respective classes will no longer have to pay the proposed Tier Appointment fee. As noted above, the Exchange is not proposing to change the amounts assessed for each Tier Appointment Fee. The proposed change is equitable and not unfairly discriminatory because it will apply uniformly to all TPHs.

Trading Permit Holder Regulatory Fee

The Exchange believes it's reasonable to eliminate the Trading Permit Holder Regulatory fee because TPHs will not pay this fee and because the Exchange is restructuring its Trading Permit structure. The Exchange notes that although it will less closely be covering the costs of regulating all TPHs and performing its regulatory responsibilities, it still has sufficient funds to do so. The proposed change is equitable and not unfairly discriminatory because it will apply uniformly to all TPHs.

The Exchange believes corresponding changes to eliminate obsolete language in connection with the proposed changes described above and to relocate and reorganize its fees in connection with the proposed changes maintain clarity in the Fees Schedule and alleviate potential confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

With respect to intra-market competition, the Exchange does not believe that the proposed rule change would place certain market participants at the Exchange at a relative disadvantage compared to other market participants or affect the ability of such market participants to compete. As stated above, the Exchange does not believe its proposed pricing will impose a barrier to entry to smaller participants and notes that its proposed connectivity pricing is associated with relative usage of the various market participants. For example, market participants with modest capacity needs can buy the less expensive 1 Gb Physical Port and utilize only one Logical Port. Moreover, the pricing for 1 Gb Physical Ports and FIX/

[122] The maximum quoting bandwidth that may be applied to a single Login Id is 80,000 quotes/3 sec.

[123] For simplicity of the comparison, this assumes no appointments in SPX, VIX, RUT, XEO or OEX (which are not included in the TP Sliding Scale).

[124] Given the bandwidth limit per Login Id of 80,000 quotes/3 sec, example assumes Market-Maker purchases minimum amount of Login IDs to accommodate 300,000 quotes/3 sec.

BOE Logical Ports are no different than are assessed today (*i.e.,* $1,500 and $750 per port, respectively), yet the capacity and access associated with each is greatly increasing. While pricing may be increased for larger capacity physical and logical ports, such options provide far more capacity and are purchased by those that consume more resources from the network. Accordingly, the proposed connectivity fees do not favor certain categories of market participants in a manner that would impose a burden on competition; rather, the allocation reflects the network resources consumed by the various size of market participants—lowest bandwidth consuming members pay the least, and highest bandwidth consuming members pays the most, particularly since higher bandwidth consumption translates to higher costs to the Exchange.

The Exchange also does not believe that the proposed rule change will result in any burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. As discussed in the Statutory Basis section above, options market participants are not forced to connect to (or purchase market data from) all options exchanges, as shown by the number of TPHs at Cboe and shown by the fact that there are varying number of members across each of Cboe's Affiliated Exchanges. The Exchange operates in a highly competitive environment, and as discussed above, its ability to price access and connectivity is constrained by competition among exchanges and third parties. As discussed, there are other options markets of which market participants may connect to trade options. There is also a possible range of alternative strategies, including routing to the exchange through another participant or market center or accessing the Exchange indirectly. For example, there are 15 other U.S. options exchanges, which the Exchange must consider in its pricing discipline in order to compete for market participants. In this competitive environment, market participants are free to choose which competing exchange or reseller to use to satisfy their business needs. As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges. Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received written 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 [125] and paragraph (f) of Rule 19b–4 [126] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2020–086 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–CBOE–2020–086. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2020–086, and should be submitted on or before October 7, 2020.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[127]

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2020–20364 Filed 9–15–20; 8:45 am]

**BILLING CODE 8011–01–P**

[125] 15 U.S.C. 78s(b)(3)(A).

[126] 17 CFR 240.19b–4(f).

[127] 17 CFR 200.30–3(a)(12).

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #16645 and #16646; PUERTO RICO Disaster Number PR–00037]**

## Presidential Declaration of a Major Disaster for the Commonwealth of Puerto Rico

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for the Commonwealth of Puerto Rico (FEMA–4560–DR), dated 09/09/2020.

*Incident:* Tropical Storm Isaias.

*Incident Period:* 07/29/2020 through 07/31/2020.

**DATES:** Issued on 09/09/2020.

*Physical Loan Application Deadline Date:* 11/09/2020.

*Economic Injury (EIDL) Loan Application Deadline Date:* 06/09/2021.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that as a result of the President's major disaster declaration on 09/09/2020, 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 Municipalities (Physical Damage and Economic Injury Loans):* Aguada, Hormigueros, Mayaguez, Rincon.

*Contiguous Municipalities (Economic Injury Loans Only):*

Puerto Rico: Aguadilla, Anasco, Cabo Rojo, Las Marias, Maricao, Moca, San German.

The Interest Rates are:

| | Percent |
|---|---|
| *For Physical Damage:* | |
| Homeowners With Credit Available Elsewhere | 2.500 |
| Homeowners Without Credit Available Elsewhere | 1.250 |
| Businesses With Credit Available Elsewhere | 6.000 |
| Businesses Without Credit Available Elsewhere | 3.000 |
| Non-Profit Organizations With Credit Available Elsewhere | 2.750 |
| Non-Profit Organizations Without Credit Available Elsewhere | 2.750 |
| *For Economic Injury:* | |
| Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere | 3.000 |
| Non-Profit Organizations Without Credit Available Elsewhere | 2.750 |

The number assigned to this disaster for physical damage is 166458 and for economic injury is 166460.

(Catalog of Federal Domestic Assistance Number 59008)

**Cynthia Pitts,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 2020–20356 Filed 9–15–20; 8:45 am]

**BILLING CODE 8026–03–P**

## SMALL BUSINESS ADMINISTRATION

**[Disaster Declaration #16633 and #16634; LOUISIANA Disaster Number LA–00103]**

### Presidential Declaration Amendment of a Major Disaster for the State of Louisiana

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Amendment 4.

**SUMMARY:** This is an amendment of the Presidential declaration of a major disaster for the State of Louisiana (FEMA–4559–DR), dated 08/28/2020.

*Incident:* Hurricane Laura.

*Incident Period:* 08/22/2020 through 08/27/2020.

**DATES:** Issued on 09/09/2020.

*Physical Loan Application Deadline Date:* 10/27/2020.

*Economic Injury (EIDL) Loan Application Deadline Date:* 05/28/2021.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

**SUPPLEMENTARY INFORMATION:** The notice of the President's major disaster declaration for the State of Louisiana, dated 08/28/2020, is hereby amended to include the following areas as adversely affected by the disaster:

*Primary Parishes (Physical Damage and Economic Injury Loans):* Morehouse, Union.

*Contiguous Parishes/Counties (Economic Injury Loans Only):*

Louisiana: West Carroll.

Arkansas: Ashley, Chicot, Union.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

**Cynthia Pitts,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 2020–20357 Filed 9–15–20; 8:45 am]

**BILLING CODE 8026–03–P**

## DEPARTMENT OF STATE

**[Public Notice: 11205]**

### Defense Trade Advisory Group; Notice of Open Meeting

The Defense Trade Advisory Group (DTAG) will meet in open session from 1:00 p.m. until 5:00 p.m. on Thursday, October 22, 2020. Based on federal and state guidance in response to the Covid-19 pandemic, the meeting will be held virtually. The virtual forum will open at 12:00 p.m. The membership of this advisory committee consists of private sector defense trade representatives, appointed by the Assistant Secretary of State for Political-Military Affairs, who advise the Department on policies, regulations, and technical issues affecting defense trade. The DTAG was established as an advisory committee under the authority of 22 U.S.C. Sections 2651a and 2656 and the Federal Advisory Committee Act, 5 U.S.C. App. The purpose of the meeting will be to discuss current defense trade issues and topics for further study. The following agenda topics will be discussed and final reports presented: (1) Provide feedback to DDTC as DDTC works to consolidate exemptions into a single part of the ITAR. (2) Help develop a comprehensive compliance risk matrix to help prevent ITAR violations and diversions by various business functions involved in ITAR activities. (3) suggest a draft (a) form or attachment that indicates when Part 130 information will be reported (*e.g*, annually, but in a separate filing, at the same time as the company's registration), and (b) Part 130 (annual) report form.

The meeting will be held in WebEx. There will be one WebEx invitation for each attendee, and only the attendee should use the invitation. In addition, each attendee should access the virtual meeting from a private location. Please let us know if you need any of the following accommodations: Live captions, digital/text versions of webinar materials, or other (please specify).

Members of the public may attend this virtual session and may submit questions by email following the formal DTAG presentation. Members of the public may also submit a brief statement (less than three pages) to the committee in writing for inclusion in the public minutes of the meeting. Each member of the public that wishes to attend this session must provide: Name and contact information, including an email address and phone number, and any request for reasonable accommodation to the DTAG Alternate Designated Federal Officer (ADFO), Neal Kringel, via email at *DTAG@state.gov* by COB Monday, October 5, 2020.

**FOR FURTHER INFORMATION CONTACT:** Ms. Barbara Eisenbeiss, PM/DDTC, SA–1, 12th Floor, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, U.S. Department of State, Washington, DC 20522–0112; telephone (202) 663–2835 or email *DTAG@state.gov.*

**Neal F. Kringel,**

*Alternate Designated Federal Officer, Defense Trade Advisory Group, Department of State.*

[FR Doc. 2020–20345 Filed 9–15–20; 8:45 am]

**BILLING CODE 4710–25–P**

## DEPARTMENT OF STATE

**[Public Notice: 11197]**

### Bureau of Political-Military Affairs, Directorate of Defense Trade Controls: Notifications to the Congress of Proposed Commercial Export Licenses

**AGENCY:** Department of State.

**ACTION:** Notice.

**SUMMARY:** The Directorate of Defense Trade Controls and the Department of State give notice that the attached Notifications of Proposed Export Licenses were submitted to the Congress on the dates indicated.

**DATES:** As shown on each of the 19 letters.

**FOR FURTHER INFORMATION CONTACT:** Ms. Paula C. Harrison, Directorate of Defense Trade Controls, Department of State, telephone (202) 663–3310; email *DDTCResponseTeam@state.gov.* ATTN: Congressional Notification of Licenses.

**SUPPLEMENTARY INFORMATION:** Section 36(f) of the Arms Export Control Act (22 U.S.C. 2776) requires that notifications to the Congress pursuant to sections 36(c) and 36(d) be published in the **Federal Register** in a timely manner. The following comprise recent such notifications and are published to give notice to the public.

Jan 14, 2020

The Honorable Nancy Pelosi, *Speaker of the House of Representatives.*

Dear Madam Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license for the export of defense articles, including technical data and defense services, in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data and defense services, to the UK to support the design, development, assembly, testing, qualification, manufacture, and repair of various parts and components used to manufacture the Joint Strike Fighter LiftSystem.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations. More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Sincerely,

Mary Elizabeth Taylor,

*Assistant Secretary Bureau of Legislative Affairs.*

Enclosure: Transmittal No. DDTC 19–025.

Feb 5, 2020

The Honorable Nancy Pelosi, *Speaker of the House of Representatives.*

Dear Madam Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license for the export of defense articles, including technical data and defense services, in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data and defense services, to Israel to support the production, inspection, assembly, test and repair top-level assemblies, sub-assemblies, and components used in the Spice Family of Gliding Bomb Assemblies.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations. More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Sincerely,

Mary Elizabeth Taylor,

*Assistant Secretary Bureau of Legislative Affairs.*

Enclosure: Transmittal No. DDTC 19–028.

Mar 9, 2020

The Honorable Nancy Pelosi, *Speaker of the House of Representatives.*

Dear Madam Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, we are transmitting certification of a proposed license for the export of defense articles, including technical data and defense services, in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data and defense services, to Thailand to support the sale, delivery, operation, and maintenance for S–70i helicopters.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations. More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Sincerely,

Mary Elizabeth Taylor,

*Assistant Secretary Bureau of Legislative Affairs.*

Enclosure: Transmittal No. DDTC 19–039.

Mar 9, 2020

The Honorable Nancy Pelosi, *Speaker of the House of Representatives.*

Dear Madam Speaker:

Pursuant to Section 36(c) and (d) of the Arms Export Control Act, please find enclosed a certification of a proposed license for the export for the manufacture of significant military equipment abroad and the export of defense articles, including technical data and defense services, in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data and defense services, to Australia to support the design and manufacture of the Aerosonde Mk 4.7G unmanned aircraft system and associated equipment.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations. More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Sincerely,

Mary Elizabeth Taylor,

*Assistant Secretary Bureau of Legislative Affairs.*

Enclosure: Transmittal No. DDTC 19–043.

Feb 5, 2020

The Honorable Nancy Pelosi, *Speaker of the House of Representatives.*

Dear Madam Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license for the export of defense articles, including technical data and defense services, in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data and defense services, to Canada, the Czech Republic, Poland, and the UK to support the manufacture, repair, and overhaul of the nose wheels, main wheels, carbon brakes, and carbon/carbon composite heat sinks for the end use on the F–35 aircraft.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations. More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Sincerely,
Mary Elizabeth Taylor,
*Assistant Secretary Bureau of Legislative Affairs.*
Enclosure: Transmittal No. DDTC 19–046.

Jan 14, 2020
The Honorable Nancy Pelosi, *Speaker of the House of Representatives.*

Dear Madam Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license for the export of firearms abroad controlled under Category I of the U.S. Munitions List in the amount of $1,000,000 or more. The transaction contained in the attached certification involves the export of semi-automatic 9mm pistols to Thailand.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations. More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Sincerely,
Mary Elizabeth Taylor,
*Assistant Secretary Bureau of Legislative Affairs.*
Enclosure: Transmittal No. DDTC 19–051.

Mar 9, 2020
The Honorable Nancy Pelosi, *Speaker of the House of Representatives.*

Dear Madam Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license for the export of firearms abroad controlled under Category I of the U.S. Munitions List in the amount of $1,000,000 or more. The transaction contained in the attached certification involves the export of semi-automatic 9mm pistols to Oman.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations. More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Sincerely,
Mary Elizabeth Taylor,
*Assistant Secretary Bureau of Legislative Affairs.*
Enclosure: Transmittal No. DDTC 19–057.

Feb 12, 2020
The Honorable Nancy Pelosi, *Speaker of the House of Representatives.*

Dear Madam Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license amendment for the export of defense articles, including technical data and defense services, in the amount of $50,000,000 or more. The transaction contained in the attached certification involves the export of defense articles, including technical data and defense services, to France, Germany, Italy, the Netherlands, Switzerland, and the UK to support the manufacture, production, test, inspection, modification, enhancement, rework, and repair of the Trailing Edge Flap Bonded Assembly for the F/A–18E/F/G aircraft.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations. More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Sincerely,
Mary Elizabeth Taylor,
*Assistant Secretary Bureau of Legislative Affairs.*
Enclosure: Transmittal No. DDTC 19–059.

Jan 14, 2020
The Honorable Nancy Pelosi, *Speaker of the House of Representatives.*

Dear Madam Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license amendment for the export of defense articles, including technical data and defense services, in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data and defense services, to Norway to support the manufacture, production, test, and inspection of vertical tail control surfaces and conventional edges, composite sub-assemblies and structural parts, including skins, covers for the forward fuselage and associated detail parts of the wing components and auxiliary/associated detail parts for the F–35 JSF aircraft.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations. More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Sincerely,
Mary Elizabeth Taylor,
*Assistant Secretary Bureau of Legislative Affairs.*
Enclosure: Transmittal No. DDTC 19–061.

Jan 17, 2020
The Honorable Nancy Pelosi, *Speaker of the House of Representatives.*

Dear Madam Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license amendment for the export of defense articles, including technical data and defense services, in the amount of $100,000,000 or more. The transaction contained in the attached certification involves the export of defense articles, including technical data and defense services, to Italy to support the manufacture, production, test, and inspection of wing assemblies and sub-assemblies for the F–35 aircraft.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations. More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Sincerely,
Mary Elizabeth Taylor,
*Assistant Secretary Bureau of Legislative Affairs.*
Enclosure: Transmittal No. DDTC 19–062.

Feb 12, 2020
The Honorable Nancy Pelosi, *Speaker of the House of Representatives.*

Dear Madam Speaker:

Pursuant to Section 36(c) and (d) of the Arms Export Control Act, please find enclosed a certification of a proposed license for the export of defense articles, including technical data and defense services, in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data and defense services, to Israel and the Netherlands to support the manufacture, production, test, and inspection of composite components, subassemblies, and metallic components for the F–35 Joint Strike Fighter (JSF) aircraft center fuselage.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations. More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Sincerely,
Mary Elizabeth Taylor,
*Assistant Secretary Bureau of Legislative Affairs.*
Enclosure: Transmittal No. DDTC 19–063.

Feb 12, 2020
The Honorable Nancy Pelosi, *Speaker of the House of Representatives.*

Dear Madam Speaker:

Pursuant to Section 36(c) and (d) of the Arms Export Control Act, we are transmitting certification of a proposed license for the manufacture of significant military equipment abroad and the export of defense articles, including technical data, and defense services in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to Japan to support the manufacture of 2.75-inch rockets and subcomponents, including MK66 rocket motors, M261/M267 submunition warheads, M151 warheads, M274 practice warheads, and WTU–1/B practice warheads.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations. More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Sincerely,
Mary Elizabeth Taylor,
*Assistant Secretary Legislative Affairs.*
Enclosure: Transmittal No. DDTC 19–068.

Jan 17, 2020
The Honorable Nancy Pelosi, *Speaker of the House of Representatives.*

Dear Madam Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license amendment for the export of defense articles, including technical data and defense services, in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data and defense services, to the UK related to the Javelin Anti-tank Weapon System, including all variants up to the FGM–148 (G-Model) and all Command Launch Unit variants up to the Light Weight Command Launch Unit. The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations. More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Sincerely,
Mary Elizabeth Taylor,
*Assistant Secretary Bureau of Legislative Affairs.*
Enclosure: Transmittal No. DDTC 19–072.

Feb 27, 2020
The Honorable Nancy Pelosi, *Speaker of the House of Representatives.*

Dear Madam Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license for the export of firearms abroad controlled under Category I of the U.S. Munitions List in the amount of $1,000,000 or more. The transaction contained in the attached certification involves the export to Mexico of 9mm semi-automatic pistols.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations. More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Sincerely,
Mary Elizabeth Taylor,
*Assistant Secretary Bureau of Legislative Affairs.*
Enclosure: Transmittal No. DDTC 19–076.

Feb 05, 2020
The Honorable Nancy Pelosi, *Speaker of the House of Representatives.*

Dear Madam Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license for the export of firearms, parts, and components abroad controlled under Category I of the U.S. Munitions List in the amount of $1,000,000 or more.

The transaction contained in the attached certification involves the export to Thailand of M2HB .50 caliber automatic machine guns, and M60E6 conversion kits with spare barrels.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations. More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Sincerely,
Mary Elizabeth Taylor,
*Assistant Secretary Bureau of Legislative Affairs.*
Enclosure: Transmittal No. DDTC 19–077.

Feb 12, 2020
The Honorable Nancy Pelosi, *Speaker of the House of Representatives.*

Dear Madam Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license amendment for the export of defense articles, including technical data and defense services, in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data and defense services, to the Republic of Korea to support the manufacture of 155mm artillery combustible cartridge cases, 60mm and 81mm mortar increment containers, and 120mm tank combustible cartridge cases. The U.S. government is prepared

to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations. More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Sincerely,
Mary Elizabeth Taylor,
*Assistant Secretary Bureau of Legislative Affairs.*
Enclosure: Transmittal No. DDTC 19–080.

Feb 25, 2020
The Honorable Nancy Pelosi, *Speaker of the House of Representatives.*

Dear Madam Speaker:

Pursuant to Sections 36(c) and (d) of the Arms Export Control Act, we are transmitting certification of a proposed license amendment for the manufacture of significant military equipment abroad and the export of defense articles, including technical data and defense services, in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data and defense services, to Italy, Japan, Finland, the Netherlands, and Norway for the design and development of composite components for the manufacture of subassemblies for the F–35 Lightning II Joint Strike Fighter Center Fuselage.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations. More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Sincerely,
Mary Elizabeth Taylor,
*Assistant Secretary Bureau of Legislative Affairs.*
Enclosure: Transmittal No. DDTC 19–083.

May 9, 2020
The Honorable Nancy Pelosi, *Speaker of the House of Representatives.*

Dear Madam Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license amendment for the export of defense articles, including technical data, and defense services in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense articles, including technical data, and defense services to the Republic of Singapore to support the maintenance, repair, and overhaul of F100 engines.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations. More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Sincerely,

Mary Elizabeth Taylor,

*Assistant Secretary Bureau of Legislative Affairs.*

Enclosure: Transmittal No. DDTC 19–084.

Jan 14, 2020

The Honorable Nancy Pelosi, *Speaker of the House of Representatives.*

Dear Madam Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, please find enclosed a certification of a proposed license for the export of firearms, parts, and components abroad controlled under Category I of the U.S. Munitions List in the amount of $1,000,000 or more.

The transaction contained in the attached certification involves the export to Estonia of 5.56mm and 7.62mm automatic rifles, sound suppressors, and major components for the Estonian Defense Forces.

The U.S. government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the U.S. firm concerned.

Sincerely,

Mary Elizabeth Taylor,

*Assistant Secretary Bureau of Legislative Affairs.*

Enclosure: Transmittal No. DDTC 19–101.

**Paula C. Harrison,**

*Senior Management Analyst, Directorate of Defense Trade Controls, Department of State.*

[FR Doc. 2020–20406 Filed 9–15–20; 8:45 am]

BILLING CODE 4710–25–P

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### Notice of Product Exclusion Extension Amendment: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice of product exclusion extension and amendment.

**SUMMARY:** Effective September 24, 2018, the U.S. Trade Representative imposed additional duties on goods of China with an annual trade value of approximately $200 billion as part of the action in the Section 301 investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation. The U.S. Trade Representative initiated the exclusion process on June 24, 2019, and has granted 15 sets of exclusions under the $200 billion action. These exclusions expired on August 7, 2020. On May 6 and June 3, 2020, the U.S. Trade Representative invited the public to comment on whether to extend particular granted exclusions. On August 11, 2020, the U.S. Trade Representative announced a determination to extend certain previously granted exclusions. This notice makes one technical amendment to a previously extended exclusion.

**DATES:** The product exclusion extension amendment announced in this notice applies as of August 7, 2020, and continues through December 31, 2020. This notice does not further extend the period for product exclusion extensions. U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

**FOR FURTHER INFORMATION CONTACT:** For general questions about this notice, contact Associate General Counsel Philip Butler or Assistant General Counsel Benjamin Allen, or Director of Industrial Goods Justin Hoffmann at (202) 395–5725. For specific questions on customs classification or implementation of the product exclusions identified in the Annex to

this notice, contact *traderemedy@cbp.dhs.gov.*

**SUPPLEMENTARY INFORMATION:**

## A. Background

For background on the proceedings in this investigation, please see prior notices including 82 FR 40213 (August 24, 2017), 83 FR 14906 (April 6, 2018), 83 FR 28710 (June 20, 2018), 83 FR 33608 (July 17, 2018), 83 FR 38760 (August 7, 2018), 83 FR 47974 (September 21, 2018), 83 FR 49153 (September 28, 2018), 83 FR 65198 (December 19, 2018), 84 FR 7966 (March 5, 2019), 84 FR 20459 (May 9, 2019), 84 FR 29576 (June 24, 2019), 84 FR 38717 (August 7, 2019), 84 FR 46212 (September 3, 2019), 84 FR 49591 (September 20, 2019), 84 FR 57803 (October 28, 2019), 84 FR 61674 (November 13, 2019), 84 FR 65882 (November 29, 2019), 84 FR 69012 (December 17, 2019), 85 FR 549 (January 6, 2020), 85 FR 6674 (February 5, 2020), 85 FR 9921 (February 20, 2020), 85 FR 15015 (March 16, 2020), 85 FR 17158 (March 26, 2020), 85 FR 23122 (April 24, 2020), 85 FR 27489 (May 8, 2020), 85 FR 32094 (May 28, 2020), 85 FR 38000 (June 24, 2020), 85 FR 42968 (July 15, 2020), and 85 FR 48600 (August 11, 2020).

Effective September 24, 2018, the U.S. Trade Representative imposed additional 10 percent *ad valorem* duties on goods of China classified in 5,757 full and partial subheadings of the Harmonized Tariff Schedule of the United States (HTSUS), with an approximate annual trade value of $200 billion. *See* 83 FR 47974, as modified by 83 FR 49153. In May 2019, the U.S. Trade Representative increased the additional duty to 25 percent. *See* 84 FR 20459. On June 24, 2019, the U.S. Trade Representative established a process by which stakeholders could request exclusion of particular products classified within an eight-digit HTSUS subheading covered by the $200 billion action from the additional duties. *See* 84 FR 29576 (June 24 notice). The U.S. Trade Representative issued a notice setting out the process for the product exclusions and opened a public docket. The exclusions the U.S. Trade Representative granted under the $200 billion action expired on August 7, 2020. *See, e.g.,* 84 FR 38717 (August 7, 2019).

On May 6 and June 3, 2020, the U.S. Trade Representative invited the public to comment on whether to extend by up to 12 months, particular exclusions granted under the $200 billion action. *See* 85 FR 27011 (May 6, 2020) and 85 FR 34279 (June 3, 2020) (the $200 billion extension notices). On August 11, 2020, the U.S. Trade Representative announced a determination to extend certain previously granted exclusions. *See* 85 FR 48600 (August 11, 2020).

## B. Technical Amendment to Exclusion

The Annex to this notice contains one technical amendment to U.S. note 20(iii)(252), to subchapter III of chapter 99 of the HTSUS, as set out in the Annex of the notice published at 85 FR 48600 (August 11, 2020).

## Annex

Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on August 7, 2020, and before December 31, 2020, U.S. note 20(iii)(252) to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTSUS) is modified by deleting ''(described in statistical reporting number 9403.20.0050)'' and inserting ''(described in statistical reporting number 9403.20.0050 or 9403.20.0078)'' in lieu thereof.

**Joseph Barloon,**

*General Counsel, Office of the United States Trade Representative.*

[FR Doc. 2020–20384 Filed 9–15–20; 8:45 am]

**BILLING CODE 3290–F0–P**

---

# DEPARTMENT OF TRANSPORTATION

## Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2020–0050]**

## Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of applications for exemption; request for comments.

**SUMMARY:** FMCSA announces receipt of applications from six individuals for an exemption from the prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against persons with a clinical diagnosis of epilepsy or any other condition that is likely to cause a loss of consciousness or any loss of ability to control a commercial motor vehicle (CMV) to drive in interstate commerce. If granted, the exemptions would enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs in interstate commerce.

**DATES:** Comments must be received on or before October 16, 2020.

**ADDRESSES:** You may submit comments identified by the Federal Docket Management System (FDMS) Docket No. FMCSA–2020–0050 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/docket?D=FMCSA-2020-0050.* Follow the online instructions for submitting comments.
- *Mail:* Docket Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Docket Operations.
- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Operations, (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

## I. Public Participation

### *A. Submitting Comments*

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2020–0050), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov/docket?D=FMCSA-2020-0050.* Click on the ''Comment Now!'' button and type your comment into the text box on the following screen. Choose whether you

are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

*B. Viewing Documents and Comments*

To view comments, as well as any documents mentioned in this notice as being available in the docket, go to *http://www.regulations.gov/docket?D=FMCSA-2020-0050* and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting Docket Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Docket Operations.

*C. Privacy Act*

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 *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.*

## II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The six individuals listed in this notice have requested an exemption from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8). Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

The physical qualification standard for drivers regarding epilepsy found in § 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria [1] to assist medical examiners (MEs) in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce.

The criteria states that if an individual has had a sudden episode of a non-epileptic seizure or loss of consciousness of unknown cause that did not require anti-seizure medication, the decision whether that person's condition is likely to cause the loss of consciousness or loss of ability to control a CMV should be made on an individual basis by the ME in consultation with the treating physician. Before certification is considered, it is suggested that a 6-month waiting period elapse from the time of the episode. Following the waiting period, it is suggested that the individual have a complete neurological examination. If the results of the examination are negative and anti-seizure medication is not required, then the driver may be qualified.

In those individual cases where a driver has had a seizure or an episode of loss of consciousness that resulted from a known medical condition (*e.g.,* drug reaction, high temperature, acute infectious disease, dehydration, or acute metabolic disturbance), certification should be deferred until the driver has recovered fully from that condition, has no existing residual complications, and is not taking anti-seizure medication.

Drivers who have a history of epilepsy/seizures, off anti-seizure medication and seizure-free for 10 years, may be qualified to operate a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for a 5-year period or more.

As a result of MEs misinterpreting advisory criteria as regulation, numerous drivers have been prohibited from operating a CMV in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified ME based on the physical qualification standards and medical best practices.

On January 15, 2013, FMCSA announced in a Notice of Final Disposition titled, ''Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders,'' (78 FR 3069), its decision to grant requests from 22 individuals for exemptions from the regulatory requirement that interstate CMV drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' Since that time, the Agency has published additional notices granting requests from individuals for exemptions from the regulatory requirement regarding epilepsy found in § 391.41(b)(8).

To be considered for an exemption from the epilepsy and seizure disorders prohibition in § 391.41(b)(8), applicants must meet the criteria in the 2007 recommendations of the Agency's Medical Expert Panel (78 FR 3069).

## III. Qualifications of Applicants

*Robert S. Kessler*

Mr. Kessler is a 31year-old Class C license holder in Kansas. He has a history of epilepsy and has been seizure free since 2004. He takes anti-seizure medication with the dosage and frequency remaining the same since 2016. His physician states that he is supportive of Mr. Kessler receiving an exemption.

*Thomas J. Kline*

Mr. Kline is a 56 year-old class C license holder in Pennsylvania. He has a history of seizures and has been seizure free since 1990. He takes anti-seizure medication with the dosage and frequency remaining the same since 1990. His physician states that he is supportive of Mr. Kline receiving an exemption.

*Jeffrey T. Lang*

Mr. Lang is a 60 year-old CDL license holder in Pennsylvania. He has a history of a single witness seizure and has been seizure free since 1996. He takes anti-seizure medication with the dosage and frequency remaining the same since 1997. His physician states that he is supportive of Mr. Lang receiving an exemption.

[1] These criteria may be found in Appendix A to Part 391—Medical Advisory Criteria, section H. *Epilepsy:* § 391.41(b)(8), paragraphs 3, 4, and 5, which is available on the internet at *https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf.*

*Ty Martin*

Mr. Martin is a 45 year-old CDL license holder in West Virginia. He has a history of seizures and has been seizure free since 2006. He takes anti-seizure medication with the dosage and frequency remaining the same since 2012. His physician states that she is supportive of Mr. Martin receiving an exemption.

*Rick S. Morrison*

Mr. Morrison is a 64 year-old CDL license holder in North Carolina. He has a history of seizures and has been seizure free since 2008. He takes anti-seizure medication with the dosage and frequency remaining the same since 2008. His physician states that she is supportive of Mr. Morrison receiving an exemption.

*Darrel Rinder*

Mr. Rinder is a 56 year-old CDL license holder in California. He has a history of epilepsy and has been seizure free since 1982. He takes anti-seizure medication with the dosage and frequency remaining the same since 1992. His physician states that he is supportive of Mr. Rinder receiving an exemption.

## IV. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315(b), FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated under the **DATES** section of the notice.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2020–20395 Filed 9–15–20; 8:45 am]

**BILLING CODE 4910–EX–P**

---

## DEPARTMENT OF TRANSPORTATION

## Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2019–0069]**

## Parts and Accessories Necessary for Safe Operation; Application for an Exemption From Charles Machine Works, Inc.

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), Transportation (DOT).

**ACTION:** Notice of final disposition.

**SUMMARY:** The Federal Motor Carrier Safety Administration (FMCSA) announces its decision to grant Charles Machine Works, Inc.'s (CMW) application for a limited 5-year exemption to allow the use of gravity or syphon-fed fuel systems for auxiliary equipment installed on or used in connection with commercial motor vehicles (CMV). While the Federal Motor Carrier Safety Regulations (FMCSR) currently prohibit the use of fuel systems that supply fuel directly to the carburetor or injector by gravity or syphon feed, the Agency has determined that granting the exemption to allow the use of gravity or syphon-fed fuel systems for auxiliary equipment that operates only when the CMV is stationary would likely maintain a level of safety that is equivalent to, or greater than the level of safety provided by the regulation.

**DATES:** This exemption is effective September 16, 2020 and ending September 16, 2025.

**FOR FURTHER INFORMATION CONTACT:** Mr. Luke Loy, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC–PSV, (202) 366–0676, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

*Docket:* For access to the docket to read background documents or comments submitted to notice requesting public comments on the exemption application, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Docket Operations. The on-line Federal document management system is available 24 hours each day, 365 days each year. The docket number is listed at the beginning of this notice.

**SUPPLEMENTARY INFORMATION:**

## Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the FMCSRs. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

## CMW's Application for Exemption

CMW applied for an exemption from 49 CFR 393.65(d) to allow the use of gravity or syphon-fed fuel systems for auxiliary equipment installed on or used in connection with CMVs that operate only when the CMV is not operating on the highway. A copy of the application is included in the docket referenced at the beginning of this notice.

Section 393.65 of the FMCSRs prescribes certain requirements that are applicable to all CMV fuel systems. The requirements in this section apply to systems for containing and supplying fuel for the operation of (1) motor vehicles or (2) auxiliary equipment installed on, or used in connection with, motor vehicles. Section 393.65(d) prohibits a fuel system from supplying fuel by gravity or syphon feed directly to the carburetor or injector.

CMW is a family of companies focused on the installation, maintenance, rehabilitation, and replacement of underground pipe and cable for the telecom, oil, electricity, gas, water, and wastewater industries. Its family of companies includes Ditch Witch®, Subsite® Electronics, DW/TXS®, HammerHead®, Trencor® and MTI® Equipment. CMW designs, manufactures and sells a range of products to cover the full life-cycle of underground pipe and cable, including horizontal directional drills, walk and ride trenchers, utility loaders, vacuum excavators, asset locators, pipe rehabilitation solutions, and after-market tools.

Some of the equipment designed and manufactured by CMW utilizes small, commercially available internal combustion engines to power auxiliary equipment that is permanently mounted on a CMV. CMW states that while auxiliary equipment that is permanently mounted to CMVs is considered part of the CMV and subject to the requirements of 49 CFR 393.65(d), it

''has identified that currently there is uneven roadside enforcement with regard to the use of gravity fed fuel tanks on auxiliary equipment installed on or used in connection with commercial motor vehicles.''

In support of its application, CMW stated:

> Most small commercially available internal combustion engines used on auxiliary equipment are equipped from the factory with gravity fed fuel tanks attached to the engine . . . The cost of modifying these small internal combustion engines to remove the fuel tank from the engine and to re-engineer the fuel delivery system to use a fuel pump to pump fuel from the now removed fuel tank to the internal combustion engine requires electrical wiring to be run from the commercial motor vehicle to operate the fuel pump. Manufacturers who have gone to this additional expense, question the reasoning of removing the fuel tank from above the engine and placing it beside the engine and equipping the system with a fuel pump to transfer fuel from the tank to the engine. Since the auxiliary equipment only operates when the CMV is not operating on the highway there does not seem to be any legitimate safety reason for this requirement. A review of previous **Federal Register** notices does not describe why this requirement was added for fuel systems for auxiliary equipment on commercial motor vehicles, when this equipment is not operating while the CMV is operating on the highway.

**Comments**

FMCSA published a notice of the application in the **Federal Register** on March 28, 2019, and asked for public comment (84 FR 11862). The Agency received comments from the Truck Trailer Manufacturers Association (TTMA) and two individuals.

TTMA commented in support of the application, and noted that the relief requested by CMW is similar to the amendment requested by TTMA in its December 2018 petition for rulemaking to the Agency on the same issue. Specifically, TTMA has petitioned FMCSA to amend the FMCSRs to exempt ''fuel tanks for auxiliary equipment designed to be operated when the vehicle is not in motion and having a capacity of 5 gallons or less of liquid fuel'' from the prohibition against fuel systems using gravity or syphon feed in 49 CFR 393.65(d). One individual submitted comments in support of CMW's application, and suggested that FMCSA ''examine the language in Part 393.65 and narrow the equipment subject to Part 393.65(d) to systems other than those systems designed to utilize gravity feed or require a petcock be installed to shut off fuel in transit or prohibit the equipment from operating while the 'motor vehicle' is operating on the highways.'' Another individual expressed concern that the auxiliary equipment will be operated while the vehicle is in motion, and that it would be very difficult for FMCSA to enforce a prohibition against such use. To address these concerns, the commenter suggested that the Agency consider instituting controls to ensure that auxiliary equipment is (1) inoperative while the CMV is in motion or (2) located such that the driver or operator cannot turn it on while the vehicle is in motion. The commenter recommended that additional data be collected before a decision is made to grant the exemption.

**FMCSA Analysis**

The motor carrier safety regulations pertaining to CMV fuel systems have prohibited the use of fuel systems that supply fuel directly to the carburetor or injector by gravity or syphon feed since at least the early 1950s when such regulations were administered by the Interstate Commerce Commission (ICC). In its comments to the CMW application, TTMA stated ''We believe that the prohibition against siphon or gravity feed was inserted to prevent a situation where fuel would continuously feed an engine on a drive vehicle that had caught fire.'' At that time, the regulations for fuel systems and liquid fuel tanks were limited to those used specifically *for the propulsion of the motor vehicle,* and did not contemplate systems for containing and supplying fuel for the operation of auxiliary equipment installed on or used in connection with the motor vehicle.[1]

On February 19, 1970, the Federal Highway Administration (FHWA), the predecessor to FMCSA, published a notice of proposed rulemaking (NPRM) proposing amendments to the regulations pertaining to CMV fuel systems to (1) apply additional provisions to diesel fuel tanks, (2) set somewhat more stringent requirements for liquid fuel tanks other than side-mounted liquid fuel tanks, (3) update the references to industry standards, and (4) rearrange the subpart for increased clarity (35 FR 3177). While retaining the prohibition against use of fuel systems that supply fuel directly to the carburetor or injector by gravity or syphon feed, the NPRM proposed to define ''fuel tank'' as ''a tank installed on a motor vehicle to contain and supply fuel for its operation *or for the operation of auxiliary equipment.*'' [Emphasis added.] There was no discussion in the NRPM regarding the proposal to extend the scope of the regulation beyond systems/tanks used for the propulsion of the CMV, and to include fuel tanks used for the operation of auxiliary equipment.

In a final rule published on August 14, 1971 (36 FR 15444), FHWA did not retain the proposed definition of ''Fuel tank'' that included the reference to ''auxiliary equipment,'' but instead, adopted a new section in 49 CFR 393.65 regarding the applicability of the rules in Subpart E to all fuel systems. Specifically, the August 1971 rule adopted 49 CFR 393.65(a), ''Application of the rules in this section,'' as follows (which remains unchanged today): ''The rules in this section apply to systems for containing and supplying fuel for the operation of motor vehicles or for the operation of auxiliary equipment installed on, or used in connection with, motor vehicles.'' While there were 26 commenters to the February 1970 NPRM, there was no discussion in the August 1971 final rule regarding the rationale for extending the scope of the fuel system requirements to include systems/tanks used for the operation of auxiliary equipment installed on or used in connection with the CMV.

FMCSA is unable to confirm from the ICC rulemaking documents whether the prohibition of gravity or syphon-fed fuel systems was established (and has been maintained in the regulations since the 1950s) to eliminate/minimize the risk associated with the continuous supply of fuel to the engine of a vehicle that has caught fire, as stated by TTMA in its comments. However, the TTMA explanation is certainly reasonable and FMCSA believes that the regulatory prohibition against the use of such systems has been successful in mitigating the consequences of CMV vehicle fires. At the same time, FMCSA agrees with TTMA and a commenter that the risk of fires involving fuel from auxiliary equipment that is mounted to a CMV is remote because the auxiliary equipment is rarely, if ever, operated when the CMV is in motion. Instead, most auxiliary equipment that is permanently mounted to a CMV utilizing small, commercially available internal combustion engines (such as small pumps) is typically used to perform work-related functions at various jobsites when the CMV is no longer operating on the highway. Additionally, the capacity of fuel tanks on auxiliary equipment that is mounted on CMVs is typically very small, generally not exceeding 5 gallons, which minimizes the consequences of

[1] See the ICC's amendments to 49 CFR part 193, Parts and Accessories Necessary for Safe Operations, Subpart E—Fuel Systems, dated May 15, 1952 (17 FR 4438).

fires due to fuel supplied via gravity or syphon-fed systems on such equipment.

As CMW notes in its application, if the exemption is not granted, CMVs with auxiliary equipment that use gravity or syphon-fed fuel systems need to be modified to (1) remove the gravity and syphon-fed fuel systems, (2) mount fuel tanks near the auxiliary equipment's internal combustion engine, and (3) install fuel pumps to deliver fuel to the auxiliary equipment in order to comply with 49 CFR 393.65(d). FMCSA agrees with CMW that the risk of fires from the use of gravity or syphon-fed fuel systems used on auxiliary equipment is minimal, especially given that the auxiliary equipment typically operates only when the CMV is not operating on the highway.

FMCSA acknowledges the concern of the commenter who noted that the auxiliary equipment may be operated while the vehicle is in motion, and that it would be very difficult for FMCSA to enforce a prohibition against such use. However, FMCSA is unaware of any situations in which motor carrier operations require the auxiliary equipment to operate while the vehicle is in motion. Instead, and as stated earlier, FMCSA believes that most auxiliary equipment that is permanently mounted to a CMV utilizing small, commercially available internal combustion engines (such as small pumps) is typically used to perform work-related functions at various jobsites and when the CMV is stationary and no longer operating on the highway.

**FMCSA Decision**

FMCSA has evaluated the CMW exemption application, and the comments received. Based on the discussion above, FMCSA believes that allowing the use of gravity or syphon-fed fuel systems for auxiliary equipment installed on or used in connection with CMVs that operate only when the CMV is not operating on the highway is likely to provide a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

**Terms and Conditions for the Exemption**

The Agency hereby grants the exemption for a 5-year period, beginning September 16, 2020 and ending September 16, 2025. During the temporary exemption period, motor carriers will be allowed to use gravity or syphon fed fuel systems for auxiliary equipment installed on or used in connection with CMVs that operate only when the CMV is not operating on the highway.

The exemption will be valid for 5 years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) Motor carriers operating CMVs fail to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Interested parties possessing information that would demonstrate that motor carriers operating CMVs allowing the use of gravity or syphon fed fuel systems for auxiliary equipment installed on or used in connection with CMVs that operate only when the CMV is not operating on the highway is not achieving the requisite statutory level of safety should immediately notify FMCSA. The Agency will evaluate any such information and, if safety is being compromised or if the continuation of the exemption is not consistent with 49 U.S.C. 31136(e) and 31315(b), will take immediate steps to revoke the exemption.

**Preemption**

In accordance with 49 U.S.C. 31313(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate commerce that conflicts with or is inconsistent with this exemption with respect to CMVs operating under the exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

**James W. Deck,**

*Deputy Administrator.*

[FR Doc. 2020–20440 Filed 9–15–20; 8:45 am]

**BILLING CODE 4910–EX–P**

---

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2014–0213; FMCSA–2015–0323]**

### Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of renewal of exemptions; request for comments.

**SUMMARY:** FMCSA announces its decision to renew exemptions for seven individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to continue to operate CMVs in interstate commerce.

**DATES:** Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates stated in the discussions below. Comments must be received on or before October 16, 2020.

**ADDRESSES:** You may submit comments identified by the Federal Docket Management System (FDMS) Docket No. FMCSA–2014–0213 or Docket No. FMCSA–2015–0323 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/docket?D=FMCSA-2014-0213* or *http://www.regulations.gov/docket?D=FMCSA-2015-0323.* Follow the online instructions for submitting comments.
- *Mail:* Docket Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Docket Operations.
- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Operations, (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

## I. Public Participation

*A. Submitting Comments*

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2014–0213 or FMCSA–2015–0323), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov/docket?D=FMCSA-2014-0213* or *http://www.regulations.gov/docket?D=FMCSA-2015-0323.* Click on the ''Comment Now!'' button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

*B. Viewing Documents and Comments*

To view comments, as well as any documents mentioned in this notice as being available in the docket, go to *http://www.regulations.gov/docket?D=FMCSA-2014-0213* or *http://www.regulations.gov/docket?D=FMCSA-2015-0323* or and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting Docket Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Docket Operations.

*C. Privacy Act*

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 *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.*

## II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statute also allows the Agency to renew exemptions at the end of the 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver's medical certification.

The physical qualification standard for drivers regarding epilepsy found in 49 CFR 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria [1] to assist medical examiners (MEs) in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce.

The seven individuals listed in this notice have requested renewal of their exemptions from the epilepsy and seizure disorders prohibition in § 391.41(b)(8), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

## III. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b), FMCSA will take immediate steps to revoke the exemption of a driver.

## IV. Basis for Renewing Exemptions

In accordance with 49 U.S.C. 31136(e) and 31315(b), each of the seven applicants has satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition. The seven drivers in this notice remain in good standing with the Agency, have maintained their medical monitoring and have not exhibited any medical issues that would compromise their ability to safely operate a CMV during the previous 2-year exemption period. In addition, for Commercial Driver's License (CDL) holders, the Commercial Driver's License Information System and the Motor Carrier Management Information System are searched for crash and violation data. For non-CDL holders, the Agency reviews the driving records from the State Driver's Licensing Agency. These factors provide an adequate basis for predicting each driver's ability to continue to safely operate a CMV in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption.

In accordance with 49 U.S.C. 31136(e) and 31315(b), the following groups of drivers received renewed exemptions in the month of September and are discussed below.

As of September 9, 2020, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following three individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers:

Mark Anderson (NC); Jeremy Bradford (AL); and Jeffrey B. Green (CA).

The drivers were included in docket number FMCSA–2015–0323. Their exemptions were applicable as of September 9, 2020, and will expire on September 9, 2022.

As of September 16, 2020, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following four individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers:

Lee H. Anderson (MA)
Gary Combs, Jr. (KY)
Roland Mezger (PA)
Robert Thomas, Jr. (NC)

[1] These criteria may be found in APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H. *Epilepsy:* § 391.41(b)(8), paragraphs 3, 4, and 5, which is available on the internet at *https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf.*

The drivers were included in docket number FMCSA–2014–0213. Their exemptions are applicable as of September 16, 2020, and will expire on September 16, 2022.

**V. Conditions and Requirements**

The exemptions are extended subject to the following conditions: (1) Each driver must remain seizure-free and maintain a stable treatment during the 2-year exemption period; (2) each driver must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) each driver must undergo an annual medical examination by a certified ME, as defined by § 390.5; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy of his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

**VI. Preemption**

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

**VII. Conclusion**

Based on its evaluation of the seven exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the epilepsy and seizure disorders prohibition in § 391.41(b)(8). In accordance with 49 U.S.C. 31136(e) and 31315(b), each exemption will be valid for 2 years unless revoked earlier by FMCSA.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2020–20394 Filed 9–15–20; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**[Docket Number FRA–2020–0072]**

### Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System

Under part 235 of title 49 of the Code of Federal Regulations (CFR) and 49 U.S.C. 20502(a), this document provides the public notice that on September 4, 2020, Union Pacific Railroad Company (UPRR) petitioned the Federal Railroad Administration (FRA) seeking approval to discontinue or modify a signal system. FRA assigned the petition Docket Number FRA–2020–0072.

*Applicant:* Union Pacific Railroad Company, Neal E. Hathaway, A.V.P.—Signal Maintenance & Construction, 1400 Douglas Street, MS/RM 0910, Omaha, NE 68179.

Specifically, UPRR seeks to discontinue the hold signals at control point (CP) S1272 and CP S1279. It also seeks to classify a portion of the West Intermodal Lead (Track 101) as yard track between Santa Teresa Terminal, CP S1271 (milepost (MP) 1271.25) and hold signal CP S1272 (MP 1273.28), as well as a portion of the East Intermodal Lead (Track 202), between hold signal CP S1279 (MP 1277.06) and Tarmac CP S1280 (MP 1278.85) at the Santa Teresa Fueling Facility, Lordsburg Subdivision located in Santa Teresa, New Mexico.

UPRR states the reason for the changes is that operational changes on each intermodal lead have led to a large reduction of throughput moves on signal indication, both inbound and outbound.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov.*

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation (DOT), 1200 New Jersey Ave. SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Ave. SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by October 16, 2020 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov.*

Issued in Washington, DC.

**John Karl Alexy,**

*Associate Administrator for Railroad Safety, Chief Safety Officer.*

[FR Doc. 2020–20421 Filed 9–15–20; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**[Docket No. FRA–2020–0027–N–22]**

### Proposed Agency Information Collection Activities; Comment Request

**AGENCY:** Federal Railroad Administration (FRA), U.S. 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, FRA seeks approval of the Information Collection Requests (ICRs) abstracted below. Before submitting these ICRs to the Office of Management and Budget (OMB) for approval, FRA is soliciting public comment on specific aspects of the activities identified in the ICRs.

**DATES:** Interested persons are invited to submit comments on or before November 16, 2020.

**ADDRESSES:** Submit comments and recommendations for the proposed ICRs to Ms. Hodan Wells, Information Collection Clearance Officer at email: *hodan.wells@dot.gov* or telephone: (202) 493–0440. Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

**SUPPLEMENTARY INFORMATION:** The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days' notice to the public to allow comment on information collection activities before seeking OMB approval of the activities. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8 through 1320.12. Specifically, FRA invites interested parties to comment on the following ICRs regarding: (1) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities 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 for FRA to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology. *See* 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1).

FRA believes that soliciting public comment may reduce the administrative and paperwork burdens associated with the collection of information that Federal regulations mandate. In summary, FRA reasons that comments received will advance three objectives: (1) Reduce reporting burdens; (2) organize information collection requirements in a ''user-friendly'' format to improve the use of such information; and (3) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

The summaries below describe the ICRs that FRA will submit for OMB clearance as the PRA requires:

*Title:* Identification of Railroad Cars.[1]

*OMB Control Number:* 2130–0506.

*Abstract:* The collection of information is associated with 49 CFR 232.3(d), formerly contained in Interstate Commerce Commission (ICC) Order 13528. Paragraph (d)(3) of 49 CFR 232.3 conditionally excepts certain export, industrial, and other cars not owned by a railroad from part 232 compliance. It requires cars to be identified by a card attached to each side of the equipment, signed by the shipper, specifically noting that the car is being moved under the proper authority. Railroads typically use carrier bad order forms or tags for these purposes. These forms are readily available from all carrier repair facilities. If a car moving under 49 CFR 232.3(d)(3) is not properly tagged, a carrier is not legally allowed to move the car. Section 232.3(d)(3) does not require carriers or shippers to retain cards or tags. When a car bearing tags for movement under this provision arrives at its destination, the tags are removed. FRA estimates approximately 400 cars per year, each bearing two forms/tags, are moved under this regulation.

*Type of Request:* Extension without change of a currently approved collection.

*Affected Public:* Businesses.

*Form(s):* N/A.

*Respondent Universe:* 765 railroads.

*Frequency of Submission:* On occasion.

*Reporting Burden:*

| CFR section[2] | Respondent universe | Total annual responses | Average time per responses | Total annual burden hours | Total cost equivalent[3][4] |
|---|---|---|---|---|---|
| 232.3(d)—Cars moved in Accordance with ICC Order 13528—Tagging | 765 railroads | 800 tags | 5 minutes | 67 hours | $3,886 |

[2] The requesting inventory estimates a total burden of 67, the same as the current inventory.
[3] The dollar equivalent cost throughout this document is derived from the Surface Transportation Board's Full Year Wage A&B data series using the appropriate employee group hourly wage rate that includes a 75-percent overhead charge.
[4] The hourly wage rate used is $77 per hour ($33.37 * 1.75 = $58).

*Total Estimated Annual Responses:* 800.

*Total Estimated Annual Burden:* 67 hours.

*Total Estimated Annual Burden Hour Dollar Cost Equivalent:* $3,886.

*Title:* U.S. Locational Requirement for Dispatching U.S. Rail Operations.

*OMB Control Number:* 2130–0556.

*Abstract:* 49 CFR part 241 requires, in the absence of a waiver, that all dispatching of railroad operations occurring in the United States be performed in the United States. A railroad may, however, conduct dispatching from Mexico or Canada in an emergency situation, but only for the duration of the emergency situation. A railroad relying on this exception must provide written notification of its action to FRA as soon as practicable; such notification is not required before addressing the emergency situation. The information collected under this rule is used as part of FRA's oversight function to ensure that extraterritorial dispatchers comply with applicable safety regulations.

*Type of Request:* Extension without change of a currently approved collection.

*Affected Public:* Businesses.

*Form(s):* N/A.

*Respondent Universe:* 4 railroads.

*Frequency of Submission:* On occasion.

*Reporting Burden:*

| CFR section[5] | Respondent universe | Total annual responses | Average time per responses | Total annual burden hours | Total cost equivalent[6] |
|---|---|---|---|---|---|
| 241.9(c)—Written notification to FRA of emergency where dispatcher outside the U.S. dispatches a railroad operation in the U.S. for the duration of the emergency | 4 railroads | 1 notice | 8 hours | 8 hours | $616 |

[5] Note: The requesting inventory estimates a total burden of 8, the same as the current inventory.
[6] The hourly wage rate used is $77 per hour ($44.27 * 1.75 = $77).

[1] FRA makes a revision to the title of OMB Control Number 2130–0506 (formerly titled Identification of Cars Moved in Accordance with Order 13528).

*Total Estimated Annual Responses:* 1.

*Total Estimated Annual Burden:* 8 hours.

*Total Estimated Annual Burden Hour Dollar Cost Equivalent:* $616.

Under 44 U.S.C. 3507(a) and 5 CFR 1320.5(b) and 1320.8(b)(3)(vi), 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 unless it displays a currently valid OMB control number.

**Authority:** 44 U.S.C. 3501–3520.

**Brett A. Jortland,**

*Deputy Chief Counsel.*

[FR Doc. 2020–20386 Filed 9–15–20; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

### Notice of OFAC Sanctions Action

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more individuals that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List). OFAC has determined that one or more applicable legal criteria were satisfied to place the individuals on the SDN List. All property and interests in property subject to U.S. jurisdiction of these individuals are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

**DATES:** See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

**FOR FURTHER INFORMATION CONTACT:**

*OFAC:* Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; or Assistant Director for Regulatory Affairs, tel.: 202–622–4855.

**SUPPLEMENTARY INFORMATION:**

#### Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treasury.gov/ofac*).

#### Notice of OFAC Action

On September 4, 2020, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following individuals are blocked under the relevant sanctions authority listed below.

#### Individuals

1. DE LIMA SALAS, David Eugenio, Villas Martinique Casa 131 El Morro, Lecherias, Anzoategui, Venezuela; DOB 03 Apr 1959; POB Puerto La Cruz, Estado Anzoategui, Venezuela; nationality Venezuela; Gender Male; Cedula No. V–4719253 (Venezuela); Passport 144763935 (Venezuela) expires 02 Jul 2022 (individual) [VENEZUELA].

Designated pursuant to section 1(a)(ii)(A)(4) of Executive Order 13692 of March 8, 2015, ''Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Venezuela,'' 80 FR 12747, 3 CFR, 2015 Comp., p. 276 (E.O. 13692), as amended by Executive Order 13857 of January 25, 2019, ''Taking Additional Steps To Address the National Emergency With Respect to Venezuela,'' 84 FR 509 (E.O. 13857), for being responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, or having participated in, directly or indirectly, public corruption by senior officials within the Government of Venezuela.

2. ALFONZO IZAGUIRRE, Indira Maira, Los Teques, Edo Miranda, Venezuela; DOB 29 Apr 1968; POB Venezuela; nationality Venezuela; Gender Female; Cedula No. V–6978710 (Venezuela); Passport 022795494 (Venezuela) expires 19 May 2014 (individual) [VENEZUELA].

Designated pursuant to section 1(a)(ii)(C) of E.O. 13692, as amended by E.O. 13857, for being a current or former official of the Government of Venezuela.

3. GUTIERREZ PARRA, Jose Luis, Calle Sucre, Res. Puma, Piso 2, Apto 24, Urb. Chacao, Caracas, Miranda 1060, Venezuela; DOB 13 Jun 1963; POB Puerto Ayacucho, Venezuela; nationality Venezuela; Gender Male; Cedula No. V–7048576 (Venezuela); Passport 108109658 (Venezuela) issued 15 Oct 2014 expires 14 Oct 2019 (individual) [VENEZUELA].

Designated pursuant to section 1(a)(ii)(C) of E.O. 13692, as amended by E.O. 13857, for being a current or former official of the Government of Venezuela.

4. MUNOZ PEDROZA, Reinaldo Enrique, C. Gil Fortoul, Centauro A, 5–D, Santa Monica, Caracas, Distrito Capital 1040, Venezuela; DOB 28 Nov 1971; POB Caracas, Venezuela; nationality Venezuela; Gender Male; Cedula No. V–10869426 (Venezuela); Passport 138050232 (Venezuela) expires 25 Jul 2021 (individual) [VENEZUELA].

Designated pursuant to section 1(a)(ii)(C) of E.O. 13692, as amended by E.O. 13857, for being a current or former official of the Government of Venezuela.

Dated: September 4, 2020.

**Andrea Gacki,**

*Director, Office of Foreign Assets Control, U.S. Department of the Treasury.*

[FR Doc. 2020–20412 Filed 9–15–20; 8:45 am]

**BILLING CODE 4810–AL–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form 13560

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Health Plan Administrator (HPA) Return of Funds.

**DATES:** Written comments should be received on or before November 16, 2020 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Kinna Brewington, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, at (202)317–5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Health Plan Administrator (HPA) Return of Funds.

*OMB Number:* 1545–1891.

*Form Number:* 13560.

*Abstract:* Form 13560 is completed by Health Plan Administrators (HPAs) and accompanies a return of funds in order to ensure proper handling. This form serves as supporting documentation for any funds returned by an HPA and clarifies where the payment should be applied and why it is being sent.

*Current Actions:* There are no changes being made to this form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other-for-profit organizations.

*Estimated Number of Respondents:* 200.

*Estimated Time per Respondent:* 15 mins.

*Estimated Total Annual Burden Hours:* 50.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to

respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments will be of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 10, 2020.

**Martha R. Brinson,**

*Tax Analyst.*

[FR Doc. 2020–20413 Filed 9–15–20; 8:45 am]

BILLING CODE 4830–01–P

# Reader Aids

**Federal Register**

Vol. 85, No. 180

Wednesday, September 16, 2020

## CUSTOMER SERVICE AND INFORMATION

| | |
|---|---|
| **Federal Register/Code of Federal Regulations** | |
| General Information, indexes and other finding aids | **202–741–6000** |
| **Laws** | **741–6000** |
| **Presidential Documents** | |
| Executive orders and proclamations | **741–6000** |
| **The United States Government Manual** | **741–6000** |
| **Other Services** | |
| Electronic and on-line services (voice) | **741–6020** |
| Privacy Act Compilation | **741–6050** |

## ELECTRONIC RESEARCH

### World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.govinfo.gov.**

Federal Register information and research tools, including Public Inspection List and electronic text are located at: **www.federalregister.gov.**

### E-mail

**FEDREGTOC** (Daily Federal Register Table of Contents Electronic Mailing List) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new**, enter your email address, then follow the instructions to join, leave, or manage your subscription.

**PENS** (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html and select** *Join or leave the list (or change settings);* then follow the instructions.

**FEDREGTOC** and **PENS** are mailing lists only. We cannot respond to specific inquiries.

**Reference questions.** Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

## FEDERAL REGISTER PAGES AND DATE, SEPTEMBER

54233–54480 ..... 1
54481–54884 ..... 2
54885–55168 ..... 3
55169–55358 ..... 4
55359–55586 ..... 8
55587–55780 ..... 9
55781–56158 .....10
56159–56470 .....11
56471–57076 .....14
57077–57664 .....15
57665–57936 .....16

## CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

**3 CFR**

**Proclamations:**
9705 (See Proc. 10064) .....54877
9759 (See Proc. 10064) .....54877
10064 .....54877
10065 .....55161
10066 .....55163
10067 .....55165
10068 .....55167
10069 .....56463
10070 .....57663

**Administrative Orders:**
Memorandums:
Memorandum of September 20, 2013 (revoked by Memorandum of September 2, 2020) .....55585
Memorandum of August 29, 2020 .....54883
Memorandum of September 2, 2020 .....55585
Presidential Determinations:
No. 2020–10 of September 9, 2020 .....57075
Notices:
Notice of September 10, 2020 .....56467
Notice of September 10, 2020 .....56469
Space Policy Directives:
Space Policy Directive—5 .....56155

**5 CFR**

1600 .....57665
1650 .....57665

**Proposed Rules:**
316 .....56536

**7 CFR**

1 .....55359
905 .....55359
990 .....55363
1210 .....56471
1710 .....57077
1779 .....57077
1780 .....57077
1783 .....57077
1942 .....57077
1980 .....57077
3570 .....57077
4274 .....57077
4279 .....57077
4280 .....57077

**Proposed Rules:**
959 .....55388
1222 .....54945

**8 CFR**

**Proposed Rules:**
1 .....56338
103 .....55597, 56338
204 .....56338
207 .....56338
208 .....56338
209 .....56338
210 .....56338
212 .....56338
214 .....56338
215 .....56338
216 .....56338
235 .....55597, 56338
236 .....56338
240 .....56338
244 .....56338
245 .....56338
245a .....56338
264 .....56338
287 .....56338
316 .....56338
333 .....56338
335 .....56338

**9 CFR**

**Proposed Rules:**
352 .....56538
354 .....56538
412 .....56538

**10 CFR**

72 .....54885
429 .....56475
430 .....56475

**Proposed Rules:**
35 .....57148
50 .....56548
52 .....56548
73 .....56548
430 .....56185, 57787
431 .....57149

**12 CFR**

261 .....57616
624 .....54233
701 .....56498, 57666

**Proposed Rules:**
22 .....54946
208 .....54946
339 .....54946
614 .....54946, 55786
615 .....55786
620 .....55786
628 .....55786
760 .....54946

**14 CFR**

39 .....54481, 54885, 54888,

54891, 54893, 54896, 54900, 55169, 55171, 55781, 56159, 56161, 57666, 57668, 57671
71 .....54233, 55174, 55366, 55368, 55369, 55371, 56514, 57085, 57086, 57088, 57673, 57674
73.....57675
91.....55372
95.....55174
97.....54902, 54909
**Proposed Rules:**
25.....55198
39 .....54286, 54515, 55388, 55391, 55619, 55622, 55624, 57165, 57168, 57799, 57802, 57804
71 .....55200, 55395, 55627, 57170, 57806

**15 CFR**

743.....56294
772.....56294
774.....56294

**16 CFR**

**Proposed Rules:**
641.....57172

**17 CFR**

1.....57462
23.....56924, 57462
140.....57462
200.....57089
202.....57089
227.....54483
239.....54483
240.....55082
270.....57089
276.....55155

**18 CFR**

292.....54638
375.....54638
**Proposed Rules:**
37.....55201
38.....55201

**19 CFR**

Ch. I.....57108
360.....56162
**Proposed Rules:**
351.....55801

**21 CFR**

101.....55587
**Proposed Rules:**
300.....55802

**26 CFR**

1.....55185, 56686
**Proposed Rules:**
1.....56846

**27 CFR**

9.....54491

**29 CFR**

826.....57677
1926.....57109
4022.....57123
4044.....57123
**Proposed Rules:**
2509.....55219
2510.....54288
2550.....55219
4022.....55587

**31 CFR**

501.....54911
800.....57124
1010.....57129
1020.....57129

**32 CFR**

143.....56172
204.....55783
217.....55783
199.....54914
**Proposed Rules:**
553.....57640

**33 CFR**

100.....54494
117 .....54496, 56516, 57691
165 .....54497, 54499, 54501, 55190, 56517, 56519
**Proposed Rules:**
Ch. II.....57298
117.....57808
165 .....54946, 56186, 57175

**34 CFR**

Ch. III.....57693
Ch. VI.....57138
600.....54742
602.....54742
668.....54742
**Proposed Rules:**
Ch. III.....55802

**36 CFR**

**Proposed Rules:**
214.....54311
228.....54311
261.....54311

**38 CFR**

**Proposed Rules:**
3.....56189

**39 CFR**

551.....55192
**Proposed Rules:**
3050.....56192

**40 CFR**

52 .....54504, 54507, 54509, 54510, 54924, 56521, 57694, 57696, 57698, 57700, 57701, 57703, 57707, 57712, 57714, 57721, 57723, 57727, 57729, 57731, 57733, 57736
55.....55377
60 .....57018, 57398, 57739
61.....57739
63 .....55744, 56080, 57739
81.....57733, 57736
141.....54235
143.....54235
180 .....54259, 54927, 55193, 55380, 57746, 57750
281.....57754
282.....56172
300.....54931
721.....57756
**Proposed Rules:**
49.....55628
52 .....54947, 54952, 54954, 54960, 54961, 56193, 56196, 56198, 57810
60.....57815
61.....57815
63.....57815
81.....54517
131.....54967
180.....55810
271.....56200
282.....56207
300.....54970

**41 CFR**

201.....54263

**42 CFR**

9.....54271
71.....56424
402.....55385
403.....55385
410.....54820
411.....55385
412.....55385
413.....54820
414.....54820
422.....54820, 55385
423.....54820, 55385
460.....55385
482.....54820
483.....54820, 55385
485.....54820
488.....54820, 55385
493.....54820, 55385
**Proposed Rules:**
Ch. I.....56108
405.....54327

**43 CFR**

**Proposed Rules:**
3170.....55940

**44 CFR**

64.....55196

**45 CFR**

1173.....56525

**46 CFR**

11.....57757

**47 CFR**

27.....57765
52.....57767
54.....56528
64.....56530
**Proposed Rules:**
1.....54523, 56549
2.....56549

**48 CFR**

**Proposed Rules:**
1.....56549, 57177
7.....56549
12.....56558
25.....56549, 56558
44.....56549
52 .....56549, 56558, 57177

**49 CFR**

Ch. XII.....57108
543.....55386
571.....54273
1244.....54936
**Proposed Rules**
571.....55396

**50 CFR**

17.....54281
600.....56177
622 .....54513, 54942, 54943, 55592
635.....57783
648 .....54514, 55595, 56534, 57785
660.....55784
679 .....54285, 55595, 57785, 57786
**Proposed Rules:**
17 .....54339, 55398, 57578, 57816
600.....56569
660.....54529
665.....56208
679.....55243
680.....55243

## LIST OF PUBLIC LAWS

**Note:** No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

**Last List August 18, 2020**

## Public Laws Electronic Notification Service (PENS)

**PENS** is a free email notification service of newly enacted public laws. To subscribe, go to *https://listserv.gsa.gov/cgi-bin/wa.exe?SUBED1=PUBLAWS-L&A=1*

**Note:** This service is strictly for email notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.