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# Rules and Regulations

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2021–0138; Project Identifier MCAI–2020–01466–T; Amendment 39–21560; AD 2021–10–27]**

**RIN 2120–AA64**

## Airworthiness Directives; BAE Systems (Operations) Limited Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all BAE Systems (Operations) Limited Model BAe 146 and Model Avro 146–RJ series airplanes. This AD was prompted by a report indicating that during a routine battery capacity check on the emergency light power units, the printed circuit boards (PCBs) for certain power units were found to show signs of burning. This AD requires replacing each Honeywell emergency light power unit having a certain part number with a serviceable emergency light power unit. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective June 17, 2021.

**ADDRESSES:**

### 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–2021–0138; 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:** Todd Thompson, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax: 206–231–3228; email: *Todd.Thompson@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0237, dated October 28, 2020 (EASA AD 2020–0237) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all BAE Systems (Operations) Limited Model BAe 146 and Model Avro 146–RJ series airplanes. You may examine the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0138.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all BAE Systems (Operations) Limited Model BAe 146 and Model Avro 146–RJ series airplanes. The NPRM published in the **Federal Register** on March 15, 2021 (86 FR 14283). The NPRM was prompted by a report indicating that during a routine battery capacity check on the emergency light power units, the PCBs for certain power units were found to show signs of burning. The NPRM proposed to require replacing each Honeywell emergency light power unit having a certain part number with a serviceable emergency light power unit. The FAA is issuing this AD to address heat damage of the PCBs, which could lead to battery discharge and possibly result in lack of power supply to the emergency light units when needed. See the MCAI for additional background information.

### Comments

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

### Conclusion

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

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

### Costs of Compliance

The FAA estimates that this AD affects 30 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

| Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|
| 2 work-hours × $85 per hour = $170 | $1,800 | $1,970 | $59,100 |

### 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:

**2021–10–27 BAE Systems (Operations) Limited:** Amendment 39–21560; Docket No. FAA–2021–0138; Project Identifier MCAI–2020–01466–T.

**(a) Effective Date**

This airworthiness directive (AD) is effective June 17, 2021.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to all BAE Systems (Operations) Limited airplanes specified in paragraphs (c)(1) and (2) of this AD, certificated in any category.

(1) Model BAe 146–100A, –200A, and –300A airplanes.

(2) Model Avro 146–RJ70A, 146–RJ85A, and 146–RJ100A airplanes.

**(d) Subject**

Air Transport Association (ATA) of America Code 33, Lights.

**(e) Unsafe Condition**

This AD was prompted by a report indicating that during a routine battery capacity check on the emergency light power units, the printed circuit boards (PCBs) for power units LE 10 and LE 22 (Illustrated Parts Catalog (IPC) 33–50–00) were found to show signs of burning. The FAA is issuing this AD to address heat damage of the PCBs, which could lead to battery discharge and possibly result in lack of power supply to the emergency light units when needed.

**(f) Compliance**

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

**(g) Definitions**

(1) An affected part is defined as a Honeywell emergency light power unit, having part number 60–3550–1, except for those modified and marked using the instructions specified in Honeywell Service Bulletin 60–3550–33–0001, Revision 1, dated September 3, 2013.

(2) A serviceable part is defined as an emergency light power unit that is not an affected part.

(3) Group 1 airplanes are those that have an affected part installed.

(4) Group 2 airplanes are those that do not have an affected part installed.

**(h) Replacement**

Within two months after the effective date of this AD: Replace each affected part with a serviceable part.

**Note 1 to paragraph (h):** BAE Systems (Operations) Limited Service Bulletin ISB.33–081, dated November 4, 2019, contains information related to the replacement specified in paragraph (h) of this AD.

**(i) Parts Installation Prohibition**

As of the applicable compliance times specified in paragraphs (i)(1) or (2) of this AD, do not install an affected part on any airplane.

(1) For Group 1 airplanes: After replacement of each affected part on an airplane as specified in paragraph (h) of this AD.

(2) For Group 2 airplanes: As of the effective date of this AD.

**(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 responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (k)(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 responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or the European Union Aviation Safety Agency (EASA); or BAE Systems (Operations) Limited's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

**(k) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2020–0237, dated October 28, 2020, for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0138.

(2) For more information about this AD, contact Todd Thompson, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax: 206–231–3228; email *Todd.Thompson@faa.gov.*

(3) For service information identified in this AD that is not incorporated by reference, contact BAE Systems (Operations) Limited, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; telephone +44 1292 675207; fax +44 1292 675704; email *RApublications@baesystems.com;* internet *http://www.baesystems.com.*

**(l) Material Incorporated by Reference**

None.

Issued on May 7, 2021.

**Gaetano A. Sciortino,**

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

[FR Doc. 2021–10068 Filed 5–12–21; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Part 157

**[Docket No. RM20–15–001; Order No. 871–B]**

## Limiting Authorizations To Proceed With Construction Activities Pending Rehearing

**AGENCY:** Federal Energy Regulatory Commission, Department of Energy.

**ACTION:** Order addressing arguments raised on rehearing and clarification, and setting aside, in part, prior order.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) addresses requests for rehearing and clarification on Order No. 871. In Order No. 871, the Commission issued a final rule to amend its regulations to preclude the issuance of authorizations to proceed with construction activities with respect to natural gas facilities approved pursuant to section 3 or section 7 of the Natural Gas Act (NGA) until either the time for filing a request for rehearing of such order has passed with no rehearing request being filed or the Commission has acted on the merits of any rehearing request. This order revises the rule to provide that it will apply only when a request for rehearing raises issues reflecting opposition to project construction, operation, or need. Further, this order revises the rule to provide that the limit on construction authorization will only apply until the earlier of the date that a qualifying rehearing request is no longer pending before the Commission or 90 days following the date that a qualifying request for rehearing may be deemed denied by operation of law. In addition, the Commission announces a general policy with respect to stays of NGA section 7(c) certificate orders, subject to a particularized application of the policy on a case-by-case basis, of its intent to stay its NGA section 7(c) certificate orders during the 30-day rehearing period and pending Commission resolution of any timely requests for rehearing filed by landowners, subject to the same 90-day time limitation referenced above and certain exceptions. This policy is not intended to prevent a project developer from continuing to engage in development related activities, as permitted consistent with the stay of the certificate, that do not require use of landowner property or that are voluntarily agreed to by the landowner during the stay period.

**DATES:** This rule is effective June 14, 2021.

**FOR FURTHER INFORMATION CONTACT:** Tara DiJohn, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–8671, *tara.dijohn@ferc.gov.*

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1. On June 9, 2020, the Federal Energy Regulatory Commission (Commission) issued in Order No. 871 a final rule that precludes the issuance of authorizations to proceed with construction activities with respect to a Natural Gas Act (NGA) section 3 [1] authorization or section 7(c) [2] certificate order until the Commission acts on the merits of any timely-filed request for rehearing or until the deadline for filing a timely request for rehearing has passed with no such request being filed.[3] On July 9, 2020, the Interstate Natural Gas Association of America (INGAA) requested clarification or, in the alternative, rehearing, and Kinder Morgan, Inc. Natural Gas Entities [4] (Kinder Morgan) and TC Energy Corporation (TC Energy) requested rehearing. On January 26, 2021, the Commission issued Order No. 871–A, which offered interested parties an opportunity to provide further briefing on the issues raised in INGAA's, Kinder Morgan's, and TC Energy's requests for rehearing, and set February 16, 2021, and March 3, 2021, as the initial brief and reply brief deadlines, respectively.[5]

2. Pursuant to *Allegheny Defense Project* v. *FERC,*[6] the rehearing requests filed in this proceeding may be deemed denied by operation of law. However, as permitted by section 19(a) of the NGA,[7] we are modifying the discussion in Order No. 871 and granting, in part, INGAA's request for clarification, setting aside and revising Order No. 871 to resolve, in part, INGAA's, Kinder Morgan's, and TC Energy's requests for rehearing, and otherwise continuing to reach the same result as Order No. 871. As discussed further below, the Commission also adopts a policy of presumptively staying its NGA section 7(c) certificate orders during the 30-day rehearing period and pending Commission resolution of any timely requests for rehearing filed by landowners, subject to a time limitation and certain exceptions.[8]

## I. Background

3. In Order No. 871, the Commission explained that historically, due to the complex nature of the matters raised on rehearing of orders granting authorizations under NGA sections 3 and 7, the Commission had often issued an order (known as a tolling order) by the thirtieth day following the filing of a rehearing request, allowing itself additional time to provide thoughtful,

[1] 15 U.S.C. 717b.

[2] 15 U.S.C. 717f(c).

[3] *Limiting Authorizations to Proceed with Construction Activities Pending Rehearing,* Order No. 871, 85 FR 40113 (July 6, 2020), 171 FERC ¶ 61,201 (2020) (Order No. 871 or final rule).

[4] The Kinder Morgan Gas Entities include: Natural Gas Pipeline Company of America LLC; Tennessee Gas Pipeline Company, L.L.C.; Southern Natural Gas Company, L.L.C.; Colorado Interstate Gas Company, L.L.C.; Wyoming Interstate Company, L.L.C.; El Paso Natural Gas Company, L.L.C.; Mojave Pipeline Company, L.L.C.; Bear Creek Storage Company, L.L.C.; Cheyenne Plains Gas Pipeline Company, LLC; Elba Express Company, L.L.C.; Kinder Morgan Louisiana Pipeline LLC; Southern LNG Company, L.L.C.; and TransColorado Gas Transmission Company LLC.

[5] *Limiting Authorizations to Proceed with Construction Activities Pending Rehearing,* Order No. 871–A, 86 FR 7643 (Feb. 1, 2021), 174 FERC ¶ 61,050 (2021) (Order No. 871–A).

[6] 964 F.3d 1 (D.C. Cir. 2020) (en banc) (*Allegheny*).

[7] 15 U.S.C. 717r(a) (''Until the record in a proceeding shall have been filed in a court of appeals, as provided in subsection (b), the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it under the provisions of this chapter.'').

[8] *See* discussion *infra* Part II.C.

well-considered attention to the issues raised on rehearing.

4. In order to balance its commitment to expeditiously responding to parties' concerns in comprehensive orders on rehearing and the serious concerns posed by the possibility of construction proceeding prior to the completion of agency review, the Commission, in Order No. 871, exercised its discretion by amending its regulations to add new § 157.23, which precludes the issuance of authorizations to proceed with construction of projects authorized under NGA sections 3 and 7 during the period for filing requests for rehearing of the initial orders or while rehearing is pending.[9]

5. Three weeks after the Commission issued Order No. 871, the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) issued an *en banc* decision in *Allegheny.*[10] The court held that the Commission's use of tolling orders solely to allow itself additional time to consider an application for rehearing does not preclude operation of the NGA's deemed denial provision,[11] which enables a rehearing applicant to seek judicial review after thirty days of agency inaction.[12] The court explained that, to prevent a rehearing from being deemed denied, the Commission must act on an application for rehearing within thirty days of its filing by taking one of the four NGA-enumerated actions: Grant rehearing, deny rehearing, or abrogate or modify its order without further hearing.[13]

6. On July 9, 2020, INGAA filed a request for clarification or, in the alterative, rehearing of Order No. 871.[14] On the same day, Kinder Morgan and TC Energy also filed requests for rehearing.[15]

7. To facilitate our reconsideration of Order No. 871 and to ensure a complete record for further action, on January 26, 2021, the Commission issued an order providing interested parties an opportunity to comment on the arguments raised in the requests for rehearing.[16] In particular, the Commission sought comment on five central questions: (a) Whether the final rule's application should be limited to certain issues or arguments raised on rehearing; (b) whether the final rule should apply to all orders pertaining to an NGA section 3 authorization or section 7 certificate or only a subset thereof; (c) how the final rule should apply following the *Allegheny* decision; (d) whether the Commission should modify its practices or procedures to address concerns regarding the exercise of eminent domain while rehearing is pending; and (e) whether the Commission should set a specific time limit after which an authorization to commence construction could issue.[17]

8. In response, the Commission received twelve initial briefs and five reply briefs. Seven initial briefs and three reply briefs came from various entities representing the natural gas industry, which generally oppose what is in their view the overly broad scope of the final rule, including: The three rehearing applicants (INGAA, Kinder Morgan, TC Energy);[18] BHE Pipeline Group, LLC (BHE Pipeline);[19] the Enbridge Gas Pipelines (Enbridge);[20] the Gas and Oil Association of West Virginia, Inc. (Gas & Oil WV);[21] and the Tallgrass Pipelines (Tallgrass).[22]

9. We received five initial briefs and two reply briefs supporting and, in some cases, seeking expansion of, the final rule from: Maryland, Massachusetts, New Jersey, Oregon, Rhode Island, and the District of Columbia (States);[23] a consortium of public interest organizations (Public Interest Organizations);[24] the Delaware Riverkeeper Network and Maya Van Rossum (Delaware Riverkeeper);[25] the Niskanen Center and various landowners (Niskanen Center);[26] and three individual landowners.[27]

10. The Commission appreciates the additional briefing provided by the filers, as well as the diversity of perspectives represented. Taking those comments under consideration, the Commission addresses the issues raised on rehearing below.[28]

## II. Discussion

### *A. Scope and Application of Order No. 871*

11. INGAA seeks clarity regarding the scope and application of Order No. 871. Similarly, TC Energy seeks rehearing regarding the scope of Order No. 871. INGAA and TC Energy describe a number of circumstances that they contend would not implicate the concerns expressed by the Commission in promulgating Order No. 871 and ask the Commission to clarify Order No. 871 or revise it to provide that the rule does not apply in these circumstances. INGAA also asks the Commission to clarify how Order No. 871 will operate in light of certain rehearing procedures discussed in *Allegheny.*

#### 1. Rehearing Requests That Do Not Oppose the Project

12. INGAA asks the Commission to clarify that the rule precluding issuance of construction authorizations under

[9] Order No. 871 also revised § 153.4 of the Commission's regulations to incorporate a cross-reference to new § 157.23.

[10] 964 F.3d 1.

[11] 15 U.S.C. 717r(a).

[12] *Allegheny,* 964 F.3d at 18–19.

[13] *See id.* at 13 (quoting 15 U.S.C. 717r(a)).

[14] INGAA's July 9, 2020 Motion to Intervene and Request for Clarification or, in the Alternative, Rehearing (INGAA Rehearing). INGAA's Rehearing included a motion to intervene in Docket No. RM20–15–000. Intervention is not necessary in order to request rehearing of a rulemaking. *See, e.g., Generic Determination of Rate of Return on Common Equity for Elec. Utilities,* Order No. 389–A, 29 FERC ¶ 61,223, at 61,459 n.2 (1984) (''Rhode Island also requested leave to intervene out of time. Intervention is not necessary in order to request rehearing of a rulemaking.''). Accordingly, INGAA's motion is unnecessary.

[15] Kinder Morgan's July 9, 2020 Request for Rehearing (Kinder Morgan Rehearing); TC Energy's July 9, 2020 Request for Rehearing (TC Energy Rehearing).

[16] Order No. 871–A, 174 FERC ¶ 61,050. Several briefs filed in response to Order No. 871–A contained motions to intervene or were later supplemented by separately-filed motions to intervene. As we noted above, intervention in a rulemaking proceeding is not required. *See supra* note 14.

[17] For the full text of the questions posed by the Commission, *see* Order No. 871–A, 174 FERC ¶ 61,050 at P 7.

[18] *See* INGAA's February 16, 2021 Initial Brief (INGAA Initial Brief) and March 3, 2021 Reply Brief (INGAA Reply Brief); Kinder Morgan's February 16, 2021 Initial Brief (Kinder Morgan Initial Brief) and March 3, 2021 Reply Brief (Kinder Morgan Reply Brief); TC Energy's February 16, 2021 Comments (TC Energy Initial Brief).

[19] *See* BHE Pipeline's February 16, 2021 Comments (BHE Pipeline Initial Brief).

[20] *See* Enbridge's February 16, 2021 Initial Brief (Enbridge Initial Brief) and March 3, 2021 Reply Brief (Enbridge Reply Brief).

[21] *See* Gas & Oil WV's February 16, 2021 Initial Brief (Gas & Oil WV Initial Brief).

[22] *See* Tallgrass's February 16, 2021 Comments (Tallgrass Initial Brief).

[23] *See* States' February 16, 2021 Brief (States Initial Brief).

[24] *See* Public Interest Organizations' February 16, 2021 Brief (Public Interest Organizations Initial Brief) and March 3, 2021 Reply Brief (Public Interest Organizations Reply Brief). The Public Interest Organizations include: Alliance for the Shenandoah Valley; Appalachian Mountain Advocates; Appalachian Voices; Chesapeake Bay Foundation, Inc.; Cowpasture River Preservation Association; Earthjustice; Friends of Buckingham; Friends of Nelson; Highlanders for Responsible Development; Natural Resources Defense Council; Piedmont Environmental Council; Sierra Club; Sound Rivers, Inc.; Sustainable FERC Project; Virginia Wilderness Committee; Wild Virginia; and Winyah Rivers Alliance.

[25] *See* Delaware Riverkeeper's February 16, 2021 Brief (Delaware Riverkeeper Initial Brief).

[26] *See* Niskanen Center's February 16, 2021 Brief (Niskanen Center Initial Brief) and March 3, 2021 Reply Brief (Niskanen Center Reply Brief).

[27] *See* Deborah Evans, Ron Schaaf, and Bill Glow's February 16, 2021 Comments (Landowners Initial Brief).

[28] Some briefs raised issues outside the scope of the rule, such as the Commission's issuance of conditional certificates pursuant to NGA section 7 and the appropriate definition of pre-construction activities. The Commission will not address those issues here. We note, however, that the Commission recently solicited comments on, among other things, its use of conditional certificates. *See Certification of New Interstate Natural Gas Facilities,* 174 FERC ¶ 61,125, at PP 13–15 (2021).

NGA sections 3 and 7 would not apply in situations where only the project developer, a shipper, or other party supporting construction of the project files a request for rehearing on non-construction related grounds, such as rate or tariff issues.[29] In other words, INGAA seeks clarification that the rule would not apply where no affected landowner or other party that opposes the project seeks rehearing. Similarly, TC Energy seeks ''limited rehearing with respect to the breadth of the new regulation,'' and asserts that the Commission failed to engage in reasoned decision making by adopting an overly-broad regulation that would prevent an applicant from engaging in construction while a rehearing request is pending, even where the request does not challenge whether or how the project should be constructed.[30]

13. In addition, INGAA asks the Commission to clarify that the rule will not apply to any request for rehearing that only raises issues ''related to a tariff, rate, terms or conditions of service, policy, or other matters *that do not impact affected landowners.*'' [31] INGAA suggests, in the alternative, that the Commission add clarifying language in § 157.23 specifying that the rule will apply only when rehearing is sought by an ''affected landowner'' as that term is defined in the Commission's regulations.[32] This revision, INGAA explains, would ensure that the rule would not apply to projects where no affected landowners seek rehearing or to projects that do not involve the use of eminent domain authority.[33] INGAA also urges the Commission to revise the rule to clarify that it does not apply to natural gas export or import facilities authorized under section 3 of the NGA because such authorizations do not confer eminent domain authority.[34]

14. As described below, we grant, in part, INGAA's request for clarification, setting aside and revising Order No. 871 to resolve, in part, INGAA's, Kinder Morgan's, and TC Energy's requests for rehearing and otherwise continue to reach the same result as Order No. 871. The Commission does not intend Order No. 871 to apply in instances where construction of the project is unopposed. Accordingly, we are revising the rule to clarify that the prohibition on issuing authorizations to proceed with construction during the rehearing period will not apply in proceedings where no party files a request for rehearing raising issues reflecting opposition to project construction, operation, or need.[35] For example, requests for rehearing that only raise issues related to a tariff, rate, or terms or conditions of service would not trigger the rule's prohibition on construction authorizations. Contrary to some commenters' concerns about tailoring the scope of the rule to allow certain exceptions, the Commission is confident in its ability to administer the rule as revised.[36]

15. However, we disagree with INGAA's suggestion that the Commission limit the rule's application to only those requests for rehearing filed by affected landowners, as that term is defined in our regulations.[37] Adopting INGAA's suggestion would exclude from the rule's purview rehearing requests raising environmental matters or general opposition to a project, as well as rehearing requests filed by members of communities that would be impacted by the construction of new natural gas facilities.[38] That was not our intent. In issuing Order No. 871, preventing potential impacts on affected landowners during the pendency of the rehearing period was a primary concern, but it was not the Commission's sole concern. We think it appropriate to refrain from permitting construction to proceed until the Commission has acted upon any request for rehearing that opposes project construction and operation or raises issues regarding project need, regardless of the basis or whether rehearing is sought by an affected landowner.[39] INGAA fails to explain why these concerns are any less important in section 3 cases, where the project authorization does not confer eminent domain authority.[40] We deny

[29] INGAA Rehearing at 13–16.

[30] TC Energy Rehearing at 4–6. TC Energy also asks the Commission to clarify that, ''as a general matter, it intends to continue its policy of being 'less lenient in the grant of late interventions' in pipeline certificate proceedings, *Tenn. Gas Pipeline Co., L.L.C.,* 162 FERC ¶ 61,167, at P 50 (2018), as well as its 'general policy to deny late intervention at the rehearing stage.'' *Id.* (citing *Tenn. Gas Pipeline Co., L.L.C.,* 163 FERC ¶ 61,190, at P 4 (2018)). The Commission's late intervention policy is not relevant to Order No. 871. Therefore, we decline to take up TC Energy's invitation.

[31] INGAA Rehearing at 17 (emphasis added).

[32] 18 CFR 157.6(d)(2).

[33] INGAA Rehearing at 17. INGAA provides the following examples of NGA section 7 projects that would not involve the use of eminent domain authority: Projects involving construction on property owned or controlled by the pipeline, such as a compressor station project; modifications of existing facilities where construction would occur within the existing right-of-way; and projects where all easements have already been mutually agreed and secured. *Id.*

[34] *Id.* at 17–18.

[35] *See infra* P 30. Several commenters agree that the rule should be narrowed to not apply to rehearing requests filed by the project developer itself or another party that supports project construction (*e.g.,* a shipper). *See, e.g.,* Enbridge Initial Brief at 10–11; Gas & Oil WV Initial Brief at 6; Niskanen Center Initial Brief at 12; Tallgrass Initial Brief at 13; TC Energy Initial Brief at 5–10; Enbridge Reply Brief at 7–10. Conversely, a few commenters argue that the rule should be retained without modification and that it should apply to all requests for rehearing regardless of the issues raised or the identity of the rehearing applicant, citing concerns about administering a rule with exceptions. *See, e.g.,* Public Interest Organizations Initial Brief at 10 (''a rule without carve-outs is cleaner, clearer, and easier to administer''); Landowners Initial Brief at 2; Delaware Riverkeeper Initial Brief at 6–8; States Initial Brief at 4 n.8 (''The Commission should not attempt to guess at the importance of certain issues and arguments, but instead withhold authorizations to commence construction during the pendency of all rehearing requests.'').

[36] We note that the Commission's administration of the rule is facilitated by the statutory and regulatory requirements that issues be raised on rehearing with specificity. *See* 15 U.S.C. 717r(a); *see also* 18 CFR 385.713(c)(2) (requiring that requests for rehearing include a ''separate section entitled 'Statement of Issues,' listing each issue in a separately enumerated paragraph that includes representative Commission and court precedent on which the party is relying'').

[37] 18 CFR 157.6(d)(2). Some commenters on behalf of the natural gas industry agreed with INGAA's request to limit the rule's application to only rehearing requests filed by or implicating affected landowners. *See, e.g.,* BHE Pipeline Initial Brief at 9–10; Enbridge Initial Brief at 6, 10; Enbridge Reply Brief at 7–9. *But see* Gas & Oil WV Initial Brief at 5 (rule, if retained, should be limited to rehearing requests raising ''clear threats of true irreparable harm to landowners *or environmental justice communities directly in the path of a project.*'') (emphasis added); BHE Pipeline Initial Brief at 5 (rule ''should be revised to apply only in limited circumstances requiring further review of matters raised by affected landowners *or parties who will be directly impacted by immediate construction.*'').

[38] The Commission has long recognized that communities surrounding a pipeline right-of-way have interests that may be adversely affected by approval of certificate projects. *See Certification of New Interstate Natural Gas Pipeline Facilities,* 88 FERC ¶ 61,227, at 61,748, *corrected,* 89 FERC ¶ 61,040(1999), *clarified,* 90 FERC ¶ 61,128, *further clarified,* 92 FERC ¶ 61,094 (2000).

[39] Governmental, environmental, and community interests are also impacted by projects approved under NGA sections 3 and 7, and the possibility of construction proceeding prior to the completion of agency review. *See* States Initial Brief at 2–6 (explaining that states, local governments, and tribes ''may oppose projects on grounds such as the public need for a project, a project's contribution to climate change, harm to the environment from the construction and operation of pipeline projects, noise and traffic impacts, effects on historical resources, and other concerns''); Public Interest Organizations Initial Brief at 8 (deeming it illogical to limit the rule's application to only landowner rehearing requests because ''the construction of a Commission-approved gas project, and the permanent changes to the environment and cultural resources that are caused by such construction, are cognizable injuries.'').

[40] That an authorization under NGA section 3 does not confer eminent domain authority does not negate the existence of affected landowners who may oppose nearby construction of export or import facilities. An affected landowner, as defined in our regulations, and a landowner whose land is at risk of being acquired through eminent domain are not mutually exclusive. For example, an affected landowner can be one whose property ''[i]s within

Continued

this aspect of INGAA's request for clarification and continue to find that the intent of the Order No. 871 was to ensure that construction of an approved natural gas project will not commence until the Commission has acted upon the merits of a request for rehearing, ''*regardless of land ownership.*'' [41]

2. Rehearing Requests of Non-Initial and Amendment Orders

16. INGAA asks the Commission to clarify that construction could be allowed to proceed, even where a rehearing request has been filed, where rehearing is sought not of an initial order authorizing construction but of a subsequent order that merely implements the original authorization—such as orders relating to compliance with environmental conditions, requests for variances, notices to proceed with construction, or authorizations to place constructed facilities into service.[42] This clarification, INGAA states, would prevent unnecessary delays or interruptions in project construction that could occur if project opponents request rehearing of subsequent orders that merely implement the terms and conditions of the initial order. For similar reasons, INGAA also seeks clarity that a bar on the commencement of construction arising from the filing of a rehearing request regarding an order amending the terms of an existing authorization would apply only to facilities approved in the amendment order, not to the facilities approved in the original order.

17. To the extent that a non-initial order merely implements the terms, conditions, or other provisions of an initial authorizing order—such as a delegated order issuing a notice to proceed with construction, approving a variance request, or allowing the applicant to place the project, or a portion thereof, in service—a request for rehearing of that order would not implicate the initial authorizing order and so we agree that the rule would not apply.[43]

18. We also agree with INGAA that, with respect to amendments, § 157.23's prohibition on the issuance of construction authorizations prior to Commission action on rehearing would apply only to the facilities approved by the amendment order for which rehearing is sought. It would not relate back to any facilities previously approved by the Commission in the initial authorizing order that remain unchanged by the amendment order.

3. Post-Allegheny Rehearing Treatment

19. INGAA poses several circumstances that may unfold following *Allegheny* and asks the Commission to elaborate on whether and how the rule promulgated in Order No. 871 would apply in those cases. It asks the Commission to clarify that the rule would not apply once a rehearing request has been deemed denied by operation of law due to Commission inaction on the request for thirty days.[44]

20. As further explained below, we revise the rule to provide that the limit on construction authorization will apply until the earlier of the date that (1) a qualifying rehearing request is no longer pending before the Commission or (2) 90 days following the date that a qualifying request for rehearing may be deemed denied. This revision reflects that, as permitted by NGA section 19(a), rehearing may be deemed denied by operation of law in the absence of Commission action on the merits by the 30th day following receipt of a rehearing request. Order No. 871's use of the phrase ''until the Commission has acted upon the merits of that request,'' assumed, incorrectly, that such action was statutorily required. The revision clarifies that the limitation on construction will apply so long as the rehearing remains pending or until 90 days following the date that a request for rehearing may be deemed denied. We next describe four scenarios following the filing of a rehearing request in the post-*Allegheny* landscape to further explain when a rehearing remains pending.

21. First, the Commission could issue an order addressing the merits of the rehearing request before the thirtieth day following the date the request is filed. Pursuant to Order No. 871, because the Commission had acted on the merits of the rehearing request, and rehearing was no longer pending, authorization to proceed with construction could be issued so long as the certificate or authorization holder had also met the necessary conditions of the order associated with commencement of construction.

22. Second, the Commission might not act on the merits within thirty days following the filing of a rehearing request. Under NGA section 19(a), such inaction by the Commission would mean that the request for rehearing may be deemed denied by operation of law. In such situations, the Commission might issue a notice indicating that rehearing may be deemed denied by operation of law. If this notice does not state that the Commission intends to take further action on the rehearing request, then rehearing is no longer pending before the Commission, and construction could be allowed to proceed.

23. Third, the Commission might not act on a rehearing request within thirty days but might issue a notice indicating that rehearing may be deemed denied and also that the Commission intends to address the merits of the rehearing request in a future order, as provided in section 19(a) of the NGA.[45] In such a case, rehearing is still pending before the Commission, and Order No. 871 would apply. Specifically, under Order No. 871 as issued, construction could not be allowed to proceed until the Commission issues its further order or otherwise indicates that the rehearing is no longer pending before the Commission by notice, order, or filing the record with the court of appeals (which affords the court exclusive jurisdiction to affirm, modify, or set aside the Commission's order(s)).[46]

24. The States, the Public Interest Organizations, and the Niskanen Center generally support the application of the rule's restriction on construction in this manner.[47] Delaware Riverkeeper urges us to take this a step further, arguing that the Commission should withhold construction authorization until the deadline for judicial review passes or until the reviewing court resolves the issues raised on appeal.[48] Conversely, INGAA and most natural gas industry commenters argue that construction authorizations should be permitted once

one-half mile of proposed . . . LNG facilities.'' 18 CFR 157.6(d)(2)(iii).

[41] Order No. 871, 171 FERC ¶ 61,201 at P 11 (emphasis added).

[42] INGAA Rehearing at 19.

[43] A challenge to a non-initial order is appropriately confined in scope to the specific agency action being challenged and may not revisit findings of the initial order itself. *See, e.g., Nat'l Comm. for the New River, Inc.* v. *FERC,* 433 F.3d 830, 834 (D.C. Cir. 2005) (finding route alternative claim raised during initial certification process barred on res judicata grounds in subsequent review of pipeline's compliance with certificate conditions).

[44] INGAA Rehearing at 21–24. Notably, no commenters appear to argue that authorizations to proceed with construction should be allowed during the 30-day rehearing period following a Commission order issuing or amending a section 7 certificate or section 3 authorization.

[45] 15 U.S.C. 717r(a).

[46] *See id.* 717r(b) (stating that upon the filing of a petition for judicial review, the court of appeals ''shall have jurisdiction, which upon the filing of the record with it shall be exclusive, to affirm, modify, or set aside such order in whole or in part.'') and *id.* 717r(c) (The commencement of judicial review proceedings ''shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.'').

[47] *See* Public Interest Organizations Initial Brief at 12–13, 15; States Initial Brief at 11; Niskanen Center Initial Brief at 14; *see also* Public Interest Organizations Reply Brief at 2–4.

[48] *See* Delaware Riverkeeper Initial Brief at 10–12.

a rehearing request is deemed denied by operation of law, regardless of whether the Commission signals its intent to issue a subsequent order addressing the arguments raised on rehearing. They assert that authorization to proceed with construction should be allowed following a deemed denial because at that point any party aggrieved by a Commission order would be free to seek judicial review and, if necessary, request injunctive relief from the court.[49] Alternatively, INGAA and TC Energy suggest that construction authorizations should be allowed 30 days after a rehearing request is deemed denied (*i.e.,* roughly 60 days after filing the rehearing request).[50] According to INGAA and TC Energy, this approach would provide the Commission time to issue an order addressing the merits of the rehearing request, aggrieved parties time to file a petition for review and, if necessary, seek a judicial stay before any construction, and pipeline developers and customers with certainty regarding construction timelines.[51]

25. We clarify that construction may be permitted to proceed once the Commission issues its further order or the reviewing court otherwise obtains exclusive jurisdiction at the time the record is filed with it, as this signifies the completion of agency review. While the court may exercise ''judicial superintendence'' [52] once rehearing is deemed denied, the Commission retains jurisdiction to ''modify or set aside, in whole or in part'' the certificate order for which rehearing has been sought until the record on review is filed with the court of appeals. Accordingly, while parties may seek injunctive relief from the court at that stage, as the Commission explained in Order No. 871, the purpose of the rule is to preclude construction during the period the Commission may act on rehearing.[53] As a result, we find that it is appropriate to generally refrain from issuing an authorization to proceed with construction until the Commission has completed its decisionmaking process.

26. However, upon consideration of the comments filed in response to Order No. 871–A, we believe it is appropriate to provide a date certain by which the prohibition on issuing an authorization to proceed with construction would terminate. In particular, we modify our prior order to provide that the rule's restriction on issuing construction authorizations will expire 90 days following the date that a request for rehearing may be deemed to have been denied if the request is still pending before the Commission. We believe that this strikes an appropriate balance that allows aggrieved parties time to access the courts while providing project developers with a predictable time period after which construction authorizations may be permitted in the event a rehearing request remains pending before the Commission.

27. Fourth, as described by the *Allegheny* court, the Commission could ''grant rehearing for the express purpose of revisiting and substantively reconsidering a prior decision,'' where it ''needed additional time to allow for supplemental briefing or further hearing processes.'' [54] Under those circumstances, *i.e.,* where the Commission grants rehearing without issuing a final order, the original authorization would no longer be in effect and the provisions of Order No. 871 would no longer apply since there would be no final order pursuant to which a notice to proceed could be issued.

28. INGAA urges the Commission to set a deadline, not to exceed 60 days from any order granting rehearing for further procedures, to issue a final order on the merits of the rehearing request.[55] Because timelines associated with supplemental briefing or evidentiary submissions may vary based on the complexity of the issues warranting further procedures, we decline to do so and intend to continue to act on requests for rehearing as soon as possible.

29. Finally, INGAA also asks that we revise § 157.23 to expressly state that the Commission may waive the applicability of the rule for ''good cause shown.'' [56] The Commission has broad authority to waive application of its own regulations and does not find it necessary to revise the rule to incorporate a ''good cause'' exception.

30. Consistent with the foregoing discussion, we revise 18 CFR 157.23 to read as follows:

> With respect to orders issued pursuant to 15 U.S.C. 717b or 15 U.S.C. 717f(c) authorizing the construction of new natural gas transportation, export, or import facilities, no authorization to proceed with construction activities will be issued:
>
> (a) until the time for the filing of a request for rehearing under 15 U.S.C. 717r(a) has expired with no such request being filed, or
>
> (b) if a timely request for rehearing *raising issues reflecting opposition to project construction, operation, or need* is filed, until: *(i) The request is no longer pending before the Commission, (ii) the record of the proceeding is filed with the court of appeals, or (iii) 90 days has passed after the date that the request for rehearing may be deemed to have been denied under 15 U.S.C. 717r(a).*[57]

### *B. APA and NGA Requirements*

#### 1. APA Notice and Comment Requirement

31. Section 553 of the Administrative Procedure Act (APA) generally requires federal agencies to publish in the **Federal Register** a notice of proposed rulemaking and to provide interested persons an opportunity to submit written comments on the proposed rule prior to issuing a final rule.[58] However, these requirements, commonly referred to as the APA's notice and comment procedures, do not apply to ''interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice.'' [59]

32. Kinder Morgan and INGAA, (the latter in the alternative to its request for clarification), argue that, by issuing a final rule without providing the public notice and opportunity to comment, the Commission violated section 553 of the

[49] *See, e.g.,* INGAA Initial Brief at 12; Enbridge Initial Brief at 14–16; BHE Pipeline Initial Brief at 11; Gas & Oil WV Initial Brief at 7; Tallgrass Initial Brief at 10–12; *see also* INGAA Reply Brief at 8–11; Enbridge Reply Brief at 14–17, 20–22.

[50] *See* INGAA Initial Brief at 28–30; TC Energy Initial Brief at 11.

[51] *See* INGAA Initial Brief at 28–30; TC Energy Initial Brief at 11–12.

[52] *Allegheny,* 964 F.3d at 17.

[53] If the Commission, in acting on rehearing of a section 3 or section 7(c) authorization order, changes the outcome of the underlying authorization order, such that further rehearing lies, the Commission would continue to apply Order No. 871 to preclude construction if a qualifying rehearing request is filed. *See Smith Lake Improvement & Stakeholders Ass'n* v. *FERC,* 809 F.3d 55, 56–57 (D.C. Cir. 2015). However, if the Commission issues a substantive order on rehearing that does not change the outcome of the underlying authorization order, subsequent requests for rehearing or clarification of the previously issued rehearing order will not re-trigger the provisions of Order No. 871 to further preclude the issuance of an authorization to proceed with construction. In those rare instances in which the Commission later determines that further procedural steps are necessary in a given case (*see, e.g., Algonquin Gas Transmission, LLC,* 174 FERC ¶ 61,126 (2021) (order establishing briefing)), the 90-day period following the date that a qualifying request for rehearing may be deemed denied by operation of law would not be altered or extended.

[54] 964 F.3d at 16.

[55] INGAA Rehearing Request at 4–5, 24–26 (providing a ''predictable and transparent timetable would help project developers, their customers, and end-users of gas plan for construction timetables and avoid unnecessary costs and disruption''); *see also* INGAA Initial Brief at 10, 28. Some commenters advanced similar requests, and generally noted that setting a specific timeframe for action on requests for rehearing and/or requests for authorization to commence construction would be beneficial as it would provide regulatory certainty and transparency.

[56] INGAA Rehearing at 5, 25–26, and 34. This request was reiterated in some of the briefs filed by natural gas companies. *See, e.g.,* Enbridge Initial Brief at 11–12; Enbridge Reply Brief at 10.

[57] The italicized text reflects the revisions to § 157.23 that we are adopting herein.

[58] 5 U.S.C. 553.

[59] *Id.* 553(b)(3)(A).

APA.[60] Specifically, Kinder Morgan argues that the Commission erred by relying on the APA's exception to notice-and-comment rulemaking for ''rules of agency organization, procedure, or practice'' to promulgate the rule because, it contends, the rule substantially affects the rights and interests of project proponents and their customers.[61] INGAA advances a similar argument, stating that the changes adopted in Order No. 871 are not ''technical matters of procedure,'' but rather entail ''substantive alterations of substantial rights subject to the APA's notice-and-comment procedures.'' [62]

33. Even if the rule appears procedural on its face, Kinder Morgan and INGAA argue, the rule's substantive effect on the natural gas pipeline industry is significant and ''sufficiently grave so that notice and comment are needed to safeguard the policies underlying the APA.'' [63] In so positing, INGAA and Kinder Morgan note that of the 1,000 certificates of public convenience and necessity issued by the Commission since 1999, parties sought rehearing in 240 cases (approximately 24 percent).[64]

34. Kinder Morgan and INGAA also contend that the Commission failed to consider the rule's impact on the natural gas pipeline industry's business models, which developed in reliance on the Commission's prior practice of authorizing construction prior to acting on applications for rehearing.[65] INGAA stresses that the ''timing of approvals, construction initiation, and placement of projects into natural gas service are among a pipeline company's most important practical and commercial considerations.'' [66] Kinder Morgan and INGAA argue that the Commission failed ''to assess whether there were reliance interests, determine whether they were significant, and weigh any such interests against competing policy concerns.'' [67]

2. Order No. 871 Was Properly Issued as a Final Rule

35. Because the rule neither substantially ''alters the rights or interests'' of regulated natural gas companies nor changes the agency's substantive outcomes, the APA's notice and comment procedures were not required.[68] Nothing in Order No. 871, as revised here, changes the standards the Commission applies, or the ultimate result, on rehearing of NGA section 7 certificate orders. Moreover, the timing of when to permit construction to begin is a matter entirely within the Commission's existing discretion and not a matter of right. Nothing in the NGA or the Commission's regulations, prior to Order No. 871, addresses the timing of authorizations to commence construction. And nothing in the NGA or the Commission's regulations prevents the Commission from acting on rehearing prior to issuing an authorization to proceed with construction. Staff, or the Commission itself, could validly have established the same policy, either generally or on a case-by-case adjudicatory basis, without any announcement at all. Given the absence of a right to obtain authorization to proceed with construction at any particular time, Kinder Morgan and INGAA have not demonstrated that Order No. 871 is anything more than a procedural rule. In addition, an otherwise procedural rule, such as this, ''does not becomes a substantive one, for notice-and-comment purposes, simply because it imposes a burden on regulated parties.'' [69]

36. Neither Kinder Morgan nor INGAA sets forth with any specificity the significant and ''sufficiently grave'' impacts they contend will befall the natural gas pipeline industry as a result of Order No. 871. They merely note that of the over 1,000 certificates of public convenience and necessity issued since 1999, parties sought rehearing 24 percent of the time. But both entities fail to mention that the timing of an initial Commission decision on a project proposed under NGA sections 7 or 3 has always been undefined. While a project proponent may identify in its application a requested approval and/or in-service date, these dates are requests that do not control the timing of the Commission's decision. Rather, the Commission's timeline for processing project applications is dictated by factors such as the complexity of proposed projects, the quality of information provided by the applicant and the applicant's timeliness in responding to staff information requests, changes made by the applicant to its proposal, and the nature of the issues in each case. Neither the public nor the project proponent is privy to the date on which the Commission may act on a project application filed under NGA section 3 or 7. This means that, even prior to Order No. 871, project development timelines had to account for some uncertainty in when the Commission might issue its decision on an NGA section 7 or 3 application and, if appropriate, subsequently authorize commencement of construction. Any incremental delay or uncertainty created by Order No. 871 is acceptable given the benefits that the rule provides.

37. Further, in many, if not most, instances, construction cannot begin immediately upon issuance of an initial order under NGA sections 3 or 7. Typically, construction of natural gas facilities cannot commence without the certificate or authorization holder first filing documentation demonstrating either that it has received all applicable authorizations required under federal law or that such authorizations have been waived. Often this involves finalizing the pipeline route, completing Endangered Species Act or National Historic Preservation Act consultation, and/or obtaining state certifications under the Clean Water Act or the Coastal Zone Management Act. Based on data maintained by Commission staff for the five calendar years preceding Order No. 871 (*i.e.,* 2015–2019), an average of 85 days elapsed between issuance of an initial order and issuance of an authorization to proceed with construction. Put another way, prior to Order No. 871, on average, natural gas companies should not have expected to receive authorization to proceed with

[60] Kinder Morgan Rehearing at 6–12; INGAA Rehearing at 27–32.

[61] Kinder Morgan Rehearing at 8.

[62] INGAA Rehearing at 28.

[63] *See* Kinder Morgan Rehearing at 11–12 (quoting *Mendoza* v. *Perez,* 754 F.3d 1002, 1023 (D.C. Cir. 2014) (citations omitted)); INGAA Rehearing at 30–31 (same).

[64] Kinder Morgan Rehearing at 12; INGAA Rehearing at 31.

[65] Kinder Morgan Rehearing at 10 (citing *Dep't of Homeland Sec.* v. *Regents of the Univ. of Cal.,* 140 S. Ct. 1891, 1913–1915 (2020) (in rescinding the Deferred Action for Childhood Arrivals program, the Department of Homeland Security should have assessed whether there were reliance interests, determined the significance of any such interests, and weighed those interests against competing policy concerns)); INGAA Rehearing at 32–34 (same).

[66] INGAA Rehearing at 33.

[67] Kinder Morgan Rehearing at 10 (quoting *Regents of the Univ. of Cal.,* 140 S. Ct. at 1915); INGAA Rehearing at 34 (same).

[68] *See Am. Hosp. Ass'n* v. *Bowen,* 834 F.2d 1037, 1047 (D.C. Cir. 1987) (quoting *Batterton* v. *Marshall,* 648 F.2d 694, 707 (D.C. Cir. 1980)); *id.* at 1048. ''In determining whether a rule is substantive, we must look at its effect on those interests ultimately at stake in the agency proceeding.'' *Neighborhood TV Co.* v. *FCC,* 742 F.2d 629, 637 (D.C. Cir. 1984) (holding that a decision to freeze applications for television licenses on some frequencies affected an applicant's interest ''only incidentally'' and was therefore procedural) (citing *Pickus* v. *U.S. Board of Parole,* 507 F.2d 1107 (D.C. Cir. 1974) (holding that parole board guidelines were substantive because they ''were the kind calculated to have a substantial effect on the ultimate parole decisions'')).

[69] *James V. Hurson Assocs., Inc.* v. *Glickman,* 229 F.3d 277, 281 (D.C. Cir. 2000) (''Appellant has cited no case in which this Court has required notice-and-comment rulemaking for an especially burdensome procedural rule. Nor could it . . . .'').

construction sooner than three months after order issuance.

38. For the reasons discussed above, there has been no showing that Order No. 871 will substantially impact the natural gas industry. Similarly, Kinder Morgan and INGAA have not established that the natural gas industry had a legitimate reliance interest in prior instances where Commission staff issued authorizations to proceed with construction while requests for rehearing were pending. Though the natural gas industry may have relied on past Commission practice, any such reliance does not establish a legal right to Commission action on a particular timetable, especially where the relevant Commission process was not established by regulation, policy statement, or spelled out in any detail in case law.

39. In any event, even assuming the Commission was required to solicit comments on the new rule, the Commission has fully satisfied this requirement by soliciting further briefing on rehearing in this proceeding, including the opportunity for both initial and reply briefs.[70] Moreover, in light of the Commission's announced goal of acting on landowners' rehearing requests within 30 days,[71] the significantly increased speed with which the Commission resolves rehearing requests following the recent *Allegheny* decision, and the tailoring of the rule to apply only where a rehearing request reflects opposition to a project, we do not anticipate that the rule will impose any significant burden on the natural gas industry.

3. NGA Section 19(c) Stay Provision

40. Section 19(c) of the NGA states, in relevant part, that ''[t]he filing of an application for rehearing . . . shall not, unless specifically ordered by the Commission, operate as a stay of the Commission's order.'' [72] Kinder Morgan asserts that the Commission violated section 19(c) by broadly staying construction pending rehearing without a specific finding that a stay is warranted.[73] Order No. 871, Kinder Morgan contends, issued a ''blanket stay of construction of all projects authorized under [NGA] Sections 3 and 7, pending rehearing, regardless of whether any party requests or demonstrates a stay is required.'' [74] This outcome, Kinder Morgan claims, is inconsistent with case law that explains Congress intended to allow construction to proceed while an application for rehearing is pending.[75]

41. The case law Kinder Morgan offers to support its claim that Order No. 871 is inconsistent with Congress's intent when enacting NGA section 19(c) is unavailing. In affirming the district court's dismissal for lack of subject matter jurisdiction of a complaint challenging the constitutionality of various NGA provisions in *Berkley*,[76] the U.S. Court of Appeals for the Fourth Circuit stated that ''Congress contemplated construction would be allowed to continue while FERC reviews a petition for rehearing.'' This statement without more does nothing to counter the fact that it is entirely within the Commission's discretion to decide whether, when, and how to allow construction of projects authorized under NGA sections 3 and 7 to proceed. The Commission can require compliance with conditions in its orders before allowing construction to begin.[77] And, as noted above, section 19(c) on its face contemplates the Commission's issuance of stays of its orders.[78]

42. Kinder Morgan misconstrues the effect of the Commission's pronouncement in Order No. 871. As we explained above, even prior to the rule's enactment, it is rarely the case that construction can begin immediately upon issuance of an order authorizing new natural gas facilities under NGA section 3 or 7.[79] The authorization or certificate holder must first file documentation demonstrating that it has received all applicable authorizations required under federal law or that such authorizations have been waived, and that it has satisfied all preconstruction requirements. Accordingly, we do not anticipate the time period during which authorization to begin construction may not be permitted—*i.e.,* during 30-day rehearing period and, if a qualifying rehearing request is filed, until that request is no longer pending before the Commission, the record of the proceeding is filed with the court of appeals, or 90 days has elapsed since the rehearing request was deemed denied by operation of law—to be unduly long or a significant departure from the Commission's prior practice.

*C. Commission Policy on Exercise of Eminent Domain Pending Rehearing*

43. In Order No. 871–A, in addition to the issues raised on rehearing, we also sought comment on whether, and if so, how, the Commission should modify its practices or procedures to address concerns regarding the exercise of eminent domain while rehearing requests are pending before the Commission.[80] As further discussed below, in light of the balance of interests at stake, we will adopt a policy of presumptively staying an NGA section 7(c) certificate order during the 30-day period for seeking rehearing, and pending Commission resolution of any timely requests for rehearing filed by a landowner, until the earlier of the date on which the Commission (1) issues a substantive order on rehearing or otherwise indicates that the Commission will not take further action, or (2) 90 days following the date that a request for rehearing may be deemed to have been denied under NGA section 19(a). This policy will *not* apply where the pipeline developer has already, at the time of the certificate order, acquired all necessary property interests or where no landowner protested the section 7 application. In addition, where no landowner files a timely request for rehearing of the certificate order, the stay will automatically lift following the close of the 30-day period for seeking rehearing.

44. As explained in Order No. 871,[81] when the Commission grants a certificate of public convenience and necessity, NGA section 7(h) authorizes the certificate holder to exercise eminent domain authority if it ''cannot acquire by contract, or is unable to agree with the owner of property to the compensation to be paid for, the necessary right-of-way to construct, operate, and maintain'' the authorized facilities.[82] This statutory framework

[70] In this regard, we note that the industry commenters have not identified an instance of delay resulting from application of Order No. 871.

[71] In January 2020, the Commission formally reorganized the rehearings group within the Office of General Counsel, adding a landowner group that gives first priority to landowner rehearing requests of NGA section 7 certificate orders, with the aim of resolving such requests within 30 days.

[72] 15 U.S.C. 717r(c).

[73] Kinder Morgan Rehearing at 13–15.

[74] *Id.* at 14.

[75] Kinder Morgan Rehearing at 15 (citing *Berkley* v. *Mountain Valley Pipeline, LLC,* 896 F.3d 624, 631 (4th Cir. 2018) (*Berkley*), *cert. denied sub nom. Berkley* v. *FERC,* 139 S. Ct. 941 (2019)).

[76] 896 F.3d at 631.

[77] The Commission has broad authority to condition certificates for interstate pipelines on ''such reasonable terms and conditions as the public convenience and necessity may require.'' 15 U.S.C. 717f(e); *see also, e.g., ANR Pipeline Co.* v. *FERC,* 876 F.2d 124, 129 (D.C. Cir. 1989) (noting the Commission's ''extremely broad'' conditioning authority).

[78] Even if Order No. 871 were construed to be a blanket stay, such an action would be supported by the Commission's articulated desire to balance its commitment to expeditiously responding to parties' concerns in comprehensive orders on rehearing and the serious concerns posed by the possibility of construction proceeding prior to the completion of agency review.

[79] *See supra* P 37.

[80] Order No. 871–A, 174 FERC ¶ 61,050 at P 7.

[81] Order No. 871, 171 FERC ¶ 61,201 at P 4.

[82] 15 U.S.C. 717f(h). The NGA specifies that any such condemnation proceedings shall take place in the federal court for the district in which the property is located or in the relevant state court.

permits pipeline developers, absent a Commission- or court-ordered stay, to start the process of condemning an individual's land before the Commission completes the certificate proceeding, including consideration of the merits of any timely filed requests for rehearing.[83] While natural gas industry commenters note that developers make efforts to avoid the use of eminent domain,[84] landowners describe ''having to face the trauma, expense, and permanent consequences of condemnation suits that begin on the heels of a Commission Certificate Order.'' [85]

45. The courts, however, have held that the issuance of a valid certificate is all that is required from the Commission for a pipeline developer to begin eminent domain proceedings when it cannot otherwise acquire the property covered by the certificate.[86] In other words, the Commission lacks the authority to deny or restrict the power of eminent domain in a section 7 certificate.[87] Nor does the Commission have the authority to oversee the acquisition of property rights through eminent domain, including issues regarding the timing of and just compensation for the acquisition of property rights,[88] which are matters reserved for the courts.[89]

46. On the other hand, the Commission unquestionably may determine the effective date of [90] and stay its own orders,[91] and courts have specifically contemplated that a stay would be operative to withhold the eminent domain authority otherwise afforded by NGA section 7(h).[92] The Commission also has the ''power to . . . issue . . . such orders . . . as it may find necessary or appropriate to carry out the provisions of this Act.'' [93] Accordingly, in light of the balance of interests identified in the record, the Commission will, in future proceedings,[94] adopt a policy of presumptively staying an NGA section 7(c) certificate order [95] during the 30-day rehearing period and pending Commission resolution of any timely requests for rehearing filed by landowners, up until 90 days following the date that a request for rehearing may be deemed to have been denied under NGA section 19(a). We think 90 days is appropriate because it balances the competing interests at stake including the project developer's interest in proceeding with construction when it has obtained all necessary permits, and a project opponent's interest in being able to challenge the Commission's ultimate decision before irreparable harm may occur. This policy will *not* apply where the pipeline developer has already, at the time of the certificate order, acquired all necessary property interests or where no landowner protested the section 7 application. In addition, where no landowner files a timely request for rehearing of the certificate order, the stay will automatically lift following the close of the 30-day period for seeking rehearing. This new policy is intended to indicate our belief that, as Judge Griffith put it in his concurrence in *Allegheny,* during the rehearing period ''a district court . . . should not plow ahead'' with condemnation, instead ''holding an eminent-domain action in abeyance until the Commission completes its reconsideration of the underlying certificate order.'' [96]

47. Given the grave consequences that eminent domain has for landowners, we believe that it is fundamentally unfair for a pipeline developer to use a section 7 certificate to begin the exercise of eminent domain before the Commission has completed its review of the underlying certificate order, through consideration of the merits of any timely filed requests for rehearing, either by issuance of an order on rehearing or a notice indicating that the Commission will not take further action. As the *en banc* D.C. Circuit recognized in *Allegheny,* reforming the Commission's rehearing practice—alone—does not prevent the harm to landowners that can arise when developers initiating eminent domain proceedings upon issuance of a certificate order, without awaiting the completion of the

[83] *See Allegheny Def. Project* v. *FERC,* 932 F.3d 940, 948, 950, 952–53, 956 (D.C. Cir. 2019) (Millett, J., concurring) (detailing the harm to landowners' constitutionally protected property interest in their homes as ''a private interest of historic and continuing importance'') (quoting *United States* v. *James Daniel Good Real Property,* 510 U.S. 43, 53–54 (1993)).

[84] INGAA Initial Brief at 22.

[85] Niskanen Center Reply Brief at 10, 16 (noting a 2017 press report of 300 condemnation actions commenced in Virginia by the developers of the Mountain Valley Pipeline) (citing The Roanoke Times, *Mountain Valley sues landowners to gain pipeline easements,* (Oct. 27, 2017), *https://roanoke.com/business/news/mountain-valley-sues-landowners-to-gain-pipeline-easements-through-eminent/article_abff5d87-1aee-5a50-b3c2-b3ee0c812e44.html*); *see also id.* at 9 (stating that the burden on landowners from allowing eminent domain proceedings to commence upon issuance of a certificate continues after *Allegheny*); Landowners Initial Brief at 1–3, 5 (explaining that the commenters had faced three different iterations of a proposed projects over 15 years in Oregon, and urging the Commission to disallow the use of eminent domain pending Commission certificate proceedings, including on rehearing).

[86] *Twp. of Bordentown, N.J.* v. *FERC,* 903 F.3d 234, 265 (3d Cir. 2018) (stating that NGA section 7(h) ''contains no condition precedent'' to the right of eminent domain other than issuance of the certificate when a certificate holder is unable to acquire a right-of-way by contract); *Berkley,* 896 F.3d at 628 (''Issuing such a Certificate conveys and automatically transfers the power of eminent domain to the Certificate holder . . . . Thus, FERC does not have discretion to withhold eminent domain once it grants a Certificate.'' (citation omitted)).

[87] *See Midcoast Interstate Transmission, Inc.* v. *FERC,* 198 F.3d 960, 973 (D.C. Cir. 2000) (''The Commission does not have the discretion to deny a certificate holder the power of eminent domain.'' (citation omitted)).

[88] *PennEast Pipeline Co., LLC,* 174 FERC ¶ 61,056, at P 10 (2021).

[89] *Id.* (citing *Atl. Coast Pipeline, LLC,* 164 FERC ¶ 61,100, at P 88 (2018); *Mountain Valley Pipeline, LLC,* 163 FERC ¶ 61,197, at P 76 (2018); *PennEast Pipeline Co., LLC,* 164 FERC ¶ 61,098 at P 33 n.82 (2018)).

[90] *See* 15 U.S.C. 717o (''Orders of the Commission shall be effective on the date and in the manner which the Commission shall prescribe.'').

[91] Under the APA, an agency may issue a stay of its order where the ''agency finds that justice so requires.'' 5 U.S.C. 705. In determining whether this standard has been met, we consider several factors, including: (1) Whether a stay is necessary to prevent irreparable injury; (2) whether issuing a stay may substantially harm other parties; and (3) whether a stay is in the public interest. *See, e.g., Millennium Pipeline Co., LLC,* 141 FERC ¶ 61,022, at P 13 (2012); *Ruby Pipeline, LLC,* 134 FERC ¶ 61,103, at P 17 (2011).

[92] *See, e.g., Allegheny,* 964 F.3d at 8 (citing *Transcon. Gas Pipe Line Co.* v. *Permanent Easements for 2.14 Acres,* 907 F.3d 725, 740 (3d Cir. 2018) (affirming district court action allowing condemnation action to proceed absent a Commission-ordered stay)); *see also Mountain Valley Pipeline, LLC* v. *An Easement to Construct, Operate & Maintain a 42-inch Gas Transmission Line,* No. 2:17–CV–04214, 2018 WL 1004745, at *5 (S.D.W. Va. Feb. 21, 2018) (''The landowners insist that the various challenges that Mountain Valley faces before FERC and the courts of appeals counsel against the granting of partial summary judgment. As explained earlier, a FERC order remains in effect unless FERC or a court of appeals issues a stay and no such stay has been issued here.'' (internal citations omitted)); *In re Algonquin Nat. Gas Pipeline Eminent Domain Cases,* No. 15–CV–5076, 2015 WL 10793423, at *7 (S.D.N.Y. Sept. 18, 2015) (''Here, various interested parties have filed Requests for Rehearing with FERC but, absent a stay by FERC, those Requests for Rehearing neither prohibit these proceedings from going forward nor affect Algonquin's substantive right to condemn or the need for immediate possession.''); *Tenn. Gas Pipeline Co.* v. *104 Acres of Land More or Less, in Providence Cty. of State of R.I.,* 749 F. Supp. 427, 431 (D.R.I. 1990) (''Because in this case the Commission's order has not been stayed, condemnation pursuant to that order may proceed.'').

[93] 15 U.S.C. 717o.

[94] Specifically, in NGA section 7(c) certificate orders issued after the effective date of this order.

[95] Unlike section 7 of the NGA, section 3 does not convey eminent domain authority, *see* Order No. 871, 171 FERC ¶ 61,201 at P 5, and, therefore, section 3 authorizations will not be subject to this policy.

[96] *Allegheny,* 964 F.3d at 22 (Griffith, J., concurring); *see also id.* (noting Judge Katsas's suggestion ''that once the Commission grants rehearing of a certificate order, that order should be regarded as nonfinal . . . and a nonfinal order is presumably an invalid basis for transferring property by eminent domain'' and suggesting ''[t]hat suggestion merits a closer look'') (citations omitted).

Commission's certificate proceeding.[97] There is no question that eminent domain is among the most significant actions that a government may take with regard to an individual's private property.[98] And the harm to an individual from having their land condemned is one that may never be fully remedied, even in the event they receive their constitutionally-required compensation.[99]

48. Nevertheless, many, if not all, of the briefs filed by representatives of the natural gas industry were strongly opposed to the Commission's consideration of changes in policy or practice regarding a pipeline developer's exercise of eminent domain, including the general policy we adopt today. They described a range of consequences that would flow from such a decision, such as delayed project timelines, increased regulatory uncertainty, interference with the orderly development of natural gas, higher likelihood of project terminations, and purported environmental harm caused by producers flaring extra gas.[100]

49. We have thoroughly reviewed those comments and we recognize the industry's concerns. We believe this order appropriately balances those concerns with the benefits that come from addressing the significant fairness and due process concerns that arise when a pipeline developer can begin the process of condemning private land before the Commission has completed its certificate proceeding, and the owners of that land can go to court to challenge the Commission's ultimate decision, following rehearing, regarding the certificate that is the basis for that condemnation action.[101] Further, as described above, the presumptive stay reflects important limits designed to balance the interests of developers and landowners in light of the Commission's finding, in any given certificate order, that the proposed project is consistent with the public interest. At most, any stay will last no longer than approximately 150 days following the issuance of a certificate order.[102] Moreover, a pipeline developer may avoid a stay entirely by obtaining all necessary property interests prior to issuance of the certificate, a stay will only extend beyond the initial 30-day period for seeking rehearing where a landowner files a request for rehearing of the certificate order, and during the period in which a stay is in place and as permitted consistent with the stay of the certificate, the project developer can continue to engage in development related activities that do not require use of landowner property or that are voluntarily agreed to by the landowner.

50. In addition, as noted above, particularly post-*Allegheny,* the Commission has significantly increased the speed with which it resolves rehearing requests, whether by addressing the merits of rehearing requests as expeditiously as possible or by issuing a notice within 30 days providing that rehearing may be deemed denied by operation of law, without also indicating the Commission's intent to take further action. We believe that the Commission's post-*Allegheny* practice should significantly reduce any burden on pipeline developers. In any case, we find that any burden imposed on pipeline developers by this new policy will be relatively minor and ultimately outweighed by the significant benefits it affords to landowners.

51. Finally, we reiterate that this new policy is only presumptive and that the question of whether to impose a stay will be decided on the circumstances presented in each particular certificate proceeding.[103] A pipeline developer may move to preclude, or lift, a stay based on a showing of significant hardship,[104] and the Commission may, in its discretion, grant such a motion upon finding that it is necessary or appropriate to commence condemnation proceedings prior to Commission action on rehearing or the date that is 90 days following the date that a request for rehearing may be deemed to have been denied under NGA section 19(a). Although, as noted, we will evaluate any motion on the specific facts and circumstances presented therein, we note that a commitment by the pipeline developer not to begin eminent domain proceedings until the Commission issues a final order on any landowner rehearing requests will weigh in favor of granting such a motion.

## III. Regulatory Requirements

### *A. Information Collection Statement*

52. The Paperwork Reduction Act[105] requires each federal agency to seek and obtain the Office of Management and Budget's (OMB) approval before undertaking a collection of information (*i.e.,* reporting, recordkeeping, or public disclosure requirements) directed to ten or more persons or contained in a rule of general applicability. OMB regulations require approval of certain information collection requirements contained in final rules published in the **Federal Register**.[106] The rule promulgated by Order No. 871, and revised herein, does not contain any

[97] *Allegheny,* 964 F.3d at 10 n.2; *see also id.* at 22 (Griffith, J., concurring) (''Those proceedings are the final piece of the puzzle.''); Niskanen Center Initial Brief at 8–11 (describing the burden on landowners from eminent domain as continuing after *Allegheny*).

[98] *Dolan* v. *City of Tigard,* 512 U.S. 374, 384 (1994) (observing that government action that provides for ''public access [to private property] would deprive [the owner] of the right to exclude others, 'one of the most essential sticks in the bundle of rights that are commonly characterized as property.' '') (quoting *Kaiser Aetna* v. *United States,* 444 U.S. 164, 176 (1979)); *Loretto* v. *Teleprompter Manhattan CATV Corp.,* 458 U.S. 419, 426 (1982) (''[W]e have long considered a physical intrusion by government to be a property restriction of an unusually serious character for purposes of the Takings Clause.''); *Hendler* v. *United States,* 952 F.2d 1364, 1374 (Fed. Cir. 1991) (''In the bundle of rights we call property, one of the most valued is the right to sole and exclusive possession—the right to *exclude* strangers, or for that matter friends, but especially the Government.'' (emphasis in the original)).

[99] *See United Church of the Med. Ctr.* v. *Med. Ctr. Comm'n,* 689 F.2d 693, 701 (7th Cir. 1982) (''It is settled beyond the need for citation . . . that a given piece of property is considered to be unique, and its loss is always an irreparable injury.'').

[100] *See, e.g.,* INGAA Initial Brief at 18–27; Kinder Morgan Initial Brief at 7–9; Tallgrass Initial Brief at 9; *see also* Enbridge Reply Brief at 19; INGAA Reply Brief at 17.

[101] Contrary to the dissent's arguments, we recognize that this new policy is a departure from our past practice. But the dissent errs in suggesting that this departure is unexplained. *Limiting Authorization to Proceed with Construction Activities Pending Rehearing,* 175 FERC ¶ 61,098 (2021) (Danly, Comm'r, dissenting at P 12) (Order No. 871–B). As discussed throughout today's order, including in the text accompanying this footnote, we believe that this new policy better balances the relevant considerations—such as fairness, due process, and developer certainty—thereby justifying the change in policy. *See FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 515 (2009) (''[O]f course the agency must show that there are good reasons for the new policy. But it need not demonstrate to a court's satisfaction that the reasons for the new policy are *better* than the reasons for the old one; it suffices that the new policy is permissible under the statute, that there are good reasons for it, and that the agency *believes* it to be better, which the conscious change of course adequately indicates.'').

[102] Approximately 150 days is the sum of the initial 30-day period for seeking rehearing, the next 30-day period before rehearing may be deemed denied by operation of law, and a final 90-day period, following the deemed denial.

[103] Contrary to the dissent's arguments, Order No. 871–B, 175 FERC ¶ 61,098 (Danly, Comm'r, dissenting at PP 6–12), we are announcing only a general policy with respect to stays. We will make a particularized application of that policy in individual certificate orders, applying the criteria for granting a stay on a case-by-case basis. Parties to those individual proceedings will have the opportunity to challenge the Commission's determination on whether to issue a stay in those proceedings.

[104] *See, e.g.,* INGAA Initial Brief at 20–21 (noting that state-law mechanisms allowing pipeline developers to obtain physical access to the pipeline route to conduct environmental and other information gathering surveys, often necessary for other federal and state permits, vary from state to state, with some states authorizing physical access ''only by a party that otherwise has the power of eminent domain'').

[105] 44 U.S.C. 3501–3521.

[106] *See* 5 CFR pt. 1320.

information collection requirements. The Commission is therefore not required to submit to OMB for review this order addressing arguments raised on rehearing and clarification, and setting aside, in part, prior order.

*B. Environmental Analysis*

53. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant effect on the human environment.[107] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment, including the promulgation of rules that are clarifying, corrective, or procedural, or that do not substantially change the effect of legislation or the regulations being amended.[108] Because the rule promulgated by Order No. 871, and revised herein, is procedural in nature, preparation of an Environmental Assessment or an Environmental Impact Statement is not required.

*C. Regulatory Flexibility Act*

54. The Regulatory Flexibility Act of 1980 (RFA) [109] generally requires a description and analysis of rules that will have significant economic impact on a substantial number of small entities. The Commission determined that Order No. 871 was exempt from the requirements of the RFA.[110] This order addressing arguments raised on rehearing and clarification, and setting aside, in part, prior order does not disturb the Commission's finding.

*D. Document Availability*

55. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*). At this time, the Commission has suspended access to the Commission's Public Reference Room due to the President's March 13, 2020 proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19).

56. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits in the docket number field.

57. User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

*E. Effective Date*

58. This rule addressing arguments raised on rehearing and clarification, and setting aside, in part, prior order is effective June 14, 2021.

**List of Subjects in 18 CFR Part 157**

Administrative practice and procedure, Natural gas, Reporting and recordkeeping requirements.

By the Commission.

Commissioner Chatterjee is not participating.

Commissioner Danly is dissenting with a separate statement attached.

Commissioner Christie is concurring with a separate statement attached.

Issued: May 4, 2021.

**Kimberly D. Bose,**

*Secretary.*

In consideration of the foregoing, the Commission is amending part 157, chapter I, title 18, *Code of Federal Regulations,* as follows:

## PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

■ 1. The authority citation for Part 157 continues to read as follows:

**Authority:** 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352.

■ 2. Amend § 157.23 by revising paragraph (b) to read as follows:

**§ 157.23 Authorizations to Proceed with Construction Activities.**

* * * * *

(b) If a timely request for rehearing raising issues reflecting opposition to project construction, operation, or need is filed, until:

(1) The request is no longer pending before the Commission;

(2) The record of the proceeding is filed with the court of appeals; or

(3) 90 days has passed after the date that the request for rehearing may be deemed to have been denied under 15 U.S.C. 717r(a).

**The Following Will Not Appear in the Code of Federal Regulations**

**Department of Energy**

**Federal Energy Regulatory Commission**

**Limiting Authorizations To Proceed With Construction Activities Pending Rehearing**

DANLY, Commissioner, *dissenting:*

1. I dissent in full from today's order modifying and expanding Order No. 871.[1] As an initial matter, I write to state that I would grant rehearing on all matters and repeal the rule.

2. The Commission promulgated Order No. 871 on June 9, 2020, in advance of the decision in *Allegheny Defense Project* v. *FERC,*[2] the en banc proceeding before the U.S Court of Appeals for the District of Columbia Circuit (D.C. Circuit) that addressed longstanding objections to the Commission's practice of relying upon tolling orders to delay answering requests for rehearing.[3] In recognition of the injustice of the Commission's practice of tolling rehearing requests indefinitely, and that practice's consequent denial of an opportunity for litigants to perfect their appeals, the Commission issued Order No. 871 in an attempt to balance the interests of potential appellants with those of pipelines by delaying the issuance of notices to proceed with construction.[4] On June 30, 2020, the D.C. Circuit issued its en banc opinion in *Allegheny* in which it found that the Commission was prohibited from indefinitely tolling requests for rehearing and finding that parties were entitled to petition for review once a rehearing request had been denied by operation of law.[5] The D.C. Circuit, having rightly imposed the discipline the Commission was unwilling or unable to impose upon itself, obviated the pressing need animating the Commission's decision to delay the issuance of notices to proceed. In light of the D.C. Circuit's re-enforcement of the statutory scheme governing rehearing and appeal, the

[107] *Regulations Implementing the National Environmental Policy Act of 1969,* Order No. 486, 52 FR 47897, 41 FERC ¶ 61,284 (1987).

[108] 18 CFR 380.4(a)(2)(ii).

[109] 5 U.S.C. 601–612.

[110] Order No. 871, 171 FERC ¶ 61,201 at P 16.

[1] *See Limiting Authorizations to Proceed with Construction Activities Pending Rehearing,* Order No. 871, 85 FR 40,113 (July 6, 2020), 171 FERC ¶ 61,201 (2020) (Order No. 871).

[2] 964 F.3d 1 (D.C. Cir. 2020) (en banc) (*Allegheny*).

[3] *See* Order No. 871, 171 FERC ¶ 61,201 (Glick, Comm'r, concurring in part and dissenting in part at P 1) (''It is readily apparent that today's final rule attempts to address *some* of the concerns raised in the *Allegheny Defense Project* v. *FERC* proceeding before the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit).'').

[4] *See id.* P 11.

[5] *See Allegheny,* 964 F.3d at 18–19.

Commission today need not go any further than has the court. Nor do I see any real risk that a pipeline will commence construction before a party has the opportunity to petition for review. As the Commission itself states, ''on average, natural gas companies should not have expected to receive authorization to proceed with construction sooner than three months after order issuance.'' [6] Accordingly, I see no reason why this rule—promulgated in the face of litigation and in light of legitimate, unresolved concerns for the competing rights of the parties before the Commission—is still required by law or prudence. I would repeal it in full and instead rely wholly upon the rehearing and appeal provisions ordained by Congress to balance our litigants' various interests.

3. I also write separately in order to highlight a handful of self-evident legal infirmities that might form the basis of an aggrieved party's appeal. With this order, the Commission has, for the third time in as many months, dramatically increased the uncertainty faced by the natural gas industry by changing its policies so as to make it harder to rationally deploy capital, accurately assess risk, or predict Commission action.[7] Worse yet, the Commission fails in this order to satisfy its obligations under the Administrative Procedure Act (APA) and implements policies that conflict with the plain text of the Natural Gas Act (NGA), the most obvious of which is our new, unnecessary, and unjustifiable presumption to stay certificate orders.

## I. The Commission Fails To Respond to Arguments Raised in Briefing

4. Turning first to the most basic of APA violations, the Commission declines to even acknowledge, let alone respond to, the arguments raised by the Interstate Natural Gas Association of America (INGAA) that the issuance of Order No. 871–A was improper.[8] INGAA argues:

(1) Order No. 871 was promulgated in violation of the notice-and-comment requirements of the Administrative Procedure Act, and that procedural deficiency cannot be cured by Order No. 871–A or other after-the-fact processes; (2) Order No. 871–A appears to invite comments on issues that were not raised in Order No. 871 or in the requests for rehearing of that Order, while ignoring other issues that were raised in requests for rehearing of that Order; (3) Order No. 871–A does not address the merits of the requests for rehearing of Order No. 871 or modify Order No. 871 in any respect, and likewise fails to explain why the Commission views the existing record as insufficient to rule on the prior requests for rehearing; and (4) Order No. 871–A contemplates a schedule that effectively delays a Commission ruling on the merits of the requests for rehearing of Order No. 871 until *ten months* after they were submitted, which violates the text and spirit of the D.C. Circuit's recent en banc decision in *Allegheny Defense.*'' [9]

5. I for one would be interested to hear the Commission's response.[10] Whether the Commission's refusal was intentional or a consequence of hasty action, the Commission's decision to ignore arguments properly raised runs contrary to the APA and stands as an obvious failure to engage in reasoned decision making.[11] In addition to the APA violation I describe above, there are a number of other legal infirmities that require attention.

## II. The Commission's New Policy Presumptively Staying NGA Section 7(c) Certificate Orders Is Contrary to Law

6. The Commission's new policy establishing a presumptive stay in section 7(c) certificate proceedings is simply beyond the Commission's authority. The power of eminent domain is surely profound and formidable. I cannot fault my colleagues for the anxiety they have expressed over its wise and just exercise. However, the Commission, as a mere ''creature of statute,'' can only act pursuant to law by which Congress had delegated its authority.[12] Congress conferred the right to certificate holders to pursue eminent domain in federal district court or state court,[13] having recognized that states ''defeat[ ] the very objectives of the Natural Gas Act'' [14] by conditioning or withholding the exercise of eminent domain. Congress has made that determination. It has codified it into law. The Commission, as an executive agency, is empowered only to implement Congressional mandate, not to second-guess Congressional wisdom.

7. It is true that while ''the Commission lacks the authority to deny or restrict the power of eminent domain in a section 7 certificate,'' [15] ''the Commission unquestionably may . . . stay its own orders.'' [16] The Commission, however, has no authority to presumptively stay section 7 certificate orders.

8. The Commission appears to rely on APA section 705 to issue its presumptive stay, but that section does not grant such power.[17] APA section 705, titled ''Relief pending review,'' provides ''[w]hen an agency finds that justice so requires, it may postpone the effective date of action taken by it, *pending judicial review,*'' [18] meaning the stay must be tied to litigation.[19] The Commission's presumptive stay is not even tied to an application for rehearing let alone any litigation. Further, given the lack of discussion on how the Commission will implement this new policy, the assumption that the mere existence of a ''landowner protest'' automatically means that a stay is required in the interest of justice is

[6] *Limiting Authorization to Proceed with Construction Activities Pending Rehearing,* 175 FERC ¶ 61,098, at P 37 (2021) (Order No. 871–B).

[7] *See N. Nat. Gas Co.,* 174 FERC ¶ 61,189 (2021) (Danly, Comm'r, dissenting at P 2) (*Northern*); *Algonquin Gas Transmission, LLC,* 174 FERC ¶ 61,126 (2021) (Danly, Comm'r, dissenting at P 32) (*Algonquin*).

[8] *See, e.g.,* INGAA February 16, 2021 Initial Brief at 7–8.

[9] *Id.* (emphasis in original).

[10] *See Limiting Authorizations to Proceed with Construction Activities Pending Rehearing,* Order No. 871–A, 86 FR 7643 (Feb. 1, 2021), 174 FERC ¶ 61,050 (2021) (Danly, Comm'r, dissenting) (Order No. 871–A).

[11] *See New England Power Generators Ass'n, Inc.* v. *FERC,* 881 F.3d 202, 211 (D.C. Cir. 2018) (finding ''that FERC did not engage in the reasoned decisionmaking required by the Administrative Procedure Act'' because it ''failed to respond to the substantial arguments put forward by Petitioners and failed to square its decision with its past precedent''); *Canadian Ass'n of Petroleum Producers* v. *FERC,* 254 F.3d 289, 299 (D.C. Cir. 2001) (''Unless the Commission answers objections that on their face seem legitimate, its decision can hardly be classified as reasoned.'') (citations omitted); *Tesoro Alaska Petroleum Co.* v. *FERC,* 234 F.3d 1286, 1294 (D.C. Cir. 2000) (''The Commission's failure to respond meaningfully to the evidence renders its decisions arbitrary and capricious.'').

[12] *Atl. City Elec. Co.* v. *FERC,* 295 F.3d 1, 8 (D.C. Cir. 2002) (''As a federal agency, FERC is a 'creature of statute,' having 'no constitutional or common law existence or authority, but *only* those authorities conferred upon it by Congress.' '') (quoting *Michigan* v. *EPA,* 268 F.3d 1075, 1081 (D.C. Cir. 2001)); *see Bowen* v. *Georgetown Univ. Hosp.,* 488 U.S. 204, 208 (1988) (''It is axiomatic that an administrative agency's power to promulgate legislative regulations is limited to the authority delegated by Congress.'').

[13] *See* 15 U.S.C. 717f(h).

[14] S. Rep. No. 80–429, at 3 (1947).

[15] Order No. 871–B, 175 FERC ¶ 61,098 at P 45. It should be recognized that the Commission again preemptively answers a question that it directly posed in the pending Notice of Inquiry (NOI) for which comments are due May 26, 2021: ''Under the NGA, does the Commission have authority to condition a certificate holder's exercise of eminent domain?'' See Question B6 in *Certification of New Interstate Nat. Gas Facilities,* 174 FERC ¶ 61,125, at P 15 (2021). The Commission continues to lull people into believing that the answers to the questions appearing in the NOI have yet to be resolved.

[16] Order No. 871–B, 175 FERC ¶ 61,098 at P 46.

[17] *See id.* P 46 n.91 (citing 5 U.S.C. 705). I am unaware of Commission precedent that relies on APA section 705 as authority to stay Commission orders (other than a handful of hydropower cases granting the stay of the commencement of construction deadline).

[18] 5 U.S.C. 705 (emphasis added).

[19] *See Bauer* v. *DeVos,* 325 F. Supp. 3d 74, 106 (D.D.C. 2018) (''Most significantly, the relevant equitable considerations are not free-floating but, rather, must be tied to the underlying litigation.'').

rather questionable. Will the Commission stay a certificate where there is a protest by a landowner with property interests that abut the proposed right-of-way but are not subject to condemnation? And the Commission's policy applies to where there is a ''landowner *protest.*'' Will the Commission apply the stay where a landowner protested but did not intervene? What about in the case where the landowner joined a protest, but may not have active interests in the proceeding? Some commenters have suggested that NGA section 19(c) grants the Commission such power.[20] The Commission does not acknowledge or adopt these arguments. Even so, NGA section 19(c) does not grant the Commission the power to stay its orders *before* a rehearing application is even filed.[21] Section 19(c) sets forth the rule—that ''[t]he filing of an application for rehearing under subsection (a) shall not . . . operate as a stay of the Commission's order''—and the exception to that rule—''unless specifically ordered by the Commission.'' [22] In order for the exception to apply, the general rule must first apply: That is, someone must have filed a request for rehearing. Further, the Commission's new policy elevates the stay from being the exception to being the rule itself, assuming the legislative power to amend section 19(c) to read: An order is stayed unless specifically ordered by the Commission. Only Congress can amend a statute.

9. Let us also not forget that identical phrases in the same statute are normally given the same meaning.[23] NGA section 19(c) provides that ''[t]he commencement of proceedings under subsection (b) of this section shall not, *unless specifically ordered* by the court, operate as a stay.'' [24] Imagine a scenario in which, in the course of a one-off proceeding, a court of appeals announced that, going forward, it would begin presumptively staying an entire category of Commission orders *before* a petition is filed. Article III courts, of course, have their own procedures, traditions, and powers. Still, such reading of the statute is absurd.

10. Many are quick to turn to NGA section 16 when all else has failed. However, the Commission likewise cannot rely on NGA section 16 in support of a presumptive stay. Section 16 of the NGA does not represent an independent grant of authority: ''[t]he Commission shall have power to perform any and all acts, and to prescribe, issue, make, amend, and rescind such orders, rules, and regulations as it may find necessary or appropriate to carry out the provisions of this chapter.'' [25] This does not create new powers under the NGA or supersede section 19(c), which sets forth the conditions for granting a stay. Moreover, like its counterpart in Federal Power Act section 309,[26] the use of NGA section 16 must be ''consistent with the authority delegated to it by Congress.'' [27]

11. I am aware of no other grant of authority that the majority may be relying upon in support of its new presumptive stay policy.[28] At its root, the Commission's presumptive stay policy impermissibly does what the Commission says it cannot do: The stay is designed to restrict the use of eminent domain.[29] It impedes a certificate holder's right to exercise eminent domain immediately upon the issuance of the certificate, while claiming to allow the pipeline to ''continue to engage in development related activities that do not require use of landowner property or that are voluntarily agreed to by the landowner.'' [30] It effectively permits the stay to be lifted so long as there is ''a *commitment by the pipeline developer not to begin eminent domain proceedings* until the Commission issues a final order on any landowner rehearing requests.'' [31] How a pipeline can conduct any activity authorized by a stayed certificate or why a pipeline would request to lift a stay other than to exercise eminent domain are questions that beg clarification.

12. Even if it were not *ultra vires,* the Commission's interpretation results in unfair surprise. Since at least 1965, the Commission (and the Federal Power Commission) have placed the burden on movants for stays to show that they will be irreparably injured in the absence of a stay.[32] The Commission's policy has been to ''refrain from granting stays in order to assure definitiveness and finality in Commission

[20] *See* Public Interest Organizations February 16, 2021 Brief at 13–14 (arguing the Commission has discretion under NGA section 19(c) to stay a certificate order); Niskanen Center, *et al.* March 3, 2021 Reply Brief at 4 (''[T]he NGA's only mention of an agency stay is in Section 19(c). . . . The NGA also does not constrain the Commission's authority as to when it can 'specifically order' a stay . . . .'').

[21] *See* 15 U.S.C. 717r(c).

[22] *Id.*

[23] *Powerex Corp.* v. *Reliant Energy Servs., Inc.,* 551 U.S. 224, 232 (2007) (''identical words and phrases within the same statute should normally be given the same meaning'') (citation omitted).

[24] 15 U.S.C. 717r(c) (emphasis added).

[25] *Id.* § 717o.

[26] 16 U.S.C. 825h.

[27] *Verso Corp.* v. *FERC,* 898 F.3d 1, 7 (D.C. Cir. 2018) (quoting *Xcel Energy Servs. Inc.* v. *FERC,* 815 F.3d 947, 952 (D.C. Cir. 2016)); *see id.* at 10 (''Section 309 accordingly permits FERC to advance remedies not expressly provided by the FPA, *as long as they are consistent with the Act.*'') (emphasis added) (citing *TNA Merch. Projects, Inc.* v. *FERC,* 857 F.3d 354, 359 (D.C. Cir. 2017) (citing *Niagara Mohawk Power Corp.* v. *Fed. Power Comm'n,* 379 F.2d 153, 158 (D.C. Cir. 1967))).

[28] To the extent that the Commission believes that by ''applying the criteria for granting a stay on a case-by-case basis'' cures any legal infirmity, it is wrong. Order No. 871–B, 175 FERC ¶ 61,098 at P 51 n.103. It is illogical to have a presumption in advance of a rehearing request and is contrary to the plain text in the NGA.

[29] *See id.* P 45.

[30] *Id.* P 49.

[31] *Id.* P 51 (emphasis added).

[32] *See, e.g., Consol. Edison Co. of N.Y.,* 33 F.P.C. 965, at 969 (1965) (''Four tests have been prescribed by the Court of Appeals, each of which an applicant for stay must satisfy in order to justify the extraordinary relief represented by a stay of an administrative order.'') (citations omitted); *see also Midcontinent Indep. Sys. Operator,* 151 FERC ¶ 61,220, at P 27 (2015) (''Otter Tail has not met the burden to show that it will suffer irreparable injury without a stay and that a stay is in the public interest.''), *vacated and remanded for reasons not applicable, Ameren Servs. Co.* v. *FERC,* 880 F.3d 571 (D.C. Cir. 2018); *Bradwood Landing LLC,* 128 FERC ¶ 61,216, at P 10 (2009) (''We find that Oregon has not met its burden to demonstrate that it will suffer irreparable harm absent the granting of a stay.''); *Acadia Power Partners, LLC,* 108 FERC ¶ 61,076, at P 5 (2004) (''We will deny El Paso's request for a stay, as we find that El Paso has failed to meet its burden of demonstrating that it will suffer irreparable harm absent a stay.''); *Se. Hydro-Power, Inc.,* 74 FERC ¶ 61,241, at 61,825 n.12 (1996) (''the burden is on the movant . . . to demonstrate why its request for a stay is justified''); *Constr. Work in Progress for Pub. Utils.,* 24 FERC ¶ 61,071, at 61,190 (1983) (''the burden is upon petitioners for such extraordinary action to show that significant harm will be incurred and that the equities favor granting the stay.''); *Exemption from the Licensing Requirements of Part I of the Fed. Power Act of Certain Categories of Small Hydroelectric Power Projects with an Installed Capacity of 5 Megawatts or Less,* 20 FERC ¶ 61,061, at 61,134 (1982) (''In the context of their request for a stay . . . the burden is upon the petitioners for such extraordinary action to show that significant harm will be incurred and that the equities favor granting the stay.''); *Cities Serv. Oil Co.,* 53 F.P.C. 8, at 8–9 (1975) (''The applicant for a stay has the burden of establishing, absent the grant of such relief, it would be irreparably harmed.''); *Columbia Gulf Transmission Co.,* 37 F.P.C. 310, at 310 (1967) (''It is settled that in order to establish a case for a grant of extraordinary relief in the nature of a stay the applicant has the burden of establishing that absent the grant of such relief it would be irreparably injured.'') (citation omitted).

[33] *SFPP, L.P.,* 166 FERC ¶ 61,211, at P 7 (2019) (''When considering requests for a stay of Commission action, the Commission's general policy is to refrain from granting stays in order to assure definitiveness and finality in Commission proceedings.''); *see also Millennium Pipeline Co., L.L.C.,* 141 FERC ¶ 61,022, at P 13 (2012) (''Our general policy is to refrain from granting stays in order to assure definiteness and finality in our proceedings.'') (citation omitted); *Midwestern Gas Transmission Co.,* 116 FERC ¶ 61,182, at P 158 (2006) (''The Commission's general policy is to refrain from granting stays of its orders, in order to assure definiteness and finality in Commission proceedings.'') (citation omitted); *Guardian Pipeline, L.L.C.,* 96 FERC ¶ 61,204, at 61,869 (2001) (''The Commission's general policy is to refrain from granting stays of its orders, in order to assure definiteness and finality in Commission proceedings.'') (citations omitted); *Bos. Edison Co.,* 81 FERC ¶ 61,102, at 61,377 (1997) (''However, the

proceedings.'' [33]Now after merely asking, ''[s]hould the Commission modify its practices or procedures to address concerns regarding the exercise of eminent domain while rehearing requests are pending,'' [34] in an order on rehearing where the issue of eminent domain was not raised, the Commission suddenly departs from its policy favoring finality and shifts the burden to the pipeline before a rehearing is even filed. The Commission never announced that it was considering a presumptive stay policy or under what authority. In fact, many commenters did not address the presumptive stay. Those harmed by this surprise issuance should consider that agencies are not given deference ''when there is reason to suspect that the agency's interpretation 'does not reflect the agency's fair and considered judgment on the matter in question.' '' [35]

## III. The Commission's Decision is Bad Policy

13. On top of being unlawful, the presumptive stay is also bad policy. Contrary to the Commission's claims, the presumptive stay does not strike the appropriate balance between pipelines and landowners.[36] There can be no ''balance'' when the Commission violates clear Congressional mandate and attempts to withhold a statutory right afforded to certificate holders, especially when applied to applications already pending before the Commission.[37]

14. Further, the Commission's attempt to downplay the industry's concerns (including delayed project timelines, increased regulatory uncertainty, and higher likelihood of project terminations) because ''any stay will last *no longer* than approximately 150 days following the issuance of a certificate order'' [38] is, to put it mildly, unconvincing. Requiring the passage of four months before a certificate can go into effect is significant, especially since the time required for processing applications has already dramatically increased.[39] ''Many of the proposed projects before the Commission, *some pending for more than a year,* are critical to addressing supply issues and strengthening our energy infrastructure.'' [40] It is not inconceivable that those projects whose applications have been pending for more than a year ultimately will be canceled as a result of delay. By way of example, nearly two years ago, Dominion Energy Transmission, Inc. withdrew its application for a certificate for its Sweden Valley Project that it had filed seventeen months prior.

15. Finally, in yet another unexplained deviation from its past precedent, the Commission holds that, in the event the Commission were to grant rehearing for the purposes of requesting further briefing in order to substantively reconsider a ruling, ''the original authorization would no longer be in effect and the provisions of Order No. 871 would no longer apply since there would be no final order pursuant to which a notice to proceed could be issued.'' [41] The Commission provides no citation for this holding, the consequences of which are that granting rehearing for purposes of further consideration causes the original order to be vacated. Not only does the holding find no support in NGA section 19, but it is also contrary to the decades of Commission practice wherein the issuance of tolling orders for the purposes of further consideration did not vacate the original order.

16. Further, this holding will wreak havoc on the Commission's administration of other provisions under the NGA and FPA. For example, if the Commission requests further briefing in response to a request for rehearing of an NGA section 4 or FPA section 205 order on a proposed rate change, what rate should be charged? Or if the Commission requests further briefing on a request for rehearing of a complex order regarding market design, what rules apply to an auction that occurs before the Commission rules on the rehearing request? Would a request for further briefing vacate a Commission order under NGA section 5 or FPA section 206 finding that a certain rate or tariff provision is not just and reasonable and reinstate the prior rate or tariff provision? Is it only orders issued pursuant to NGA section 7 that are vacated when the Commission requests further briefing and, if so, what is the statutory basis for such a distinction? The Commission appears not to have even considered these far-reaching consequences of its holding and provides no explanation as to how these and many other difficult issues should be dealt with.

## IV. Conclusion

17. In the past three months, with barely any warning or process, the Commission has called every existing certificate into question in *Algonquin,* reversed years of significance analysis in *Northern,* and written the right to seek eminent domain upon receipt of a certificate out of the Natural Gas Act. As the Commission continues issuing such unlawful and ill-conceived orders, we will see further severe curtailment of investment in and construction of critical natural gas infrastructure which will inevitably drive up prices and gravely jeopardize reliability.

For these reasons, I respectfully dissent.

James P. Danly,
*Commissioner.*

Commission follows a general policy of denying motions for stay based on a need for finality in administrative proceedings.''); *CMS Midland, Inc.,* 56 FERC ¶ 61,177, at 61,630–31 (1991) (''We follow, however, a general policy of denying motions for stays, based on the need for definitiveness and finality in administrative proceedings.'') (citations omitted); *Holyoke Water Co.,* 30 FERC ¶ 61,283, at 61,575 (1985) (''The Commission has followed a general policy of denying stays, unless a party has demonstrated that it will be irreparably injured in the absence of a stay.'') (citations omitted).

[34] Order 871–A, 174 FERC ¶ 61,050 at P 7.

[35] *Christopher* v. *SmithKline Beecham Corp.,* 567 U.S. at 155 (citation omitted); *see also Kisor* v. *Wilkie,* 139 S. Ct. 2400, 2421 (2019) (''And recall too that deference turns on whether an agency's interpretation creates unfair surprise or upsets reliance interests.'').

[36] Order 871–B, 175 FERC ¶ 61,098 at P 49.

[37] *See* U.S. Senators Hoeven, Manchin, Barrasso, Tester, Capito, Sinema, Cassidy, Cornyn, Cramer, Crapo, Cruz, Daines, Hagerty, Hyde-Smith, Inhofe, Lankford, Marshall, Moran, Risch, Rounds, Sullivan, Tillis, Thune, Toomey, and Wicker, Letter, Docket No. PL18–1–000, at 1 (filed April 30, 2021) (''Delaying and moving the regulatory goalposts on projects filed in good faith is contrary to the otherwise equitable application of the Policy Statement that all stakeholders expect. At a minimum, these projects should not be subject to newly contemplated considerations that fall outside the scope of the current Policy Statement or go beyond the Commission's statutory authority.'').

[38] Order 871–B, 175 FERC ¶ 61,098 at P 49.

[39] *See, e.g.,* Northern Natural Gas Company February 5, 2021 Motion for an Expedited Order for the Northern Lights 2021 Expansion Project under CP20–503 (requesting expedited action for application filed on July 31, 2020); Iroquois Gas Transmission System, L.P. January 26, 2021 Request for Prompt Issuance of Certificate of Public Convenience and Necessity under CP20–48 (requesting expedited action for application filed on February 3, 2020).

[40] U.S. Senator Hoeven, *et al.,* Letter, Docket No. PL18–1–000, at 1 (filed April 30, 2021) (emphasis added).

[41] Order No. 871–B, 175 FERC ¶ 61,098 at P 27.

## Department of Energy

## Federal Energy Regulatory Commission

## Limiting Authorizations To Proceed With Construction Activities Pending Rehearing

CHRISTIE, Commissioner, *concurring:*

1. I write separately to add the following.

2. Last year the Commission issued Order No. 871.[1] Just a few weeks later, the D.C. Circuit issued its ruling in *Allegheny.*[2]

3. The combination created deep uncertainty, as well as the threat under

[1] Order No. 871, 171 FERC ¶ 61,201(2020).

[2] *Allegheny Defense Project* v. *FERC,* 964 F.3d 1 (D.C. Cir. 2020) (en banc) (*Allegheny*).

Order No. 871, that a certificated facility could have its notice to proceed with construction withheld potentially for an *unlimited* period of time while requests for rehearing remained pending before the Commission.

4. Today's order is necessary to address the present unsustainable situation. While it may not be perfect nor exactly how I alone would resolve the uncertainties and threats created by Order No. 871, it does represent an acceptable compromise, consistent with the applicable law.

5. Notably, it puts clear time limits—where there are none now under Order No. 871—on how long the Commission is required to withhold a notice to proceed with construction while the Commission considers a request for rehearing.

6. Second, it sets forth a *policy* for future cases—not mandatory, but subject to the facts and circumstances of each case—that a property owner opposing the involuntary use of eminent domain should be protected from a seizure of his or her property during a reasonable period of time while the Commission is still considering requests for rehearing; however, this period will also be subject to the same time limits as the withholding of the notice to proceed with construction.

7. Third, nothing in today's order will prevent the developer from continuing expeditiously with all development activities that do not involve construction or the use of eminent domain against unwilling property owners. Voluntary land acquisition is unaffected by this order.

8. I understand the desire of the dissent simply to repeal Order No. 871 with nothing more,[3] but that is not a realistic prospect; put bluntly, it is not going to happen. Rather than allow the current unsustainable *status quo* to continue, under present circumstances I believe this order represents a realistic path forward. If it is not administered fairly or does not bring the clarity and certainty needed, it can be revisited.

Accordingly, I respectfully concur.

Mark C. Christie,
*Commissioner.*

[FR Doc. 2021–09829 Filed 5–12–21; 8:45 am]

**BILLING CODE 6717–01–P**

[3] Danly Dissent at PP 1–2.

## DEPARTMENT OF LABOR

### Employment and Training Administration

### 20 CFR Parts 655 and 656

**[Docket No. ETA–2020–0006]**

**RIN 1205–AC00**

## Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Immigrants and Non-Immigrants in the United States: Delay of Effective and Transition Dates

**AGENCY:** Employment and Training Administration, Department of Labor.

**ACTION:** Final rule; delay of effective and transition dates.

**SUMMARY:** On March 12, 2021, the Department of Labor (Department or DOL) published a final rule delaying the effective date of the January 14, 2021, rule entitled *Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States* (the rule or Final Rule), from March 15, 2021 until May 14, 2021. On March 22, 2021, the Department proposed to further delay the effective date of the rule by eighteen months from May 14, 2021 until November 14, 2022, along with corresponding proposed delays to the rule's transition dates. The Department proposed an additional delay to provide a sufficient amount of time to thoroughly consider the legal and policy issues raised in the rule, and offer the public, through the issuance of a Request for Information, an opportunity to provide information on the sources and methods for determining prevailing wage levels covering employment opportunities that United States (U.S.) employers seek to fill with foreign workers on a permanent or temporary basis through certain employment-based immigrant visas or through H–1B, H–1B1, or E–3 nonimmigrant visas. The Department also proposed the further delay to provide agency officials with a sufficient amount of time to compute and validate prevailing wage data covering specific occupations and geographic areas, complete and thoroughly test system modifications, train staff, and conduct public outreach to ensure an effective and orderly implementation of any revisions to the prevailing wage levels. The Department invited written comments from the public for 30 days, until April 21, 2021, on the proposed further delay and received 627 timely comments. The Department has reviewed the comments received in response to the proposal and will delay the effective date of the Final Rule for a period of 18 months, along with corresponding delays to the rule's transition dates.

**DATES:** This final rule is effective November 14, 2022. As of May 13, 2021, the effective date of the Final Rule published on January 14, 2021, at 86 FR 3608, and delayed on March 12, 2021, at 86 FR 13995, is further delayed until November 14, 2022, and the corresponding transition dates are delayed until January 1, 2023, January 1, 2024, January 1, 2025, and January 1, 2026, respectively.

**FOR FURTHER INFORMATION CONTACT:** Brian Pasternak, Administrator, Office of Foreign Labor Certification, Employment and Training Administration, Department of Labor, 200 Constitution Avenue NW, Room N–5311, Washington, DC 20210, telephone: (202) 693–8200 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone numbers above via TTY/TDD by calling the toll-free Federal Information Relay Service at 1 (877) 889–5627.

**SUPPLEMENTARY INFORMATION:**

### I. Background

On January 14, 2021 (86 FR 3608), the Department published a final rule in the **Federal Register**, which adopted changes to an interim final rule (IFR), published on October 8, 2020 (85 FR 63872), that amended Employment and Training Administration (ETA) regulations governing the prevailing wages for employment opportunities that U.S. employers seek to fill with foreign workers on a permanent or temporary basis through certain employment-based immigrant visas or through H–1B, H–1B1, or E–3 nonimmigrant visas. Specifically, the IFR amended the Department's regulations governing permanent (PERM) labor certifications and Labor Condition Applications (LCAs) to incorporate changes to the computation of wage levels under the Department's four-tiered wage structure based on the Occupational Employment Statistics (OES) wage survey administered by the Bureau of Labor Statistics (BLS). A general overview of the labor certification and prevailing wage process as well as further background on the rulemaking is available in the Department's Final Rule, as published in the **Federal Register** on January 14, 2021, and will not be restated herein. 86 FR 3608, 3608–3611.

Although the Final Rule contained an effective date of March 15, 2021, the Department also included two sets of

transition periods under which adjustments to the new wage levels would not begin until July 1, 2021. 86 FR 3608, 3642. For most job opportunities, the transition would occur in two steps and conclude on July 1, 2022. For job opportunities that will be filled by workers who are the beneficiary of an approved Immigrant Petition for Alien Worker, or successor form, or are eligible for an extension of their H–1B status under sections 106(a) and (b) of the American Competitiveness in the Twenty-first Century Act of 2000, Public Law 106–313, as amended by the 21st Century Department of Justice Appropriations Authorization Act, Public Law 107–273 (2002), the transition would occur in four steps and conclude on July 1, 2024. 86 FR 3608, 3660.

On February 1, 2021 (86 FR 7656), the Department published a notice of proposed rulemaking in the **Federal Register** (60-day NPRM) proposing to delay the effective date of the Final Rule for 60 days. The Department based the action on the Presidential directive as expressed in the memorandum of January 20, 2021, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Freeze Pending Review.'' The memorandum directed agencies to consider delaying the effective date for regulations for the purpose of reviewing questions of fact, law, and policy raised therein. In accordance with the memorandum, the Department proposed to delay the effective date of the Final Rule from March 15, 2021 until May 14, 2021. Given the complexity of the regulation, the Department determined that a 60-day extension of the effective date was necessary to provide time to consider the relevant legal questions that were raised. In its proposal, the Department invited written comments on the proposed delay, specifically the proposed delay's impact on any legal, factual, or policy issues raised by the underlying rule and whether further review of those issues warranted such a delay and noted that all other comments on the underlying rule unrelated to the proposed delay would be considered outside the scope of the action.

On March 12, 2021, the Department published a final rule (60-day rule) adopting the proposal and delaying the effective date of the underlying rule to May 14, 2021. 86 FR 13995. The Department acknowledged the need to assess and evaluate the prevailing wage methodology and computations in the Final Rule due to the complexity of the rule, concerns voiced by commenters in response to the 60-day rulemaking, and issues raised in litigation challenging the underlying rulemaking. 86 FR 13996–13997. To permit time to continue its review, the Department published a second NPRM (18-month NPRM or NPRM) on March 22, 2021, proposing to further delay the effective date of the Final Rule by eighteen months from May 14, 2021 until November 14, 2022, along with corresponding proposed delays to the rule's transition dates. 86 FR 15154. As explained below, the Department proposed the additional delay to allow sufficient time for the Department to thoroughly consider legal and policy issues related to the Final Rule; to prevent confusion and uncertainty among the regulated community over the operative wage rates while the Department conducts its review; to allow agency officials adequate time to compute and validate prevailing wage data covering all occupations and geographic areas; to complete and thoroughly test modifications to the Office of Foreign Labor Certification (OFLC) Foreign Labor Application Gateway (FLAG) system; and to train staff and conduct sufficient public outreach to ensure an effective and orderly implementation should the initial transition wage rates become effective on July 1, 2021. 86 FR at 15155–15156.

The 18-month NPRM also highlighted the Department's intent to publish a Request for Information (RFI) to allow the public the opportunity to provide the Department with information to further inform its assessment of prevailing wage levels. The Department issued this RFI on April 2, 2021, with a 60-day comment period that closes on June 1, 2021, to provide the public an opportunity to provide information on the sources of data and methodologies for determining prevailing wage levels. 86 FR 17343. The Department noted that information received in response to the RFI will inform and be considered by the Department as it reviews the Final Rule, which may result in the development of a future notice of proposed rulemaking to revise the computation of prevailing wage levels. *Id.*

## II. Basis for Proposed Delay of Effective and Transition Dates

The Department proposed in the 18-month NPRM to delay the effective date of May 14, 2021, and the transition date of July 1, 2021, under which adjustments to the new wage levels would begin, for a period of eighteen months, or until November 14, 2022 and January 1, 2023, respectively. In addition, the Department proposed corresponding one-year delays for each of the remaining transition dates, which would be revised to January 1, 2024, January 1, 2025, and January 1, 2026, respectively. As explained in the NPRM, the Department proposed this delay for three primary reasons.

First, the Department proposed this delay so that it has sufficient time to engage in its comprehensive review of the Final Rule, and to take further action as needed to complete this review. Many comments on the 60-day NPRM raised substantive and procedural concerns regarding the underlying rulemaking. The 18-month NPRM explained that the concerns called into question the appropriateness of the wage rates established in the Final Rule, including the transition rates currently scheduled to take effect on July 1, 2021. The 18-month NPRM also noted that many of these same concerns have been raised in the ongoing litigation concerning the IFR and the Final Rule. Accordingly, the Department believed the proposed delay, in conjunction with additional actions such as the RFI that was issued on April 2, 2021, would best inform the Department's comprehensive review of the Final Rule and consideration of alternate paths. The NPRM noted that the Department considered allowing the rule to take effect pending its review and the assessment of potential new rulemaking. However, because the concerns raised during the 60-day rulemaking and in litigation were substantial and called into question fundamental aspects of the rulemaking, the Department believed the fairest and most prudent approach was to propose a further delay of the rule's effective and transition dates rather than allow the rule to take effect without seeking additional public input. For example, the NPRM explained that, based on the Department's review to date, additional time was needed to comprehensively review the record relied upon to support the underlying rulemaking before it is allowed to take effect, including litigants' claims that the Department's failure to publicly disclose certain data and analysis relied upon to establish the new wage levels will otherwise result in wages that, contrary to the Final Rule's conclusions, do not ''accurately reflect[ ] the portion of the OES distribution where workers with levels of education, experience, and responsibility similar to the vast run of entry-level H–1B and PERM workers likely fall.'' 86 FR 15154, 15155 (quoting 86 FR 3608, 3639).

Second, and relatedly, the Department preliminarily assessed that delaying the effective and transition dates as proposed in the NPRM—instead of allowing those dates to be implemented—would prevent confusion

and uncertainty among the regulated community over the operative wage rates while the Department conducted its review.

Third, the Department explained that the length of the proposed delay would allow BLS and ETA's OFLC adequate time to compute and validate prevailing wage data covering all occupations and geographic areas, complete and thoroughly test modifications to the OFLC FLAG system, train staff, and conduct sufficient public outreach to ensure an effective and orderly implementation if, following the Department's comprehensive review, the rule's changes associated with the computation of wage levels under the Department's four-tiered wage structure ultimately must take effect.

While the Department acknowledged that the proposed delay was significant, the Department explained that, based on its initial review and the concerns raised, it was clear that a significant amount of time was needed to consider all aspects of the rulemaking, including the underlying methodology employed, and relevant studies and data. The Department sought public comment on the proposed delay, including whether it should delay the effective date and the transition dates of the Final Rule and whether the proposed period of delay was an appropriate length of time or whether another length of time may be more appropriate. The Department also sought comment on:

- Whether, rather than delaying implementation as proposed herein, the Department should allow the rule, and any accompanying transition dates, to take effect while it conducts its review and considers any new proposal(s) to amend the regulations in question.
- Specific details and any available data regarding the specific challenges commenters face in complying with the Final Rule by the current transition date of July 1, 2021.
- Any relevant knowledge and specific facts about any benefits, costs, or other impacts of this proposal on the regulated community, workers, and other relevant stakeholders.
- Any other potential consequences of not delaying the effective date and transition dates of the Final Rule.

## III. Public Comments Received

The Department invited written comments for a 30-day period on its proposal to delay the effective date of the Final Rule by 18 months, with corresponding delays to the rule's transition dates. The comment period opened on March 22, 2021 and closed on April 21, 2021, with comments submitted electronically at *http://www.regulations.gov/* using docket number ETA–2020–0006. During this comment period, ETA received 627 comments on its proposal, including 595 unique comments. The vast majority of commenters supported the NPRM's proposed 18-month delay of the effective and transition dates of the Final Rule.

The Department appreciates all of the comments it received. After full consideration of the comments and for the reasons explained below, the Department is adopting the proposal in the NPRM to delay the effective date of the Final Rule by 18 months, with corresponding delays to the rule's transition dates.

### *A. Comments Supporting a Delayed Effective Date and Transition Dates*

#### 1. Public Comments Received Supporting the Proposal

The comments received on the Department's NPRM overwhelmingly supported an 18-month delay or, in some instances, longer postponement or abandonment of the rule, and raised key issues including the Department's need to review the data and sources used in determining the prevailing wage levels in the Final Rule as well as the need to further assess the rule's impact. As a result, most of these commenters noted that the Department should take the time and opportunity to thoroughly and comprehensively review the rule.

Commenters supported the proposed delay for various reasons, such as disapproval of the Final Rule, fears that the process in adopting the rule was rushed, and concerns that the rule lacked evidence and scientific data to support the revised prevailing wage levels. These commenters included academic institutions, trade and professional associations, and a significant number of individual commenters who also expressed their concerns about the impact of the Final Rule on international students, current visa holders, and prospective visa holders. Commenters voiced concerns regarding the Final Rule's impact on businesses and industries, particularly academic institutions and businesses in the information technology (IT) industry, as well as the impact on small to mid-sized entities. Commenters raised concerns that the rule is heavily geared toward the IT industry and encouraged the Department to review prevailing wage data across industries and sectors within industries, and to review the impact of the Final Rule on occupational markets by geographic location.

#### 2. General Comments Supporting the Proposal

Many commenters expressed general, and often strong, support for the Department's proposal to delay the effective and transition dates of the Final Rule without providing specific reasons for support. The Department values the commenters' general input on the delay proposed in the NPRM. Because of the general nature of these comments, the Department is unable to address them in further detail. More specific comments related to the proposal are addressed in the sections that follow.

#### 3. Delaying the Rule To Allow Time To Evaluate Matters of Fact, Law, and Policy

Numerous commenters agreed with the Department's proposal to delay the Final Rule to allow the Department time to evaluate matters of fact, law, and policy related to the rule. One commenter stated it is in favor of the proposed delay and provided a policy report to assist the agency in evaluating issues of ''fact, law, and; raised by the rule. Many individual commenters stated the proposed delay would afford the public with more time to review the rule and assess its advantages and disadvantages. Other individual commenters expressed concern that the rule would discourage immigration and generally discussed the benefits that immigrants bring to the United States, including increased diversity, strong work ethic, and knowledge of or talent in specialized fields. Several commenters noted the rule was published during the final days of the previous administration and supported the proposed delay to allow entities, such as the Department, the public, policymakers, and stakeholders, time to review the rule, including for consistency with the current administration's policy goals.

Many commenters expressed general agreement with the proposed delay so that the Department can fully and thoughtfully consider the rule, its implications, and the appropriateness of the wage levels in the rule. Specifically, commenters requested the Department adopt its proposal to allow for thorough review and comprehensive analysis of the prevailing wage data and methodology used to establish the prevailing wage levels in the rule. Commenters also recommended the Department adopt its proposal in order to use the time to reconsider whether changes to prevailing wage levels are needed, with several commenters stating the changes to the prevailing

wage levels were too drastic, and others suggesting that the current prevailing wage level methodology is sufficient because it provides for yearly wage increases in most instances. Commenters observed that the rule imposes significant impacts on workers, businesses, and the economy, such that the data cited in support of the rule needs careful evaluation and verification.

Based on concerns that the data used in the rule was flawed or inaccurate, commenters argued that the proposed delay would afford the Department time to ''scientific ally'' review the rule's prevailing wage methodology and determine more appropriate prevailing wage levels. A commenter, for example, urged the Department to address substantive concerns with the methodology in the Final Rule before implementing any changes to the prevailing wage requirements. According to the commenter, the methodology in the Final Rule is inconsistent with the INA, as the rule set the Level 1 ''entry level'' wage using the comparator of an individual with a master's degree with no work experience even though this standard exceeds the requirements for an H–1B specialty occupation visa. Other commenters noted substantive concerns with the Final Rule, including that key provisions in the rule are at odds with the INA, the prevailing wage levels were set in an irrational manner and based on ''cherry-picked'' studies, the agency did not fully consider factors such as non-compensatory income separate from a base salary, and that sources of authority cited in the rule, such as Executive Order (E.O.) 13788 (''Buy American and Hire American'') and a U.S. Citizenship and Immigration Services policy memorandum on H–1B computer related positions have since been revoked or rescinded. Numerous commenters pointed to the Department's recent RFI (86 FR 17343) and requested the Department reconsider the data and sources used in the Final Rule in light of sources obtained through the RFI or other available sources of data.

Several commenters also supported the proposed delay because it would provide the Department with an opportunity to review the ''procedural irregularities'' associated with the underlying rule, including those identified in ongoing litigation. These commenters raised two main procedural concerns with the rule, namely that the Department did not provide the public with proper notice and a meaningful opportunity to comment, and failed to disclose relevant data and analysis to permit informed comments from the public. One of these commenters asserted the Final Rule violated the Administrative Procedure Act's (APA) notice and comment requirements while another commenter cited a Federal appellate case for the proposition that ''where the agency has used data as part of its rationale for major policy issues, the data must be disclosed.'' Several commenters urged the Department to consider making more of the underlying data used to compute the wage levels in the Final Rule available for public review. A commenter supported the delay to allow the agency time to review the rule and determine it is ''unjustified, ignores labor market realities, and would harm the country's economic recovery.'' The commenter explained that should the agency not make this determination, the proposed delay is needed for courts to render final decisions in related litigation.

The Department acknowledges the suggestion of commenters that the Department adopt its proposed delay of the Final Rule's effective and transition dates to review all aspects of the underlying rulemaking, including those related to the methodology in the Final Rule, the procedures used to promulgate the rule, and the agency's need and alleged failure to disclose the data or studies it relied upon during the rulemaking. These serious concerns with the substance of the Final Rule and the process through which it was promulgated support the proposal to delay the Final Rule in order to allow the agency to continue its comprehensive review of the rule, evaluate the information it receives from the RFI, and take additional action as necessary, which may include the development of a future notice of proposed rulemaking and/or the receipt of final decisions in the related litigation.

The Department's ongoing review underscores the need to further review and assess the Final Rule in light of the assertions and concerns raised by these commenters, including the concern raised by litigants, and echoed by the commenters to this rulemaking, that the agency failed to make available portions of the technical basis for the IFR and Final Rule in time to allow them to provide meaningful comments. For example, the litigants specifically allege that the Final Rule's adjustments to the IFR ''stem from undisclosed data and analyses that DOL failed to place on the public rulemaking docket.'' First Amended Complaint at ¶ 94, *ITServe Alliance, Inc., et al.* v. *Walsh, et al.,* No. 20–cv–14604 (D.D.C. Apr. 7, 2021); *see also* First Amended Complaint at ¶ 147, *Purdue University, et al.* v. *Walsh, et al.,* No. 20–cv–3006 (D.D.C. Feb. 19, 2021) (''The agency also failed to provide the public with advance notice of the technical studies and data underlying its decision, including the data from the National Science Foundation, and, the methodology and technical studies it did reveal, prevented the public with a meaningful opportunity to comment and adequately engage in the rulemaking process.''). While continuing its review of the Final Rule and responding to the related litigation, the Department recently certified the contents of the rulemaking record to the plaintiffs in pending litigation challenging the Final Rule. Notice of Filing of Certified List of Contents of the Administrative Record, *Stellar IT, et al.* v. *Walsh, et al.,* No. 20–cv–3175 (D.D.C. Apr. 12, 2021); Notice of Filing of Certified List of Contents of the Administrative Record, *Purdue University, et al.* v. *Walsh, et al.,* No. 20–cv–3006 (D.D.C. Apr. 12, 2021). In doing so, the Department has identified potential issues surrounding the rulemaking record, which has necessitated the parties entering into a protective order in order to make portions of the record relied upon by agency decision makers available to these litigants. *See, e.g.,* Defendants' Unopposed Motion for Protective Order, *Stellar IT, et al.* v. *Walsh, et al.,* No. 20–cv–3175 (D.D.C. Apr. 19, 2021).

Although the Department considered allowing the Final Rule to take effect pending its review and consideration of additional action, the issues raised above strongly caution in favor of finalizing the proposed delay as they call into question fundamental aspects of the Final Rule—including the process by which the rule was promulgated and whether the prevailing wage levels in the rule appropriately reflect the wages of workers in the United States similarly employed. The Department believes the fairest and most prudent approach is to delay the effective date of the rule, otherwise the Department runs the risk of allowing a potentially procedurally and substantively flawed rule to take effect, which would unfairly affect the regulated community given the potential harm that immediate implementation of the rule would impart. The Department believes this delay, along with the recently-issued RFI, will best inform the Department's comprehensive review of the Final Rule and allow it to meaningfully consider all available options.

4. Implementing, Instead of Delaying, the Rule as the Department Conducts Its Review

Many commenters supporting the proposed delay noted the harm that immediate implementation of the Final Rule could cause stakeholders. According to several individual commenters, stakeholders who would benefit from the proposal include (1) prospective or current H–1B applicants planning their careers or career transitions; (2) recent university graduates or students close to completing their education who will soon enter the labor market; and (3) employers such as academic institutions and entities in other industries who would otherwise need to adjust their hiring practices or staffing models in response to the Final Rule. Commenters explained that a delay is needed because of inaccuracies with the computation of wage levels in the Final Rule, because the rule did not properly consider the impact on certain industries or types of workers, and because the rule will not have its intended impact. Commenters also stated that a delay is necessary as the U.S. economy is still recovering from the impact of the COVID–19 pandemic and employers need time to adjust to the salary fluctuations caused by the rule should it be implemented. According to these commenters, if the Final Rule went into effect now, it would be harmful to employers and workers in various industries. The comments discussed in this section further highlight potential substantive errors with the underlying rulemaking and the harmful impact of these errors on the regulated community should the Final Rule go into effect, especially now. The concerns raised in the comments discussed below support the Department adopting its proposed delay of the rule, rather than allowing it to take effect, while the Department conducts its review and considers additional action. Even if some of the concerns raised below could be alleviated or eliminated as a result of the rule's transition provisions, the procedural and substantive concerns discussed above remain, calling into question the appropriateness of the wage rates established in the Final Rule, including the transition rates, and support the Department's decision to delay implementation of a potentially procedurally and substantively flawed rule before it takes effect.

a. Impact of Not Delaying the Rule on Academic Institutions and International Students

Many commenters supported delaying the Final Rule on the basis that immediate implementation of the rule would potentially cause harm to academic institutions and international students. Two academic institutions provided an overview of how H–1B workers enrich their campuses, serving as faculty members, researchers, scholars, medical residents and fellows, and professional staff. Commenters stated that academic institutions, research institutions, and non-profit organizations would not be able to meet the prevailing wage requirements in the rule to retain the requisite talent should it be implemented immediately. For example, an academic institution explained that for some of its positions, immediate implementation of the rule would result in a required wage increase of more than $40,000 annually per employee. Such increases, according to the commenter, would be challenging economically and academically, particularly in light of budget pressures caused by the pandemic. The commenter expressed support for delaying the effective and transition dates of the ''flawed'' rule—rather than allowing it to go into effect—so as to ''minimize confusion and unnecessary complications'' during the Department's review and consideration of additional action. Commenters also noted it will be difficult for U.S. colleges and universities to attract and retain international students because the rule, by setting entry-level wages too high, will damage new graduates' employment prospects and discourage talented foreign students or workers from coming to the United States to study or work. Commenters explained that the proposed delay will allow H–1B workers, new graduates, and prospective H–1B workers and their employers time to adjust to the rule should the Department implement it after its review

The Department appreciates that the comments provided practical information related to potential impacts of the rule on academic institutions, international students, and other individual commenters. The Department is taking a comprehensive look at the rule's impact on the regulated community and may take additional action as necessary after it completes its review.

b. Impact of Not Delaying the Rule on Workers

Many commenters supporting the delay stated the Final Rule was flawed or would not achieve its intended objectives to revise prevailing wage levels and would adversely affect workers instead. The commenters recommended that the Department take additional time to assess the rule and design a more effective rule to serve its intended purpose, including an assessment of the appropriate point in the OES wage distribution at which to establish the entry-level wage under the four-tiered wage structure. For example, an employer expressed concern that the 35th percentile for Level I wages is too high and does not accurately reflect the wage of entry-level workers because the 35th percentile is ''usually given to'' candidates with a master's degree and two to three years of relevant work experience, whereas the minimum requirement for a H–1B visa is a bachelor's degree. Similarly, other commenters argued that the Final Rule's Level IV wage was set too high, even for workers with many years of experience, and that the rule would diminish the pool of skilled laborers in the United States. A commenter supported the delay to allow the Department time to adjust the wage levels to a more ''reasonable percentile.'' Another commenter elaborated on potential adverse effects that workers would experience by explaining that without the delay, ''many people who are currently applying for H–1B and employment-based permanent residence will be given only a month['s] notice before the new rule takes place,'' which ''could adversely affect a lot of people who just received job offers and are preparing to file'' their applications.

Several commenters warned that a sudden change to the prevailing wage levels would cause some employers to lose employees or access to talented workers, including those with skills and backgrounds in science, technology, engineering, and mathematics (STEM) fields, and would exacerbate the shortage of high-level talent in certain industries, such as the technology industry. Commenters also noted immediate implementation of higher prevailing wage levels could result in layoffs or the firing of U.S. and H–1B workers, which would exacerbate the unemployment rate and harm the U.S. economy, and potentially result in the offshoring of work by U.S. businesses. A few individual commenters explained immediate implementation of the rule would hurt both employers and jobseekers, with some arguing that the

rule's higher prevailing wage rates would disrupt foreign workers' contributions towards companies' growth or the stability of the U.S. economy. Other commenters stated that the wage level changes will result in significant wage increases for businesses, such that the delay is necessary to provide employers the time to adjust businesses practices and payroll details.

Some commenters supported the delay because, in their view, the Final Rule unfairly preferences foreign workers by requiring ''employers to discriminate against [U.S.] workers by paying foreign workers higher salaries for doing the same work.'' Other commenters supported delaying the rule on the basis that it is unfair to immigrant and non-immigrant workers and negatively impacts guest workers from certain countries. One commenter remarked that the delay would send a positive message to high-skilled foreign workers, including those interested in pursuing careers in STEM fields, and would improve the United States' competitive edge by enhancing the nation's ability to attract and maintain talented workers. Lastly, several commenters expressed support for the delay because of their concern that the Final Rule would make it more difficult for them to secure an H–1B visa, an outcome the commenters stated would force them to return to their countries of origin.

The Department acknowledges the concerns expressed by commenters regarding the impact of the Final Rule on U.S. and foreign workers, including those seeking entry-level or senior positions. The Department endeavors to protect the wages and working conditions of both U.S. and foreign workers, and the concerns raised by these commenters suggest that the Department needs to take additional time to review this rulemaking to ensure that it accomplishes this goal. In terms of the suggestions that commenters provided on the appropriate wage level, the Department appreciates the recommendations and encourages commenters to submit relevant information on the sources of data and methodologies for determining prevailing wage levels by commenting on its recently-issued RFI, whose comment period closes on June 1, 2021.

c. Impact of Not Delaying the Rule on Industries and Business Processes

Several individual commenters remarked that the economic challenges associated with higher prevailing wage rates would disproportionately impact small and medium businesses or start-up companies because they are less capable of affording significant salary increases than larger companies. An advocacy organization supported the proposed delay, arguing that the delay would avoid the ''significant business disruptions'' that the Final Rule would introduce.

Many commenters stated that the rule will affect high-paying industries such as the IT industry to a lesser extent, while other commenters stated that the rule may potentially harm technology companies and an individual commenter expressed the belief that even large companies will not be able afford the wage increases required by the rule, particularly during the COVID–19 pandemic. An individual commenter remarked that the Final Rule would negatively impact growth in creative industries because individuals, such as artists, would be unable to secure jobs with wages that meet the rule's increased prevailing wage rates.

An anonymous commenter stated that immigration officials and lawyers need more time to prepare for the new regulations. Likewise, a professional association commented that adopting the proposed delay would help make the transition less chaotic and confusing for both businesses and employees by affording more time for ''practical and systematic changes necessary to implement'' the Final Rule. Similarly, a trade association in favor of the delay said it would help employers avoid significant near-term logistical and operational challenges. Lastly, an individual commenter agreed that the 18-month delay was needed to afford the BLS and OFLC additional time to compute and review prevailing wage estimates, including integrating prevailing wage data into the Foreign Labor Certification Data Center system and FLAG system upon conclusion of the Department's review.

The Department appreciates the comments received regarding the rule's potential impact on businesses and the need to afford BLS and OFLC sufficient time to compute and review prevailing wage estimates if the Department ultimately implements the Final Rule. The Department takes seriously the possible effect that this rule will have on business operations, especially new, small, and medium-sized businesses. This delay will allow the Department to more closely review the rule's impact on the regulated community and employers of varying sizes who use the PERM, H–1B, H–1B1, or E–3 programs.

d. Impact of the COVID–19 Pandemic as an Additional Consideration To Delay the Rule

Many commenters stated that the Final Rule needed to be delayed due to the COVID–19 pandemic. For example, several individual commenters expressed concern that more immediate implementation of the Final Rule would negatively impact the U.S.'s economic recovery, such as by causing attrition or turnover in the workforce. One of these commenters added that such impacts would be especially harmful to the IT industry, which they said is an important element of the U.S. economy. Relatedly, an anonymous commenter remarked that H–1B workers help develop innovative software and other tools that keep the United States competitive in the global economy and such workers would be difficult to replace quickly. Other individual commenters asserted that without more time, current and prospective foreign workers and sponsor companies hard hit by the pandemic would have trouble adjusting to the Final Rule. One of the commenters reasoned, without additional explanation, that the proposed delay would make enforcement of the rule easier should it ultimately go into effect.

Commenters also explained that the U.S. economy is still recovering from the impact of the pandemic and delaying the rule will allow businesses time to recover and adjust to changes in the computation of prevailing wage levels should the Department decide to implement the rule after its review. The commenters generally agreed that allowing the rule to go into effect or be implemented now, in the midst of the country's pandemic recovery, would be detrimental to employers and would negatively affect workers. For example, one commenter noted that ''the U.S. economy is still recovering from COVID'' and it ''is almost impossible for new [graduates] and entry level employees to obtain reasonable wage levels due to COVID,'' such that not adopting the proposal ''would result in loss of talent and further harm the economy already in distress.'' Another commenter stated, ''Companies already struggling economically in the wake of COVID will not be able to afford these wages.''

The Department appreciates the concerns raised by the commenters regarding the timing of the rule during the country's pandemic recovery, and think that they further support the decision to delay the Final Rule.

5. Further Delaying, Postponing, or Rescinding the Rule

Numerous commenters stated they supported the delay of 18 months and suggested they would support an even longer delay, though they did not specify how much longer or why. One commenter expressed disagreement with the Final Rule, but requested, if the rule is retained, that it be postponed for a couple of years to permit more time for people to adjust. One commenter requested the rule be delayed for two additional fiscal years due to the ongoing COVID–19 pandemic and associated negative economic effects. A trade association suggested that the ''implementation of the'' rule be delayed until July 1, 2023, in the hopes that the Department would perform a comprehensive review of the Final Rule, decide to rescind the rule, and also, after evaluating prevailing wage evidence, issue a new rulemaking that meets APA requirements. However, it did not provide a clear explanation for why it recommended that specific date as opposed to another date. An academic institution asked the Department to postpone the effective date of the rule until July 1, 2023, after the academic recruitment season, to allow colleges and universities the opportunity to adjust business practices and budgets for what it called ''significant budgetary impacts.''

The Department understands that the initial transition date of January 1, 2023 may be inconvenient for employers and institutions tied to an academic school year. However, academic institutions are not the only users of the labor certification programs and the Department cannot accommodate every industry's unique processes in its selection of an implementation date. With regard to the trade association's comment, the Department notes it is unclear if the commenter is suggesting a delay of the effective date, or the first transition date, until July 1, 2023. While the Department appreciates the commenter's suggestion to delay implementation of the rule until July 1, 2023 in order to align with annual prevailing wage update schedules, the Department has taken all factors into consideration, including the potential effect on businesses and workers' wages and determined that a two-year delay is not needed at this time, even if it may align better with current annual wage level updates. The proposed 18-month delay is a significant length of time and the Department believes it is a sufficient period to engage in a comprehensive review of the underlying rule and allow the Department the needed time of approximately eight months to compute and validate prevailing wage data covering all occupations and geographic areas, complete and test modifications to the OFLC FLAG system, train staff, and conduct sufficient public outreach to ensure an orderly implementation should the Final Rule go into effect.

Many commenters including trade associations, academic institutions, and individual commenters also asked the Department to reconsider whether it moves forward with the Final Rule and requested the Department rescind, withdraw, terminate, or abandon the rule entirely. Other commenters suggested delaying or rescinding the rule because the rule is reflective of the immigration policies of the prior administration and not reflective of those of the current administration. Still other commenters gave varying reasons for rescinding the Final Rule, ranging from harm to potential foreign students and U.S. academic institutions, to U.S. businesses who would not be able to pay the higher wages to entry-level foreign workers, to criticisms of how the underlying final rule was written, proposed, and finalized.

In addition to rescinding the underlying rule, some commenters encouraged the Department to take the necessary time to analyze the Final Rule and its data and engage in new rulemaking. For example, one individual commenter stated that the rule should be delayed and replaced with a proposal that does not harm workers, but ''filters out outsourcing companies.'' Several commenters also urged the Department to provide the public with notice and the opportunity to comment on any new rulemaking and data in accordance with APA requirements.

The Department acknowledges the position espoused by many commenters that the underlying rule should be rescinded and/or replaced. The Department is currently conducting a comprehensive review of the Final Rule, which included the issuance of an RFI soliciting public input to inform its review by June 1, 2021, 86 FR 17343, and the Department may take additional action as needed, such as potentially engaging in new rulemaking. Even if the Department's review were already complete, to effectuate these suggestions would have required allowing the Final Rule to take effect while the Department engaged in rulemaking to rescind or amend this rule, and would have resulted in confusion and uncertainty among the stakeholder community as well as potentially needless fluctuations in wages and unnecessary burdens imposed on workers and employers. To avoid this, the Department proposed the 18-month delay so that it may fully reevaluate the Final Rule in terms of both the methodology used and the policy objectives and goals of this administration, receive information from the public through the recently-issued RFI, and ultimately choose an appropriate path forward. Nonetheless, these comments and the vast majority of the commenters' support for the NPRM's 18-month proposal reinforce the Department's position that the Final Rule should be delayed at this time and thoroughly reviewed based on the procedural and substantive concerns discussed above.

*B. Comments Opposing a Delayed Effective Date and Transition Dates*

As explained above, an overwhelming majority of the commenters supported the Department's proposed delay and raised key issues including the Department's need to review the data and sources used in determining the prevailing wage levels in the Final Rule as well as the need to further assess the rule's impact. However, a minority of commenters expressed opposition to the proposed delay, referencing concerns surrounding alleged abuse of the H–1B program and lottery, as well as support for raising wages for U.S. and foreign workers. Many individual commenters discussing the H–1B program argued that abusive outsourcing companies hire foreign workers for less pay, thus taking job opportunities from qualified U.S. workers. One individual commenter asserted that, under the current system, immigrants are ''indentured'' to employers that treat them unfairly and take advantage of them. An institutional commenter stated that H–1B visa holders are at a disadvantage and limited in their ability to change jobs and negotiate better wages and benefits. Commenters asserted that the underlying rule is key to fighting H–1B abuse and protecting U.S. workers. An anonymous commenter reasoned that immediate implementation of the Final Rule would protect workers from exploitation while still allowing the Department to improve the regulations in the future, such as by tailoring wages based on geography. Similarly, a policy organization said the Department should not forgo an immediate opportunity to improve wages, benefits, and job security. Many commenters also cited the pandemic as a reason to enact the rule now to protect the American workforce and assist with economic recovery.

Many individual commenters opposed the proposed delay and supported implementing policies that

favor and attract higher skilled workers. Commenters also argued the Final Rule provides more opportunities to attract and retain foreign workers in the technology, science, finance, and healthcare industries to strengthen U.S. competitiveness and the economy. Other commenters supported increasing wage levels for highly-skilled foreign workers so the United States will retain the best foreign talent. An anonymous commenter expressed concern that the proposed delay would subject worthy applicants to continued uncertainty as well as defeat the goal of attracting top talent to the United States. Two individual commenters asserted that implementing the Final Rule now would allow many talented foreign workers who have had to leave the United States return and help contribute to the U.S. economy.

Two anonymous commenters stated that raising wages immediately would benefit foreign students with F–1 visas as well as U.S. workers. Other commenters claimed that implementing wage increases without delay would not harm highly qualified international students because after three years of optional practical training (OPT) their wages will reach the higher wage level. A few other commenters opposed delaying the implementation of the Final Rule stating ''it is not fair'' to international students who have obtained their education in the United States, but then have trouble competing for job opportunities because outsourcing companies hire foreign H–1B workers at lower wages.

One institutional commenter opposed the delay alleging that it would cause companies to continue to hire foreign workers at less than market wages, and that the delay would cause confusion among stakeholders as to ''what the H–1B wages rules will be after [the delay].'' Furthermore, it noted that the current methodology was promulgated outside notice and comment rulemaking and the Final Rule is thus more legally defensible. It alleges as well that changing the methodology to the proposed method ''should not be burdensome on DOL staff.'' In spite of this, the commenter acknowledges that the ''wage methodology in the final rule is not perfect, and there is more work to be done to fulfill DOL's duty to protect the integrity of the H–1B program and ensure it meets its intent.'' The commenter added it would like wages to be raised even higher and for the Department to address, in its view, the ''lax standards'' for employers when choosing independent wage sources. The Department notes that this rulemaking is about the proposal to delay the effective date of the Final Rule, not the underlying rule itself and, as noted above, serious procedural and substantive concerns have been raised repeatedly as to the viability and defensibility of the Final Rule.

Another policy organization opposed the delay arguing that the Final Rule lessens the risk that U.S. workers would be ''replaced by cheaper labor from abroad.'' The commenter noted that the current wages are below market level. However, much like the aforementioned institutional commenter, this commenter also acknowledged that the ''proposed wage levels are still too low'' and urged the Department to set the Level 1 wage ''to at least the 50th percentile.''

These two institutional commenters and a third individual commenter argued that the delay would cost workers billions of dollars over the next decade and cited to the 18-month NPRM. *See* 86 FR 15154, 15159. One commenter noted that technology companies have performed strongly in the past year as demand for their services have increased, which the commenter believed to mean the companies could remain profitable while paying higher wages. The individual commenter also pointed to the 18-month NPRM and argued that the statement that ''the Department expects that the increase in wages may incentivize some employers'' to hire domestic workers rather than H–1B employees is justification for implementing the rule now. *See* 86 FR 15154, 15158. Finally, the individual commenter stated that adjusting the wage levels to ameliorate the impact from legal immigration on domestic workers' wages should be the immediate priority.

The Department appreciates the comments provided and addresses them in turn. First, the Department continues to be as diligent as possible in investigating and preventing abuse within the H–1B program, and shares the commenters' concerns for the protection of U.S. and H–1B workers. The Department is unable to address commenters' concerns related to alleged abuse of the H–1B lottery system or this visa program generally at this time since it is beyond the scope of the Department's regulatory authority and beyond the scope of this rulemaking.

Second, the Department notes that while it has been suggested that determining the wages is something ''straightforward'' and requires nothing more ''complex than what is currently done,'' this is not the case. As mentioned previously, the Department has determined that it needs approximately eight months to compute and validate prevailing wage data covering all occupations and geographic areas, complete and thoroughly test modifications to the OFLC FLAG system, train staff, and conduct sufficient public outreach to ensure an orderly implementation should the Final Rule go into effect. More specifically, under a Memorandum of Understanding (MOU), changes to the computation of prevailing wages for Levels I and IV, data categories, or other specific terms must be agreed to by OFLC and BLS six months in advance of the deliverable date. 86 FR 15154, 15156. In addition to prevailing wages for occupations covered by all industries, BLS must produce a separate set of prevailing wages for occupations in institutions of higher education, related or affiliated nonprofit entities, nonprofit research organizations, or governmental research agencies. Once the initial wage estimation process is completed, BLS then creates prevailing wage estimates for specific occupations and geographic areas, and transmits the files to each State for validation and confidentiality review, since the actual collection of occupational wage data from employer establishments is conducted by the States. After addressing any corrections or errors and receiving confirmation from the States, BLS creates the final prevailing wage estimates and applies any suppression or confidentiality rules. These final prevailing wage estimates undergo a rigorous internal review by BLS economists and statisticians who then deliver to OFLC the final set of prevailing wages for Levels I and IV for specific occupations and geographic areas. After receiving the final prevailing wages for Levels I and IV, OFLC would need approximately one month to compute and review initial prevailing wage estimates for the two intermediate levels according to the mathematical formula identified in the statute. Once validated for accuracy, OFLC must then load and thoroughly test integration of the final prevailing wage data into its online Foreign Labor Certification Data Center system, accessible at *http://www.flcdatacenter.com,* as well as the FLAG system used to assign the leveled prevailing wages and issue official PWDs for each occupation and geographic area to employers. The final process for OFLC to load, thoroughly test, and implement the official prevailing wage data takes up to an additional one month.

An individual commenter stated that this justification for extension suggests

poor planning and timing by the Department. In response, the Department acknowledges that, when the IFR was published in October 2020, the abbreviated timeline available to BLS and OFLC meant that the Department could not ensure the proper testing and implementation of the new methodology for computing the wage levels or follow the standard implementation process as detailed above. As a result, the wages produced by BLS yielded significant anomalies and far more instances where BLS was unable to provide a leveled wage than would typically occur. Had BLS and OFLC had sufficient time to implement the new methodology, the prevalence of these anomalies and absence of leveled wages could have been identified prior to implementation and steps could have been taken to proactively address those issues. This experience supports the Department's action here; to avoid similar issues in the future, it is critical that BLS and OFLC have sufficient time to implement the wage methodology in the Final Rule should it take effect after the Department completes its comprehensive review. Indeed, one commenter supported the delay precisely because they agreed BLS and OFLC needed additional time to compute and review prevailing wage estimates, including integrating prevailing wage data into the Foreign Labor Certification Data Center system and FLAG system upon conclusion of the Department's review.

Third, the Department acknowledges the potential substantial economic impact of this delay not only on employers but also on U.S. and foreign workers. Commenters argued that delaying the rule would harm workers and wages and could incentivize the hiring of H–1B workers over domestic workers. Two institutional commenters opposed the proposed delay but criticized the Final Rule on the basis that the wage methodology outlined in the rule does not sufficiently protect workers' wages and the integrity of the programs. In contrast, commenters supporting the proposed delay argued that the Final Rule would lead to outcomes that are detrimental to workers, including an increase in companies outsourcing jobs, the potential bankruptcy of small businesses, and negative impacts on academic institutions both in terms of their financial viability and ability to conduct meaningful research. In recognition of commenters' differing opinions on the Final Rule's expected impact on U.S. and foreign workers, the Department considered allowing the Final Rule to take effect pending its comprehensive review. However, the Department believes, on balance, that the serious concerns with the substance of the Final Rule and the process through which it was promulgated strongly counsel in favor of finalizing the proposed delay to allow the agency the time to carefully reevaluate the Final Rule, including the accuracy of the costs and benefits articulated in the rule and to avoid implementing changes to the Department's regulations that it may ultimately determine to lack a basis in law and that may not survive judicial scrutiny. The Department's decision to finalize the delay avoids some or all of the potential effects described by commenters from occurring only to then require stakeholders—employers and workers alike—to unwind actions taken to comply with the Final Rule or to take further action should the rule not survive judicial scrutiny or should the Department engage in additional action such as new rulemaking after it completes its review. In short, while the Department acknowledges the concerns raised by commenters opposed to the delay it has concluded that the fairest and most prudent approach is to delay the effective and transition dates of the rule.

Indeed, the Department's ongoing review of the Final Rule serves to underscore the assertions and concerns raised by the vast majority of commenters on the 18-month NPRM and litigants in pending litigation that the agency failed to make available portions of the technical basis for the IFR and Final Rule in time to allow for meaningful comments. For example, the Department has itself identified potential issues surrounding the rulemaking record, which recently necessitated the courts' issuance of protective orders in pending litigation challenging the Final Rule before certain contents of the rulemaking record could be disclosed to litigants. *See, e.g.,* Defendants' Unopposed Motion for Protective Order, *Stellar IT, et al.* v. *Walsh, et al.,* No. 20–cv–3175 (D.D.C. Apr. 19, 2021). As discussed above, these concerns highlight the risk faced by the Department in ongoing litigation and support the decision to delay the effective and transition dates of the Final Rule rather than risk continual disruption to the stakeholder community.

While the Department noted in the 18-month NPRM that the delay may result in a significant reduction of transfer payments, the delay could also lessen the potential for ''deadweight losses . . . in the event that requiring employers to pay a wage above what H–1B workers are willing to accept results in H–1B caps not [being] met.'' 86 FR 15154, 15158. The Department believes this delay, along with the recently-issued RFI, will best inform the Department's comprehensive review of the Final Rule and allow it to meaningfully consider all available options to ensure prevailing wage levels appropriately reflect the wages of workers in the United States similarly employed. The Department also notes that should commenters believe the existing methodology and wage levels or those contained in the Final Rule are harmful to U.S. or foreign workers and have relevant information on sources of data and methodologies for determining prevailing wage levels, they are encouraged to submit comments on the RFI before the comment period closes on June 1, 2021, 86 FR 17343, especially as comments unrelated to the proposed delay are outside the scope of this action.

Finally, many commenters expressed general opposition to the proposed delay or opposed the proposed delay and urged the Department to implement the higher wage levels as soon as possible without providing additional explanation for their positions. Unfortunately, the Department is unable to address such general comments in a meaningful way. An anonymous commenter asserted that the proposed delay would adversely affect workers by making them wait longer for prevailing wage determinations. However, OFLC's National Prevailing Wage Center is continuing to process prevailing wage applications as normal. An anonymous commenter asserted that the reasons given for the proposed delay are ''not substantive and data-driven,'' but did not provide any elaboration. The Department notes that it has discussed in detail, both here and in the NPRM, serious substantive and procedural concerns raised by other commenters and litigants as well as the steps needed to implement the Final Rule should the Department ultimately do so.

The Department values and appreciates the commenters' input on the 18-month NPRM. As discussed above, the Department believes the proposed delay will best inform a comprehensive review of the Final Rule. While the Department has considered allowing the rule to take effect pending its review and the assessment of potential new rulemaking, it has concluded that the concerns raised by commenters regarding procedural and substantive flaws with the Final Rule call into question fundamental aspects of the rulemaking to such a degree that

the fairest and most prudent approach is to delay this rule.

*C. Out of Scope Comments*

The Department's 18-month NPRM invited comments related to the Department's proposal to delay the effective and transition dates of the Final Rule. Comments received that are unrelated to the Department's proposal are beyond the scope of this action and have not been considered in the Department's assessment of its proposed 18-month delay.

Numerous comments were beyond the scope of this action. Many of the comments were too general to determine the nature of the comment. Other commenters expressed satisfaction or dissatisfaction with aspects of the Department's Final Rule or the rule's methodology without addressing the proposed delay. Several commenters expressed concerns with the H–1B lottery, concerns with the immigration system as a whole, and expressed personal sentiments on immigration or particular visa circumstances and potential prospective employment that were beyond the scope of this rulemaking. Many comments appeared to be addressing a rule which had been proposed by U.S. Citizenship and Immigration Services (USCIS), but the comments were unclear.

*D. Immediate Effective Date*

Section 553(d) of the APA provides that substantive rules should take effect not less than 30 days after the date they are published in the **Federal Register** unless ''otherwise provided by the agency for good cause found.'' 5 U.S.C. 553(d)(3). The Department determines it has good cause to make this rule effective immediately upon publication because allowing for a 30-day period between publication and the effective date of this rulemaking would be impracticable and cause unnecessary confusion over the applicable prevailing wage methodology. In particular, a 30-day period would result in the Final Rule entitled *Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States* taking effect on May 14, 2021, before the delay finalized in this rulemaking would begin. As such, a 30-day period would undermine the purpose for which this rule is being promulgated and result in confusion and uncertainty for the regulated community should the Final Rule go into effect only for the rule's effective and transition dates to change a few weeks later.

This confusion could lead to harm and hardship to the regulated community, including to employers, U.S. workers, and foreign beneficiaries, who, if unclear on the operative prevailing wage methodology due to the inclusion of a 30-day period, may expend costs or resources they otherwise would not spend. A professional association, for example, encouraged the Department to ''finalize the delay as soon as possible'' given the current initial transition date of July 1, 2021, in order to ''provide certainty to companies,'' who need sufficient time to plan and ensure compliance with applicable requirements of the PERM, H–1B, H–1B1, and E–3 programs. An academic institution indicated the adoption of the proposed delay, rather than allowing the rule to go into effect, will ''prevent confusion and uncertainty among the regulated community over the operative wage rates,'' suggesting that allowing the Final Rule to take effect for only a month would cause unnecessary confusion and uncertainty. Other commenters highlighted the adverse effects that employers and workers could experience from immediate implementation of the Final Rule, including the termination of workers, significant business disruptions, and the potential bankruptcy of small businesses, which further support a finding of good cause.

Moreover, this rulemaking institutes a delay of the Final Rule, rather than itself imposing any new compliance obligations on employers. Therefore, the Department finds that a lapse between publication and the effective date of this rule delaying the Final Rule's effective and transition dates is unnecessary. To eliminate any possible uncertainty about the applicable prevailing wage methodology, especially given the substantive concerns that have been raised by litigants and commenters regarding the appropriateness of the prevailing wage levels in the Final Rule as well as the Department's identification of potential issues surrounding the rulemaking record and conclusions therein, and due to unavoidable limitations of time related to the Final Rule's current effective date of May 14, 2021, the Department finds it has good cause to make this rule effective immediately upon publication.

*E. Conclusion*

Numerous comments raised substantive and procedural concerns related to the Department's publication of the Final Rule, the methodology or computations contained within the rule, and the harm that immediate implementation of the rule could cause the regulated community and the U.S. economy. The Department acknowledges these public comments as well as concerns that have been raised by commenters to the 60-day rulemaking and in pending litigation challenging the Department's Final Rule. While the Department recognizes that the additional delay is significant, based on its ongoing review and the concerns described above, it is clear that a substantial amount of time is necessary to consider all aspects of this rulemaking, including the underlying methodology employed and relevant studies and data. Given the complexity of the regulation, the serious concerns that have been raised, and the potential harm that would result from immediate implementation of the Final Rule, the Department believes a delay to allow the agency sufficient time to evaluate the rule, instead of permitting the rule to take effect while the Department conducts its review, is the more prudent path. This delay will in turn provide the Department time to review sources and data received on its recently-issued RFI that could inform further action on the rule and/or the development of a future rulemaking to revise the computation of prevailing wage levels in a manner that more effectively ensures the employment of certain immigrant and nonimmigrant workers does not adversely affect the wages of U.S. workers similarly employed. Finally, the delay will afford BLS and OFLC adequate time to appropriately implement changes to the prevailing wage structure should the Department ultimately implement the Final Rule as published in the **Federal Register** on January 14, 2021.

## IV. Statutory and Regulatory Requirements

*A. Executive Orders 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review)*

Under E.O. 12866, the Office of Management and Budget's (OMB) 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 review by OMB. 58 FR 51735. Section 3(f) of E.O. 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule that: (1) Has an annual effect on the economy of $100 million or more, or adversely affects in a material way a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as economically significant); (2) creates serious

inconsistency or otherwise interferes with an action taken or planned by another agency; (3) materially alters the budgetary impacts of entitlement grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the E.O. *Id.* Pursuant to E.O. 12866, OIRA has determined that this is an economically significant regulatory action. Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), OIRA has designated that this rule is a ''major rule,'' as defined by 5 U.S.C. 804(2).

E.O. 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. E.O. 13563 recognizes that some benefits are difficult to quantify and provides that, where appropriate and permitted by law, agencies may consider and qualitatively discuss values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts.

The 2021 Final Rule [1] updated the computation of wage levels under the Department's four-tiered wage structure based on the OES wage survey administered by BLS. The 2021 Final Rule also included a transition period under which the revised Level I–IV wages were adjusted over time to final wage levels. To calculate the 2021 Final Rule's transfer payments from employers to employees, the Department simulated wage impacts for historical certification data based on the 2021 Final Rule's Level I–IV wage percentiles for each transition group (85, 90, 95, and 100 percent of the final Level I–IV wage levels). The Department then used the simulated wage impacts for each transition group, to construct a 10-year series of annual total wage impacts (transfers from employers to employees). More details on the wage computations and methodology used to calculate transfer payments are available in the Department's 2021 Final Rule.

The 2021 Final Rule transition period allowed foreign workers and their employers time to adapt to the new wage rates. For most job opportunities, the 2021 Final Rule transition followed two steps with a delayed implementation period, concluding on July 1, 2022. For these jobs, current wage levels would be in effect from January 1, 2021 through June 30, 2021. From July 1, 2021 through June 30, 2022 the prevailing wage would be 90 percent of the final wage level. From July 1, 2022 and onward the prevailing wage would be the final wage level. Job opportunities in the four-step transition group had a delayed implementation period, with a transition to final wage levels concluding on July 1, 2024. For these jobs the baseline wage levels would be in effect from January 1, 2021 through June 30, 2021. From July 1, 2021 through June 30, 2022 the prevailing wage would be 85 percent of the final wage levels; from July 1, 2022 through June 30, 2023 the prevailing wage would be 90 percent of the final wage levels; from July 1, 2023 through June 30 2024 the prevailing wage would be 95 percent of the final wage levels; and from July 1, 2024 onwards the prevailing wage would be the final wage levels.

The Department is delaying the effective date of May 14, 2021, and the transition date of July 1, 2021, under which adjustments to the new wage levels would begin, for a period of eighteen months, or until November 14, 2022 and January 1, 2023, respectively. In addition, the Department is instituting corresponding one-year delays for each of the remaining transition dates, which are revised to January 1, 2024, January 1, 2025, and January 1, 2026, respectively. The Department is delaying the implementation of the 2021 Final Rule for three primary reasons: (1) To allow the Department to have sufficient time to engage in its comprehensive review of the 2021 Final Rule; (2) to prevent confusion and uncertainty among the regulated community over the operative wage rates while the Department conducts its review; and (3) because BLS and OFLC will not have adequate time to compute and validate prevailing wage data covering all occupations and geographic areas, complete and thoroughly test modifications to the OFLC FLAG system, train staff, and conduct sufficient public outreach to ensure an effective and orderly implementation should the 2021 Final Rule go into effect.

Under the Final Rule, current wage levels would be in effect through December 31, 2022, and wage impacts estimated in the 2021 Final Rule will not begin until January 1, 2023. For the two-step transition, the current wage levels will be in effect through December 31, 2022, and from January 1, 2023 through December 31, 2023 the prevailing wage will be 90 percent of the final wage level. From January 1, 2024 and onward the prevailing wage will be the final wage level. For the four-step transition the current wage levels will be in effect through December 31, 2022. From January 1, 2023 through December 31, 2023, the prevailing wage will be 85 percent of the final wage levels; from January 1, 2024 through December 21, 2024, the prevailing wage will be 90 percent of the final wage levels; from January 1, 2025 through December 21, 2025, the prevailing wage will be 95 percent of the final wage levels; and from January 1, 2026 onwards the prevailing wage will be the final wage levels.

The Final Rule's delay in effective date will result in the reduction of transfer payments in the form of higher wages from employers to H–1B employees. Additionally, the Final Rule would delay the potential for deadweight losses to occur in the event that requiring employers to pay a wage above what H–1B workers are willing to accept results in H–1B caps not being met. The Department has observed that the annual H–1B cap was reached within the first five business days each year from FY 2014 through FY 2020. While the Department expects that the increase in wages may incentivize some employers to substitute domestic workers for H–1B employees, provided that domestic workers are available for the jobs, it is likely that the same number of H–1B visas will be allotted within the annual caps in the future. To calculate the reduction of transfer payments the Department considered the transfer payments of the 2021 Final Rule as the baseline and shifted them according to the Final Rule's new transition effective dates. To shift transfer payments the Department used the average annual wage impacts from Exhibit 7 in the 2021 Final Rule's E.O. 12866 section and applied them to the Final Rule's transition period. Exhibit 1, below, presents the revised wage transition schedule under the two groups.

[1] The 2021 Final Rule was published in the **Federal Register** on January 14, 2021. 86 FR 3608, 3608–3611.

EXHIBIT 1—FINAL RULE WAGE TRANSITION FOR THE TWO APPLICATION GROUPS

| Year | Wage transition | |
|---|---|---|
| | Two-step | Four-step |
| 2021 | *Baseline* | *Baseline.* |
| 2022 | *Baseline* | *Baseline.* |
| 2023 | 90% | 85%. |
| 2024 | *Final Wage Level* | 90%. |
| 2025 | *Final Wage Level* | 95%. |
| 2026–2030 | *Final Wage Level* | *Final Wage Level.* |

* Beginning January 1, 2026, the transitions are both complete and all workers are at the final wage level.

The shift in the transition schedule results in the annual transfer payments presented in Exhibit 2, below. To see total transfer payments in the 2021 Final Rule, refer to Exhibit 10 of the 2021 Final Rule.

EXHIBIT 2—SHIFTED TRANSFER PAYMENTS OF THE 2021 FINAL RULE

[2019$ millions]

| Cohort | <1 | | 1–2 Years | | 2–3 Years | | | Total |
|---|---|---|---|---|---|---|---|---|
| | New | Continuing | New | Continuing | New | Continuing | Continuing 3+ | |
| 2021 | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 |
| 2022 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 2023 | 9 | 0 | 31 | 0 | 960 | 0 | 0 | 1,000 |
| 2024 | 20 | 5 | 39 | 69 | 2,529 | 876 | 0 | 3,538 |
| 2025 | 20 | 11 | 77 | 168 | 2,622 | 5,065 | 2,838 | 10,801 |
| 2026 | 28 | 11 | 111 | 178 | 3,772 | 5,251 | 7,474 | 16,824 |
| 2027 | 28 | 15 | 111 | 244 | 3,772 | 7,553 | 7,749 | 19,472 |
| 2028 | 28 | 15 | 111 | 244 | 3,772 | 7,553 | 11,150 | 22,872 |
| 2029 | 28 | 15 | 111 | 244 | 3,772 | 7,553 | 11,150 | 22,872 |
| 2030 | 28 | 15 | 111 | 244 | 3,772 | 7,553 | 11,150 | 22,872 |
| 10-year Total | 188 | 90 | 700 | 1,391 | 24,972 | 41,403 | 51,510 | 120,253 |

The Department expects that the Final Rule's delay in effective date will result in savings to employers (and a reduction in wages to employees) represented by the reduction of transfer payments (wages) from employers to employees. The Department calculates the Final Rule's reduced transfer payments by differencing the shifted transfer payments in Exhibit 2 from the 2021 Final Rule's transfer payments (Exhibit 10 of the Final Rule). The Department estimates the total reduction of transfer payments over the 10-year period is $32.05 billion and $28.19 billion at discount rates of 3 and 7 percent, respectively. The Department estimates annualized reduced transfer payments of $3.76 billion and $4.01 billion at discount rates of 3 and 7 percent, respectively. Exhibit 3, below, presents the total transfer payments of the 2021 Final Rule, the shifted transfer payments resulting from the Final Rule delay, and the resulting reduction of transfer payments by the Final Rule.[2]

EXHIBIT 3—TOTAL TRANSFER PAYMENTS OF THE FINAL RULE

[2019 millions]

| Year | 2021 Final Rule transfer payments | Shifted 2021 Final Rule transfer payments | Final Rule reduction of transfer payments |
|---|---|---|---|
| 2021 | $416 | $0 | $416 |
| 2022 | 2,368 | 0 | 2,368 |
| 2023 | 7,026 | 1,000 | 6,026 |
| 2024 | 13,542 | 3,538 | 10,005 |
| 2025 | 18,964 | 10,801 | 8,163 |
| 2026 | 21,924 | 16,824 | 5,100 |
| 2027 | 22,872 | 19,472 | 3,400 |
| 2028 | 22,872 | 22,872 | 0 |
| 2029 | 22,872 | 22,872 | 0 |
| 2030 | 22,872 | 22,872 | 0 |
| 10-Year Total Undiscounted | 155,730 | 120,253 | 35,477 |

[2] Delayed transfer payments under the proposed rule are approximately the Final Rule transfer payments shifted by two years. They are not exactly shifted because the transition period under the Final Rule resulted in each wage level of the transition occurring for half a year rather than a full year due to the Final Rule transition occurring on a July 1st to June 30th basis rather than a calendar year basis as under the proposed rule.

EXHIBIT 3—TOTAL TRANSFER PAYMENTS OF THE FINAL RULE—Continued

[2019 millions]

| Year | 2021 Final Rule transfer payments | Shifted 2021 Final Rule transfer payments | Final Rule reduction of transfer payments |
|---|---|---|---|
| 10-Year Total with a Discount Rate of 3% | 130,830 | 98,781 | 32,049 |
| 10-Year Total with a Discount Rate of 7% | 105,157 | 76,969 | 28,188 |
| Annualized Undiscounted | 15,573 | 12,025 | 3,548 |
| Annualized at a Discount Rate of 3% | 15,337 | 11,580 | 3,757 |
| Annualized at a Discount Rate of 7% | 14,972 | 10,959 | 4,013 |

*B. Regulatory Flexibility Act*

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, 604. If the determination is that it would, the agency must prepare a regulatory flexibility analysis as described in the RFA. *Id.*

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. *See* 5 U.S.C. 605. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The Department believes that this Final Rule will have a significant economic impact on a substantial number of small entities and is therefore publishing this Final Regulatory Flexibility Analysis as required.

1. Why the Department Is Considering Action

The Department is delaying the effective date of the 2021 Final Rule for three primary reasons: (1) To allow the Department to have sufficient time to engage in its comprehensive review of the 2021 Final Rule; (2) to prevent confusion and uncertainty among the regulated community over the operative wage rates while the Department conducts its review; and (3) because BLS and OFLC will not have adequate time to compute and validate prevailing wage data covering all occupations and geographic areas, complete and thoroughly test modifications to the OFLC FLAG system, train staff, and conduct sufficient public outreach to ensure an effective and orderly implementation should the Final Rule go into effect.

2. Objectives of and Legal Basis for the Proposed Rule

The Department is now delaying the effective date of May 14, 2021, and the transition date of July 1, 2021, under which adjustments to the new wage levels would begin, for a period of eighteen months, or until November 14, 2022 and January 1, 2023, respectively. In addition, the Department is instituting corresponding one-year delays for each of the remaining transitions dates, which are revised to January 1, 2024, January 1, 2025, and January 1, 2026, respectively.

The Immigration and Nationality Act, as amended, assigns certain responsibilities to the Secretary of Labor (Secretary) relating to wages and working conditions of certain categories of employment-based immigrants and nonimmigrants. This Final Rule relates to the labor certifications that the Secretary issues for certain employment-based immigrants and to the LCAs that the Secretary certifies in connection with the temporary employment of foreign workers under the H–1B, H–1B1, and E–3 visa classifications. *See* 8 U.S.C. 1101(a)(15)(E)(iii), 1101(a)(15)(H)(i)(b), 1101(a)(15)(H)(i)(b1), 1182(a)(5), 1182(n), 1182(t)(1), 1184(c).

3. The Agency's Response to Public Comments

The Department did not receive public comments on the IRFA.

4. Response to Comments From the Chief Council for Advocacy of the Small Business Administration

The Department did not receive comments from the Chief Council for Advocacy of the Small Business Administration.

5. Number of Small Entities Affected by the Final Rule

The Final Rule does not change the number of impacted small entities. A summary of impacted small entities can be found in Exhibit 13 of the 2021 Final Rule's RFA section.

6. Compliance Requirements of the Final Rule, Including Reporting and Recordkeeping

The Final Rule does not have any reporting, recordkeeping, or other compliance requirements impacting small entities. The Department expects that the change will result in savings to employees represented by transfer payments from employees to employers due to the Final Rule's delay in effective date.

7. Calculating the Impact of the Final Rule on Small Entities

The small entity impacts are unchanged in magnitude from Exhibit 14 in the 2021 Final Rule's RFA section. However, under this Final Rule the small entity impacts represent wage savings to small businesses relative to the 2021 Final Rule because of the delayed transition period. The Department estimates that wage savings from the delayed transition will occur between 2021 and 2027 as presented in the E.O. 12866 section of the Final Rule. The Department estimates that small entity savings as a proportion of total revenue will be equivalent in magnitude to the cost impacts as a proportion of total revenue estimated in Exhibit 15 in the 2021 Final Rule's RFA section. Therefore, the Department estimates that this Final Rule will have a significant economic impact on a substantial number of small entities.

8. Relevant Federal Rules Duplicating, Overlapping, or Conflicting With the Final Rule

The Department is not aware of any relevant Federal rules that conflict with this Final Rule.

9. Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities

This Final Rule results in wage savings to small entities and therefore has a beneficial impact on small entities. The Department did not receive public comments on viable alternatives to the proposed rule.

*C. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (UMRA) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of UMRA requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector. The inflation-adjusted value equivalent of $100 million in 1995 adjusted for inflation to 2019 levels by the Consumer Price Index for All Urban Consumers (CPI–U) is approximately $168 million based on the Consumer Price Index for All Urban Consumers.[3]

While this final rule may result in the expenditure of more than $100 million by the private sector annually, the rulemaking is not a ''Federal mandate'' as defined for UMRA purposes.[4] The cost of obtaining prevailing wages, preparing labor condition and certification applications (including all required evidence) and the payment of wages by employers is, to the extent it could be termed an enforceable duty, one that arises from participation in a voluntary Federal program applying for immigration status in the United States.[5] This final rule does not contain a mandate. The requirements of Title II of UMRA, therefore, do not apply, and DOL has not prepared a statement under UMRA. Therefore, no actions were deemed necessary under the provisions of the UMRA.

*D. Congressional Review Act*

OIRA has determined that this final rule is a major rule as defined by 5 U.S.C. 804, also known as the ''Congressional Review Act,'' as enacted in section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, 110 Stat. 847, 868, *et seq.*

*E. Executive Order 13132 (Federalism)*

This final rule would not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of E.O. 13132, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

*F. Executive Order 12988 (Civil Justice Reform)*

This final rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988.

*G. Regulatory Flexibility Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)*

This final rule does not have ''tribal implications'' because it does 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. Accordingly, E.O. 13175, Consultation and Coordination with Indian Tribal Governments, requires no further agency action or analysis.

*H. 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. This final rule does not require a collection of information subject to approval by OMB under the PRA, or affect any existing collections of information.

**List of Subjects in 20 CFR Part 656**

Administrative practice and procedure, Employment, Foreign workers, Labor, Wages.

**Department of Labor**

Accordingly, for the reasons stated in the preamble, the Department of Labor amends part 656 of chapter V, title 20, Code of Federal Regulations, as follows:

## PART 656—LABOR CERTIFICATION PROCESS FOR PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES

■ 1. The authority citation for part 656 is revised to read as follows:

**Authority:** 8 U.S.C. 1182(a)(5)(A), 1182(p); sec.122, Pub. L. 101–649, 109 Stat. 4978 (8 U.S.C. 1182 note); and Title IV, Pub. L. 105–277, 112 Stat. 2681 (8 U.S.C. 1182 note).

■ 2. Amend § 656.40 by revising paragraphs (a) and (b)(2) and (3) to read as follows:

**§ 656.40 Determination of prevailing wage for labor certification purposes.**

(a) *Application process.* The employer must request a PWD from the NPC, on a form or in a manner prescribed by OFLC. The NPC shall receive and process prevailing wage determination requests in accordance with this section and with Department guidance. The NPC will provide the employer with an appropriate prevailing wage rate. The NPC shall determine the wage in accordance with sec. 212(p) of the INA. Unless the employer chooses to appeal the center's PWD under § 656.41(a), it files the Application for Permanent Employment Certification either electronically or by mail with the processing center of jurisdiction and maintains the PWD in its files. The determination shall be submitted to the CO, if requested.

(b) * * *

(2) If the job opportunity is not covered by a CBA, the prevailing wage for labor certification purposes shall be based on the wages of workers similarly employed using the wage component of the Bureau of Labor Statistics (BLS) Occupational Employment Statistics Survey (OES) in accordance with paragraph (b)(2)(i) of this section, unless the employer provides an acceptable survey under paragraphs (b)(3) and (g) of this section or elects to utilize a wage

[3] *See* U.S. Bureau of Labor Statistics, *Historical Consumer Price Index for All Urban Consumers (CPI–U): U.S. City Average, All Items, available at https://www.bls.gov/cpi/tables/supplemental-files/historical-cpi-u-202003.pdf* (last visited June 2, 2020).

Calculation of inflation: (1) Calculate the average monthly CPI–U for the reference year (1995) and the current year (2019); (2) Subtract reference year CPI–U from current year CPI–U; (3) Divide the difference of the reference year CPI–U and current year CPI–U by the reference year CPI–U; (4) Multiply by 100 = [(Average monthly CPI–U for 2019 − Average monthly CPI–U for 1995) / (Average monthly CPI–U for 1995)] * 100 = [(255.657 − 152.383) / 152.383] * 100 = (103.274 / 152.383) *100 = 0.6777 * 100 = 67.77 percent = 68 percent (rounded). Calculation of inflation-adjusted value: $100 million in 1995 dollars * 1.68 = $168 million in 2019 dollars.

[4] *See* 2 U.S.C. 658(6).

[5] *See* 2 U.S.C. 658(7)(A)(ii).

permitted under paragraph (b)(4) of this section.

(i) The BLS shall provide the OFLC Administrator with the OES wage data by occupational classification and geographic area, which is computed and assigned at levels set commensurate with the education, experience, and level of supervision of similarly employed workers, as determined by the Department.

(ii) Except as provided under paragraph (b)(2)(iii) of this section, the prevailing wage shall be provided by the OFLC Administrator at the following four levels:

(A) The Level I Wage shall be computed as the 35th percentile of the OES wage distribution and assigned for the most specific occupation and geographic area available.

(B) The Level II Wage shall be determined by first dividing the difference between Levels I and IV by three and then adding the quotient to the computed value for Level I and assigned for the most specific occupation and geographic area available.

(C) The Level III Wage shall be determined by first dividing the difference between Levels I and IV by three and then subtracting the quotient from the computed value for Level IV and assigned for the most specific occupation and geographic area available.

(D) The Level IV Wage shall be computed as the 90th percentile of the OES wage distribution and assigned for the most specific occupation and geographic area available. Where the Level IV Wage cannot be computed due to wage values exceeding the uppermost interval of the OES wage interval methodology, the OFLC Administrator shall determine the Level IV Wage using the current hourly wage rate applicable to the highest OES wage interval for the specific occupation and geographic area, or the arithmetic mean of the wages of all workers for the most specific occupation and geographic area available, whichever is highest.

(iii) Transition wage rates are as follows:

(A) For the period from November 14, 2022 through December 31, 2022, the prevailing wage shall be provided by the OFLC Administrator at the following four levels:

(*1*) The Level I Wage shall be computed as the arithmetic mean of the lower one-third of the OES wage distribution and assigned for the most specific occupation and geographic area available.

(*2*) The Level IV Wage shall be computed as the arithmetic mean of the upper two-thirds of the OES wage distribution and assigned for the most specific occupation and geographic area available.

(*3*) The Level II Wage and Level III Wage shall be determined by applying the formulae provided in paragraphs (b)(2)(ii)(B) and (C) of this section to the Level I and Level IV values in paragraphs (b)(2)(iii)(A)(*1*) and (*2*) of this section.

(B) For the period from January 1, 2023, through December 31, 2023, the prevailing wage shall be provided by the OFLC Administrator at the following four levels:

(*1*) The Level I Wage shall be 90 percent of the wage provided under paragraph (b)(2)(ii)(A) of this section, or the wage provided under paragraph (b)(2)(iii)(A)(*1*) of this section, whichever is higher.

(*2*) The Level IV Wage shall be 90 percent of the wage provided under paragraph (b)(2)(ii)(D) of this section, or the wage provided under paragraph (b)(2)(iii)(A)(*2*) of this section, whichever is higher.

(*3*) The Level II Wage and Level III Wage shall be determined by applying the formulae provided in paragraphs (b)(2)(ii)(B) and (C) of this section to the wages established under paragraphs (b)(2)(iii)(B)(*1*) and (*3*) of this section.

(C) Notwithstanding any other provision of this section, if the employer submitting the Form ETA–9035/9035E, *Labor Condition Application for Nonimmigrant Workers* and, as applicable, the Form ETA–9141, *Application for Prevailing Wage Determination,* will employ an H–1B nonimmigrant in the job opportunity subject to the *Labor Condition Application for Nonimmigrant Workers* who was, as of October 8, 2020, the beneficiary of an approved Immigrant Petition for Alien Worker, or successor form, or is eligible for an extension of his or her H–1B status under sections 106(a) and (b) of the American Competitiveness in the Twenty-first Century Act of 2000 (AC21), Public Law 106–313, as amended by the 21st Century Department of Justice Appropriations Authorization Act, Public Law 107–273 (2002), and the H–1B nonimmigrant is eligible to be granted immigrant status but for application of the per country limitations applicable to immigrants under paragraphs 203(b)(1), (2), and (3) of the INA, or remains eligible for an extension of the H–1B status at the time the *Labor Condition Application for Nonimmigrant Workers* is filed:

(*1*) For the period from January 1, 2023, through December 31, 2023, the prevailing wage shall be provided by the OFLC Administrator at the following four levels:

(*i*) The Level I Wage shall be 85 percent of the wage provided under paragraph (b)(2)(ii)(A) of this section, or the wage provided under paragraph (b)(2)(iii)(A)(*1*) of this section, whichever is higher.

(*ii*) The Level IV Wage shall be 85 percent of the wage provided under paragraph (b)(2)(ii)(D) of this section, or the wage provided under paragraph (b)(2)(iii)(A)(*2*) of this section, whichever is higher.

(*iii*) The Level II Wage and Level III Wage shall be determined by applying the formulae provided in paragraphs (b)(2)(ii)(B) and (C) of this section to the wages established under paragraphs (b)(2)(iii)(C)(*1*)(*i*) and (*ii*) of this section.

(*2*) For the period from January 1, 2024, through December 31, 2024, the prevailing wage shall be provided by the OFLC Administrator at the following four levels:

(*i*) The Level I Wage shall be 90 percent of the wage provided under paragraph (b)(2)(ii)(A) of this section, or the wage provided under paragraph (b)(2)(iii)(C)(*1*)(*i*) of this section, whichever is higher.

(*ii*) The Level IV Wage shall be 90 percent of the wage established under paragraph (b)(2)(ii)(D) of this section, or the wage established under paragraph (b)(2)(iii)(C)(*1*)(*ii*) of this section, whichever is higher.

(*iii*) The Level II Wage and Level III Wage shall be determined by applying the formulae provided in paragraphs (b)(2)(ii)(B) and (C) of this section to the wages established under paragraphs (b)(2)(iii)(C)(*2*)(*i*) and (*ii*) of this section.

(*3*) For the period from January 1, 2025, through December 31, 2025, the prevailing wage shall be provided by the OFLC Administrator at the following four levels:

(*i*) The Level I Wage shall be 95 percent of the wage provided under paragraph (b)(2)(ii)(A) of this section, or the wage provided under paragraph (b)(2)(iii)(C)(*2*)(*i*) of this section, whichever is higher.

(*ii*) The Level IV Wage shall be 95 percent of the wage provided under paragraph (b)(2)(ii)(D) of this section, or the wage provided under paragraph (b)(2)(iii)(C)(*2*)(*ii*) of this section, whichever is higher.

(*iii*) The Level II Wage and III Wage shall be determined by applying the formulae provided in paragraphs (b)(2)(ii)(B) and (C) of this section to the wages established under paragraphs (b)(2)(iii)(C)(3)(*i*) and (*ii*) of this section.

(*4*) Beginning January 1, 2026, the prevailing wage shall be provided by the OFLC Administrator in accordance with

the computations under paragraph (b)(2)(ii) of this section.

(*5*) Where the Level I Wage or Level IV Wage provided under paragraphs (b)(2)(iii)(C)(*1*) through (*3*) of this section exceeds the Level I Wage or Level IV Wage provided under paragraph (b)(2)(ii) of this section in a given period, the Level I Wage or Level IV Wage for that period shall be the wage provided under paragraph (b)(2)(ii) of this section, and the Level II Wage and Level III Wage for that period shall be adjusted by applying the formulae provided in paragraphs (b)(2)(ii)(B) and (C) of this section.

(D) Where a Level IV Wage provided under paragraph (b)(2)(iii) of this section cannot be computed due to wage values exceeding the uppermost interval of the OES wage interval methodology, the OFLC Administrator shall determine the Level IV Wage using the current hourly wage rate applicable to the highest OES wage interval for the specific occupation and geographic area or the arithmetic mean of the wages of all workers for the most specific occupation and geographic area available, whichever is highest.

(iv) The OFLC Administrator will publish, at least once in each calendar year, on a date to be determined by the OFLC Administrator, the prevailing wage levels under paragraphs (b)(2)(ii) and (iii) of this section as a notice posted on the OFLC website.

(3) If the employer provides a survey acceptable under paragraph (g) of this section, the prevailing wage for labor certification purposes shall be the arithmetic mean of the wages of workers similarly employed in the area of intended employment. If an otherwise acceptable survey provides a median and does not provide an arithmetic mean, the prevailing wage applicable to the employer's job opportunity shall be the median of the wages of workers similarly employed in the area of intended employment.

* * * * *

**Suzan G. LeVine,**

*Principal Deputy Assistant Secretary for Employment and Training, Labor.*

[FR Doc. 2021–10084 Filed 5–12–21; 8:45 am]

**BILLING CODE 4510–FP–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R03–OAR–2021–0069; FRL–10023–62–Region 3]**

## Air Plan Approval; Delaware; Nonattainment New Source Review Requirements for 2015 8-Hour Ozone National Ambient Air Quality Standard

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the Delaware Department of Natural Resources and Environmental Control (DNREC). The revision fulfills Delaware's nonattainment new source review (NNSR) SIP element requirement for the 2015 8-hour ozone National Ambient Air Quality Standard (NAAQS). EPA is approving these revisions to the Delaware SIP in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This final rule is effective on June 14, 2021.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2021–0069. 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:** Amy Johansen, Permits Branch (3AD10), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2156. Ms. Johansen can also be reached via electronic mail at *johansen.amy@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Background

On March 24, 2021 (86 FR 15634), EPA published a notice of proposed rulemaking (NPRM) for the State of Delaware. In the NPRM, EPA proposed approval of Delaware's certification that its existing NNSR program, covering the Delaware portion of the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE (Philadelphia Area) nonattainment area (which includes New Castle County) for the 2015 8-hour ozone NAAQS, is at least as stringent as the requirements at 40 Code of Federal Regulations (CFR) 51.165, as amended by the final rule titled ''Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements'' (SIP Requirements Rule), for ozone and its precursors. See 83 FR 62998 (December 6, 2018). The formal SIP revision was submitted by Delaware on August 3, 2020.

### II. Summary of SIP Revision and EPA Analysis

Delaware's SIP approved NNSR program, established in Title 7 Delaware Administrative Code (DE Admin Code) 1125 (*Requirements for Preconstruction Review*), applies to the construction and modification of major stationary sources in nonattainment areas. In its August 3, 2020 SIP revision, Delaware certifies that the version of Title 7 DE Admin Code Section 1125 approved in the SIP is at least as stringent as the Federal NNSR requirements for the Philadelphia Area.[1] EPA last approved Delaware's major NNSR program as being consistent with Federal NNSR requirements on August 12, 2019. 84 FR 39758 (August 12, 2019). In that action, EPA approved DNREC's 2008 Ozone Certification SIP revision for NNSR.

Delaware has chosen not to include certain optional NNSR provisions that EPA could approve, pertaining to emissions change of VOC in extreme nonattainment areas and emission reduction credits. Delaware's choice not to include these provisions does not affect EPA's determination regarding the approvability of its August 3, 2020 submittal, and they were not discussed in this rule.[2]

[1] On October 20, 2016, EPA disapproved a proposed SIP revision that sought to include additional ERC provisions, adopted by Delaware on December 11, 2016, into the Delaware SIP, specifically, 7 DE Admin Code 1125 Sections 2.5.5 and 2.5.6. 81 FR 72529. Since EPA disapproved these provisions, the previously approved provisions that EPA approved into Delaware's SIP on October 2, 2012 remain applicable Federal requirements. 77 FR 60053.

[2] DNREC provided information regarding anti-backsliding in its August 3, 2020 SIP submittal to EPA, which was not a requirement of EPA's 2015 Ozone SIP Requirements Rule. See 83 FR 62998 (December 6, 2018). EPA noted in the 2015 Ozone SIP Requirements Rule that it would address anti-

Continued

Other specific requirements and the rationale for EPA's proposed action are explained in the NPRM and will not be restated here. One supportive comment was received for this action, which can be found in Docket ID Number EPA–R03–OAR–2021–0069.

## III. Final Action

For the reasons stated in the NPRM, EPA has concluded that Delaware's submission fulfills the 40 CFR 51.1114 revision requirements, meets the requirements of CAA sections 110 and 172 and the minimum SIP requirements of 40 CFR 51.165. EPA is approving Delaware's August 3, 2020 SIP revision addressing the NNSR requirements for the 2015 8-hour ozone NAAQS for the Philadelphia Area to the Delaware SIP.

## IV. Statutory and Executive Order Reviews

### *A. General Requirements*

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);
- 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 rule 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.

### *B. Submission to Congress and the Comptroller General*

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).

### *C. Petitions for Judicial Review*

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 12, 2021. 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 pertaining to Delaware's NNSR program and the 2015 8-hour ozone NAAQS 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: May 7, 2021.

**Diana Esher,**

*Acting Regional Administrator, Region III.*

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 I—Delaware

■ 2. In § 52.420, the table in paragraph (e) is amended by adding an entry for ''2015 8-Hour Ozone Certification for Nonattainment New Source Review (NNSR)'' at the end of the table to read as follows:

**§ 52.420 Identification of plan.**

* * * * *

(e) * * *

backsliding in a future rulemaking action; therefore, EPA will not be acting on anything related to anti-backsliding in this action.

| Name of non-regulatory SIP revision | Applicable geographic area | State submittal date | EPA approval date | Additional explanation |
|---|---|---|---|---|
| * * | * * | * | * | * |
| 2015 8-Hour Ozone Certification for Non-attainment New Source Review (NNSR). | Delaware portion of the Philadelphia-Wilmington-Atlantic City nonattainment area (which includes New Castle County). | 08/03/20 | 5/13/21, *[Insert* **Federal Register** citation]. | |
| * * | * * | * | * | * |

[FR Doc. 2021–10039 Filed 5–12–21; 8:45 am]
**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R01–OAR–2020–0327; FRL–10021–93–Region 1]**

## Air Plan Approval; Maine; Infrastructure State Implementation Plan Requirements for the 2015 Ozone Standard and Negative Declaration for the Oil and Gas Industry for the 2008 and 2015 Ozone Standards

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Maine. This revision addresses the infrastructure requirements of the Clean Air Act (CAA or Act) for the 2015 ozone National Ambient Air Quality Standards (NAAQS). This action includes all elements of these infrastructure requirements except for the ''Good Neighbor'' or ''transport'' provisions, which will be addressed in a future action. EPA is also approving a State of Maine submittal of amendments to 06–096 CMR Chapter 110, ''Ambient Air Quality Standards,'' as well as a submittal of statutory conflict-of-interest provisions in 38 Maine Revised Statutes Annotated (MRSA) Section 341–A and 341–C; resulting in the conversion of a number of previous conditional approvals. In addition, EPA is approving SIP revisions submitted by Maine that provide the state's determination, via a negative declaration for the 2008 and 2015 ozone standards, that there are no facilities within its borders subject to EPA's 2016 Control Technique Guideline (CTG) for the oil and gas industry. This action is being taken under the Clean Air Act.

**DATES:** This rule is effective on June 14, 2021.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2020–0327. 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 at *https://www.regulations.gov* or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact 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 legal holidays and facility closures due to COVID–19.

**FOR FURTHER INFORMATION CONTACT:** Alison C. Simcox, Air Quality Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square—Suite 100, (Mail code 05–2), Boston, MA 02109–3912, tel. (617) 918–1684, email *simcox.alison@epa.gov*.

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

### Table of Contents

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

### I. Background and Purpose

On January 22, 2021 (86 FR 6591), EPA published a Notice of Proposed Rulemaking (NPRM) to approve most elements of a Maine SIP revision addressing the infrastructure requirements of Clean Air Act (CAA or Act) sections 110(a)(1) and 110(a)(2)—excluding the interstate transport provisions—for the 2015 ozone National Ambient Air Quality Standards (NAAQS). This NPRM also proposed to approve into Maine's SIP amendments to state regulations at 06–096 CMR Chapter 110, ''Ambient Air Quality Standards,'' and several conflict of interest (COI) provisions in Maine's statutes, which support the state's infrastructure submittal for the 2015 ozone NAAQS. The NPRM also proposed, based on the Chapter 110 amendments and the COI provisions, to convert to full approval a number of EPA conditional approvals of earlier Maine infrastructure SIP submissions for other NAAQS. The NPRM also proposed to approve a Maine SIP submission that provides the state's determination, via a negative declaration, that there are no facilities within its borders subject to EPA's 2016 Control Technique Guideline (CTG) for the oil and gas industry for the 2008 and 2015 ozone standards.

The NPRM addressed the following submissions from the Maine Department of Environmental Protection (Maine DEP): A February 14, 2020, submission addressing infrastructure requirements for the 2015 ozone NAAQS; a May 28, 2019, submission of amendments to the aforementioned regulations; a September 4, 2019, submission of several COI provisions in Maine state law; and a May 14, 2020, negative declaration for the 2016 CTG for the Oil and Natural Gas Industry for the 2008 and 2015 ozone standards.

The rationale for EPA's proposed action is given in the NPRM and will not be restated here. No public comments were received on the NPRM.

### II. Final Action

EPA is approving most of the elements of the infrastructure SIP submitted by Maine on February 14, 2020, for the 2015 ozone NAAQS. Today's action does not include the ''good neighbor'' provisions (*i.e.,* CAA section 110(a)(2)(D)(i)), also known as a state's Transport SIP. EPA will address Maine's Transport SIP for the 2015 ozone NAAQS in a future action.

EPA also is approving, and incorporating into the Maine SIP, the following regulation, submitted on May

28, 2019, and statutes, submitted on September 4, 2019:

*06–096 CMR Chapter 110,* ''Ambient Air Quality Standards,'' effective March 27, 2019

*Maine Public Law 2011, Chapter 357 amending 38 MRSA Section 341–A(3)(D),* effective June 15, 2011

*Maine Public Law 2019, Chapter 180 amending 38 MRSA Section 341–C(2) and 341–C(8)* (except *Section 341–C(8)(A)*), effective September 19, 2019

In addition, we are converting to full approvals the previous conditional approvals of section 110(a)(2)(E) in Maine's infrastructure SIPs for the 2008 ozone; 2008 Pb; 2010 $NO_2$; 2010 $SO_2$; and 1997, 2006, and 2012 $PM_{2.5}$ NAAQS, as well as previous conditional approvals of section 110(a)(2)(A) in Maine's infrastructure SIPS for the 1997 and 2006 $PM_{2.5}$.

Finally, we are approving into the Maine SIP the negative declaration for EPA's 2016 CTG entitled ''Control Techniques Guidelines for the Oil and Natural Gas Industry'' for the 2008 and 2015 ozone standards.

## III. 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 [State Agency Regulations] described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available through *https://www.regulations.gov* and at the EPA Region 1 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.[1]

## 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, 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);
- 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).

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 July 12, 2021. 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: March 22, 2021.

**Deborah Szaro,**

*Acting Regional Administrator, EPA Region 1.*

Part 52 of chapter I, title 40 of the Code of Federal Regulations 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 U—Maine

■ 2. Revise § 52.1019 to read as follows:

(a) 1997 $PM_{2.5}$ NAAQS: The SIP submitted September 10, 2008, with a supplement submitted on June 1, 2011, was previously conditionally approved (see Final Rule published October 16, 2012; 77 FR 63228) for Clean Air Act (CAA) elements 110(a)(2)(A), (C) only as it relates to the PSD program, (D)(i)(II) only as it relates to the PSD program, (D)(ii), (E)(ii), and (J) only as it relates

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

to the PSD program. This conditional approval is contingent upon Maine taking actions to meet requirements of these elements within one year of conditional approval, as committed to in letters from the state to EPA Region 1 dated June 13, 2012, and June 30, 2012. EPA approved a submittal, related to the Conflict of Interest requirements, and converted the conditional approval of elements 110(a)(2)(A) and E(ii) on May 13, 2021; and

(b) 2006 $PM_{2.5}$ NAAQS: The SIP submitted July 27, 2009, with a supplement submitted on June 1, 2011, was previously conditionally approved (see Final Rule published October 16, 2012; 77 FR 63228) for CAA elements 110(a)(2)(A), (C) only as it relates to the PSD program, (D)(i)(II) only as it relates to the PSD program, (D)(ii), (E)(ii), and (J) only as it relates to the PSD program. This conditional approval is contingent upon Maine taking actions to meet requirements of these elements within one year of conditional approval, as committed to in letters from the state to EPA Region 1 dated June 13, 2012, and June 30, 2012. EPA approved a submittal, related to the Conflict of Interest requirements, and converted the conditional approval of elements 110(a)(2)(A) and E(ii) on May 13, 2021.

(c) [Reserved]

(d) [Reserved]

(e) [Reserved]

(f) [Reserved]

(g) [Reserved]

■ 3. In § 52.1020(c), amend the table by revising the entry for ''Chapter 110,'' and adding, in numerical order, entries for ''38 MRSA § 341–A(3)(D)'', and ''38 MRSA § 341–C(2) and 341–C(8)'', to read as follows:

**§ 52.1020 Identification of plan.**

* * * * *

(c) * * *

EPA-APPROVED MAINE REGULATIONS

| State citation | Title/subject | State effective date | EPA approval date and citation [1] | Explanations |
|---|---|---|---|---|
| * | * | * | * | * |
| Chapter 110 | Ambient Air Quality Standards | 3/27/2019 | 5/13/2021 [Insert **Federal Register** citation]. | This submittal converts to full approval pre-existing conditional approvals for CAA section 110(a)(2)(A) for the 1997 and 2006 $PM_{2.5}$ standards. |
| * | * | * | * | * |
| 38 MRSA Section 341–A(3)(D) | Department of Environmental Protection Commissioner. | 6/15/2011 | 5/13/2021 [Insert **Federal Register** citation]. | Conflict-of-interest provisions. |
| 38 MRSA Section 341–C(2) and 341–C(8). | Board Membership qualifications and requirements and federal standards. | 9/19/2019 | 5/13/2021 [Insert **Federal Register** citation]. | Conflict-of-interest provisions. Sections 341–C(2) and 341–C(8) are approved except 341–C(8)(A). |
| * | * | * | * | * |

[1] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

* * * * *

■ 4. In § 52.1020(e), amend the table by adding entries for ''Submittal to meet Clean Air Act Section 110(a)(2) Infrastructure Requirements for the 2015 Ozone National Ambient Air Quality Standard''; ''Negative declaration for the 2016 Control Techniques Guideline for the Oil and Natural Gas Industry for the 2008 ozone standard''; and ''Negative declaration for the 2016 Control Techniques Guideline for the Oil and Natural Gas Industry for the 2015 ozone standard'' at the end of the table, to read as follows:

(e) * * *

MAINE NON REGULATORY

| Name of non regulatory SIP provision | Applicable geographic or nonattainment area | State submittal date/effective date | EPA approved date [3] | Explanations |
|---|---|---|---|---|
| * | * | * | * | * |
| Submittal to meet Clean Air Act Section 110(a)(2) Infrastructure Requirements for the 2015 Ozone National Ambient Air Quality Standard. | Statewide | 2/14/2020 | 5/13/2021 [Insert **Federal Register** citation]. | This submittal is approved with respect to the following CAA elements or portions thereof: 110(a)(2)(A); (B); (C); (D), except (D)(i)(I); (E); (F); (G); (H); (J); (K); (L); and (M). |
| Conflict of Interest Statute | Statewide | Submitted 9/4/2019 | 5/13/2021 [Insert **Federal Register** citation]. | This submittal converts to full approval pre-existing conditional approvals for CAA section 110(a)(2)(E)(ii), regarding State Boards and Conflict of interest for the following standards: 2008 Lead, 2008 Ozone, 2010 $NO_2$, 2010 $SO_2$, 1997 $PM_{2.5}$, 2006 $PM_{2.5}$, and 2012 $PM_{2.5}$. |
| Negative declaration for the 2016 Control Techniques Guidelines for the Oil and Natural Gas Industry for the 2008 and 2015 ozone standards. | Statewide | 5/18/2020 | 5/13/2021 [Insert **Federal Register** citation]. | Letter from ME DEP dated May 18, 2020, stating a negative declaration for the 2016 Control Techniques Guidelines for the Oil and Natural Gas Industry. |

[3] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

[FR Doc. 2021–06237 Filed 5–12–21; 8:45 am]
**BILLING CODE P**

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### National Endowment for the Humanities

### 45 CFR Part 1173

**RIN 3136–AA42**

### Processes and Procedures for Issuing Guidance Documents

**AGENCY:** National Endowment for the Humanities; National Foundation on the Arts and the Humanities.

**ACTION:** Final rule; removal of regulations.

**SUMMARY:** This document rescinds the National Endowment for the Humanities' rule governing the issuance of guidance documents.

**DATES:** This final rule is effective on May 13, 2021.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Voyatzis, Deputy General Counsel, 400 7th Street SW, Room 4060, Washington, DC 20506; (202) 606–8322; *gencounsel@neh.gov.*

**SUPPLEMENTARY INFORMATION:**

**1. Background**

On September 14, 2020, the National Endowment for the Humanities (NEH) published a final rule governing the issuance of guidance documents entitled ''Processes and Procedures for Issuing Guidance Documents'' (85 FR 56525). The rule implemented the directives set forth in E.O. 13891 of October 9, 2019 (Promoting the Rule of Law Through Improved Agency Guidance Documents).

E.O. 13992 of January 20, 2021 (Revocation of Certain Executive Orders Concerning Federal Regulation), revokes E.O. 13891 and directs the heads of agencies to promptly take steps to rescind any orders, rules, regulations, guidelines, or policies, or portions thereof implementing or enforcing E.O. 13891, as appropriate and consistent with applicable law, including the Administrative Procedure Act, 5 U.S.C. 551 *et seq.* In accordance with E.O. 13992, NEH is issuing this final rule, which rescinds the rule published at 85 FR 56525.

**2. Compliance**

*Administrative Procedure Act of 1946*

Under the Administrative Procedure Act, an agency may waive the normal notice and comment procedures if the action is a rule of agency organization, procedure, or practice. See 5 U.S.C. 553(b)(A). This final rule merely conforms NEH's internal policy and procedures to the directives set forth in E.O. 13992. Accordingly, NEH has concluded that there is good cause to publish this rule without prior public notice and comment.

*E.O. 12866 Regulatory Planning and Review, and E.O. 13563, Improving Regulation and Regulatory Review*

This action is not significant under E.O. 12866.

*E.O. 13771 Reducing Regulation and Controlling Regulatory Costs*

This action is not expected to be an E.O. 13771 regulatory action because this action is not significant under E.O. 12866.

*E.O. 13132 Federalism*

This rulemaking 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.

*E.O. 12988 Civil Justice Reform*

This rulemaking meets the applicable standards set forth in section 3(a) and 3(b)(2) of E.O. 12988. Specifically, this final rule is written in clear language designed to help reduce litigation.

*E.O. 13175 Indian Tribal Governments*

Under the criteria in E.O. 13175, NEH evaluated this final rule and determined that it will not have any potential effects on Federally recognized Indian Tribes.

*E.O. 12630 Takings*

Under the criteria in E.O. 12630, this rulemaking does not have significant takings implications. Therefore, a takings implication assessment is not required.

*Regulatory Flexibility Act of 1980*

This rulemaking will not have a significant adverse impact on a substantial number of small entities, including small businesses, small governmental jurisdictions, or certain small not-for-profit organizations.

*Paperwork Reduction Act of 1995*

This rulemaking does not impose an information collection burden under the Paperwork Reduction Act. This action contains no provisions constituting a collection of information pursuant to the Paperwork Reduction Act.

*Unfunded Mandates Reform Act of 1995*

This rulemaking does not contain a Federal mandate that will result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year.

*National Environmental Policy Act of 1969*

This final rule will not have a significant effect on the human environment.

*Small Business Regulatory Enforcement Fairness Act of 1996*

This action pertains to agency management, personnel, and organization and does not substantially affect the rights or obligations of nonagency parties. Accordingly, it is not a ''rule'' as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996), and the reporting requirement of 5 U.S.C. 801 does not apply.

*E-Government Act of 2002*

All information about NEH required to be published in the **Federal Register** may be accessed at *https://www.neh.gov.* The website *https://www.regulations.gov* contains electronic dockets for NEH's rulemakings under the Administrative Procedure Act of 1946.

*Plain Writing Act of 2010*

To ensure this final rule was written in plain and clear language so that it can be used and understood by the public, NEH modeled the language of this final rule on the Federal Plain Language Guidelines.

**List of Subjects in 45 CFR 1173**

Administrative practice and procedure.

## PART 1173—[REMOVED AND RESERVED]

■ For the reasons stated in the preamble, and under the authority of 5 U.S.C. 301; 20 U.S.C. 956 and E.O. 13992, the National Endowment for the Humanities removes and reserves 45 CFR part 1173.

Dated: May 10, 2021.

**Elizabeth Voyatzis,**

*Deputy General Counsel, National Endowment for the Humanities.*

[FR Doc. 2021–10143 Filed 5–12–21; 8:45 am]
**BILLING CODE 7536–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 76

**[DA 21–496; FR ID 25315]**

## Elimination of Termination Dates in the Commission's Retransmission Consent Rules

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, Media Bureau updates the Commission's rules by eliminating termination dates related to retransmission consent to conform to the latest Congressional amendments.

**DATES:** Effective June 14, 2021.

**FOR FURTHER INFORMATION CONTACT:** For additional information on this proceeding, contact Steven Broeckaert, *Steven.Broeckaert@fcc.gov,* of the Policy Division, Media Bureau, (202) 418–1075.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Media Bureau's Order, DA 21–496, adopted and released on April 29, 2021. This document will be available via ECFS at *https://www.fcc.gov/ecfs/.* Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

### Synopsis

1. In this Order, we update our rules by eliminating the termination dates provided in sections 76.64(l) and 76.65(f) of the Commission's rules relating to retransmission consent to conform to the latest Congressional amendments to section 325(b)(3)(C) of the Communications Act of 1934, as amended (the Act).

2. In 1999, Congress enacted the Satellite Home Viewer Improvement Act (SHVIA), which adopted standards governing retransmission consent negotiations between broadcasters and multichannel video programming distributors (MVPDs). Specifically, Congress directed the Commission to require television stations to negotiate retransmission consent with MVPDs in good faith and to prohibit broadcasters from entering into exclusive retransmission consent agreements.[1] Originally, section 325(b)(3)(C) of the Act specified that the good faith negotiation and exclusivity provisions would terminate after January 1, 2006. Through successive reauthorizations of these provisions, the termination date in section 325(b)(3)(C) was extended to January 1, 2010, then subsequently to March 1, 2010, March 29, 2010, May 1, 2010, June 1, 2010, January 1, 2015, and finally, to January 1, 2020. The termination date is set forth in sections 76.64(l) and 76.65(f) of the Commission's rules, and was last updated in February 2015 to reflect the January 1, 2020 date.[2]

3. In 2019, section 1002 of the Television Viewer Protection Act of 2019 (TVPA) eliminated the ''until January 1, 2020'' language from each place that it previously appeared in section 325(b)(3)(C).[3] As a result, the authority for sections 76.64(l) and 76.65(f) now continues indefinitely, yet the text of these specific rule provisions still contains the ''until January 1, 2020'' termination language. This discrepancy has led to confusion among interested parties as to whether these provisions are still in effect.

4. In this Order, we eliminate the termination dates set forth in sections 76.64(l) and 76.65(f) of the Commission's rules. This change simply conforms to the statutory amendments in the TVPA, which eliminated the termination dates in section 325(b)(3)(C) and thus made the provisions effective indefinitely. Eliminating the outdated termination dates from the Commission's rules conforms with the directive in the TVPA and therefore will alleviate any confusion as to whether the rules remain in effect.

5. We find that notice and comment procedures are unnecessary under the ''good cause'' exception of the Administrative Procedure Act (APA) because deleting the termination dates in sections 76.64(l) and 76.65(f) entails no exercise of our administrative discretion. The elimination of the termination dates is already effective as a matter of law under the TVPA. Moreover, the text of our rules already states that if Congress extends the termination date, as it did in the TVPA, the rules remain in effect until the statutory authorization expires. Thus, this rule modification simply updates the Commission's implementing regulations to conform with the TVPA amendments recently enacted into law.[4] The rule change does not establish additional regulatory obligations or burdens on regulated entities. Consequently, we find notice and comment procedures are unnecessary for this action.

6. Because these rule changes are being adopted without notice and comment, the Regulatory Flexibility Act does not apply.

7. This document does not contain any new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA). 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.

8. Accordingly, *it is ordered* that, pursuant to the authority found in sections 4(i), 4(j), 303(r), 325 and 614 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303(r), 325, and 534, and in section 553(b)(3)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), this Order *is adopted.*

9. *It is further ordered* that, pursuant to the authority found in sections 4(i), 4(j), 303(r), 325 and 614 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303(r), 325, and 534, and in section 553(b)(3)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), the Commission's rules *are hereby amended* as set forth in the final rules below, effective as of thirty (30) days after the date of publication in the **Federal Register**.

10. *It is further ordered* that the Commission shall send a copy of this Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

### List of Subjects in 47 CFR Part 76

Cable television; Communications.

Federal Communications Commission.

**Thomas Horan,**

*Chief of Staff, Media Bureau.*

### Final Rules

For the reasons discussed in the preamble, the Federal Communications

[1] Although SHVIA imposed the good faith negotiation obligation only on broadcasters, in 2004 Congress made the good faith negotiation obligation reciprocal between broadcasters and MVPDs.

[2] Section 76.64(l) states: ''This paragraph shall terminate at midnight on January 1, 2020, provided that if Congress further extends this date, the rules remain in effect until the statutory authorization expires.'' Section 76.65(f) states: ''This section shall terminate at midnight on January 1, 2020, provided that if Congress further extends this date, the rules remain in effect until the statutory authorization expires.''

[3] Section 1002 states: ''Section 325(b) of the Communications Act of 1934 (47 U.S.C. 325(b)) is amended . . . in paragraph (3)(C), by striking 'until January 1, 2020,' each place it appears.''

[4] The Commission has found the ''good cause'' exception to apply in similar circumstances.

Commission amends 47 CFR part 76 as follows:

## PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

■ 1. The authority citation for part 76 continues to read as follows:

**Authority:** 47 U.S.C. 151, 152, 153, 154, 301, 302, 302a, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 338, 339, 340, 341, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

■ 2. Section 76.64 is amended by revising paragraph (l) to read as follows:

### § 76.64 Retransmission consent.

* * * * *

(l) Exclusive retransmission consent agreements are prohibited. No television broadcast station shall make or negotiate any agreement with one multichannel video programming distributor for carriage to the exclusion of other multichannel video programming distributors.

* * * * *

### § 76.65 [Amended]

■ 3. Amend § 76.65 by removing paragraph (f).

[FR Doc. 2021–10019 Filed 5–12–21; 8:45 am]

BILLING CODE 6712–01–P

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 648

**[Docket No. 210505–0100; RTID 0648–XX065]**

## Fisheries of the Northeastern United States; Atlantic Surfclam and Ocean Quahog Fisheries; Final 2021 and Projected 2022–2026 Fishing Quotas

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

**ACTION:** Final rule.

**SUMMARY:** This final rule implements status quo commercial quotas for the Atlantic surfclam and ocean quahog fisheries for 2021 and projected status quo quotas for 2022–2026. This action is necessary to establish allowable harvest levels of Atlantic surfclams and ocean quahogs that will prevent overfishing and allow harvesting of optimum yield. This action also continues to suspend the minimum shell size for Atlantic surfclams for the 2021 fishing year. The intended effect of this action is to provide benefit to the industry from stable quotas to maintain a consistent market.

**DATES:** This rule is effective June 14, 2021, through December 31, 2021.

**ADDRESSES:** Copies of the environmental assessment (EA) are available on request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. These documents are also accessible via the internet at *http://www.mafmc.org*.

**FOR FURTHER INFORMATION CONTACT:** Laura Hansen, Fishery Management Specialist, 978–281–9225.

**SUPPLEMENTARY INFORMATION:** In August 2020, the Mid-Atlantic Fishery Management Council voted to maintain status quo quota levels of 5.36 million bushels (bu) (285 million liters (L)) for the ocean quahog fishery, 3.40 million bu (181 million L) for the Atlantic surfclam fishery, and 100,000 Maine bu (3.52 million L) for the Maine ocean quahog fishery for 2021–2026. The Council recommended that specifications be set for 2021 and proposed for years 2022–2026 to create administrative efficiencies as a result of the new stock assessment process, which is expected to assess surfclam and ocean quahog on a 4- and 6-year cycle, respectively. On February 17, 2021, NMFS published a proposed rule (86 FR 9901) soliciting public comment on the proposed specifications with a comment period through March 4, 2021. Four comments were received and are discussed below. Additional detail on the Council's recommendations and background on the surfclam and ocean quahog specifications are provided in the proposed rule and not repeated here.

### 2021 and Projected 2022–2026 Specifications

Final 2021 and projected quotas for the 2022–2026 Atlantic surfclam and ocean quahog fishery are shown in Tables 1 and 2.

TABLE 1—ATLANTIC SURFCLAM MEASURES 2021–2026

[2022–2026 Projected]

| Atlantic Surfclam | | | | |
|---|---|---|---|---|
| Year | Allowable biological catch (mt) | Annual catch limit (mt) | Annual catch target (mt) | Commercial quota |
| 2021 | 47,919 | 47,919 | 29,363 | 3.4 million bushels (181 million L). |
| 2022 | 44,522 | 44,522 | 29,363 | 3.4 million bushels (181 million L). |
| 2023 | 42,237 | 42,237 | 29,363 | 3.4 million bushels (181 million L). |
| 2024 | 40,946 | 40,946 | 29,363 | 3.4 million bushels (181 million L). |
| 2025 | 40,345 | 40,345 | 29,363 | 3.4 million bushels (181 million L). |
| 2026 | 40,264 | 40,264 | 29,363 | 3.4 million bushels (181 million L). |

TABLE 2—OCEAN QUAHOG MEASURES 2021–2026

[2022–2026 Projected]

| | Ocean Quahog | | | |
|---|---|---|---|---|
| Year | Allowable biological catch (mt) | Annual catch limit (mt) | Annual catch target (mt) | Commercial quota |
| 2021 | 44,031 | 44,031 | 25,924 | Maine quota: 100,000 Maine bu (3.52 million L); Non-Maine quota: 5.36 million bu (285 million L). |
| 2022 | 44,072 | 44,072 | 25,924 | Maine quota: 100,000 Maine bu (3.52 million L); Non-Maine quota: 5.36 million bu (285 million L). |
| 2023 | 44,082 | 44,082 | 25,924 | Maine quota: 100,000 Maine bu (3.52 million L); Non-Maine quota: 5.36 million bu (285 million L). |
| 2024 | 44,065 | 44,065 | 25,924 | Maine quota: 100,000 Maine bu (3.52 million L); Non-Maine quota: 5.36 million bu (285 million L). |
| 2025 | 44,020 | 44,020 | 25,924 | Maine quota: 100,000 Maine bu (3.52 million L); Non-Maine quota: 5.36 million bu (285 million L). |
| 2026 | 43,948 | 43,948 | 25,924 | Maine quota: 100,000 Maine bu (3.52 million L); Non-Maine quota: 5.36 million bu (285 million L). |

The Atlantic surfclam and ocean quahog quotas are specified in ''industry'' bushels of 1.88 cubic feet ($ft^3$) (53.24 L) per bushel, while the Maine ocean quahog quota is specified in Maine bushels of 1.24 $ft^3$ (35.24 L) per bushel. Because Maine ocean quahogs are the same species as ocean quahogs, both fisheries are assessed under the same overfishing definition. When the two quota amounts (ocean quahog and Maine ocean quahog) are added, the total allowable harvest is below the level that would result in overfishing for the entire stock. The 2021–2026 quotas are the same as those implemented in the 2018–2020 specifications.

**Surfclam**

The 2021–2026 surfclam quotas were developed after reviewing the results of the management track stock assessment for Atlantic surfclam, conducted in June 2020. The surfclam quota recommendation is consistent with the assessment finding that the Atlantic surfclam stock is not overfished and overfishing is not occurring. This rule maintains the status quo surfclam quota of 3.40 million bu (181 million L) for 2021 and projects the same quota for 2022–2026 (see Table 1).

**Ocean Quahog**

As with surfclams, the 2021–2026 ocean quahog quotas were developed after reviewing the results of the management track stock assessment for ocean quahogs, conducted in June 2020. The ocean quahog quota is consistent with the assessment finding that the ocean quahog stock is not overfished and overfishing is not occurring. This rule maintains the status quo quota of 5.36 million bu (285 million L) and status quo level of 100,000 Maine bu (3.52 million L), which represents the maximum allowable quota under the Fishery Management Plan (FMP) and projects the same quotas for 2022–2026 (see Table 2).

**Surfclam Minimum Size**

In August 2020, the Council voted to recommend that the minimum size limit for surfclams continue to be suspended for 2021–2026. The minimum size limit has been suspended annually since 2005. Minimum size suspension may not be taken unless discard, catch, and biological sampling data indicate that no more than 30 percent of the Atlantic surfclam resource have a shell length less than 4.75 inches (120 millimeters (mm)), and the overall reduced size is not attributable to harvest from beds where growth of the individual clams has been reduced because of density-dependent factors. We will review the available data annually to determine if the necessary conditions have been met to suspend the minimum size.

Commercial surfclam data for 2020 were analyzed to determine the percentage of surfclams that were smaller than the minimum size requirement. The analysis indicated that 11 percent of the overall commercial landings, to date, were composed of surfclams that were less than the 4.75-inch (120-mm) default minimum size. Based on the information available, the Regional Administrator concurs with the Council's recommendation, and is suspending the minimum size limit for Atlantic surfclams in the upcoming fishing year (January 1 through December 31, 2021).

**Comments**

On February 17, 2021, we published a proposed rule (86 FR 9901) soliciting public comment on the proposed specifications. We received four comments during the 15-day public comment period that closed on March 4, 2021. Two commenters from the public and one comment from industry were in support of the specifications. One commenter was against the specifications, stating that quotas should be cut by 50 percent since overfishing is occurring, however, overfishing is not occurring and the fishery is not overfished. No changes to the proposed specifications were made in response to the comments.

**Classification**

Pursuant to section 304(b)(3) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the Atlantic Surfclam and Ocean Quahog FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

The Council prepared an EA for this FMP, and the NMFS Assistant Administrator concluded that there will be no significant impact on the human environment as a result of this rule. The management measures are status quo from the 2018–2020 specifications. A copy of the EA is available from the Council (see **ADDRESSES**).

This final rule is exempt from review under Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the

certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

This rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

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

Dated: May 6, 2021.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

[FR Doc. 2021–09955 Filed 5–12–21; 8:45 am]

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# Proposed Rules

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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.

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 235

**[Regulation II; Docket No. R–1748]**

**RIN 7100–AG15**

## Debit Card Interchange Fees and Routing

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Board of Governors (Board) is seeking comment on a proposal to amend Regulation II to clarify that the requirement that each debit card transaction must be able to be processed on at least two unaffiliated payment card networks applies to card-not-present transactions, clarify the requirements that Regulation II imposes on debit card issuers to ensure that at least two unaffiliated payment card networks have been enabled for debit card transactions, and standardize and clarify the use of certain terminology.

**DATES:** Comments must be received on or before July 12, 2021.

**ADDRESSES:** You may submit comments, identified by Docket No. R–1748, RIN 7100–AG15, by any of the following methods:

- *Agency Website: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Email: regs.comments@federalreserve.gov.* Include docket number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays.

**FOR FURTHER INFORMATION CONTACT:** Jess Cheng, Senior Counsel (202–452–2309), Legal Division; or Krzysztof Wozniak, Manager (202–452–3878), Elena Falcettoni, Economist (202–452–2528), or Larkin Turman, Financial Institution and Policy Analyst (202–452–2388), Division of Reserve Bank Operations and Payment Systems. Users of Telecommunication Device for Deaf (TDD) only, call (202) 263–4869.

**SUPPLEMENTARY INFORMATION:**

## I. Introduction

### *A. Statutory Authority*

The Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) was enacted on July 21, 2010.[1] Section 1075 of the Dodd-Frank Act amends the Electronic Fund Transfer Act (EFTA) (15 U.S.C. 1693 *et seq.*) to add a new section 920 regarding interchange transaction fees for electronic debit transactions and rules for payment card transactions.[2]

EFTA section 920(b)(1) directs the Board to prescribe regulations that limit restrictions that issuers and payment card networks may place on the processing of an electronic debit transaction.[3] An electronic debit transaction typically involves at least five parties: (i) A cardholder, (ii) the entity that issued the debit card to the cardholder (the issuer), (iii) a merchant, (iv) the merchant's depository institution (the acquirer), and (v) a payment card network.[4] EFTA section 920(b)(1) contains two provisions with respect to issuers and payment card networks.

First, EFTA section 920(b)(1)(A) directs the Board to prescribe regulations to prohibit an issuer or payment card network from imposing exclusivity arrangements with respect to the payment card networks over which an electronic debit transaction may be processed. In particular, the statute directs the Board to prescribe regulations that forbid issuers and payment card networks from restricting the number of such networks to fewer than two unaffiliated networks (''prohibition on network exclusivity''). Absent this prohibition on network exclusivity, an issuer could enable only a single payment card network, or only two affiliated networks, to process a debit card transaction, thereby foreclosing the ability of the merchant or its acquirer to choose among multiple competing networks to process the transaction.

Second, EFTA section 920(b)(1)(B) directs the Board to prescribe regulations to prohibit an issuer or payment card network from restricting the ability of a merchant or its acquirer to choose among the networks enabled on a card when deciding how to route a debit card transaction.[5] Specifically, the statute directs the Board to prescribe regulations that forbid issuers and payment card networks from directly or indirectly inhibiting any person that accepts debit cards for payment from directing the routing of an electronic debit transaction over any network that may process that transaction (''prohibition on routing restrictions''). Absent this prohibition on routing

[1] Public Law 111–203, 124 Stat. 1376 (2010).

[2] EFTA section 920 is codified as 15 U.S.C. 1693o–2. Electronic debit transaction (or ''debit card transaction'') is defined in EFTA section 920(c)(5) as a transaction in which a person uses a debit card.

[3] EFTA section 920(c)(9) defines ''issuer'' as ''any person who issues a debit card, or credit card, or the agent of such person with respect to such card.'' EFTA section 920(c)(11) defines ''payment card network'' as ''an entity that directly, or through licensed members, processors, or agents, provides the proprietary services, infrastructure, and software that route information and data to conduct debit card or credit card transaction authorization, clearance, and settlement, and that a person uses in order to accept as a form of payment a brand of debit card, credit card or other device that may be used to carry out debit or credit transactions.'' 15 U.S.C. 1693o–2.

[4] The issuer provides the cardholder with a debit card that is enabled to process transactions over various payment card networks. The cardholder can initiate a debit card transaction at a merchant that accepts the networks enabled on the cardholder's card. To process the transaction, the acquirer routes the transaction over one of the payment card networks available on the card.

[5] The merchant's choice of network is typically implemented by its acquirer or processor. A merchant may have preferences over the payment card networks that are available to process a debit card transaction, based on, for example, networks' interchange fees or other network fees. The acquirer can incorporate a merchant's preferences when determining how to route a transaction, given the available networks.

restrictions, an issuer or payment card network could establish rules or other restrictions that override a merchant's routing preferences, thereby preventing the merchant or its acquirer from routing a transaction over a network with, for example, lower fees for merchants.

*B. Regulation II Requirements*

The Board promulgated its final rule implementing the prohibitions on network exclusivity and routing restrictions in July 2011.[6] These prohibitions under Regulation II aim to ensure that merchants or their acquirers can choose from at least two unaffiliated networks when routing debit card transactions.

Section 235.7(a) implements the prohibition on network exclusivity set out in EFTA section 920(b)(1)(A). Specifically, the provision prohibits an issuer or payment card network from directly or indirectly restricting the number of payment card networks on which an electronic debit transaction may be processed to fewer than two unaffiliated networks. To comply with the network exclusivity provisions, among other things, an issuer must allow an electronic debit transaction to be processed on at least two unaffiliated payment card networks, each of which (i) must not, by rule or policy, restrict the network's operation to a limited geographic area, specific merchant, or particular type of merchant or transaction and (ii) must have taken steps reasonably designed to enable the network to process the electronic debit transactions that the network would reasonably expect will be routed to it.

Section 235.7(b) implements the prohibition on routing restrictions set out in EFTA section 920(b)(1)(B). Specifically, the provision prohibits any issuer or payment card network from directly or indirectly inhibiting the ability of any person that accepts or honors debit cards for payments (such as a merchant) to direct the routing of electronic debit transactions for processing over any payment card network that may process such transactions. Therefore, if an issuer has enabled a payment card network to process transactions for a particular debit card, then the issuer or payment card network may not inhibit a merchant's ability to route an electronic debit transaction over that network.

*C. Overview of Issue and Proposed Changes*

At the time the Board promulgated Regulation II, for card-not-present transactions, such as online purchases, the market had not developed solutions to broadly support multiple networks over which merchants could choose to route those transactions.[7] In the decade since the adoption of Regulation II, technology has evolved to address these barriers, and more networks have introduced capabilities to process card-not-present transactions. At the same time, card-not-present transactions have become an increasingly significant portion of all debit card transactions. Despite these developments, and in contrast to the routing choice that currently exists for card-present transactions, merchants are often not able to choose from at least two unaffiliated networks when routing card-not-present transactions, according to data collected by the Board and information from industry participants.

In light of this issue, the Board is proposing changes to Regulation II to clarify that debit card issuers should enable, and merchants should be able to choose from, at least two unaffiliated networks for card-not-present transactions. Specifically, the Board is proposing revisions to the commentary to Regulation II that clarify the applicability of the prohibition on network exclusivity to card-not-present transactions. These proposed revisions to the commentary clarify that card-not-present transactions are a particular type of transaction for which two unaffiliated payment card networks must be available. The Board is further proposing revisions to the rule and the commentary that clarify the responsibility of the debit card issuer in ensuring that at least two unaffiliated networks have been enabled to comply with the regulation's prohibition on network exclusivity. In addition to these changes, the Board is proposing revisions to standardize and clarify certain terms and phrases in the commentary. The Board requests comment on all proposed changes to the rule and commentary.

The proposed changes do not affect other parts of Regulation II that directly address interchange fees for certain electronic debit transactions. The Board will continue to review the regulation in light of the most recent data collected by the Board pursuant to EFTA section 920 and may propose additional revisions in the future.

## II. Background on Network Exclusivity Issues for Card-Not-Present Debit Card Transactions

Debit cards are used for a wide variety of payments in the United States today, involving both card-present and card-not-present transactions.[8] Over the last decade, card-not-present transactions have become an increasingly significant type of debit card transaction. Spurred by the growth of online commerce, the number of card-not-present debit card transactions has increased rapidly in recent years, growing approximately 17 percent per year, on average, from 2009 to 2019, in contrast to the 6 percent average annual growth in card-present transactions over the same period.[9] As a result of this differential growth, card-not-present transactions comprised almost 23 percent of all debit card transactions in 2019, up from slightly less than 10 percent in 2009. Recent evidence indicates that growth in card-not-present transactions has accelerated further in the Coronavirus–19 (COVID–19) environment, as consumers have shifted from in-person to remote purchases.[10]

Like any debit card transaction, card-not-present transactions rely on payment card networks to conduct payments. The network used to process a transaction depends primarily on the set of networks that the issuer has enabled for the transaction and the specific network that the merchant or its acquirer chooses to route the transaction out of those available.[11]

[6] Regulation II, Debit Card Interchange Fees and Routing, codified at 12 CFR part 235. Regulation II also implements a separate provision of EFTA section 920 regarding debit card interchange fees. The proposed revisions in this notice do not concern that provision.

[7] Card-not-present transactions are those in which a cardholder initiates a card payment without physically presenting the card to a merchant. Card-not-present transactions typically involve remote commerce, such as internet, telephone, or mail-order purchases.

[8] According to the Federal Reserve Payments Study, the number of debit card payments in 2018 nearly equaled the combined number of credit card, check, and automated clearinghouse payments. See *https://www.federalreserve.gov/paymentsystems/fr-payments-study.htm.*

[9] See ''2019 Interchange Fee Revenue, Covered Issuer Costs, and Covered Issuer and Merchant Fraud Losses Related to Debit Card Transactions,'' (2019 Data Report) available at *https://www.federalreserve.gov/paymentsystems/regii-data-collections.htm.* The data summarized in the report are collected through mandatory surveys of debit card issuers subject to the interchange fee standard in Regulation II (covered issuers) and payment card networks. Covered issuers are those with worldwide assets, including affiliates, of $10 billion or more. The Board administers these surveys and releases biennial reports pursuant to data collection requirements in EFTA section 920.

[10] For information about aggregate patterns in e-commerce, see ''Latest Quarterly E-Commerce Report,'' available at *https://www.census.gov/retail/index.html#ecommerce.*

[11] The network used to process a transaction may also depend on other factors, such as whether the merchant can support the authentication methods used by the available networks. It may also depend on the cardholder's choice of authentication method in situations where the merchant has

Two types of payment card networks currently exist to process debit card transactions: Single-message networks and dual-message networks.[12] Single-message networks, which developed from automated teller machine (ATM) networks, typically authorize and clear a transaction through a single message and have traditionally processed transactions authenticated using a cardholder's personal identification number (PIN).[13] Dual-message networks, which developed from credit card systems, typically authorize and clear a transaction through two separate messages and have traditionally processed signature-authenticated transactions.[14]

Over time, technological developments, spurred by competition among networks to improve their capabilities and increase their transaction volumes, have allowed both single-message and dual-message networks to evolve beyond their traditional methods of authentication. Today, transactions over dual-message networks may no longer require signature authentication or may use PIN authentication. Similarly, transactions over single-message networks may no longer require PIN authentication. In addition, some networks have developed capabilities that depart from their primary messaging approach.[15]

There are various combinations of dual-message and single-message networks that a debit card issuer could choose to enable on its debit cards. However, the market has evolved such that, for card-present transactions, the vast majority of issuers choose to enable one dual-message network and one or more single-message networks on their cards. As a result, when a consumer and merchant interact in person, the typical debit card arrangement provides the merchant with multiple network options to route a transaction. For example, when a consumer performs an in-person debit card transaction at a grocery store, the grocer has a dual-message network and at least one single-message network as options to process the transaction. Such arrangements generally comply with Regulation II's prohibition on network exclusivity as long as at least two of those networks are unaffiliated. In that case, the grocer has at least two unaffiliated networks competing to attract its debit card transactions. Regulation II's prohibition on routing restrictions further ensures that the grocer (or its acquirer) is able to choose among the available networks.

At the time Regulation II was adopted, for card-not-present transactions, the market had not developed solutions to broadly support multiple networks for each transaction. While dual-message networks had long been able to conduct card-not-present transactions, single-message networks had limited ability to process such transactions at that time. In particular, as discussed previously, single-message networks primarily processed PIN-authenticated transactions, but methods of PIN authentication for card-not-present transactions, such as PIN entry in an online setting, were not well-established. Because of this difficulty, along with the industry practice of enabling only one dual-message network on each debit card, card-not-present transactions could often only be processed on that one dual-message network at the time Regulation II was promulgated. The Board explained, however, that it expected the market to develop solutions to facilitate the use of single-message networks for card-not-present transactions in the years following the adoption of Regulation II.[16]

As the Board anticipated, in the decade since Regulation II was adopted, various innovations have emerged, and most single-message networks are now capable of processing card-not-present transactions.[17] Data on network activity collected by the Board confirm that nearly all single-message debit card networks conducted card-not-present transactions in 2019. In contrast, fewer than half of single-message networks reported such activity when Regulation II was adopted in 2011.

Despite the widespread adoption of these innovations, the volume of card-not-present transactions processed over single-message networks remains low. In particular, data collected by the Board indicate that single-message networks processed only 6 percent of all card-not-present debit card transactions in 2019. The single-message networks' low aggregate share of card-not-present transactions contrasts sharply with their share of card-present transactions, which exceeded 40 percent in 2019.[18]

Additional data collected by the Board and information from industry participants indicate that the low prevalence of card-not-present transactions over single-message networks may have occurred because issuers have not consistently enabled single-message networks for card-not-present transactions. According to responses to the Board's survey of covered debit card issuers, issuers that accounted for approximately 50 percent of all debit card transactions and approximately 50 percent of all card-not-present debit card transactions did not conduct any card-not-present transactions over single-message networks in 2019.[19] Information from industry participants, including individual merchants, merchant trade associations, and representatives of single-message networks, corroborates that some issuers do not make single-message networks available to process card-not-present transactions on any of their cards, while some other issuers make single-message networks available to process card-not-present transactions only on a subset of their cards.

A failure by an issuer to enable at least one single-message network for card-not-present transactions, combined with the common industry approach of only enabling one dual-message network on each card, results in only one network—the dual-message network—being available to process card-not-present transactions. In this situation, merchants do not have routing choice for such transactions. The Board views these practices by issuers with respect to card-not-present transactions as inconsistent with Regulation II because they restrict the number of

configured its card terminal to enable cardholder choice.

[12] Examples of dual-message and single-message networks can be found at *https://www.federalreserve.gov/paymentsystems/regii-average-interchange-fee.htm.* The ''message'' in a card payment involves various information related to the payment, such as the amount, the account information of the consumer and the merchant, the identities of their respective depository institutions, and the transaction environment (that is, card-present or card-not-present).

[13] Because of their historical reliance on PIN authentication, single-message debit card networks were traditionally known as ''PIN debit networks.''

[14] Because of their historical reliance on signature authentication, dual-message debit card networks were traditionally known as ''signature debit networks.''

[15] For example, some traditionally dual-message networks can now process certain payments using a single message. Similarly, some traditionally single-message networks can use two messages to authorize and clear some transactions.

[16] ''Debit Card Interchange Fees and Routing; Final Rule,'' 76 FR 43393, 43448 (Jul. 20, 2011). Specifically, the Board expressed the view that, by requiring two unaffiliated payment card networks for each debit card transaction and removing limitations on merchant routing choice, Regulation II would promote innovation to facilitate the use of single-message networks in additional retail environments, including for online purchases.

[17] For example, as noted previously, many single-message networks no longer require PIN entry for some transactions, including card-not-present transactions and low-value card-present transactions. Industry participants sometimes refer to such transactions as ''PINless PIN'' transactions. Technologies have also been developed to support PIN entry in different transaction environments, such as online purchases. However, the industry has not widely adopted those technologies for PIN entry.

[18] See 2019 Data Report.

[19] See 2019 Data Report.

payment card networks on which card-not-present transactions can be processed to fewer than two unaffiliated networks.

**III. Section-by-Section Analysis**

In light of the issues described in the previous section, the Board is proposing revisions to the commentary to Regulation II to clarify the applicability of the regulation's prohibition on network exclusivity to card-not-present transactions. The Board is specifically proposing to clarify that card-not-present transactions are a particular type of transaction for which issuers must ensure at least two unaffiliated payment card networks have been enabled. The Board is further proposing revisions to the rule and commentary to emphasize the important role of the issuer in ensuring that at least two unaffiliated payment card networks have been enabled for each debit card transaction. The Board is also proposing revisions to the commentary to standardize and clarify the use of certain terminology and clarify the requirements that Regulation II imposes on debit card issuers.

*A. Section 235.7 Limitations on Payment Card Restrictions*

The Board is proposing to amend § 235.7 of the regulation to emphasize the issuer's role in configuring its debit cards to ensure that at least two unaffiliated networks have been enabled to comply with the regulation's prohibition on network exclusivity. Section 235.7(a)(2) currently states that an issuer satisfies the prohibition on network exclusivity under § 235.7(a)(1) ''only if the issuer allows an electronic debit transaction to be processed on at least two unaffiliated networks, each of which does not, by rule or policy, restrict the operation of the network to a limited geographic area, specific merchant, or particular type of merchant or transaction, and each of which has taken steps reasonably designed to enable the network to process the electronic debit transactions that the network would reasonably expect will be routed to it, based on expected transaction volume.'' The Board is proposing amendments to this section to reflect the role of the issuer in ensuring that the enumerated capabilities of networks are, in fact, enabled.

Specifically, § 235.7(a)(2), with the proposed amendments, would provide that an issuer satisfies the requirements of § 235.7(a)(1) only if, for every particular type of transaction (as well as every geographic area, specific merchant, and particular type of merchant) for which the issuer's debit card can be used to process an electronic debit transaction, the *issuer has enabled* at least two unaffiliated payment card networks to process the transaction. The Board does not intend these amendments as a substantive change to the section but rather as a clarification of the existing language.

*B. Appendix A to Part 235—Official Board Commentary on Regulation II*

The Board is proposing several clarifying revisions to the commentary on § 235.7. The proposed changes throughout this commentary include revisions to standardize and clarify the use of certain terminology. For example, the term ''enabled'' would be revised to ''enabled by the issuer,'' to explicitly recognize the role an issuer plays in configuring its debit cards and enabling a payment card network on a debit card, as described above. The revised terminology reflects the fact that the issuer is the entity that configures a debit card such that electronic debit transactions initiated with that card can be processed over a particular payment card network. New standardized terms would include ''payment card network'' (which would replace the shorthand ''network'' or ''card network'') and ''method of cardholder authentication'' (which would replace variations of ''authentication'' or ''authorization'').

Comment 235.7(a)–1 Scope of Restriction

The Board proposes additional revisions to comment 235.7(a)–1. This comment currently clarifies the scope of the prohibition of network exclusivity under § 235.7(a), including a clarification that § 235.7(a) does not require an issuer to have two or more unaffiliated networks available for each method of cardholder authentication. The Board proposes to update the examples of cardholder authentication methods listed in the commentary to better align with current industry practices. The proposed revisions add biometrics to the list of cardholder authentication methods in the commentary, which currently only includes signature and PIN authentication. The Board further proposes adding ''or any other method of cardholder authentication that may be developed in the future'' to capture cardholder authentication methods that do not yet exist and that would still be captured by Regulation II if they were to be developed. The proposed revisions also recognize instances where no method of cardholder authentication is used.

Comment 235.7(a)–2 Permitted Networks

The Board also proposes revising comment 235.7(a)–2. Comment 235.7(a)–2 currently clarifies the types of network arrangements that may be used to help satisfy the requirement in § 235.7(a) that an issuer enable two unaffiliated networks. The proposed revisions add titles to each sub-paragraph and make streamlining edits for ease of reference.

The proposed revisions also clarify that, for purposes of § 235.7, card-not-present debit card transactions are a ''particular type of transaction'' for which at least two unaffiliated payment card networks must be available. The Board believes this clarification is necessary in light of developments in recent years among single-message networks that have introduced capabilities to allow them to process card-not-present transactions; yet, as noted previously, information gathered by the Board suggests that certain issuers continue to enable only one dual-message payment card network for such transactions.

Finally, the Board is proposing to add a new comment 235.7(a)–2(iii) to provide clear examples of how an issuer could comply with the rule by enabling various combinations of networks so that two unaffiliated payment card networks that can each process both card-present and card-not-present transactions are available. The Board is proposing additional revisions to comment 235.7(a)–2 to further clarify the variety of scenarios in which an issuer could enable two unaffiliated payment card networks as examples of permitted arrangements under § 235.7.

Comment 235.7(a)–7 Application of Rule Regardless of Form Factor

The Board proposes revising comment 235.7(a)–7. Comment 235.7(a)–7 currently clarifies that the network exclusivity provisions in § 235.7 apply regardless of ''form factor.'' Specifically, the commentary currently provides that the prohibition on network exclusivity applies regardless of whether the debit card is issued in plastic card form and also applies to any supplemental device that is issued in connection with a plastic card, even if that plastic card fully complies with the rule. The proposed revisions replace the term ''form factor'' with ''means of access'' to better align with current industry terminology. The revisions would also add, as an example of means of access, ''information stored inside an e-wallet on a mobile phone or other device,'' to capture recent technological developments. The Board further proposes adding ''or another means of access that may be developed in the

future'' to capture means of access that do not yet exist and that would still be captured by Regulation II if they were to be developed. The proposed revisions further clarify that, for any means of access that carries the debit card information, there must be at least two unaffiliated payment card networks enabled by the issuer, as required by the network exclusivity provisions in § 235.7(a). For example, if the issuer provides the cardholder with a fob in addition to a plastic card, the fob must allow transactions to be processed over at least two unaffiliated payment card networks.

## IV. Regulatory Analysis

### *A. EFTA 904(a)*

Section 904(a)(2) of the EFTA requires the Board, in prescribing regulations to carry out the purposes of EFTA section 920, to prepare an analysis of economic impact which considers the costs and benefits to financial institutions, consumers, and other users of electronic fund transfers. The analysis must address the extent to which additional paperwork would be required, the effect upon competition in the provision of electronic fund transfer services among large and small financial institutions, and the availability of such services to different classes of consumers, particularly low income consumers.

The proposed amendments clarify Regulation II's existing requirements by emphasizing the role of the issuer in ensuring that at least two unaffiliated networks have been enabled in compliance with the regulation's network exclusivity provisions, and by clarifying that those provisions apply to card-not-present transactions. Therefore, the proposed amendments do not impose additional paperwork requirements related to reporting to the Board. With respect to the competitive effects of the proposed amendments, the proposed amendments clarify that at least two networks must be enabled for card-not-present transactions, allowing merchants or their acquirer to choose among multiple competing networks to process the transaction. Because the proposed amendments apply to all issuers regardless of their size, they are unlikely to have an effect upon competition among large and small financial institutions in the provision of electronic fund transfer services. With respect to the availability of services to different classes of consumers, particularly low-income consumers, consumers are typically unaware of the networks used to process many debit card transactions today, including card-not-present transactions where at least two unaffiliated networks are already available. Nevertheless, the effect of the proposed rule on the availability of services to consumers will likely depend on various factors, including each consumer's payment and purchase behavior, as well as market responses to the increased availability of multiple networks for card-not-present transactions. Ultimately, the costs and benefits of the proposed revisions are uncertain and will depend on the adjustments that different parties may make and the market response to the proposed rule.

In addition, EFTA section 904(a)(3) provides that in prescribing regulations to carry out the purposes of EFTA section 920, to the extent practicable, the Board shall demonstrate that the consumer protections of the proposed regulations outweigh the compliance costs imposed upon consumers and financial institutions. The proposed rule does not relate to consumer protections, and therefore the Board cannot, at this time, determine whether the benefits to consumers exceed the possible costs to financial institutions. Additionally, the overall effects of the proposed rule on financial institutions and on consumers are dependent on a variety of factors, and the Board cannot predict the market response to the proposed rule.

The Board welcomes comment on the impact of the proposed amendments on the various participants in the debit card market and on consumers, as well as on all aspects of the analysis under EFTA section 904(a).

### *B. Paperwork Reduction Act*

In accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3506; 5 CFR part 1320, Appendix A.1), the Board may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a valid Office of Management and Budget (OMB) control number. The Board reviewed the proposed rule under the authority delegated to the Board by the OMB and determined that it contains no collections of information under the PRA.[20] Accordingly, there is no paperwork burden associated with the proposed rule.

### *C. Regulatory Flexibility Act*

In accordance with section 4 of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* the Board is publishing an initial regulatory flexibility analysis for the proposed rule. The RFA generally requires an agency to assess the impact a rule is expected to have on small entities. The RFA requires an agency either to provide a regulatory flexibility analysis or to certify that the proposed rule will not have a significant economic impact on a substantial number of small entities.

Two of the requirements of an initial regulatory flexibility analysis[21]—a description of the reasons the action is being considered and a statement of the objectives of, and legal basis for, the proposed rule—are contained in the information above. Although EFTA section 920 exempts all issuers that, together with affiliates, have assets of less than $10 billion from the limitations on interchange transaction fees, the prohibition on network exclusivity and the prohibition on routing restrictions apply to all issuers, including small issuers. There are no reporting provisions or relevant federal rules that duplicate, overlap, or conflict with the proposed rule, and the Board is not aware of any significant alternatives to the final rule that would reduce the economic impact on Board-regulated small entities.

As discussed above in this **SUPPLEMENTARY INFORMATION** section, the Board is proposing to amend a particular section of the Regulation II, as well as revise portions of the commentary to the regulation, to emphasize the role of the issuer in ensuring that at least two unaffiliated networks have been enabled in compliance with the regulation's network exclusivity provisions and to clarify that the requirement that each debit card transaction must be able to be processed on at least two unaffiliated payment card networks applies to card-not-present transactions. The proposed amendments would clarify existing requirements that already apply to any person that chooses to authorize the use of a debit card to perform an electronic debit transaction, regardless of that issuer's size. The Board does not intend these amendments to be an expansion of coverage to any additional small entities that were not already subject to the rule.

Another requirement for the initial regulatory flexibility analysis is a description of, and where feasible, an estimate of, the number of small entities to which the proposed rule will apply. Under regulations issued by the Small Business Administration, a small entity includes a depository institution, bank holding company, savings and loan holding company, and credit card issuer with total assets of $600 million or less and trust companies with total annual

[20] See 44 U.S.C. 3502(3).

[21] 5 U.S.C. 603(b).

receipts of $41.5 million or less.[22] According to Call Reports and other Board reports, there were approximately 472 state member banks, 2,925 bank holding companies, 132 savings and loan holding companies, and 16 Edge and agreement corporations that are small entities.[23]

As discussed in preceding sections, the proposed amendments are intended to clarify the regulation's existing prohibition on network exclusivity, and the Board does not intend these proposed amendments to be an expansion of coverage to any additional small entities that were not already subject to the rule. For these reasons, the Board believes that this proposed rule will not have a significant economic impact on a substantial number of small entities. The Board welcomes comment on all aspects of its analysis. In particular, the Board requests that commenters describe the nature of any impact on small entities and provide empirical data to illustrate and support the extent of the impact.

*D. Solicitation of Comments of Use of Plain Language*

Section 722 of the Gramm-Leach-Bliley Act (Pub. L. 106–102, 113 Stat. 1338, 1471, 12 U.S.C. 4809) requires the federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The Board has sought to present the proposed rule in a simple and straightforward manner and invites comment on the use of plain language and whether any part of the proposed rule could be more clearly stated.

**List of Subjects in 12 CFR Part 235**

Banks, banking, Debit card routing, Electronic debit transactions, Interchange transaction fees.

**Authority and Issuance**

For the reasons set forth in the preamble, the Board is proposing to amend Regulation II, 12 CFR part 235, as follows:

## PART 235—DEBIT CARD INTERCHANGE FEES AND ROUTING (REGULATION II)

■ 1. The authority citation for part 235 continues to read as follows:

**Authority:** 15 U.S.C. 1693o–2.

[22] *See* 13 CFR 121.201; 84 FR 34261 (July 18, 2019).

[23] State member bank data are derived from March 31, 2020 Call Reports. Data for bank holding companies and savings and loan holding companies are derived from the June 30, 2020, FR Y–9C and FR Y–9SP. Data for Edge and agreement corporations are derived from the December 31, 2019 and March 31, 2020, FR–2086b.

■ 2. Section 235.7 is amended by revising paragraph (a)(2) to read as follows:

**§ 235.7 Limitations on payment card restrictions.**

(a) * * *

(2) *Permitted arrangements.* An issuer satisfies the requirements of paragraph (a)(1) of this section only if, for every geographic area, specific merchant, particular type of merchant, and particular type of transaction for which the issuer's debit card can be used to process an electronic debit transaction, such issuer enables at least two unaffiliated payment card networks to process an electronic debit transaction, and where each of these networks has taken steps reasonably designed to be able to process the electronic debit transactions that it would reasonably expect will be routed to it, based on expected transaction volume.

* * * * *

■ 3. Amend Appendix A to Part 235—Official Board Commentary on Regulation II by:

■ a. Revising paragraph 7(a);

■ b. Revising paragraphs 7(b)1., (b)(2), and (b)(5).

The revisions read as follows:

## Appendix A to Part 235—Official Board Commentary on Regulation II

* * * * *

**Section 235.7 Limitations on Payment Card Restrictions**

* * * * *

**7(a) Prohibition on Network Exclusivity**

1. *Scope of restriction.* Section 235.7(a) requires an issuer to configure each of its debit cards so that each electronic debit transaction initiated with such card can be processed on at least two unaffiliated payment card networks. In particular, section 235.7(a) requires this condition to be satisfied for every geographic area, specific merchant, particular type of merchant, and particular type of transaction for which the issuer's debit card can be used to process an electronic debit transaction. As long as the condition is satisfied for each such case, § 235.7(a) does not require the condition to be satisfied for each method of cardholder authentication (*e.g.,* signature, PIN, biometrics, any other method of cardholder authentication that may be developed in the future, or the lack of a method of cardholder authentication). For example, it is sufficient for an issuer to issue a debit card that can process signature-authenticated transactions only over one payment card network and PIN-authenticated transactions only over another payment card network, as long as the two payment card networks are not affiliated and each network can be used to process electronic debit transactions for every geographic area, specific merchant, particular type of merchant, and particular type of transaction for which the issuer's debit card can be used to process an electronic debit transaction.

2. *Permitted networks.*

i. *Network volume capabilities.* A payment card network could be used to satisfy the requirement that an issuer enable two unaffiliated payment card networks for each electronic debit transaction if the network was either (a) capable of processing the volume of electronic debit transactions that it would reasonably expect to be routed to it or (b) willing to expand its capabilities to meet such expected transaction volume. If, however, the network's policy or practice is to limit such expansion, it would not qualify as one of the two unaffiliated payment card networks.

ii. *Reasonable volume expectations.* One of the steps a payment card network can take to form a reasonable expectation of its transaction volume is to consider factors such as the number of cards expected to be issued that are enabled by an issuer on the network and expected card usage patterns.

iii. *Examples of permitted arrangements.* For every geographic area (*e.g.,* New York State), specific merchant (*e.g.,* a specific fast food restaurant chain), particular type of merchant (*e.g.,* fast food restaurants), and particular type of transaction (*e.g.,* card-not-present transaction) for which the issuer's debit card can be used to process an electronic debit transaction, an issuer must enable at least two unaffiliated payment card networks, but those payment card networks do not necessarily have to be the same two payment card networks for every transaction.

A. *Geographic area:* An issuer complies with the rule only if, for every geographic area in which the issuer's debit card can be used to process an electronic debit transaction, the issuer enables at least two unaffiliated payment card networks. For example, an issuer could comply with the rule by enabling two unaffiliated payment card networks that can each process transactions in all 50 U.S. states. Alternatively, the issuer could comply with the rule by enabling three unaffiliated payment card networks, A, B, and C, where network A can process transactions in all 50 U.S. states, network B can process transactions in the 48 contiguous United States, and network C can process transactions in Alaska and Hawaii.

B. *Particular type of transaction:* An issuer complies with the rule only if, for every particular type of transaction for which the issuer's debit card can be used to process an electronic debit transaction, the issuer enables at least two unaffiliated payment card networks. For example, an issuer could comply with the rule by enabling two unaffiliated payment card networks that can each process both card-present and card-not-present transactions. Alternatively, the issuer could comply with the rule by enabling three unaffiliated payment card networks, A, B, and C, where network A can process both card-present and card-not-present transactions, network B can process card-present transactions, and network C can process card-not-present transactions.

3. *Examples of prohibited network restrictions on an issuer's ability to contract with other payment card networks.* The

following are examples of prohibited network restrictions on an issuer's ability to contract with other payment card networks:

i. Network rules or contract provisions limiting or otherwise restricting the other payment card networks that an issuer may enable on a particular debit card, or network rules or contract provisions that specify the other networks that an issuer may enable on a particular debit card.

ii. Network rules or guidelines that allow only that payment card network's (or its affiliated networks') brand, mark, or logo to be displayed on a particular debit card, or that otherwise limit the ability of brands, marks, or logos of other payment card networks to appear on the debit card.

4. *Network logos or symbols on card not required.* Section 235.7(a) does not require that a debit card display the brand, mark, or logo of each payment card network over which an electronic debit transaction may be processed. For example, the rule does not require a debit card that an issuer enables on two or more unaffiliated payment card networks to bear the brand, mark, or logo of each such payment card network.

5. *Voluntary exclusivity arrangements prohibited.* Section 235.7(a) requires that an issuer enable at least two unaffiliated payment card networks to process an electronic debit transaction, even if the issuer is not subject to any rule of, or contract or other agreement with, a payment card network requiring that all or a specified minimum percentage of electronic debit transactions be processed on the network or its affiliated networks.

6. *Affiliated payment card networks.* Section 235.7(a) does not prohibit an issuer from enabling two affiliated payment card networks among the networks on a particular debit card, as long as at least two of the networks that can be used to process each electronic debit transaction are unaffiliated.

7. *Application of rule regardless of means of access.* The network exclusivity provisions in § 235.7(a) require that a debit card be enabled by the issuer on at least two unaffiliated payment card networks for each means of access. The means of access that carries the debit card information could be a plastic card, a supplemental device such as a fob, information stored inside an e-wallet on a mobile phone or other device, or another means of access that may be developed in the future.

**7(b) Prohibition on Routing Restrictions**

1. *Relationship to the network exclusivity restrictions.* An issuer or payment card network is prohibited from inhibiting a merchant's ability to direct the routing of an electronic debit transaction over any of the payment card networks that the issuer has enabled on that particular debit card. The rule does not permit a merchant to route the transaction over a payment card network that the issuer did not enable to process transactions using that debit card.

2. *Examples of prohibited merchant restrictions.* The following are examples of issuer or network practices that would inhibit a merchant's ability to direct the routing of an electronic debit transaction and that are therefore prohibited under § 235.7(b):

i. Prohibiting a merchant from encouraging or discouraging a cardholder's use of a particular method of cardholder authentication, for example prohibiting merchants from favoring a cardholder's use of one cardholder authentication method over another, or from discouraging the cardholder's use of any given cardholder authentication method, as further described in comment 7(a)–1.

ii. Establishing network rules or designating issuer priorities directing the processing of an electronic debit transaction on a specified payment card network or its affiliated networks, or directing the processing of the transaction away from a specified payment card network or its affiliates, except as (i) a default rule in the event the merchant, or its acquirer or processor, does not designate a routing preference, or (ii) if required by state law.

iii. Requiring a specific payment card network to be used based on the means of access presented by the cardholder to the merchant.

* * * * *

5. *No effect on network rules governing the routing of subsequent transactions.* Section 235.7 does not supersede a payment card network rule that requires a chargeback or return of an electronic debit transaction to be processed on the same network that processed the original transaction.

* * * * *

By order of the Board of Governors of the Federal Reserve System.

**Ann Misback,**

*Secretary of the Board.*

[FR Doc. 2021–10013 Filed 5–12–21; 8:45 am]

**BILLING CODE 6210–01–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2021–0366; Project Identifier MCAI–2021–00080–T]**

**RIN 2120–AA64**

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

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to supersede Airworthiness Directive (AD) 2020–23–13, which applies to all ATR—GIE Avions de Transport Régional Model ATR42–200, –300, and –320 airplanes. AD 2020–23–13 requires a one-time inspection for discrepancies of the wire bundles between the left- and right-hand angle of attack (AOA) probes and the crew alerting computer, and, depending on findings, applicable corrective actions. Since the FAA issued AD 2020–23–13, a wiring modification for the captain stick shaker has been developed, along with an update to the aircraft flight manual (AFM). This proposed AD would continue to require the actions in AD 2020–23–13. This proposed AD would also require, for certain airplanes, modifying the captain stick shaker wiring, and for all airplanes, revising the existing AFM and applicable corresponding operational procedures to incorporate procedures for the stick pusher/shaker, as specified in a European Union Aviation Safety Agency (EASA), which is proposed for incorporation 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 June 28, 2021.

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

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

For material that will be incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0366.

**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–2021–0366; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any

comments received, and other information. The street address for Docket Operations is listed above.

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

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0366; Project Identifier MCAI–2021–00080–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received 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 Shahram Daneshmandi, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3220; email: *shahram.daneshmandi@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

**Background**

The FAA issued AD 2020–23–13, Amendment 39–21330 (85 FR 73407, November 18, 2020) (AD 2020–23–13), which applies to all ATR—GIE Avions de Transport Régional Model ATR42–200, –300, and –320 airplanes. AD 2020–23–13 requires a one-time inspection for discrepancies of the wire bundles between the left- and right-hand AOA probes and the crew alerting computer, and, depending on findings, applicable corrective actions. The FAA issued AD 2020–23–13 to address false activation of the stall warning system, which could result in loss of control of the airplane during take-off and landing phases.

**Actions Since AD 2020–23–13 Was Issued**

Since the FAA issued AD 2020–23–13, a wiring modification for the captain stick shaker has been developed, along with an update to the existing systems limitations section of the AFM to incorporate procedures for the stick pusher/shaker.

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0024, dated January 19, 2021 (EASA AD 2021–0024) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all ATR—GIE Avions de Transport Régional Model ATR42–200, –300, and –320 airplanes. EASA AD 2021–0024 supersedes EASA AD 2020–0221, dated October 13, 2020 (which corresponds to FAA AD 2020–23–13).

This AD was prompted by false activation of the stall warning system due to wiring damage on the wire bundle between an AOA probe and the crew alerting computer. Such activation can lead to one or a combination of the following events:

- Autopilot disconnection;
- Stick pusher activation;
- Stick shaker activation;
- Aural stall warning (cricket audio alert);
- Master CAUTION light flashing amber;
- STICK PUSHER green light ON;
- FLT CTL amber light on CAP;
- Stick PUSHER/SHAKER pushbutton 'FAULT' amber light illumination; and
- Whooler Audio alert.

The FAA is proposing this AD to address false activation of the stall warning system, which could result in loss of control of the airplane during take-off and landing phases. See the MCAI for additional background information.

**Explanation of Retained Requirements**

Although this proposed AD does not explicitly restate the requirements of AD 2020–23–13, this proposed AD would retain all of the requirements of AD 2020–23–13. Those requirements are referenced in EASA AD 2021–0024, which, in turn, is referenced in paragraph (g) of this proposed AD.

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

EASA AD 2021–0024 describes procedures for a one-time detailed visual inspection of the wire bundles between the left- and right-hand AOA probes and the crew alerting computer for discrepancies (including, but not limited to, wire damage, missing or damaged conduits, and incorrect routing of wiring and conduits), and, depending on findings, applicable corrective actions. EASA AD 2021–0024 also describes procedures for modifying the captain stick shaker wiring, and amending the systems limitations section of the applicable AFM to incorporate procedures for the stick pusher/shaker. 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 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 accomplishing the actions specified in EASA AD 2021–0024 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD. This proposed AD would also require

sending the inspection results to ATR—GIE Avions de Transport Régional.

EASA AD 2021–0024 requires operators to ''inform all flight crews'' of revisions to the AFM, and thereafter to ''operate the aeroplane accordingly.'' However, this AD would not specifically require those actions as those actions are already required by FAA regulations. FAA regulations require operators furnish to pilots any changes to the AFM (for example, 14 CFR 121.137), and to ensure the pilots are familiar with the AFM (for example, 14 CFR 91.505). As with any other flightcrew training requirement, training on the updated AFM content is tracked by the operators and recorded in each pilot's training record, which is available for the FAA to review. FAA regulations also require pilots to follow the procedures in the existing AFM including all updates. 14 CFR 91.9 requires that any person operating a civil aircraft must comply with the operating limitations specified in the AFM. Therefore, including a requirement in this AD to operate the airplane according to the revised AFM would be redundant and unnecessary. Further, compliance with such a requirement in an AD would be impracticable to demonstrate or track on an ongoing basis; therefore, a requirement to operate the airplane in such a manner would be unenforceable.

**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 2021–0024 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2021–0024 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 2021–0024 that is required for compliance with EASA AD 2021–0024 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0366 after the FAA final rule is published.

**Interim Action**

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

**Costs of Compliance**

The FAA estimates that this proposed AD affects 26 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS *

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Retained actions from AD 2020-23-13. | Up to 10 work-hours × $85 per hour = Up to $850 .. | $0 | Up to $850. ..... | Up to $22,100. |
| New proposed actions ..... | 4 work-hours × $85 per hour = $340 ..... | 100 | $440. ..... | $11,440. |

* Table does not include estimated costs for reporting.

The FAA estimates that it would take about 1 work-hour per product to comply with the proposed reporting requirement in this proposed AD. The average labor rate is $85 per hour. Based on these figures, the FAA estimates the cost of reporting the inspection results on U.S. operators to be $2,210, or $85 per product.

The FAA has received no definitive data on which to base the cost estimates for the on-condition actions specified in this proposed AD.

**Paperwork Reduction Act**

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this proposed AD is 2120–0056. The paperwork cost associated with this proposed AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this proposed AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

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

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

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

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

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

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2020–23–13, Amendment 39–21330 (85 FR 73407, November 18, 2020), and

■ b. Adding the following new AD:

**ATR—GIE Avions de Transport Régional:** Docket No. FAA–2021–0366; Project Identifier MCAI–2021–00080–T.

**(a) Comments Due Date**

The FAA must receive comments on this airworthiness directive (AD) by June 28, 2021.

**(b) Affected ADs**

This AD replaces AD 2020–23–13, Amendment 39–21330 (85 FR 73407, November 18, 2020) (AD 2020–23–13).

**(c) Applicability**

This AD applies to all ATR—GIE Avions de Transport Régional Model ATR42–200, –300, and –320 airplanes, certificated in any category.

**(d) Subject**

Air Transport Association (ATA) of America Code 31, Instruments.

**(e) Reason**

This AD was prompted by false activation of the stall warning system due to wiring damage on the wire bundle between an angle of attack (AOA) probe and the crew alerting computer, and the development of a wiring modification and aircraft flight manual (AFM) update to address the unsafe condition. The FAA is issuing this AD to address this condition, which could result in loss of control of the airplane during take-off and landing phases.

**(f) Compliance**

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

**(g) Requirements**

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2021–0024, dated January 19, 2021 (EASA AD 2021–0024).

**(h) Exceptions to EASA AD 2021–0024**

(1) Where EASA AD 2021–0024 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2021–0024 refers to ''the effective date of EASA AD 2020–0221,'' this AD requires using December 3, 2020 (the effective date of AD 2020–23–13).

(3) The ''Remarks'' section of EASA AD 2021–0024 does not apply to this AD.

(4) Paragraph (3) of EASA AD 2021–0024 specifies to report inspection results to ATR—GIE Avions de Transport Régional within a certain compliance time. For this AD, report inspection results at the applicable time specified in paragraph (h)(4)(i) or (ii) of this AD.

(i) If the inspection was done on or after December 3, 2020 (the effective date of AD 2020–23–13): Submit the report within 30 days after the inspection.

(ii) If the inspection was done before December 3, 2020 (the effective date of AD 2020–23–13): Submit the report within 30 days after the effective date of this AD.

(5) Paragraphs (5) and (6) of EASA AD 2021–0024 specify amending ''the applicable AFM [aircraft flight manual] of that aeroplane by inserting the AFM change provided in Appendix 1 of this [EASA] AD,'' but this AD requires amending ''the existing AFM and applicable corresponding operational procedures to incorporate the limitations and procedures specified in Appendix 1 of EASA AD 2021–0024.''

(6) Where paragraphs (5) and (6) of EASA AD 2021–0024 specify to ''inform all flight crews, and, thereafter, operate the aeroplane accordingly,'' this AD does not require those actions as those actions are already required by existing FAA operating regulations.

**(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 responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (j)(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 responsible Flight Standards Office.

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

**(j) Related Information**

(1) For information about EASA AD 2021–0024, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* Internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.* 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–2021–0366.

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

Issued on May 7, 2021.

**Gaetano A. Sciortino,**

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

[FR Doc. 2021–10015 Filed 5–12–21; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2021–0364; Project Identifier MCAI–2020–00274–R]**

**RIN 2120–AA64**

## Airworthiness Directives; Leonardo S.p.a. Helicopters

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for Leonardo S.p.a. (Leonardo) Model A109S and AW109SP helicopters with a certain part-numbered vertical fin vibration absorber installation installed. This proposed AD would require repetitive inspections of the vertical fin vibration absorber installation and the surrounding structure and depending on

the inspection results, removing certain parts from service. This proposed AD would also prohibit installing certain part-numbered vertical fin vibration absorber installations. This proposed AD was prompted by a report of cracks and damage detected on the vertical fin absorber installation and surrounding structure during scheduled inspections. The actions of this proposed AD are intended to address an unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by June 28, 2021.

**ADDRESSES:** You may send comments by any of the following methods:

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

For service information identified in this proposed rule, contact Leonardo S.p.a. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://www.leonardocompany.com/en/home.* 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–2021–0364; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the European Union Aviation Safety Agency (EASA) AD, any comments received, and other information. The street address for Docket Operations is listed above.

**FOR FURTHER INFORMATION CONTACT:** Kristin Bradley, Aerospace Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *Kristin.Bradley@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0364; Project Identifier MCAI–2020–00274–R'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

**Confidential Business Information**

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Kristin Bradley, Aerospace Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *Kristin.Bradley@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

**Background**

EASA, which is the Technical Agent for the Member States of the European Union, issued EASA AD 2014–0150, dated June 18, 2014 (EASA AD 2014–0150), to correct an unsafe condition for certain AgustaWestland S.p.A. (now Leonardo S.p.a. Helicopters) (formerly Agusta S.p.A.) Model A109S and AW109SP helicopters, with absorber part number (P/N) 109–B810–79–101installed. EASA advises that during a scheduled inspection on Model A109S and AW109SP helicopters, cracks and damage were detected on the vertical fin vibration absorber installation and the surrounding structure. EASA states investigation results determined the cracks and damage were likely related to the design of the vertical fin vibration absorber installation and incorrect installation. Accordingly, EASA AD 2014–0150 required repetitive inspections and removal of the affected part.

After EASA AD 2014–0150 was issued, EASA determined certain helicopters were not included in the applicability and may also be subject to the unsafe condition. Accordingly, EASA issued EASA AD 2019–0294, dated December 4, 2019 (EASA AD 2019–0294), which supersedes EASA AD 2014–0150. EASA AD 2019–0294 retains the requirements of EASA AD 2014–0150, and expands the applicability, prohibits vertical fin vibration absorber installation P/N 109–B810–79–101 from being installed on any helicopter, and considers removal of the affected part to constitute terminating action for the repetitive inspections. EASA states this condition if not detected and corrected could affect the structural integrity of the helicopter.

**FAA's Determination**

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA about the unsafe condition described in its AD. The FAA is proposing this AD after evaluating all known relevant information and determining that an unsafe condition is likely to exist or develop on other helicopters of the same type designs.

**Related Service Information**

The FAA reviewed AgustaWestland S.p.A. Bollettino Technico (BT) No. 109S–58 for Model A109S helicopters, and AgustaWestland S.p.A BT No. 109SP–074 for Model AW109SP helicopters, each dated May 7, 2014. This service information specifies instructions for removing the vertical fin vibration absorber installation, inspecting the rib assembly and vertical fin vibration absorber installation and depending on the inspection results, removing certain parts from service.

**Proposed AD Requirements in This NPRM**

This proposed AD would require within 30 hours time-in-service (TIS) after the effective date of this AD, and thereafter every 100 hours TIS, removing the vertical fin vibration absorber installation P/N 109–B810–79–101, and using a mirror and light source, inspecting the rib assembly and depending on the inspection results, removing certain parts from service. This proposed AD would also require inspecting the vertical fin vibration absorber installation P/N 109–B810–79–101 for hole elongation; for fretting between the plate and the masses, and in-between the masses; for fretting on the doubler; and the bolts for scratches and corrosion. Depending on the inspection results, this proposed AD would require removing the vertical fin vibration absorber installation P/N 109–B810–79–101 from service. This proposed AD would also require, within 12 months TIS after the effective date of this AD, unless already accomplished, removing the vertical fin vibration absorber installation P/N 109–B810–79–101 from service. This proposed AD would also prohibit installing an affected part on any helicopter, and would provide a terminating action for the 100 hour TIS repetitive inspections.

**Differences Between This Proposed AD and the EASA AD**

EASA AD 2019–0294 applies to certain serial-numbered Model A109S and AW109SP helicopters, whereas this proposed AD would apply to all serial-numbered Model A109S and AW109SP helicopters with a certain part-numbered vertical fin vibration absorber installation installed.

**Costs of Compliance**

The FAA estimates that this proposed AD would affect 96 helicopters of U.S. Registry. The FAA estimates that operators may incur the following costs in order to comply with this proposed AD. Labor costs are estimated at $85 per work-hour.

Removing and inspecting the vertical fin vibration absorber installation and surrounding structure would take about 8 work-hours for an estimated cost of $680 per helicopter per inspection cycle and $65,280 for the U.S. fleet per inspection cycle.

Replacing the rib assembly, shim, doubler, and bracket would take about 16 work-hours and parts would cost about $10,000 for an estimated cost of $11,360 per helicopter.

According to Leonardo 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 by Leonardo. Accordingly, all costs are included 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, I certify this proposed regulation:

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

2. Would not affect intrastate aviation in Alaska, and

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

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

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

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**Leonardo S.p.a.:** Docket No. FAA–2021–0364; Project Identifier MCAI–2020–00274–R.

**(a) Comments Due**

The FAA must receive comments on this airworthiness directive (AD) by June 28, 2021.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Leonardo S.p.a. Model A109S helicopters and AW109SP helicopters, certificated in any category, with vertical fin vibration absorber installation part number (P/N) 109–B810–79–101 installed.

**(d) Subject**

Joint Aircraft Service Component (JASC) Code: 2740, Stabilizer Control System.

**(e) Unsafe Condition**

This AD defines the unsafe condition as cracks or damage on the vertical fin vibration absorber installation and surrounding structure. This condition could affect the structural integrity of the helicopter and lead to 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 30 hours time-in-service (TIS) after the effective date of this AD, and thereafter at intervals not to exceed 100 hours TIS:

(i) Remove the vertical fin vibration absorber installation P/N 109–B810–79–101, and using a mirror and light source, visually inspect the rib assembly P/N 109–0372–53–201 for hole elongation, fretting, and cracks. If there is any hole elongation, fretting, or cracks, before further flight, remove rib assembly P/N 109–0372–53–201, shim P/N 109–0372–53–211, doubler P/N 109–0372–53–213, and bracket P/N 109–0373–02–113 from service and replace with airworthy parts.

(ii) Inspect the vertical fin vibration absorber installation P/N 109–B810–79–101 for hole elongation; for fretting between the plate and the masses and in-between the masses; for fretting on doubler P/N 109–0372–53–213; and the bolts for scratches and corrosion. If there is any hole elongation; fretting between the plate and the masses or in-between the masses; fretting on doubler P/

N 109–0372–53–213; or bolts with scratches or corrosion, before further flight, remove the vertical fin vibration absorber installation P/N 109–B810–79–101 from service.

(2) Within 12 months TIS after the effective date of this AD unless already accomplished per paragraph (g)(1)(ii) of this AD, remove the vertical fin vibration absorber installation P/N 109–B810–79–101 from service.

(3) As of the effective date of this AD, do not install vertical fin vibration absorber installation P/N 109–B810–79–101 on any helicopter.

(4) Removing the vertical fin vibration absorber installation P/N 109–B810–79–101 from service, as described in paragraphs (g)(1)(ii) or (2) of this AD provides a terminating action for the 100 hour TIS repetitive inspections required by paragraph (g)(1) of this AD.

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

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

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

**(i) Related Information**

(1) For more information about this AD, contact Kristin Bradley, Aerospace Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *Kristin.Bradley@faa.gov.*

(2) For service information identified in this AD, contact Leonardo S.p.a. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G.Agusta 520, 21017 C. Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://www.leonardocompany.com/en/home.* You may view this referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

(3) The subject of this AD is addressed in European Union Aviation Safety Agency (EASA) AD 2019–0294, dated December 4, 2019. You may view the EASA AD on the internet at *https://www.regulations.gov* in Docket No. FAA–2021–0364.

Issued on May 6, 2021.

**Gaetano A. Sciortino,**

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

[FR Doc. 2021–09992 Filed 5–12–21; 8:45 am]

BILLING CODE 4910–13–P

# Notices

Federal Register
Vol. 86, No. 91
Thursday, May 13, 2021

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

**[Docket No. FSIS–2021–0011]**

### Retail Exemptions Adjusted Dollar Limitations

**AGENCY:** Food Safety and Inspection Service, Agriculture (USDA).

**ACTION:** Notice.

**SUMMARY:** The Food Safety and Inspection Service (FSIS) is announcing the dollar limitations on the amount of meat and meat food products and poultry and poultry products that a retail store can sell to hotels, restaurants, and similar institutions without disqualifying itself for exemption from Federal inspection requirements.

**DATES:** *Applicable* June 14, 2021.

**FOR FURTHER INFORMATION CONTACT:** Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Mailstop 3758, South Building, Washington, DC 20250–3700; (202) 720–5627.

**SUPPLEMENTARY INFORMATION:**

#### Background

The Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*) provide a comprehensive statutory framework to ensure that meat and meat food products and poultry and poultry products prepared for commerce are wholesome, not adulterated, and properly labeled and packaged. Statutory provisions requiring inspection of the processing of meat and meat food products and poultry and poultry products do not apply to operations of types traditionally and usually conducted at retail stores and restaurants in regard to products offered for sale to consumers in normal retail quantities (21 U.S.C. 661(c)(2) and 454(c)(2)). FSIS's regulations (9 CFR 303.1(d) and 381.10(d)) elaborate on the conditions under which requirements for inspection do not apply to retail operations involving the preparation of meat and meat food products and the processing of poultry and poultry products.

#### Sales to Hotels, Restaurants, and Similar Institutions

Under the aforementioned regulations, sales to hotels, restaurants, and similar institutions (other than household consumers) disqualify a retail store from exemption if the retail product sales exceed either of two maximum limits: 25 percent of the dollar value of the total retail product sales of the amenable product or the calendar year retail dollar limitation set by the FSIS Administrator. The retail dollar limitation is adjusted automatically during the first quarter of the year if the Consumer Price Index (CPI), published by the Bureau of Labor Statistics, shows an increase or decrease of more than $500 in the price of the same volume of product for the previous year. FSIS publishes a notice of the adjusted retail dollar limitations in the **Federal Register**. (See 9 CFR 303.1(d)(2)(iii)(*b*) and 381.10(d)(2)(iii)(*b*).)

The CPI for 2020 reveals an annual average price increase for meat and meat food products at 7.38 percent, an average annual price increase for Siluriformes fish and fish products at 3.26 percent, and an annual average price increase for poultry and poultry products at 5.6 percent. When rounded to the nearest $100 dollar, the retail dollar limitation for meat and meat food products, including Siluriformes fish and fish products, increased by $5,700 [1] and the retail dollar limitation for poultry and poultry products increased by $3,200. In accordance with 9 CFR 303.1(d)(2)(iii)(*b*) and 381.10(d)(2)(iii)(*b*), because the retail dollar limitations for meat and meat food products increased by more than $500, FSIS is increasing the dollar limitation on sales to hotels, restaurants, and similar institutions to $84,900 for meat and meat food products for calendar year 2021. Because the retail dollar limitations for poultry and poultry products increased by more than $500, FSIS is increasing the dollar limitation on sales to hotels, restaurants, and similar institutions to $59,800 for poultry and poultry products for calendar year 2021.

[1] The base value for ''meat and meat products'' in 2020 was $79,200, which included $76,700 for meat and meat products and $2,500 to account for Siluriformes fish and fish products. The meat and meat products prices increased by 7.38 percent or $5,660 ($76,700 × 0.0738 = $5,660) during 2020. The Siluriformes fish and fish products prices increased by 3.26 percent or $82 ($2,500 × 0.0326 = $82) during 2020. Combined, the value for ''meat and meat products'' that includes Siluriformes fish and fish products increased by $5,742 ($5,660 + $82). Since this change is more than $500, the base is adjusted to nearest $100 or $5,700.

#### Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS web page located at: *https://www.fsis.usda.gov/federal-register.*

FSIS will also announce and provide a link to this **Federal Register** publication through the FSIS *Constituent Update,* which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS can provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *https://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

#### USDA Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/

parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint* and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by: (1) Mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410; (2) fax: (202) 690–7442; or (3) email: *program.intake@usda.gov.*

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**Paul Kiecker,**

*Administrator.*

[FR Doc. 2021–10129 Filed 5–12–21; 8:45 am]

**BILLING CODE 3410–DM–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Hood and Willamette Resource Advisory Committee

**AGENCY:** U.S. Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Hood and Willamette Resource Advisory Committee (RAC) will be meeting virtually. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the U.S. Forest Service concerning projects and funding consistent with Title II of the mentioned Act. The meeting is open to the public. The purpose of the meeting is to make funding recommendations on an array of new project proposals. Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following website: *https://www.fs.usda.gov/main/willamette/workingtogether/advisorycommittees.*

**DATES:** The meeting will be held on July 7, 2021 at 10:00 a.m., Pacific Daylight Time. All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

**ADDRESSES:** The meeting will be held virtually. Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Willamette National Forest Supervisor's Office, 3106 Pierce Parkway, Suite D, Springfield, OR 97477.

**FOR FURTHER INFORMATION CONTACT:** Christine Meyers, Acting RAC Coordinator (until June 18, 2021), by email at *christine.meyers@usda.gov;* or Jennifer Sorensen, RAC Coordinator (post June 18, 2021), by email at *jennifer.sorensen@usda.gov.*

Individuals who use telecommunication devices for the hearing-impaired (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Daylight Time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** The purpose of the meeting is to:

1. Introduce RAC members;
2. Review the rules and regulations surrounding the Secure Rural School Title II process and Charter;
3. Revisit discussion from the first meeting; and
4. Make funding recommendations of new Secure Rural Schools Title II projects.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by June 18, 2021 to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for oral comments must be sent to Christine Meyers, Acting RAC Coordinator, by email, at: *christine.meyers@usda.gov.*

*Meeting Accommodations:* If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case-by-case basis.

Dated: May 10, 2021.

**Cikena Reid,**

*USDA Committee Management Officer.*

[FR Doc. 2021–10106 Filed 5–12–21; 8:45 am]

**BILLING CODE 3411–15–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Ketchikan Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Ketchikan Resource Advisory Committee (RAC) will hold a virtual meeting by phone and/or video conference. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act as well as make recommendations on recreation fee proposals for sites on the Tongass National Forest within the Ketchikan Borough, consistent with the Federal Lands Recreation Enhancement Act.

**DATES:** The meeting will be held on June 3, 2021 at 6:00 p.m., Alaska Daylight Time.

All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

**ADDRESSES:** The meeting will be held virtually via telephone and/or video conference.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and

copying. The public may inspect comments received upon request.

**FOR FURTHER INFORMATION CONTACT:** Shane Walker, Designated Federal Officer (DFO), by phone at 907–228–4100 or email at *michael.s.walker@usda.gov* or Penny Richardson, RAC Coordinator, at 907–228–4105 or email at *penny.richardson@usda.gov.*

Individuals who use telecommunication devices for the hearing-impaired (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Daylight Time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** The purpose of the meeting is to:

1. Hear from Title II project proponents and discuss project proposals;
2. Make funding recommendations on Title II projects;
3. Approve meeting minutes; and
4. Schedule the next meeting.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by May 27, 2021, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Penny Richardson, RAC Coordinator, 3031 Tongass Ave., Ketchikan, AK 99901; or by email to *penny.richardson@usda.gov.*

*Meeting Accommodations:* If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case-by-case basis.

Dated: May 10, 2021.

**Cikena Reid,**

*USDA Committee Management Officer.*

[FR Doc. 2021–10103 Filed 5–12–21; 8:45 am]

**BILLING CODE 3411–15–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Northern Utah Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Northern Utah Resource Advisory Committee (RAC) will hold a virtual meeting by phone and/or video conference. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act as well as make recommendations on recreation fee proposals for sites on Ashley and Uinta-Wasatch-Cache National Forests, consistent with the Federal Lands Recreation Enhancement Act. RAC information and virtual meeting information can be found at the following website: *https://www.fs.usda.gov/ashley/* and *https://www.fs.usda.gov/uwcnf.*

**DATES:** The meeting will be held on June 9, 2021 at 6:00 p.m., Mountain Daylight Time.

All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

**ADDRESSES:** The meeting will be held virtually via telephone and/or video conference.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received upon request.

**FOR FURTHER INFORMATION CONTACT:** Dave Whittekiend, Designated Federal Officer (DFO), by phone at 801–503–7190, or email at *david.whittekiend@usda.gov* or Ms. Loyal Clark at 801–999–2113 or email at *loyal.clark@usda.gov.*

Individuals who use telecommunication devices for the hearing-impaired (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Daylight Time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** The purpose of the meeting is to:

1. Introduce and provide an overview of RAC roles and responsibilities;
2. Elect a RAC chairperson and vice chairperson;
3. Establish operating norms for the RAC;
4. Review Title II project proposal recommendation and approval process;
5. Approve meeting minutes; and
6. Schedule the next meeting.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by June 1, 2021, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Ms. Loyal Clark, Uinta-Wasatch-Cache National Forest, 857 West South Jordan Parkway, South Jordan, UT; or by email to *loyal.clark@usda.gov.*

*Reasonable Accommodations:* If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case-by-case basis.

Dated: May 10, 2021.

**Cikena Reid,**

*USDA Committee Management Officer.*

[FR Doc. 2021–10102 Filed 5–12–21; 8:45 am]

**BILLING CODE 3411–15–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Hood and Willamette Resource Advisory Committee

**AGENCY:** U.S. Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Hood and Willamette Resource Advisory Committee (RAC) will be meeting virtually. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the U.S. Forest Service concerning projects and funding consistent with Title II of the Act. RAC information, can be found at the following website: *https://www.fs.usda.gov/main/willamette/workingtogether/advisorycommittees.*

**DATES:** The meetings will be held on:

- June 7, 2021 at 10:00 a.m., Pacific Daylight Time; and

• June 9, 2021 at 10:00 a.m., Pacific Daylight Time.

All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

**ADDRESSES:** The meetings will be held virtually. Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Willamette National Forest Supervisor's Office, 3106 Pierce Parkway, Suite D, Springfield, OR 97477.

**FOR FURTHER INFORMATION CONTACT:** Christine Meyers, Acting RAC Coordinator (until June 18, 2021), by email at *christine.meyers@usda.gov;* or Jennifer Sorensen, RAC Coordinator (post June 18, 2021), by email at *jennifer.sorensen@usda.gov.*

Individuals who use telecommunication devices for the hearing-imparied (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Daylight Time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** The purpose of the meeting is to:

1. Introduce the RAC members to one another;
2. Review the rules and regulations surrounding the Secure Rural School Title II process and Charter;
3. Elect a Committee Chair;
4. Hear from project proponents; and
5. Discuss new Secure Rural Schools Title II projects.

The meetings are open to the public. The agendas will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement at any of the meetings should request to do so in writing by May 17, 2021, to be scheduled on the agenda for that particular meeting. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for oral comments may be submitted to Christine Meyers, Acting RAC Coordinator, by email, at: *christine.meyers@usda.gov.*

*Meeting Accommodations:* If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case-by-case basis.

Dated: May 10, 2021.

**Cikena Reid,**

*USDA Committee Management Officer.*

[FR Doc. 2021–10107 Filed 5–12–21; 8:45 am]

**BILLING CODE 3411–15–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Information Collections: Clauses and Forms for Operating Plans and Agreements for Powerline Facility Operation and Maintenance, Inspections, and Vegetation Management and Clause for Vegetation Management Pilot Program Projects

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments on two new information collections, Forms and Clauses for Operating Plans and Agreements for Powerline Facility Operation and Maintenance, Inspections, and Vegetation Management and Clause for Vegetation Management Pilot Program Projects.

**DATES:** Comments must be received in writing on or before July 12, 2021.

**ADDRESSES:** Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

*Email: reply_lands_staff@usda.gov.*

*Mail:* USDA Forest Service, Attention: Lands, 1400 Independence Avenue, Southwest, Mailstop 1124, Washington, DC 20250–1124.

*Facsimile:* 703–605–5117.

All comments, including names and addresses when provided, will be placed in the record and will be available for public inspection and copying. The public may review the new information collections, and comments on the new information collections, on the Forest Service forms web page at *https://www.fs.usda.gov/managing-land/lands-and-realty-management/forms.* Comments will be summarized in the Forest Service's request for Office of Management and Budget approval of the new information collections and will be addressed in a **Federal Register** notice of the final revisions to the approved information collections.

**FOR FURTHER INFORMATION CONTACT:** Reggie Woodruff, Energy Program Manager, at 202–205–1196 or via email at *reginal.woodruff@usda.gov.* Individuals who use telecommunication devices for the hearing-impaired (TDD) may call the Federal Information Relay Service at 800–877–8339 24 hours a day, every day of the year.

**SUPPLEMENTARY INFORMATION:**

*Title:* Clauses and Forms for Operating Plans and Agreements for Powerline Facility Operation and Maintenance, Inspections, and Vegetation Management.

*OMB Number:* 0596–NEW.

*Type of Request:* New.

*Abstract:* The Consolidated Appropriations Act of 2018 amended the Federal Land Policy and Management Act (FLPMA) to add section 512, which requires the Forest Service to collect information from owners and operators of powerline facilities for development of operating plans and agreements governing vegetation management, operation and maintenance, and inspection of powerline facilities on National Forest System (NFS) lands. The collected information will be evaluated by line officers and realty specialists at Forest Service field units where powerline facilities are located to implement the requirements of section 512 of FLPMA regarding operating plans and agreements governing vegetation management, operation and maintenance, and inspections of powerline facilities.

*Affected Public:* Individuals, the private sector (business and nonprofit entities and state, local, and tribal governmental entities).

*Estimate of Burden per Response:* 240 hours.

*Estimated Annual Number of Respondents:* 10.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 2,400 hours.

*Title:* Clause for Vegetation Management Pilot Program Projects.

*OMB Number:* 0596–NEW.

*Type of Request:* NEW.

*Abstract:* Section 8630 of the Agriculture Improvement Act of 2018 (Farm Bill) gives the Forest Service discretion to authorize vegetation management pilot program projects under lower liability standards to holders of an authorization for a powerline facility or natural gas pipeline. These pilot projects may be conducted only on NFS lands that are not covered by the special use authorization for the powerline facility

or natural gas pipeline. The pilot projects must be conducted outside the linear right-of-way for the associated powerline facility or natural gas pipeline; may not extend more than 150 feet from either side of the powerline facility or natural gas pipeline; and may not have a total width of more than 200 feet including both sides of the powerline facility or natural gas pipeline. In addition, the pilot projects may not overlap with vegetation management conducted under the special use authorization for the powerline facility or natural gas pipeline, including removal and pruning of hazard trees outside the linear right-of-way for a powerline facility. The liability provisions in a special use permit for a pilot project have no effect on the liability provisions in the special use authorization for the powerline facility or natural gas pipeline, including the liability provisions that apply to removal and pruning of hazard trees inside and outside the linear right-of-way. Proposed new clause B–39 in Forest Service Handbook 2709.11, Chapter 50, section 52.2, would provide for authorizing vegetation management pilot projects consistent with section 8630 of the Farm Bill and Title V of the Federal Land Policy and Management Act, section 28 of the Mineral Leasing Act, and their implementing regulations.

*Affected Public:* Individuals, the private sector (business and nonprofit entities and state, local, and tribal governmental entities).

*Estimate of Burden per Response:* 32 hours.

*Estimated Annual Number of Respondents:* 2.

*Estimated Annual Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 64 hours.

*Comment is invited on:* (1) Whether these collections of information are necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collections of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

**Gregory C. Smith,**

*Director, Lands and Realty Management, National Forest System.*

[FR Doc. 2021–10125 Filed 5–12–21; 8:45 am]

**BILLING CODE 3411–15–P**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[B–02–2021]**

### Foreign-Trade Zone (FTZ) 114—Peoria, Illinois; Authorization of Limited Production Activity; Rivian Automotive, LLC (Electric Vehicles and Components); Normal, Illinois

On January 8, 2021, Rivian Automotive, LLC submitted a notification of proposed production activity to the FTZ Board for its facilities within FTZ 114, in Normal, Illinois.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (86 FR 7249, January 27, 2021). On May 10, 2021, the applicant was notified of the FTZ Board's decision that further review of part of the proposed activity is warranted. The FTZ Board authorized the production activity described in the notification on a limited basis, subject to the FTZ Act and the Board's regulations, including Section 400.14, and further subject to a restriction requiring the following foreign-status components be admitted to the zone in privileged foreign status (19 CFR 146.41): Carrying/storage cases of man-made fibers; seat belt webbing; camping tents for pick-up truck beds; floor carpet for vehicles; seat belt assemblies; seat belt adjusters and assemblies; sun visors; sun visor covers, straps, and catches; and, airbags.

Dated: May 10, 2021.

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. 2021–10126 Filed 5–12–21; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XB079]**

### Permanent Advisory Committee To Advise the U.S. Commissioners to the Western and Central Pacific Fisheries Commission; Meeting Announcement

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

**ACTION:** Notice of public meeting.

**SUMMARY:** NMFS announces a public meeting of the Permanent Advisory Committee (PAC) to advise the U.S. Commissioners to the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC) on June 10, 2021. Meeting topics are provided under the **SUPPLEMENTARY INFORMATION** section of this notice.

**DATES:** The meeting of the PAC will be held via web conference on June 10, 2021, from 11 a.m. to 1 p.m. Hawaii Standard Time (HST) (or until business is concluded). Members of the public may submit written comments on meeting topics or materials; comments must be received by June 5, 2021.

**ADDRESSES:** The public meeting will be conducted via conference call. For details on how to call in to the conference line or to submit comments, please contact Emily Reynolds, NMFS Pacific Islands Regional Office; telephone: 808–725–5039; email: *emily.reynolds@noaa.gov.* Documents to be considered by the PAC will be sent out via email in advance of the conference call. Please submit contact information to Emily Reynolds (telephone: 808–725–5039; email: *emily.reynolds@noaa.gov*) at least 3 days in advance of the call to receive documents via email. This meeting may be recorded for the purposes of generating notes of the meeting and participation in the meeting constitutes consent to the recording.

**FOR FURTHER INFORMATION CONTACT:** Emily Reynolds, NMFS Pacific Islands Regional Office; 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818; telephone: 808–725–5039; facsimile: 808–725–5215; email: *emily.reynolds@noaa.gov.*

**SUPPLEMENTARY INFORMATION:** In accordance with the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901 *et seq.*), the PAC, has been formed to advise the U.S. Commissioners to the

WCPFC. The PAC is composed of: (i) Not less than 15 nor more than 20 individuals appointed by the Secretary of Commerce in consultation with the U.S. Commissioners to the WCPFC; (ii) the chair of the Western Pacific Fishery Management Council's Advisory Committee (or the chair's designee); and (iii) officials from the fisheries management authorities of American Samoa, Guam, and the Northern Mariana Islands (or their designees). The PAC supports the work of the U.S. National Section to the WCPFC in an advisory capacity. The U.S. National Section is made up of the U.S. Commissioners and the Department of State. NMFS Pacific Islands Regional Office provides administrative and technical support to the PAC in cooperation with the Department of State. More information on the WCPFC, established under the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, can be found on the WCPFC website: *http://www.wcpfc.int.*

**Meeting Topics**

The purpose of the June 10, 2021 meeting is to discuss U.S. priorities leading up to the 2021 regular session of the WCPFC (WCPFC18) and potential management measures for tropical tunas and other issues of interest.

**Special Accommodations**

The conference call is accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Emily Reynolds at 808–725–5039 by May 27, 2021.

**Authority:** 16 U.S.C. 6902 *et seq.*

Dated: May 10, 2021.

**Jennifer M. Wallace,**

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

[FR Doc. 2021–10105 Filed 5–12–21; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XB053]**

### Endangered Species; File Nos. 21467 and 22822

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

**ACTION:** Notice; receipt of applications for permit modifications.

**SUMMARY:** Notice is hereby given that two applicants have requested permit modifications to take green (*Chelonia mydas*), hawksbill (*Eretmochelys imbricata*), Kemp's ridley (*Lepidochelys kempii*), and loggerhead (*Caretta caretta*) sea turtles for purposes of scientific research.

**DATES:** Written, telefaxed, or email comments must be received on or before June 14, 2021.

**ADDRESSES:** The modification requests and related documents are available for review by selecting ''Records Open for Public Comment'' from the Features box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting the applicable File No. from the list of available applications. These documents are also available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov.* The request should set forth the specific reasons why a hearing on this application would be appropriate.

**FOR FURTHER INFORMATION CONTACT:** Erin Markin, Amy Hapeman, or Jordan Rutland, (301) 427–8401.

**SUPPLEMENTARY INFORMATION:** The subject permit modifications are requested under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

*File No. 21467–03:* Karen Holloway-Adkins, Ph.D., East Coast Biologists, Inc., P.O. Box 33715, Indialantic, FL 32903, proposes to modify Permit No. 21647–02. Permit No. 21467 was originally issued on May 10, 2018 (83 FR 27545; June 13, 2018). A minor modification to the permit was issued on March 8, 2021 (Permit No. 21467–01). The permit authorizes the permit holder to determine (1) spatial and temporal distribution, (2) mean size, (3) foraging habitats and diet composition, (4) body conditions and fibropapillomatosis ratios, (5) genetic origin, and (6) home-range, site fidelity, and residency times of green and loggerhead sea turtles in Brevard County, Florida. Researchers may capture by tangle, cast or dip net or hand, measure, mark, biologically sample, tag, weigh, and photograph sea turtles prior to release. The permit holder requests authorization to (1) increase the number of loggerhead sea turtles from 6 to 10 individuals annually for the authorized methods listed above and (2) add another 10 loggerhead sea turtles annually for capture, tagging (PIT, flipper), biological sampling, measuring, weighing, and photographing prior to release. The permit is valid through September 30, 2027.

*File No. 22822–04:* Pamela Plotkin, Ph.D., Texas Sea Grant, Texas A&M University, 797 Lamar Street, 4115 TAMU, College Station, TX 77843, proposes to modify Permit No. 22822–01. Permit No. 22822 was originally issued on September 26, 2019 (84 FR 54121; October 9, 2019). A minor modification to the permit was issued on January 21, 2020 (Permit No. 22822–01). The permit authorizes the permit holder to determine the spatiotemporal distribution of green, hawksbill, Kemp's ridley, and loggerhead sea turtles in Matagorda Bay, Texas. Researchers may capture by tangle net, biologically sample, tag, mark, measure, weigh, and photograph/video sea turtles prior to release. The permit holder requests authorization to (1) increase the number of green sea turtles from 10 to 20 individuals annually for the authorized methods listed above and (2) add another 8 green sea turtles annually for capture, flipper tagging, biological sampling, measuring, weighing, and photographing prior to release. The permit is valid through December 31, 2021.

Dated: May 6, 2021.

**Julia Marie Harrison,**

*Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2021–10092 Filed 5–12–21; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XB078]**

### North Pacific Fishery Management Council; Public Meeting

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

**ACTION:** Notice of webconference.

**SUMMARY:** The North Pacific Fishery Management Council (NPFMC) Ecosystem Committee will meet May 27, 2021.

**DATES:** The meeting will be held on Thursday, May 27, 2021, from 12 p.m. to 5 p.m., Alaska Daylight Time.

**ADDRESSES:** The meeting will be a webconference. Join online through the link at *https://meetings.npfmc.org/Meeting/Details/2111.*

*Council address:* North Pacific Fishery Management Council, 1007 W 3rd Ave., Anchorage, AK 99501–2252; telephone: (907) 271–2809. Instructions for attending the meeting are given under **SUPPLEMENTARY INFORMATION**, below.

**FOR FURTHER INFORMATION CONTACT:** Steve MacLean, Council staff; phone; (907) 271–2809 and email: *steve.maclean@noaa.gov.* For technical support please contact administrative Council staff, email: *npfmc.admin@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Agenda

*Thursday, May 27, 2021*

The Ecosystem Committee is meeting to review the Bering Sea Fishery Ecosystem Plan Reports, plan for the proposed State of the Ecosystem Workshop, continue discussing priority items for committee agendas for the next year, and other business. The agenda is subject to change, and the latest version will be posted at *https://meetings.npfmc.org/Meeting/Details/2111* prior to the meeting, along with meeting materials.

### 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/2111.*

### Public Comment

Public comment letters will be accepted and should be submitted electronically to *https://meetings.npfmc.org/Meeting/Details/2111.*

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

Dated: May 10, 2021.

**Tracey L. Thompson,**

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

[FR Doc. 2021–10097 Filed 5–12–21; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XA981]**

### Fisheries of the South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

**ACTION:** Notice of SEDAR 78 South Atlantic Spanish Mackerel Data Scoping webinar.

**SUMMARY:** The SEDAR 78 assessment of the South Atlantic stock of Spanish Mackerel will consist of a data scoping webinar and a series of assessment webinars.

**DATES:** The SEDAR 78 South Atlantic Spanish Mackerel Data Scoping Webinar has been scheduled for Wednesday, June 2, 2021, from 12 p.m. to 3 p.m., EDT.

**ADDRESSES:**

*Meeting address:* The meeting will be held via webinar. The webinar is open to members of the public. Registration is available online at: *https://attendee.gotowebinar.com/register/6536875217419046928.*

*SEDAR address:* South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405; *www.sedarweb.org.*

**FOR FURTHER INFORMATION CONTACT:** Kathleen Howington, SEDAR Coordinator, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: (843) 573–4373; email: *Kathleen.Howington@safmc.net.*

**SUPPLEMENTARY INFORMATION:** The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions, have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a three-step process including: (1) Data Workshop; (2) Assessment Process utilizing webinars; and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, Highly Migratory Species Management Division, and Southeast Fisheries Science Center. Participants include: Data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations (NGOs); international experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion at the SEDAR 78 South Atlantic Spanish Mackerel Data Scoping Webinar are as follows:

- Discuss available data sources
- Identify and discuss potential new data sources

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

### Special Accommodations

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the South Atlantic Fishery Management Council office (see **ADDRESSES**) at least 5 business days prior to the meeting.

**Note:** The times and sequence specified in this agenda are subject to change.

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

Dated: May 10, 2021.

**Tracey L. Thompson,**

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

[FR Doc. 2021–10098 Filed 5–12–21; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XB073]**

### Marine Mammals; File No. 25672

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

**ACTION:** Notice; receipt of application.

**SUMMARY:** Notice is hereby given that Miling Li, Sc.D., University of Delaware, 15 Innovation Way, Newark, DE 19711, has applied in due form for a permit to import biological samples from beluga whales (*Delphinapterus leucas*) for scientific research.

**DATES:** Written or email comments must be received on or before June 14, 2021.

**ADDRESSES:** The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 25672 from the list of available applications. These documents are also available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 25672 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov.* The request should set forth the specific reasons why a hearing on this application would be appropriate.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Skidmore or Shasta McClenahan, Ph.D., (301) 427–8401.

**SUPPLEMENTARY INFORMATION:** The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant proposes to import biological samples from Canada from up to 160 Eastern Beaufort Sea beluga whales annually for scientific research to develop and use novel tools (*e.g.,* stable mercury and lead isotopes) for assessing climate change impacts on this population, including their foraging habitats and contaminant burden. The requested duration of the permit is 5 years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: May 6, 2021.

**Julia Marie Harrison,**

*Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2021–10093 Filed 5–12–21; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

**[Docket Number DARS–2021–0011; OMB Control Number 0704–0454]**

### Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Administrative and Information Matters

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Notice and request for comments regarding a proposed extension of an approved information collection requirement.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. *DoD invites comments on:* Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection requirement for use through September 30, 2021. DoD proposes that OMB extend its approval for three additional years.

**DATES:** DoD will consider all comments received by July 12, 2021.

**ADDRESSES:** You may submit comments, identified by OMB Control Number 0704–0454, using any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: osd.dfars@mail.mil.* Include OMB Control Number 0704–0454 in the subject line of the message.
- *Mail:* Defense Acquisition Regulations System, Attn: Ms. Heather Kitchens, OUSD (A&S) DPC (DARS), 3060 Defense Pentagon, Room 3B938, Washington, DC 20301–3060.

Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instrument, please contact Ms. Heather Kitchens, 571–372–6104.

**SUPPLEMENTARY INFORMATION:**

*Title and OMB Number:* Defense Federal Acquisition Regulation Supplement (DFARS), U.S.-International Atomic Energy Agency Additional Protocol; OMB Control Number 0704–0454.

*Needs and Uses:* This information collection is necessary to provide for protection of information or activities with national security significance. As such, this information collection requires contractors to comply with the notification process at DFARS 252.204–7010, Requirement for Contractor to Notify DoD if the Contractor's Activities are Subject to Reporting Under the U.S.-International Atomic Energy Agency Additional Protocol.

*Affected Public:* Businesses and other for-profit entities and not-for-profit institutions.

*Respondent's Obligation:* Required to obtain or retain benefits.

*Number of Respondents:* 10.

*Responses per Respondent:* 1.

*Annual Responses:* 10.

*Average Burden per Response:* 1 hour.

*Annual Response Burden Hours:* 10.

*Reporting Frequency:* On occasion.

Under the U.S.-International Atomic Energy Agency (IAEA) Additional Protocol, the United States is required to declare a wide range of public and private nuclear-related activities to the IAEA and potentially provide access to IAEA inspectors for verification purposes. The U.S.-IAEA Additional Protocol permits the United States unilaterally to declare exclusions from

inspection requirements for activities with direct national security significance.

The contract clause at DFARS 252.204–7010, as prescribed at DFARS 204.470–3, is included in contracts for research and development or major defense acquisition programs involving fissionable materials (*e.g.,* uranium, plutonium, neptunium, thorium, americium); other radiological source materials; or technologies directly related to nuclear power production, including nuclear or radiological waste materials.

The clause requires a contractor to provide written notification to the applicable DoD program manager and a copy of the notification to the contracting officer if the contractor is required to report its activities under the U.S.–IAEA Additional Protocol. Upon such notification, DoD will determine if access may be granted to IAEA inspectors, or if a national security exclusion should be applied.

**Jennifer D. Johnson,**

*Regulatory Control Officer, Defense Acquisition Regulations System.*

[FR Doc. 2021–10006 Filed 5–12–21; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF EDUCATION

### Notice Inviting Applications for the Proprietary Institution Grant Funds for Students Program Under the Higher Education Emergency Relief Fund (HEERF); American Rescue Plan Act, 2021 (ARP)

**AGENCY:** Office of Postsecondary Education, Department of Education.

**ACTION:** Notice.

**SUMMARY:** The Secretary is announcing the availability of new ARP (a)(4) grant funding under the Proprietary Institution Grant Funds for Students Program, Assistance Listing Number (ALN) 84.425Q, as authorized under section 2003 of the ARP, and inviting applications from eligible proprietary institutions that did not previously receive funding under section 314(a)(4) of the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSAA) in order for these institutions to make emergency financial aid grants to students. This notice relates to the approved information collection under OMB control number 1840–0852.

**DATES:**

*Applications Available:* May 13, 2021.

*Deadline for Transmittal of Applications:* Applications will be accepted on a rolling basis until August 11, 2021.

*Deadline for Submission of Required Proprietary Institution Certification Form:* August 11, 2021.

**ADDRESSES:** For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.federalregister.gov/d/2019-02206.*

**FOR FURTHER INFORMATION CONTACT:** Karen Epps, U.S. Department of Education, 400 Maryland Avenue SW, Room 250–64, Washington, DC 20202. Telephone: The Department of Education HEERF Call Center at (202) 377–3711. Email: *HEERF@ed.gov.* Please also visit our HEERF website at: *www2.ed.gov/about/offices/list/ope/arp.html.*

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

**SUPPLEMENTARY INFORMATION:**

**Full Text of Announcement**

**I. Funding Opportunity Description**

On March 11, 2021, the President signed into law the ARP (Pub. L. 117–2). This new law makes available approximately $39.6 billion for institutions of higher education under the HEERF grant program, with funding appropriated through existing programs previously authorized under the CRRSAA (Pub. L. 116–260).

With this notice, the Secretary is announcing that proprietary institutions of higher education, as defined in section 102(b) of the Higher Education Act of 1965, as amended, 20 U.S.C. 1002(b) (HEA), that did not previously receive funding under section 314(a)(4) of CRRSAA may apply for HEERF III grant funds under the ARP (a)(4) program, Proprietary Institution Grant Funds for Students ALN 84.425Q. The estimated available funds for this program is approximately $396 million. Allocations for eligible proprietary institutions of higher education will be calculated on the basis of the formula specified under section 314(a)(1)(A)–(F) of CRRSAA, with the total amount of funding allocated to the (a)(4) funding stream determined under ARP section 2003(4).

Under CRRSAA section 314(d)(7), which continues to apply to ARP (a)(4) funds, awards from the Proprietary Institution Grant Funds for Students program may only be used to provide emergency financial aid grants to students (including students exclusively enrolled in distance education), which may be used for any component of the student's cost of attendance or for emergency costs that arise due to coronavirus, such as tuition, food, housing, health care (including mental health care), or childcare. In making such emergency financial aid grants to students, grantees must prioritize grants to students with exceptional need, such as students who receive Pell Grants. Please note that drawing down any amount of these supplemental funds constitutes an institution's acceptance of the terms and conditions under the ARP and Supplemental Agreement, which are included as appendices to this notice for reference.

The Department will award supplemental funds to eligible institutions that previously received a CRRSAA section 314(a)(4) ALN 84.425Q award without requiring these institutions to submit a new application for funding. However, by August 11, 2021 (90 days of the publication of this notice) and prior to receiving an award, eligible institutions must submit a Required Proprietary Institution Certification (RPIC) form, which must be signed by the institution's president or chief executive officer and any owners with an ownership interest in the institution of 25 percent or more. The Department is adopting this form as an additional risk mitigation procedure. Completed RPIC forms must be emailed to *HEERFARP4@ed.gov.*

Proprietary institutions that did not receive a CRRSAA section 314(a)(4) award but are on the Department's published ARP (a)(4) allocation table may apply for and receive ARP (a)(4) funds. To receive an award, institutions must submit an application as well as the RPIC form by August 11, 2021.

The Department recognizes that some institutions may not want additional funds under the ARP. Institutions wanting to decline their award or a specified amount may should submit the Voluntary Decline of HEERF Grant Funds form to *HEERFRefund@ed.gov,* available at *www2.ed.gov/about/offices/list/ope/arp.html,* to redirect these funds to institutions with greater needs. If the Department has already made an ARP supplemental award to the institution, the Department will deobligate those supplemented funds in G5 by the amount specified in the form. Any returned funds will be redistributed to institutions that have not declined funds by applying the appropriate distribution formula and making additional supplemental awards. Institutions have 90 days from the publication of this notice to indicate if

they would like to decline or return unneeded ARP funds.

*Program Authority:* Section 2003 of the ARP and section 314 of the CRRSAA.

*Applicable Regulations:* (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) Subparts A through E of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

## II. Award Information

*Type of Award:* Formula grants.

*Estimated Available Funds:* $396,000,000.

*Grant Period:* Institutions must expend funds received under this program within 12 months of obligation of the funds by the Department.

## III. Eligibility Information

1. *Eligible Applicants:* Proprietary institutions of higher education, as defined in section 102(b) of the HEA.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Subgrantees:* Subgrantees are not allowed under this program.

## IV. Application and Submission Information

1. *Application Submission Instructions:*

Applicants are required to submit their applications using *Grants.gov*. To register to use *Grants.gov*, please visit their ''How to Apply for Grants'' web page (*www.grants.gov/applicants/apply-for-grants.html*), or call their Applicant Support helpdesk at 1–800–518–4726.

Each application for an ARP (a)(4) grant must include:

- A complete SF–424;
- Supplemental Information for the SF–424;
- A complete RPIC form, available at *www2.ed.gov/about/offices/list/ope/arp.html;* and
- The Proprietary Institution Grant Funds for Students Certification and Agreement (C&A).

**Note:** Institutions must submit the correct C&A. Each C&A must be completed using the OPE ID and DUNS number of the institution for which you are requesting funds. An institution will receive the amount specified for the institution in the Department's published ARP (a)(4) allocation table.

2. *Instructions to Decline an Award:* To voluntarily decline some or all of the institution's award, submit the Voluntary Decline of HEERF Grant Funds form, which you can find at *www2.ed.gov/about/offices/list/ope/arp.html,* to *HEERFRefund@ed.gov.*

3. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. However, under 34 CFR 79.8(a), we waive intergovernmental review in order to make timely awards.

4. *Funding Restrictions:* We specify funding restrictions in the C&A or Supplemental Agreement.

5. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* In general, to do business with the Department, you must—

(a) Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

(b) Register both your DUNS number and TIN with the System for Award Management (SAM), the Government's primary registrant database;

(c) Provide your DUNS number and TIN on your SAM application; and

(d) Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet at the following website: *http://fedgov.dnb.com/webform.* A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active. The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data you enter into the SAM database. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days. Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a *SAM.gov* Tip Sheet, which you can find at: *www2.ed.gov/fund/grant/apply/sam-faqs.html.*

## V. Award Administration Information

1. *Award Notices:* If you receive a grant award under this program, we will send you a Grant Award Notification (GAN), or we may send you an email containing a link to access an electronic version of your GAN.

2. *Reporting:* Institutions must comply with all HEERF reporting requirements. Reporting requirements are specified in the C&A or Supplemental Agreement.

## VI. Other Information

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

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

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

**Michelle A. Cooper,**

*Acting Assistant Secretary for Postsecondary Education.*

**Attachment: Example Supplemental Agreement for Proprietary Institution Supplemental Grant Funds for Students**

**American Rescue Plan Act of 2021**

**Supplemental Agreement (ALN 84.425Q) ((a)(4) Program)**

**Proprietary Institution Supplemental Grant Funds for Students**

The terms, conditions, and requirements governing your institution's (Recipient's) use of these supplemental grant funds awarded pursuant to section 2003 of the American Rescue Plan Act of 2021 (ARP) (Pub. L. 117–2) (supplemental award or grant) by the U.S. Department of Education (Department) are governed by section 2003 of the ARP and section 314 of the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSAA) (Pub. L. 116–260) and the following terms and conditions of this Supplemental Agreement.

*By Drawing Down These Grant Funds, You Agree To Be Bound by the Conditions Set Forth on Behalf of the Institution You Represent, and You Warrant That You Have the Authority To Bind the Institution to the Following Conditions*

Use of Grant Funds

1. Section 314(d)(7) of the CRRSAA, requires Recipient, as an institution of higher education as defined in section 102(b) of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. 1002(b), to use the funds made available by this supplemental award under Assistance Listing Number (ALN) 84.425Q only for emergency financial aid grants to students as described in section 314(c)(3) of the CRRSAA.

2. Under section 314(c)(3) of the CRRSAA, Recipient must make emergency financial aid grants to students (which may include students exclusively enrolled in distance education), which may be used for any component of the student's cost of attendance or for emergency costs that arise due to coronavirus, such as tuition, food, housing, health care (including mental health care), or child care.

3. Recipient acknowledges that it retains discretion to determine the amount and availability of each individual emergency financial aid grant consistent with all applicable laws, including non-discrimination laws. Recipient acknowledges it must not distribute emergency financial aid grants in a manner that discriminates against individuals on the basis of race, color, national origin, disability, or sex. See, *e.g.,* 42 U.S.C. 2000d *et seq.,* (Title VI), 29 U.S.C. 701 *et seq.,* (Rehabilitation Act), 20 U.S.C. 1681 (Title IX).

4. Recipient further acknowledges that under CRRSAA section 314(c)(3), it must prioritize grants to students with exceptional need, such as students who receive Pell Grants. However, students do not need to be Pell recipients or students who are eligible for Pell Grants in order to receive an emergency financial aid grant.

5. Recipient acknowledges that it may not condition the receipt of an emergency financial aid grant on continued or future enrollment with the Recipient. Recipient also acknowledges that it may not require a student to consent to the application of the emergency financial aid grant to the student's outstanding account balance with Recipient as a condition of receipt of or eligibility for an emergency financial aid grant. Recipient also acknowledges that adding preconditions to receiving a financial aid grant that thwart this requirement may be subjected to oversight and corrective action.

6. In consideration for this award, Recipient agrees that Recipient holds these grant funds in trust for students and acts in the nature of a fiduciary for students.

7. Recipient acknowledges that the Secretary recommends (a) the maximum Federal Pell Grant for the applicable award year as an appropriate maximum amount for a student's emergency financial aid grant in most cases, and (b) that the Recipient should consider each student's particular socioeconomic circumstances in the administration of these grants.

8. The Secretary strongly encourages Recipient's financial aid administrator to exercise the use of professional judgment available under HEA section 479A, 20 U.S.C. 1087tt, to make adjustments on a case-by-case basis to exclude individual emergency financial aid grants from the calculation of a student's expected family contribution. The Secretary has determined that consider these individual emergency financial aid grants do not constitute Federal financial aid under Title IV of the HEA.

9. Recipient acknowledges that it may voluntarily decline all or a portion of its ARP (a)(4) funds. The recipient may indicate this by submitting the Voluntary Decline of HEERF form (OMB Control Number 1840–0856) to the Department by August 11, 2021. Recipient further acknowledges if it submits this form, it will be ineligible for the future redistribution of ARP HEERF grant funds to other institutions with greater needs due to the coronavirus.

10. Recipient acknowledges that to assist with the management and oversight of this ARP (a)(4) grant, recipient must first complete and submit to the Department the Required Proprietary Institution Certification form (OMB Control Number 1840–0855) prior to receiving a supplemental grant award.

Grant Administration

11. Recipient acknowledges that consistent with 2 CFR 200.305, it must minimize the time between drawing down funds from G5 and paying incurred obligations (liquidation). Recipient further acknowledges that if it draws down funds and does not pay the incurred obligations (liquidates) within 15 calendar days it may be subject to heightened scrutiny by the Department, Recipient's auditors, and/or the Department's Office of the Inspector General (OIG). Recipient further acknowledges that returning funds pursuant to mistakes in drawing down excessive grant funds in advance of need may also be subject to heightened scrutiny by the Department, Recipient's auditors, and/or the Department's OIG. Finally, Recipient acknowledges that it must maintain drawn down grant funds in an interest-bearing account, and any interest earned on all Federal grant funds above $500 (all Federal grants together) during an institution's fiscal year must be returned (remitted) to the Federal government via a process described here: *https://www2.ed.gov/documents/funding-101/g5-returning-interest.pdf.*

12. Recipient may not charge any indirect or administrative costs to funds made available under this award because the allocation in this grant award represents an amount of funds that must be distributed to students.

13. Recipient acknowledges that any obligation under this grant (pre-award costs pursuant to 2 CFR 200.458) must have been incurred on or after March 13, 2020, the date of the declaration of a National Emergency Concerning the Novel Coronavirus Disease (COVID–19) Outbreak (85 FR 15337).

14. Recipient must promptly and to the greatest extent practicable distribute all grant funds from this award in the form of emergency financial aid grants to students within the one-year period of performance (2 CFR 200.77) specified in Box 6 of this Grant Award Notification (GAN).

15. Recipient must, to the greatest extent practicable, continue to pay its employees and contractors during the period of any disruptions or closures related to coronavirus pursuant to section 315 of the CRRSAA.

16. Recipient acknowledges that its failure to draw down any amount ($1 or more) of its supplemental grant funds within 90 days of the date of this supplemental award will constitute nonacceptance of the terms, conditions, and requirements of this Supplemental Agreement and of these supplemental grant funds. In such event, the Department, in its sole discretion, may choose to deobligate these supplemental grant funds or take other appropriate administrative action, up to and including terminating the grant award pursuant to 2 CFR 200.340.

Reporting and Accountability

17. Recipient must promptly and timely provide a detailed accounting of the use and expenditure of the funds provided by this supplemental award in such manner and with such frequency as the Secretary may require.

18. Recipient must have a compliance audit conducted of its administration of the HEERF grant for any institutional fiscal year during which Recipient expended $500,000 or more in total HEERF grant funds, whether under section 18004(a)(1) of the CARES Act, section 314(a)(4) of the CRRSAA, or section 2003 of the ARP, or was on Federal Student Aid's Heightened Cash Monitoring (HCM) 1 or 2 list during any point of the institution's fiscal year in which it expended any HEERF grant funds (*https://studentaid.gov/data-center/school/hcm*). The HEERF compliance audit must be conducted in accordance with Government Auditing Standards, issued by the Comptroller General of the United States, and the applicable audit guide developed by the Department's Office of Inspector General. To the extent practicable, the annual Title IV audit may be used to cover certain areas of the HEERF audit if separately auditing those areas would be duplicative. The Office of the Inspector General has published their audit guide available here: *https://www2.ed.gov/about/offices/list/oig/nonfed/proprietary.html.*

19. Recipient acknowledges it is under a continuing affirmative duty to inform the Department if Recipient is to close or terminate operations as an institution or merge with another institution. In such cases, Recipient must promptly notify in writing the assigned education program officer contact in Box 3 of the GAN. Additionally, Recipient must promptly notify the assigned education program officer if the Recipient's Authorized Representative changes.

20. Recipient must cooperate with any examination of records with respect to the advanced funds by making records and authorized individuals available when requested, whether by (a) the Department and/or its OIG; or (b) any other Federal agency, commission, or department in the lawful exercise of its jurisdiction and authority. Recipient must retain all financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award for a period of three years from the date of submission of the final expenditure report pursuant to 2 CFR 200.334.

21. Recipient acknowledges that failure to comply with this Supplemental Agreement, its terms and conditions, and/or all relevant provisions and requirements of the CRRSAA or ARP any other applicable law may result in Recipient's liability under the False Claims Act, 31 U.S.C. 3729, *et seq.;* OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485; 18 U.S.C. 1001, as appropriate; and all of the laws and regulations referenced in the ''Applicable Law'' section of this Supplemental Agreement, below.

Applicable Law

22. Recipient must comply with all applicable assurances in OMB Standard Forms (SF) SF–424B and SF–424D (Assurances for Non-Construction and Assurances for Construction Programs), including the assurances relating to the legal authority to apply for assistance; access to records; conflict of interest; nondiscrimination; Hatch Act provisions; labor standards; and the general agreement to comply with all applicable Federal laws, executive orders, and regulations.

23. Recipient certifies that with respect to the certification regarding lobbying in Department Form 80–0013, no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making or supplementing of Federal grants under this program; Recipient must complete and submit Standard Form-LLL, ''Disclosure Form to Report Lobbying,'' when required (34 CFR part 82, Appendix B).

24. Recipient must comply with the provisions of all applicable acts, regulations and assurances; the following provisions of Education Department General Administrative Regulations (EDGAR) 34 CFR parts 75, 77, 81, 82, 84, 86, 97, 98, and 99; the OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485; and Subparts A through E of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

[FR Doc. 2021–10195 Filed 5–12–21; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF EDUCATION

### Notice of Public Posting Requirement of Grant Information for Higher Education Emergency Relief Fund (HEERF) Grantees

**AGENCY:** Office of Postsecondary Education, Department of Education.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of Education (Department) publishes an Information for Financial Aid Professionals (IFAP) Electronic Announcement (EA) that describes the public reporting requirements for Emergency Financial Aid Grants to Students under the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSAA) and American Rescue Plan Act, 2021 (ARP) section (a)(1) and (a)(4) programs.

**FOR FURTHER INFORMATION CONTACT:** Karen Epps, U.S. Department of Education, Office of Postsecondary Education, 400 Maryland Ave. SW, Room 250–64, Washington, DC 20202. Telephone: (202) 377–3711; Email: *HEERF@ed.gov.*

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

**SUPPLEMENTARY INFORMATION:** Section 314(e) of CRRSAA (Pub. L. 116–260) directs institutions receiving funds under section 314 to submit (in a time and manner required by the Secretary) a report to the Secretary describing the use of funds distributed from the HEERF. While ARP does not explicitly identify procedures by which institutions submit a report to the Secretary, the Department exercises this reporting authority under 2 CFR 200.328 and 2 CFR 200.329. The reporting requirements are intended to ensure that the statutory requirements described below are met for (1) the CRRSAA and ARP (a)(1) Student Grant Programs, and

(2) CRRSAA and ARP (a)(4) Student Grant Programs.

**1. CRRSAA and ARP (a)(1) Student Grant Programs**

Section 314(d)(5) of CRRSAA requires that an institution receiving funding under section 314(a)(1) provide the same amount in financial aid grants to students from the new CRRSAA funds that it was required or which it would have been required to provide under its original Coronavirus Aid, Relief, and Economic Security Act (CARES Act) Student Aid Portion award. The ARP, with some changes, is a continuation of the CRRSAA programs. Under the ARP (a)(1) program, as authorized under section 2003 of the ARP, the amount each institution must use for financial aid grants to students is determined by calculating the sum of 50 percent of the amount each institution receives under the formula factors in CRRSAA section 314(a)(1)(A)–(D); and 100 percent of the amount received under the formula factors in CRRSAA section 314(a)(1)(E)–(F). Student award amounts for both the CRRSAA and ARP (a)(1) programs are identified for each institution in their respective allocation table.

Under the CRRSAA and ARP (a)(1) programs, student portion funds must be used to provide financial aid grants to students (including students exclusively enrolled in distance education) which may be used for any component of the student's cost of attendance or for emergency costs that arise due to coronavirus, such as tuition, food, housing, health care (including mental health care), or child care. In making financial aid grants to students, an institution of higher education must prioritize grants to students with exceptional need, such as students who receive Pell Grants.

**2. CRRSAA and ARP (a)(4) Student Grant Programs**

Under both the CRRSAA and ARP (a)(4) programs, allocations for eligible proprietary institutions of higher education are calculated on the basis of the formula specified under section 314(a)(1)(A)–(F) of CRRSAA. For ARP, the total amount of funding allocated to the (a)(4) funding stream is determined under ARP section 2003(4).

Under CRRSAA section 314(d)(7), which continues to apply to ARP (a)(4) funds, awards from the Proprietary Institution Grant Funds for Students Program may only be used to provide financial aid grants to students (including students exclusively enrolled in distance education), which may be used for any component of the student's cost of attendance or for emergency costs that arise due to coronavirus, such as tuition, food, housing, health care (including mental health care), or child care. In making such financial aid grants to students, grantees must prioritize grants to students with exceptional need, such as students who receive Pell Grants.

The Certification and Agreements for the CRRSAA and ARP (a)(1) and (a)(4) funds provide that each institution applying for HEERF funds must promptly and timely provide a detailed accounting of the use and expenditure of the funds in such manner and with such frequency as the Secretary may require. Each HEERF participating institution must post the information listed below on the institution's primary website, as an initial report under the CRRSAA and ARP (a)(1) and (a)(4) programs. This report is associated with the approved information collection under OMB control number 1801–0005.

The Department encourages institutions to report as soon as possible, but no later than 30 days after the publication of this notice or 30 days after the date the Department first obligated funds under HEERF I, II, or III to the institution for Emergency Financial Aid Grants to Students, whichever comes later.

The following information must appear in a format and location that is easily accessible to the public. This information must also be updated no later than 10 days after the end of each calendar quarter (September 30, and December 31, March 31, June 30) thereafter, unless the Secretary specifies an alternative method of reporting:

(1) An acknowledgement that the institution signed and returned to the Department the Certification and Agreement and the assurance that the institution has used the applicable amount of funds designated under the CRRSAA and ARP (a)(1) and (a)(4) programs to provide Emergency Financial Aid Grants to Students.

(2) The total amount of funds that the institution will receive or has received from the Department pursuant to the institution's Certification and Agreement for Emergency Financial Aid Grants to Students under the CRRSAA and ARP (a)(1) and (a)(4) programs.

(3) The total amount of Emergency Financial Aid Grants distributed to students under the CRRSAA and ARP (a)(1) and (a)(4) programs as of the date of submission (*i.e.,* as of the initial report and every calendar quarter thereafter).

(4) The estimated total number of students at the institution that are eligible to receive Emergency Financial Aid Grants to Students under the CRRSAA and ARP (a)(1) and (a)(4) programs.

(5) The total number of students who have received an Emergency Financial Aid Grant to students under the CRRSAA and ARP (a)(1) and (a)(4) programs.

(6) The method(s) used by the institution to determine which students receive Emergency Financial Aid Grants and how much they would receive under the CRRSAA and ARP (a)(1) and (a)(4) programs.

(7) Any instructions, directions, or guidance provided by the institution to students concerning the Emergency Financial Aid Grants.

**Note:** For the initial report and each report thereafter, institutions should use data suppression and other methodologies to protect the personally identifiable information from student education records consistent with the Family Educational Rights and Privacy Act (20 U.S.C. 1232g; 34 CFR part 99). This means that if the total number of eligible students or the total number of students who received Emergency Financial Aid Grants is less than 10, but not 0, then the institution must display the total number of students eligible and/or the total number of students who received Emergency Financial Aid Grants as less than 10 (''<10'') on the publicly available websites controlled by the institution.

Institutions that the Department determines have not met the reporting requirement as described in this notice may, consistent with the Department's authority to monitor grantee compliance, be subject to appropriate enforcement actions, up to and including being determined to be ineligible for certain other HEERF program funding. For other subsequent reports for this program and other related HEERF programs, the Department will notify participating institutions of the Department's preferred reporting method. The Department may choose to collect additional information from institutions in accordance with the CRRSAA and ARP (a)(1) and (a)(4) program Certification and Agreements.

For more information on the HEERF, please visit the Department's Higher Education Emergency Relief Fund page at: *www2.ed.gov/about/offices/list/ope/arp.html.*

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

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

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

*Program Authority:* Section 314 of the CRRSAA and 2003 of ARP.

**Paperwork Burden Statement**

According to the Paperwork Reduction Act of 1995 (PRA), no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is 1801–0005. Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Under the PRA, participants are required to respond to this collection to obtain or retain benefit. If you have any comments concerning the accuracy of the time estimate or suggestions for improving this individual collection, or if you have comments or concerns regarding the status of your individual form, application, or survey, please contact: Karen Epps, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202.

**Michelle Asha Cooper,**

*Acting Assistant Secretary for the Office of Postsecondary Education.*

[FR Doc. 2021–10196 Filed 5–12–21; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

### Notice Inviting Applications for Public and Private Nonprofit Institutions of Higher Education Under the Higher Education Emergency Relief Fund (HEERF), Section 2003 of the American Rescue Plan Act, 2021 (ARP)

**AGENCY:** Office of Postsecondary Education, Department of Education.

**ACTION:** Notice.

**SUMMARY:** The Secretary is announcing the availability of new ARP (a)(1) HEERF grant funding as authorized under section 2003(1) of the ARP and inviting applications under Assistance Listing Numbers (ALN) 84.425E and 84.425F from eligible public and private nonprofit institutions that did not previously receive funding under section 314(a)(1) of the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSAA). This notice relates to the approved information collections under OMB control numbers 1801–0005 and 1840–0842.

**DATES:**

*Applications Available:* May 13, 2021.

*Deadline for Transmittal of Applications:* Applications will be accepted on a rolling basis until August 11, 2021.

**ADDRESSES:** For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.federalregister.gov/d/2019-02206.*

**FOR FURTHER INFORMATION CONTACT:** Karen Epps, U.S. Department of Education, 400 Maryland Avenue SW, Room 250–64, Washington, DC 20202. Telephone: The Department of Education HEERF Call Center at (202) 377–3711. Email: *HEERF@ed.gov.* Please also visit our HEERF website at: *www2.ed.gov/about/offices/list/ope/arp.html.*

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

**SUPPLEMENTARY INFORMATION:**

**Full Text of Announcement**

**I. Funding Opportunity Description**

On March 11, 2021, the President signed into law the ARP (Pub. L. 117–2). This new law makes available approximately $39.6 billion for institutions of higher education under HEERF, with funding appropriated through existing programs previously authorized under the CRRSAA (Pub. L. 116–260).

With this notice, the Secretary is announcing the availability of HEERF grant funds under the ARP (a)(1) programs under ALNs 84.425E and 84.425F. These programs, with some changes, are a continuation of the CRRSAA section 314(a)(1) program, which the Department implemented as two funding streams: (1) The Student Aid Portion (ALN 84.425E) for financial grants to students, and (2) the Institutional Portion (ALN 84.425F) for institutional uses of funds related to the coronavirus.

Eligible institutions are institutions of higher education, as defined in sections 101 and 102(c) of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. 1001, 1002(c). Allocations for these programs will be calculated according to the formulas in ARP section 2003(1) and section 314(a)(1) of the CRRSAA. Under ARP section 2003, grant awards under these programs may be used to (1) defray expenses associated with coronavirus (including lost revenue, reimbursement for expenses already incurred, technology costs associated with a transition to distance education, faculty and staff trainings, and payroll) or (2) provide financial aid grants to students (including students exclusively enrolled in distance education), which may be used for any component of the student's cost of attendance or for emergency costs that arise due to coronavirus, such as tuition, food, housing, health care (including mental health care), or child care. In making financial aid grants to students, an institution of higher education must prioritize grants to students with exceptional need, such as students who receive Pell Grants. The amount each institution must use for financial aid grants to students is determined by calculating the sum of 50 percent of the amount each institution receives under the formula factors in CRRSAA section 314(a)(1)(A)–(D); and 100 percent of the amount received under the formula factors in CRRSAA section 314(a)(1)(E)–(F). This amount is identified for each institution in the allocation table.

Additionally, under ARP section 2003(5), institutions must use a portion of their Institutional Portion funds under ALN 84.425F, if the institutions have not directed all of these funds to student grants, to (1) implement evidence-based practices to monitor and suppress coronavirus in accordance with the public health guidelines and (2) conduct direct outreach to financial

aid applicants about the opportunity to receive a financial aid adjustment due to recent unemployment status or other changes in financial circumstances as described in section 479A of the HEA (20 U.S.C. 1087tt).

The Department will automatically award supplemental funds to eligible institutions that previously received a section 314(a)(1) Student Aid Portion or Institutional Portion award under CRRSAA. No action is required by eligible institutions to receive these supplemental awards. The Project Director identified on the most current Grant Award Notification (GAN) will automatically receive an email indicating a supplemental award has been made to their institution. Please note that drawing down any amount of these supplemented funds constitutes an institution's acceptance of the new terms and conditions under the ARP and a new Supplemental Agreement, which are included as appendices to this notice for reference.

Institutions that did not receive a CRRSAA section 314(a)(1) award but are on the Department's published ARP (a)(1) allocation table may apply for and receive ARP (a)(1) Student Aid Portion (ALN 84.425E) and Institutional Portion (ALN 84.425F) grant awards. An institution must apply for funds within 90 days of the publication of this notice. Institutions that do not apply within the 90 timeframe will become ineligible and unable to receive the grant funds.

The Department recognizes that some institutions may not want additional funds under the ARP. Institutions wanting to decline their award or a specified amount should submit the Voluntary Decline of HEERF Grant Funds form to *HEERFRefund@ed.gov,* available at *www2.ed.gov/about/offices/list/ope/arp.html,* to redirect these funds to institutions with greater needs. If the Department has already made an ARP supplemental award to the institution, the Department will deobligate those supplemented funds in G5 by the amount specified in the form. Any returned funds will be redistributed to institutions that have not declined funds by applying the appropriate distribution formula and making additional supplemental awards to those institutions. Institutions have 90 days from the publication of this notice to indicate if they would like to decline or return unneeded ARP funds.

*Program Authority:* Section 2003 of the ARP and section 314 of the CRRSAA.

*Applicable Regulations:* (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

## II. Award Information

*Type of Award:* Formula grants.

*Estimated Available Funds:* $39,600,000,000.

*Grant Period:* Institutions must expend funds received under this program within 12 months of obligation of the funds by the Department.

## III. Eligibility Information

1. *Eligible Applicants:* Public and Private Nonprofit IHEs, as defined in section 101 and section 102(c) of the HEA.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Subgrantees:* Subgrantees are not allowed under this program.

## IV. Application and Submission Information

1. *Application Submission Instructions:* Only those institutions that did not receive a CRRSAA section 314(a)(1) award but are on the Department's published ARP (a)(1) allocation table must submit an application for ARP funds in accordance with the following instructions.

Institutions that are interested in receiving both the Student Aid Portion and the Institutional Portion of ARP (a)(1) funds must submit two applications: One under ALN 84.425E and a second one under ALN 84.425F. Institutions may apply for the Student Aid Portion only and decline the Institutional Portion. However, an institution may not receive an Institutional Portion grant if the institution does not also apply for the Student Aid Portion grant.

Applicants are required to submit their applications using *Grants.gov.* Each application for a Student Aid Portion or Institutional Portion grant must include—

- A complete SF–424;
- Supplemental Information for the SF–424; and
- A Certification and Agreement (C&A) for the Student Aid Portion or the Institutional Portion, as appropriate.

**Note:** Institutions must submit the correct C&A for the funds requested. Each C&A must be completed using the OPE ID and DUNS number of the institution for which you are requesting funds. An institution will receive the amount specified for the institution in the Department's published ARP (a)(1) allocation table.

2. *Instructions to Decline an Award:* To voluntarily decline some or all of the institution's award, submit the Voluntary Decline of HEERF Grant Funds form, which you can find at *www2.ed.gov/about/offices/list/ope/arp.html,* to *HEERFRefund@ed.gov.*

3. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. However, under 34 CFR 79.8(a), we waive intergovernmental review in order to make timely awards.

4. *Funding Restrictions:* We specify funding restrictions in the C&A or Supplemental Agreement.

5. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* In general, to do business with the Department, you must—

(a) Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

(b) Register both your DUNS number and TIN with the System for Award Management (SAM), the Government's primary registrant database;

(c) Provide your DUNS number and TIN on your SAM application; and

(d) Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet at the following website: *http://fedgov.dnb.com/webform.* A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active. The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data you enter into the SAM database. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. If you are currently registered with SAM, you may not need to make any changes.

However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days. Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a *SAM.gov* Tip Sheet, which you can find at: *www2.ed.gov/fund/grant/apply/sam-faqs.html.*

## V. Award Administration Information

1. *Award Notices:* If you receive a grant award under this program, we will send you a Grant Award Notification (GAN), or we may send you an email containing a link to access an electronic version of your GAN.

2. *Reporting:* Institutions must comply with all HEERF reporting requirements. Reporting requirements are specified in the C&A or Supplemental Agreement.

## VI. Other Information

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

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

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

**Michelle Asha Cooper,**

*Acting Assistant Secretary for Postsecondary Education.*

## Attachment 1: Example Supplemental Agreement for Supplemental Grant Funds for Students

## American Rescue Plan Act of 2021

## Supplemental Agreement (ALN 84.425E) ((a)(1) Student Aid Portion)

## Supplemental Grant Funds for Students

The terms, conditions, and requirements governing your institution's (Recipient's) use of these supplemental grant funds awarded pursuant to section 2003 of the American Rescue Plan Act of 2021 (ARP) (Pub. L. 117–2) (supplemental award or grant) by the U.S. Department of Education (Department) are governed by section 2003 of the ARP and section 314 of the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSAA) (Pub. L. 116–260) and the following terms and conditions of this Supplemental Agreement.

*By Drawing Down These Grant Funds, You Agree To Be Bound by the Conditions Set Forth on Behalf of the Institution You Represent, and You Warrant That You Have the Authority To Bind the Institution to the Following Conditions*

1. Section 2003(7) of the ARP requires Recipient, an institution of higher education as defined in section 101 or 102(c) of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. 1001 or 1002(c), to provide emergency financial aid grants to students in an amount equivalent to the sum of two amounts: 50 percent of the portion of its allocation that is based on formula factors from CRRSAA section 314(a)(1)(A)–(D) and 100 percent of the portion of its allocation that is based on formula factors from CRRSAA section 314(a)(1)(E)–(F). The amount of funds made available by this supplemental award under Assistance Listing Number (ALN) 84.425E represents the minimum amount that Recipient must use for making emergency financial aid grants to students.

2. Under section 2003(7) of the ARP and section 314(c)(3) of the CRRSAA, Recipient must make emergency financial aid grants to students (which may include students exclusively enrolled in distance education), which may be used for any component of the student's cost of attendance or for emergency costs that arise due to coronavirus, such as tuition, food, housing, health care (including mental health care), or child care.

3. Recipient acknowledges that it retains discretion to determine the amount and availability of each individual emergency financial aid grant consistent with all applicable laws, including non-discrimination laws. Recipient acknowledges it must not distribute emergency financial aid grants in a manner that discriminates against individuals on the basis of race, color, national origin, disability, or sex. See, *e.g.,* 42 U.S.C. 2000(c)–(d) (Title VI), 29 U.S.C. 701 *et seq.,* 20 U.S.C. 1681 (Title IX).

4. Recipient further acknowledges that under CRRSAA section 314(c)(3), it must prioritize grants to students with exceptional need, such as students who receive Pell Grants. However, students do not need to be Pell recipients or students who are eligible for Pell Grants in order to receive an emergency financial aid grant.

5. Recipient acknowledges that it may not condition the receipt of an emergency financial aid grant on continued or future enrollment with the Recipient. Recipient also acknowledges that it may not require a student to consent to the application of the emergency financial aid grant to the student's outstanding account balance with Recipient as a condition of receipt of or eligibility for an emergency financial aid grant. Recipient also acknowledges that adding preconditions to receiving a financial aid grant that thwart this requirement may be subjected to oversight and corrective action.

6. In consideration for this award, Recipient agrees that Recipient holds these grant funds in trust for students and acts in the nature of a fiduciary for students.

7. Recipient acknowledges that the Secretary recommends (a) the maximum Federal Pell Grant for the applicable award year as an appropriate maximum amount for a student's emergency financial aid grant in most cases, and (b) that the Recipient should consider each student's particular socioeconomic circumstances in the administration of these grants.

8. The Secretary strongly encourages Recipient's financial aid administrator to exercise the use of professional judgment available under HEA section 479A, 20 U.S.C. 1087tt, to make adjustments on a case-by-case basis to exclude individual emergency financial aid grants from the calculation of a student's expected family contribution. The Secretary has determined that these individual emergency financial aid

grants do not constitute Federal financial aid under Title IV of the HEA.

9. Recipient acknowledges that it may voluntarily decline all or a portion of its ARP (a)(1) student funds. The recipient may indicate this by submitting the Voluntary Decline of HEERF form (OMB Control Number 1840–0856) to the Department by August 11, 2021. Recipient further acknowledges if it submits this form, it will be ineligible for the future redistribution of ARP HEERF grant funds to other institutions with greater needs due to the coronavirus.

Grant Administration

10. Recipient acknowledges that consistent with 2 CFR 200.305, it must minimize the time between drawing down funds from G5 and paying incurred obligations (liquidation). Recipient further acknowledges that if it draws down funds and does not pay the incurred obligations (liquidates) within 15 calendar days it may be subject to heightened scrutiny by the Department, Recipient's auditors, and/or the Department's Office of the Inspector General (OIG). Recipient further acknowledges that returning funds pursuant to mistakes in drawing down excessive grant funds in advance of need may also be subject to heightened scrutiny by the Department, Recipient's auditors, and/or the Department's OIG. Finally, Recipient acknowledges that it must maintain drawn down grant funds in an interest-bearing account, and any interest earned on all Federal grant funds above $500 (all Federal grants together) during an institution's fiscal year must be returned (remitted) to the Federal government via a process described here: *https://www2.ed.gov/documents/funding-101/g5-returning-interest.pdf.*

11. Recipient may not charge any indirect or administrative costs to funds made available under this supplemental award because the allocation in this grant award represents the minimum amount of funds that must be distributed to students.

12. Recipient acknowledges that any obligation under this grant (pre-award costs pursuant to 2 CFR 200.458) must have been incurred on or after March 13, 2020, the date of the declaration of a National Emergency Concerning the Novel Coronavirus Disease (COVID–19) Outbreak (85 FR 15337).

13. Recipient must promptly and to the greatest extent practicable distribute all grant funds from this award in the form of emergency financial aid grants to students within the one-year period of performance (2 CFR 200.77) specified in Box 6 of this Grant Award Notification (GAN).

14. Recipient must, to the greatest extent practicable, continue to pay its employees and contractors during the period of any disruptions or closures related to coronavirus pursuant to section 315 of the CRRSAA.

15. Recipient acknowledges that its failure to draw down any amount ($1 or more) of its supplemental grant funds within 90 days of the date of this supplemental award will constitute nonacceptance of the terms, conditions, and requirements of this Supplemental Agreement and of these supplemental grant funds. In such event, the Department, in its sole discretion, may choose to deobligate these supplemental grant funds or take other appropriate administrative action, up to and including terminating the grant award pursuant to 2 CFR 200.340.

Reporting and Accountability

16. Recipient must promptly and timely provide a detailed accounting of the use and expenditure of the funds provided by this supplemental award in such manner and with such frequency as the Secretary may require.

17. Recipient must comply with all requirements of the Single Audit Act Amendments of 1996, 31 U.S.C. 7501, *et seq.* (Single Audit Act) and all applicable auditing standards. Considering that the HEERF grant program is a new program not previously audited or subjected to Department oversight, and the inherent risk that comes with a new program, the Department strongly suggests that the HEERF grant program be audited as a major program in the first fiscal year(s) that the institution received a HEERF grant.

18. Recipient acknowledges it is under a continuing affirmative duty to inform the Department if Recipient is to close or terminate operations as an institution or merge with another institution. In such cases, Recipient must promptly notify in writing the assigned education program officer contact in Box 3 of the GAN. Additionally, Recipient must promptly notify the assigned education program officer if the Recipient's Authorized Representative changes.

19. Recipient must cooperate with any examination of records with respect to the advanced funds by making records and authorized individuals available when requested, whether by (a) the Department and/or its OIG; or (b) any other Federal agency, commission, or department in the lawful exercise of its jurisdiction and authority. Recipient must retain all financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award for a period of three years from the date of submission of the final expenditure report pursuant to 2 CFR 200.334.

20. Recipient acknowledges that failure to comply with this Supplemental Agreement, its terms and conditions, and/or all relevant provisions and requirements of the CRRSAA or ARP or any other applicable law may result in Recipient's liability under the False Claims Act, 31 U.S.C. 3729, *et seq.;* OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485; 18 U.S.C. 1001, as appropriate; and all of the laws and regulations referenced in the ''Applicable Law'' section of this Supplemental Agreement, below.

Applicable Law

21. Recipient must comply with all applicable assurances in OMB Standard Forms (SF) SF–424B and SF–424D (Assurances for Non-Construction and Assurances for Construction Programs), including the assurances relating to the legal authority to apply for assistance; access to records; conflict of interest; nondiscrimination; Hatch Act provisions; labor standards; Single Audit Act; and the general agreement to comply with all applicable Federal laws, executive orders, and regulations.

22. Recipient certifies that with respect to the certification regarding lobbying in Department Form 80–0013, no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making or supplementing of Federal grants under this program; Recipient must complete and submit Standard Form-LLL, ''Disclosure Form to Report Lobbying,'' when required (34 CFR part 82, Appendix B).

23. Recipient must comply with the provisions of all applicable acts, regulations and assurances; the following provisions of *Education Department General Administrative Regulations* (EDGAR) 34 CFR parts 75, 77, 81, 82, 84, 86, 97, 98, and 99; the *OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)* in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485; and the *Uniform*

*Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

**Attachment 2: Example Supplemental Agreement for Supplemental Grant Funds for Institutions**

**American Rescue Plan Act of 2021**

**Supplemental Agreement (ALN 84.425F) ((a)(1) Institutional Portion)**

**Supplemental Grant Funds for Institutions**

The terms, conditions, and requirements governing your institution's (Recipient's) use of these supplemental grant funds awarded pursuant to section 2003 of the American Rescue Plan Act of 2021 (ARP) (Pub. L. 117–2) (supplemental award or grant) by the U.S. Department of Education (Department) are governed by section 2003 of the ARP and section 314 of the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSAA) (Pub. L. 116–260) and the following terms and conditions of this Supplemental Agreement.

*By Drawing Down These Grant Funds, You Agree To Be Bound by the Conditions Set Forth on Behalf of the Institution You Represent, and You Warrant That You Have the Authority To Bind the Institution to the Following Conditions*

Use of Supplemental Grant Funds

1. Under section 314(c) of the CRRSAA, Recipient, an institution of higher education as defined in section 101 or 102(c) of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. 1001 or 1002(c), may use these supplemental grant funds for Recipient's Institutional Costs to defray expenses associated with coronavirus (including lost revenue, reimbursement for expenses already incurred, technology costs associated with a transition to distance education, faculty and staff trainings, and payroll) and make additional emergency financial grants to students, which may be used for any component of the student's cost of attendance or for emergency costs that arise due to coronavirus, such as tuition, food, housing, health care (including mental health care), or child care.

2. Under section 2003(5) of the ARP, Recipient must use a portion of their institutional funds received under this supplemental award to (a) implement evidence-based practices to monitor and suppress coronavirus in accordance with public health guidelines and (b) conduct direct outreach to financial aid applicants about the opportunity to receive a financial aid adjustment due to the recent unemployment of a family member or independent student, or other circumstances, described in section 479A of the HEA (20 U.S.C. 1087tt).

3. Recipient may, but is not required to, use funds designated for Recipient's Institutional Costs to provide additional emergency financial aid grants to students. If Recipient chooses to use these grant funds designated for Recipient's Institutional Costs to provide additional emergency financial aid grants to students, then those funds are subject to the requirements described in the ARP Supplemental Grant Funds for Students Agreement.

4. The Secretary urges Recipient to devote the maximum amount of funds possible to emergency financial aid grants to students, including some or all of the funds allocated for Recipient's Institutional Costs. The Secretary urges Recipient to take strong measures to ensure that emergency financial aid grants to students are made to the maximum extent possible.

5. Recipient acknowledges that no supplemental grant funds may be used to fund construction; acquisition of real property; contractors for the provision of pre-enrollment recruitment activities; marketing or recruitment; endowments; capital outlays associated with facilities related to athletics, sectarian instruction, or religious worship; senior administrator or executive salaries, benefits, bonuses, contracts, incentives; stock buybacks, shareholder dividends, capital distributions, and stock options; or any other cash or other benefit for a senior administrator or executive.

6. Recipient acknowledges that it may voluntarily decline all or a portion of its ARP (a)(1) institutional funds. The recipient may indicate this by submitting the Voluntary Decline of HEERF form (OMB Control Number 1840–0856) to the Department by August 11, 2021. Recipient further acknowledges if it submits this form, it will be ineligible for the future redistribution of ARP HEERF grant funds to other institutions with greater needs due to the coronavirus.

Grant Administration

7. Recipient acknowledges that consistent with 2 CFR 200.305, it must minimize the time between drawing down funds from G5 and paying incurred obligations (liquidation). Recipient further acknowledges that if it draws down funds and does not pay the incurred obligations (liquidates) within 3 calendar days it may be subject to heightened scrutiny by the Department, Recipient's auditors, and/or the Department's Office of the Inspector General (OIG). Recipient further acknowledges that returning funds pursuant to mistakes in drawing down excessive grant funds in advance of need may also be subject to heightened scrutiny by the Department, Recipient's auditors, and/or the Department's OIG. Finally, Recipient acknowledges that it must maintain drawn down grant funds in an interest-bearing account, and any interest earned on all Federal grant funds above $500 (all Federal grants together) during an institution's fiscal year must be returned (remitted) to the Federal government via a process described here: *https://www2.ed.gov/documents/funding-101/g5-returning-interest.pdf.*

8. Recipient may charge indirect costs to supplemental funds made available under this award consistent with its negotiated indirect cost rate agreement. If Recipient does not have a current negotiated indirect cost rate with its cognizant agency for indirect costs, it may appropriately charge the *de minimis* rate of ten percent of Modified Total Direct Costs (MTDC) under 2 CFR 200.414. Recipient may also charge reasonable direct administrative costs to the supplemental funds made available under this award.

9. Recipient acknowledges that any obligation under this grant (pre-award costs pursuant to 2 CFR 200.458) must have been incurred on or after March 13, 2020, the date of the declaration of a National Emergency Concerning the Novel Coronavirus Disease (COVID–19) Outbreak (85 FR 15337).

10. Recipient must promptly and to the greatest extent practicable expend all grant funds from this award within the one-year period of performance (2 CFR 200.77) specified in Box 6 of this Grant Award Notification (GAN).

11. Recipient must, to the greatest extent practicable, continue to pay its employees and contractors during the period of any disruptions or closures related to coronavirus pursuant to section 315 of the CRRSAA.

12. Recipient acknowledges that its failure to draw down any amount ($1 or more) of its supplemental grant funds within 90 days of the date of this supplemental award will constitute nonacceptance of the terms, conditions, and requirements of this Supplemental Agreement and of these supplemental grant funds. In such event, the Department, in its sole discretion, may choose to deobligate these supplemental grant funds or take other appropriate administrative action, up to and

including terminating the grant award pursuant to 2 CFR 200.340.

Reporting and Accountability

13. Recipient must promptly and timely provide a detailed accounting of the use and expenditure of the funds provided by this supplemental award in such manner and with such frequency as the Secretary may require.

14. Recipient must comply with all requirements of the Single Audit Act Amendments of 1996, 31 U.S.C. 7501, *et seq.* (Single Audit Act) and all applicable auditing standards. Considering that the HEERF grant program is a new program not previously audited or subjected to Department oversight, and the inherent risk that comes with a new program, the Department strongly suggests that the HEERF grant program be audited as a major program in the first fiscal year(s) that the institution received a HEERF grant.

15. Recipient acknowledges it is under a continuing affirmative duty to inform the Department if Recipient is to close or terminate operations as an institution or merge with another institution. In such cases, Recipient must promptly notify in writing the assigned education program officer contact in Box 3. Additionally, Recipient must promptly notify the assigned education program officer if the Recipient's Authorized Representative changes.

16. Recipient must cooperate with any examination of records with respect to the advanced funds by making records and authorized individuals available when requested, whether by (a) the Department and/or its OIG; or (b) any other Federal agency, commission, or department in the lawful exercise of its jurisdiction and authority. Recipient must retain all financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award for a period of three years from the date of submission of the final expenditure report pursuant to 2 CFR 200.334.

17. Recipient acknowledges that failure to comply with this Supplemental Agreement, its terms and conditions, and/or all relevant provisions and requirements of the CRRSAA or ARP or any other applicable law may result in Recipient's liability under the False Claims Act, 31 U.S.C. 3729, *et seq.;* OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485; 18 U.S.C. 1001, as appropriate; and all of the laws and regulations referenced in the ''Applicable Law'' section of this Supplemental Agreement, below.

Applicable Law

18. Recipient must comply with all applicable assurances in OMB Standard Forms (SF) SF–424B and SF–424D (Assurances for Non-Construction and Assurances for Construction Programs), including the assurances relating to the legal authority to apply for assistance; access to records; conflict of interest; nondiscrimination; Hatch Act provisions; labor standards; Single Audit Act; and the general agreement to comply with all applicable Federal laws, executive orders, and regulations.

19. Recipient certifies that with respect to the certification regarding lobbying in Department Form 80–0013, no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making or supplementing of Federal grants under this program; Recipient must complete and submit Standard Form-LLL, ''Disclosure Form to Report Lobbying,'' when required (34 CFR part 82, Appendix B).

20. Recipient must comply with the provisions of all applicable acts, regulations and assurances; the following provisions of *Education Department General Administrative Regulations* (EDGAR) 34 CFR parts 75, 77, 81, 82, 84, 86, 97, 98, and 99; the *OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)* in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485; and the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

[FR Doc. 2021–10194 Filed 5–12–21; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. IC21–28–000]**

### Commission Information Collection Activities (FERC–921); Comment Request; Extension

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Notice of information collection and request for comments.

**SUMMARY:** In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–921 (Ongoing Electronic Delivery of Data from Regional Transmission Organization and Independent System Operators).

**DATES:** Comments on the collection of information are due July 12, 2021.

**ADDRESSES:** You may submit comments (identified by Docket No. IC21–28–000) by either of the following methods: Electronic filing through *http://www.ferc.gov,* is preferred.

- *Electronic Filing:* Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.
- *For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery:*
  - *Mail via U.S. Postal Service Only:* Addressed to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.
  - *Hand (including courier) Delivery:* Deliver to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

*Instructions:* All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at (866) 208–3676 (toll-free).

*Docket:* Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov.*

**FOR FURTHER INFORMATION CONTACT:** Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663.

**SUPPLEMENTARY INFORMATION:**

*Title:* FERC–921, Ongoing Electronic Delivery of Data from Regional Transmission Organization and Independent System Operators.

*OMB Control No.:* 1902–0257.

*Type of Request:* Three-year extension of the FERC–921 information collection requirements with no changes to the current reporting requirements.

*Abstract:* The collection of data in FERC–921 is an effort by the Commission, implemented under Order

No. 760,[1] to detect potential anti-competitive or manipulative behavior or ineffective market rules by requiring Regional Transmission Organizations (RTO) and Independent System Operators (ISO) to electronically submit, on a continuous basis, data relating to physical and virtual offers and bids, market awards, resource outputs, marginal cost estimates, shift factors, financial transmission rights, internal bilateral contracts, uplift, and interchange pricing. Although provision was made by the Commission that market monitoring units (MMUs) may provide datasets, all data for this collection has (and is expected to continue to) come from each RTO or ISO and not the MMUs. Therefore, any associated burden is counted as burden on RTO and ISO.

While the ongoing delivery of data under FERC–921 is continuous and routine, each RTO or ISO makes sporadic changes to its individual market with Commission approval. When those changes occur, the RTO or ISO may need to change the data being routinely sent to the Commission to ensure compliance with Order No. 760. Such changes typically require respondents to alter the ongoing delivery of data under FERC–921. The burden associated with a change varies considerably based on the significance of the specific change; therefore, the estimate below is intended to reflect the incremental burden for an average change. Based on historical patterns, staff estimates there to be about one and a half changes of this nature per RTO or ISO per year.

*Type of Respondent:* Regional Transmission Organizations (RTO) and Independent System Operators (ISO).

FERC–921 (ONGOING ELECTRONIC DELIVERY OF DATA FROM REGIONAL TRANSMISSION ORGANIZATIONS AND INDEPENDENT SYSTEM OPERATORS)

| Category | Number of respondents (1) | Annual number of responses per respondent (2) | Total number of responses (1) * (2) = (3) | Average burden & cost per response (4) | Total annual burden hours & cost (3) * (4) = (5) | Annual cost per respondent ($) (5) ÷ (1) |
|---|---|---|---|---|---|---|
| Ongoing electronic delivery of data. | 6 | 1 | [6] 6 | 52 hrs.; $4,034.68 ..... | 312 hrs.; $24,208.08 | $4,034.68 |
| Data Delivery Changes over the year. | 6 | 1 | [7] 6 | 480 hrs.; $37,243.20 | 2,880 hrs.; $223,459.20. | 37,243.20 |
| Total ..... | 6 | 2 | 12 | ..... | 3,192 hrs.; $247,667.28. | 41,277.88 |

*Estimate of Annual Burden:*[2] The Commission estimates the total annual burden and cost[3] for this information collection as follows. The ongoing electronic delivery of data requires the following occupations (which includes wages and benefits):[4]

- 75% of the time is spent by Computer Systems Analysts (Occupational Code: 15–1211) at $67.75/hr.,
- 12.5% of the time is spent by Legal (Occupation Code: 23–0000) at $142.25/hr., and
- 12.5% of the time is spent by Database Administrators and Architects (Occupational Code: 15–1245) at $71.92/hr.

Therefore, we use the weighted hourly cost (for wages and benefits) of $77.59.[5]

*Comments:* Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: May 7, 2021.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2021–10111 Filed 5–12–21; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## Sunshine Act Meetings

**TIME AND DATE:** May 13, 2021, 4:00 p.m.

**PLACE:** Secure video conference.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Non-public investigations and inquiries, enforcement related matters.

[1] *Enhancement of Electricity Market Surveillance and Analysis through Ongoing Electronic Delivery of Data from Regional Transmission Organizations and Independent System Operators,* Order No. 760, 139 FERC ¶ 61,053 (2012).

[2] ''Burden'' is the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to Title 5 Code of Federal Regulations 1320.3.

[3] Costs (for wages and benefits) are based on the mean wage estimate by the Bureau of Labor Statistics' (BLS) Occupational Employment and Wage Statistics (OEWS) program from May 2020 (*https://www.bls.gov/oes/current/naics2_22.htm.*) and benefits information, accounting for 70.3% of average employment (released March 2021) for private industry workers (*https://www.bls.gov/news.release/ecec.nr0.htm*). We estimate the total time required per change to be 320 hours. Because a response encompasses one year where there are, on average, 1.5 changes, the total time per response is 480 hours (1.5 × 320 hours).

[4] The loaded hourly wage for each occupation is as follows:

- Computer Systems Analysts: $47.63 (base hourly wage) ÷ 70.3% (benefits) = $67.75.
- Legal: $100 (base hourly wage) ÷ 70.3% (benefits) = $142.25.
- Database Administrators and Architects: $50.65 (base hourly wage) ÷ 70.3% (benefits) = $71.92.

[5] The rounded weighted hourly cost breakdown includes: [(0.75 * $67.75) + (0.125 * $142.25) + (0.125 * $71.92)]= $77.59

[6] Each RTO/ISO electronically submits data daily. To match with past filings, we are considering the collection of daily responses to be a single response.

[7] Each RTO/ISO is estimated to make one and a half changes yearly. To be consistent with the formulation that the submissions over the course of a year constitute a single response, for the purpose of this calculation, we are assuming that each response requires one and a half changes over the course of the year and estimating burden accordingly.

**Notice of Meeting, Notice of Vote, Explanation of Action Closing Meeting and List of Persons to Attend**

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552b:

*Agency Holding Meeting:* Federal Energy Regulatory Commission.

Chairman Glick and Commissioners Chatterjee, Danly, Clements, and Christie voted to hold a closed meeting on May 13, 2021. The certification of the General Counsel explaining the action closing the meeting is available for public inspection on *https://www.ferc.gov/ferc-online/eLibrary.*

The Chairman and the Commissioners, their assistants, the Commission's Secretary, and a stenographer are expected to attend the meeting. Other staff members from the Commission's program offices who will advise the Commissioners in the matters discussed will also be present.

**CONTACT PERSON FOR MORE INFORMATION:** Kimberly D. Bose, Secretary. Telephone (202) 502–8400.

Dated: May 6, 2021.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2021–10049 Filed 5–11–21; 4:15 pm]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA R9–2021–02; FRL–10021–96–Region 9]**

### Notice of Proposed Administrative Settlement Agreement and Order on Consent With De Minimis Parties at the Omega Chemical Corporation Superfund Site in Los Angeles County, California

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

**ACTION:** Notice of proposed settlement; request for public comment.

**SUMMARY:** In accordance with the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (''CERCLA''), notice is hereby given that the Environmental Protection Agency (EPA), has entered into a proposed settlement, embodied in an Administrative Settlement Agreement and Order on Consent (''Settlement Agreement''), with twenty-six parties that sent between one and three tons of waste and one party that sent just over four tons of waste (the ''Settling De Minimis Parties'') to a solvent and refrigerant recyling facility that operated between 1976 and 1991 in Whittier, California, called the Omega Chemical Corporation. Under the Settlement Agreement, the Settling De Minimis Parties agree to pay EPA $1,222,328.66 to resolve their liability for both past and future costs associated with the cleanup of the Omega Chemical Corporation Superfund Site (''Omega Site'') in Los Angeles County California.

**DATES:** Comments must be received on or before June 14, 2021.

**ADDRESSES:** Please contact Keith Olinger at *olinger.keith@epa.gov* or (415) 972–3125 to request a copy of the Settlement Agreement. Comments on the Settlement Agreement should be submitted in writing to Mr. Olinger at *olinger.keith@epa.gov.* Comments should reference the Omega Site and the EPA Docket Number for the Settlement Agreement, EPA R9–2021–02. If for any reason you are not able to submit a comment by email, please contact Mr. Olinger at (415) 972–3125 to make alternative arrangements for submitting your comment. EPA will post its response to comments at *https://cumulis.epa.gov/supercpad/cursites/csitinfo.cfm?id=0903349,* EPA's web page for the Omega Site.

**FOR FURTHER INFORMATION CONTACT:** Keith Olinger, Enforcement Officer (SFD–7–5), Superfund Division, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105; email: *olinger.keith@epa.gov;* Phone (415) 972–3125.

**SUPPLEMENTARY INFORMATION:** Notice of this proposed Settlement Agreement is made in accordance with the Section 122(i) of CERCLA, 42 U.S.C. 9622(i). The Settlement Agreement is a de minimis settlement agreement pursuant to Section 122(g) of CERCLA, 42 U.S.C. 9622(g), whereby the Settling De Minimis Parties, which are identified below, collectively agree to pay EPA $1,222,328.66. The Settlement Agreement resolves the Settling De Minimis Parties' liability for both past and future response costs at the Omega Site and provides the Settling De Minimis Parties with a site-wide covenant not to sue pursuant to Section 122(g)(2) of CERCLA, 42 U.S.C. 9622(g)(2). Groundwater contamination extends approximately four-and-one-half miles south, southwest from the former Omega Chemical Corporation facility, where the Settling De Minimis Parties sent hazardous waste. Much of the plume of groundwater contamination at the Omega Site lies beneath a large commercial/industrial area where chemicals released at other facilities have commingled with the contamination originating at the former Omega Chemical facility. Pursuant to a Consent Decree entered on March 31, 2017, Docket No. 2:16–cv–02696 (Central District, California), between the United States and other potentially responsible parties (''PRPs'') at the Omega Site, EPA is obligated to share seventy percent of the money collected from certain Settling De Minimis Parties under this Settlement Agreement with certain PRPs that have incurred significant costs cleaning up contamination at the Omega Site and will continue to incur cleanup costs in the future. As of January 1, 2021, EPA had incurred more than $45 million in costs related to the Omega Site and EPA had recovered more than $35 million of its costs.

EPA will consider all comments received on the Settlement Agreement in accordance with the **DATES** and **ADDRESSES** sections of this Notice and may modify or withdraw its consent to the Settlement Agreement if comments received disclose facts or considerations that indicate that the settlement is inappropriate, improper, or inadequate.

**Parties to the Proposed Settlement**

Aaron Spelling Productions, Inc.; Air Distribution Technologies, Inc.; City of Montclair; Denso Products and Services Americas, Inc.; Eco-Air Products, Inc.; FAA Stevens Creek, Inc.; Fairway Chevrolet Co.; Grove Auto Body; Haddick's Towing, Inc.; Hawthorne Machinery Co.; Lacey Collision Center; Materion Precision Optics and Thin Film Coatings, Inc.; Meggitt Defense Systems, Inc., as successor to Southwest Aerospace Corp.; Metal Surfaces International, LLC; Microsemi Corp.; National Oilwell Varco, as successor to Varco International, Inc.; New Bedford Panoramex Corp.; Ontario Nissan; Orion TV Productions, Inc.; Pierce Pacific Manufacturing, Inc.; Puregro Company, successor to Brea Agricultural Service, Inc.; Roberts Consolidated Industries, Inc.; Rocliff Enterprises, Inc. d/b/a United Truck Dismantlers; Shoreham Towers Homeowners' Association; Tom Holmes, Inc.; Wells Fargo Bank, National Association; Western Allied Corporation.

Dated: May 7, 2021.

**Enrique Manzanilla,**

*Director, Superfund Division, EPA Region 9.*

[FR Doc. 2021–10141 Filed 5–12–21; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

### Notice of Issuance of Interpretation of Federal Financial Accounting Standards 10, Clarification of Non-Federal Non-Entity FBWT Classification, An Interpretation of SFFAS 1 and SFFAS 31

**AGENCY:** Federal Accounting Standards Advisory Board.

**ACTION:** Notice.

Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and the FASAB Rules Of Procedure, as amended in October 2010, notice is hereby given that the Federal Accounting Standards Advisory Board (FASAB) has issued Interpretation of Federal Financial Accounting Standards 10, *Clarification of Non-federal Non-entity FBWT Classification (SFFAS 1, Paragraph 31): An Interpretation of SFFAS 1 and SFFAS 31.*

Interpretation 10 is available on the FASAB website at *https://fasab.gov/accounting-standards/.* Copies can be obtained by contacting FASAB at (202) 512–7350.

**FOR FURTHER INFORMATION CONTACT:** Ms. Monica R. Valentine, Executive Director, 441 G Street NW, Suite 1155, Washington, DC 20548, or call (202) 512–7350.

**Authority:** Federal Advisory Committee Act, Pub. L. 92–463.

Dated: May 10, 2021.

**Monica R. Valentine,**

*Executive Director.*

[FR Doc. 2021–10127 Filed 5–12–21; 8:45 am]

**BILLING CODE 1610–01–P**

## FEDERAL ELECTION COMMISSION

### Sunshine Act Meetings

**TIME AND DATE:** Tuesday, May 18, 2021 at 10:00 a.m. and its continuation at the conclusion of the open meeting on May 20, 2021.

**PLACE:** 1050 First Street NE, Washington, DC (THIS MEETING WILL BE A VIRTUAL MEETING).

**STATUS:** This meeting will be closed to the public.

**MATTERS TO BE CONSIDERED:** Compliance matters pursuant to 52 U.S.C. 30109.

Matters relating to internal personnel decisions, or internal rules and practices.

Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action.

Matters concerning participation in civil actions or proceedings or arbitration.

* * * * *

**CONTACT PERSON FOR MORE INFORMATION:** Judith Ingram, Press Officer, Telephone: (202) 694–1220.

**Vicktoria J. Allen,**

*Acting Deputy Secretary of the Commission.*

[FR Doc. 2021–10251 Filed 5–11–21; 4:15 pm]

**BILLING CODE 6715–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### CDC Draft 2021 Update to the HIV Preexposure Prophylaxis Clinical Practice Guideline and Supplement; Webinars

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS), announces webinars that will be held on two dates to receive comments on the draft 2021 update to the HIV Preexposure Prophylaxis (PrEP) Clinical Practice Guideline and Providers Supplement. The webinars are an opportunity for all interested parties to ask questions and provide feedback, but are specifically directed toward clinicians, such as medical doctors, nurse practitioners, physician's assistants, and pharmacists. CDC will consider comments made during the webinars prior to finalizing the draft HIV Preexposure Prophylaxis Clinical Practice Guideline and Providers Supplement: 2021 Update for publication.

**DATES:** The webinars will be held on the following two dates: May 24, 2021 from 1 p.m. to 2:30 p.m. EDT, and May 25, 2021 from 1 p.m. to 2:30 p.m. EDT. Registration is not required.

**ADDRESSES:** The webinars can be accessed at *https://cdc.zoomgov.com/j/1602789792?pwd=NVhQbWpDMXcza1UrbE94TWJnbEJCZz09.* Meeting ID: 160 278 9792, Passcode: 7i@v%w29 or by phone at 1–551–285–1373.

**FOR FURTHER INFORMATION CONTACT:** Dawn K. Smith, Medical Epidemiologist, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–US 12–2, Atlanta, GA 30329, *dsmith1@cdc.gov*, 404–639–8000.

**SUPPLEMENTARY INFORMATION:** The CDC's draft HIV Preexposure Prophylaxis Clinical Practice Guideline and Supplement: 2021 Update Webinars are a public presentation of draft updates to the CDC's 2017 HIV Preexposure Prophylaxis Guideline. The draft updates that will be discussed at the webinars include the addition of recommendations to: (1) Inform all sexually active patients about PrEP; (2) offer PrEP with daily oral tenofovir alafenamide/emtricitabine; and (3) provide PrEP with cabotegravir injections (conditioned on FDA approval). Other draft updates to the 2017 guideline that will be open for discussion during the webinars include: simplifying the determination of indications for PrEP; a revised recommended frequency of renal function testing for some PrEP patients; and adding sections on procedures for oral PrEP delivered by telemedicine, same day initiation of PrEP, and event-driven PrEP for appropriate patients.

Physicians and other health-care providers can use this guideline to assist in the prevention of HIV acquisition in their patients. Comments and questions on the draft changes may be made only during the webinars. There will be no written comment period.

Please refer to the draft guideline documents that will be posted for ten days beginning on May 17, 2021 at *https://www.cdc.gov/hiv/pdf/risk/prep/cdc-hiv-prep-guidelines-2021.pdf* and *https://www.cdc.gov/hiv/pdf/risk/prep-cdc-hiv-prep-provider-supplement-2021.pdf.*

A recording of each of the two webinars and accompanying transcripts will be available on the website listed in the paragraph above by June 15, 2021. In addition, CDC's responses to questions from the webinars will also be available June 30, 2021 at *https://www.cdc.gov/hiv/programresources/planning.html.* Comments will be received only during the webinars. There will be no written comment period.

Dated: May 10, 2021.

**Sandra Cashman,**

*Executive Secretary, Centers for Disease Control and Prevention.*

[FR Doc. 2021–10094 Filed 5–12–21; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2021–N–0352]**

### Intent To Prepare an Environmental Impact Statement for Certain Sunscreen Drug Products for Over-the-Counter Use

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

**ACTION:** Notice of intent.

**SUMMARY:** Under the National Environmental Policy Act of 1969 (NEPA), as implemented by the Council on Environmental Quality (CEQ) regulations, the Food and Drug Administration (FDA or Agency) announces its intent to prepare an environmental impact statement (EIS) to evaluate the potential environmental effects of revised conditions for marketing certain sunscreen products for over-the-counter (OTC) use without prior approval of a new drug application (NDA). By this notice, FDA is announcing the beginning of the scoping process to solicit public comments and identify issues to be analyzed in this EIS.

**DATES:** This notice initiates the public scoping process that will close on June 14, 2021. FDA will consider comments in response to this notice to determine the need for any public scoping meetings prior to the preparation of a draft EIS. In order to be considered during the preparation of the draft EIS, all comments must be received prior to the close of the public scoping period. FDA anticipates that if any public scoping meetings are necessary, due to the impact of this COVID–19 pandemic, such meetings will be held virtually via a live webcast. See FDA's website for periodic updates, available at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information* and search for Environmental Impact Statement. FDA will provide additional opportunities for public participation upon publication of the draft EIS.

**ADDRESSES:** You may submit comments, identified by the above docket number by any of the following methods:

*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–2021–N–0352 for ''Intent to Prepare an Environmental Impact Statement for Certain Sunscreen Drug Products for Over-The-Counter Use.'' 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.

**FOR FURTHER INFORMATION CONTACT:** Trang Q. Tran, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 4139, Silver Spring, MD 20993; 240–402–7945.

**SUPPLEMENTARY INFORMATION:**

Sunscreens are topically applied OTC drug products indicated to help prevent sunburn and/or to decrease the risk of skin cancer and early skin aging caused by the sun. FDA regulates sunscreen products to ensure they meet safety and effectiveness standards.[1] Under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, signed into law on March 27, 2020, FDA is required to issue a proposed order addressing sunscreens by September 27, 2021. While the CARES Act does not establish a deadline for the final sunscreen order, it specifies that this order may not go into effect earlier than 1 year after its issuance. FDA expects that the final sunscreen order will establish revised conditions for marketing a sunscreen product without the prior approval of an NDA, and that among the conditions addressed will be the permissibility of including certain active ingredients in sunscreen products marketed without an NDA.

Before engaging in a major Federal action, NEPA requires Federal agencies to consider the potential environmental

[1] Learn more about the history of FDA's regulation of sunscreen products at *https://www.fda.gov/drugs/status-otc-rulemakings/rulemaking-history-otc-sunscreen-drug-products.*

consequences of proposed actions, and any reasonable alternatives. Under FDA regulations, FDA will prepare an EIS when data or information in an environmental assessment or otherwise available to the Agency leads to a finding that the proposed agency action may significantly affect the quality of the human environment.[2] Because of questions raised about the extent to which two sunscreen active ingredients (oxybenzone and octinoxate) may affect coral and/or coral reefs, FDA is initiating the public scoping process to consider any potential environmental impacts associated with the use of oxybenzone and octinoxate in sunscreens so that an EIS, if necessary, can be completed prior to issuance of a final sunscreen order addressing sunscreens containing these ingredients.

We note the Agency's docket to the 2019 proposed rule ''Sunscreen Drug Products for Over-the-Counter Human Use'' (84 FR 6204 February 26, 2019) received comments that raised concerns about the potential impacts from sunscreens containing oxybenzone or octinoxate on coral and/or coral reefs. FDA is also aware that the National Oceanic and Atmospheric Administration (NOAA) Coral Reef Conservation Program is currently evaluating research related to coral reef health, including the potential impacts of sunscreen products that include oxybenzone and octinoxate on coral reefs and other aquatic systems.[3] The Agency is also aware that at least one state has restricted the sale of sunscreens that include the active ingredients oxybenzone or octinoxate. On July 3, 2018, the state of Hawaii signed into law S. 2571, Act 104, prohibiting the sale, offer of sale, and distribution of sunscreens that contain oxybenzone and/or octinoxate, to protect Hawaii's marine ecosystems, including coral reefs. This law became effective January 1, 2021. All of these actions raise questions about the potential environmental impacts of sunscreens containing oxybenzone and/or octinoxate on coral and/or coral reefs that warrant further evaluations.

The purpose of the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis, including potential alternatives and the extent to which those issues and impacts will be analyzed. At this initial stage of the scoping process, we have identified the following four alternatives: (1) FDA will conclude that the inclusion of oxybenzone and octinoxate in sunscreens marketed without an NDA is impermissible; (2) FDA will conclude that the inclusion of oxybenzone and octinoxate in sunscreens marketed without an NDA is permissible; (3) FDA will conclude that inclusion of oxybenzone in sunscreens marketed without an NDA is permissible but that the inclusion of octinoxate in sunscreens marketed without an NDA is impermissible; or (4) FDA will conclude that inclusion of octinoxate in sunscreens marketed without an NDA is permissible but that the inclusion of oxybenzone in sunscreens marketed without an NDA is impermissible.

The EIS will be prepared in accordance with section 102(2)(C) of NEPA, 42 U.S.C. 4332(2)(C), FDA's NEPA implementing regulations (21 CFR part 25), and the CEQ regulations for implementing NEPA (40 CFR parts 1500–1508).[4] Federal, State, and local agencies, along with Tribes and other stakeholders that may be interested in or affected by the sunscreen proposed order are invited to participate in the scoping process. Some Federal agencies may request or be requested by the FDA to participate in the development of the environmental analysis as a cooperating agency. FDA encourages other stakeholders to comment on this scoping process, on what specific issues, alternatives, mitigation measures, or other information FDA should include for further analysis in the EIS.

Dated: May 7, 2021.

**Lauren K. Roth,**

*Acting Principal Associate Commissioner for Policy.*

[FR Doc. 2021–10091 Filed 5–12–21; 8:45 am]

**BILLING CODE 4164–01–P**

[2] See 21 CFR 25.22(b); 40 CFR 1508.27.

[3] See NOAA's Coral Reef Information article ''The effects of ultraviolet filters and sunscreen on corals and aquatic ecosystems,'' available at the NOAA web page *https://www.coris.noaa.gov/activities/effects-ultraviolet-filters-sunscreen-corals/welcome.html.*

[4] FDA began activities relating to the environmental assessment of the use of oxybenzone and octinoxate in sunscreens marketed without an NDA before September 14, 2020. Consistent with 40 CFR 1506.13, FDA will apply the regulations in place prior to implementation of the new CEQ regulations. See the Council on Environmental Quality's final rule, ''Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act'' (40 CFR 1506.13, 85 FR 43304 at 43372 (July 16, 2020)).

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Agency Information Collection Activities: Proposed Collection: Public Comment Request; Information Collection Request Title: Black Lung Clinics Program, OMB No. 0915–0292—Revision

**AGENCY:** Health Resources and Services Administration (HRSA), Department of Health and Human Services.

**ACTION:** Notice.

**SUMMARY:** In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

**DATES:** Comments on this ICR should be received no later than July 12, 2021.

**ADDRESSES:** Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 14N136B, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at (301) 443–1984.

**SUPPLEMENTARY INFORMATION:** When submitting comments or requesting information, please include the ICR title for reference.

*Information Collection Request Title:* Black Lung Clinics Program Performance Measures, OMB No. 0915–0292—Revision.

*Abstract:* HRSA's Federal Office of Rural Health Policy conducts an annual data collection of user information for the Black Lung Clinics Program (BLCP), which has been ongoing with OMB approval since 2004. The BLCP is authorized by Sec. 427(a) of the Federal Mine Safety and Health Act of 1977, as amended (30 U.S.C. 937), and accompanying regulations at 42 CFR part 55a, to reduce the morbidity and mortality associated with occupationally-related coal mine dust lung disease through the screening, diagnosis, and treatment of active, inactive, retired, and/or disabled coal

miners. Collecting this data provides HRSA with information on how well each grantee is meeting the needs of these miners in their communities.

*Need and Proposed Use of the Information:* Data from the annual performance measures report provides quantitative information about the clinics, specifically: (a) The characteristics of the patients they serve (age, diagnoses, occupation type); (b) the characteristics of services provided (clinical services and benefits counseling); and (c) the number of patients served. This programmatic performance measure enables HRSA to provide data required by Congress under the Government Performance and Results Act of 1993. It also ensures that funds are effectively used to provide services that meet the target population needs.

The proposed changes to the BLCP measures are a result of the accumulation of grantee and stakeholder feedback and information gathered from the previously approved BLCP measures. The proposed changes include revisions of current measures for better usability and additional questions about screening program participation, smoking, pulmonary function testing, referral for services, and COVID–19 vaccination.

*Likely Respondents:* Respondents will likely be award recipients of the Black Lung Clinics Program.

*Burden Statement:* Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

| Form name | Number of respondents | Number of responses per respondent | Total responses | Average burden per response (in hours) | Total burden hours |
|---|---|---|---|---|---|
| Black Lung Clinics Program Measures | 15 | 1 | 15 | 10 | 150 |
| Total | 15 | | 15 | | 150 |

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**Maria G. Button,**

*Director, Executive Secretariat.*

[FR Doc. 2021–10087 Filed 5–12–21; 8:45 am]

**BILLING CODE 4165–15–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Advisory Committee on Individuals With Disabilities and Disasters

**AGENCY:** Office of the Assistant Secretary for Preparedness and Response (ASPR), Department of Health and Human Services (HHS).

**ACTION:** Notice.

**SUMMARY:** The Office of the Assistant Secretary for Preparedness and Response (ASPR), in the Department of Health and Human Services (HHS) Office of the Secretary announces establishment of the National Advisory Committee on Individuals with Disabilities and Disasters (NACIDD). The Advisory Committee will provide advice and consultation to the HHS Secretary with respect to the medical, public health, and accessibility needs of individuals with disabilities related to preparation for, response to, and recovery from all-hazards emergencies. The Office of the Assistant Secretary for Preparedness and Response (ASPR) shall provide management and administrative oversight to support the activities of the Advisory Committee. The Office of the Secretary is accepting application submissions from qualified individuals who wish to be considered for membership on the NACIDD. Up to seven voting members with expertise disability accessibility, disaster planning, preparedness, response, or recovery will be selected for the Committee. Please visit the NACIDD website at *www.phe.gov/nacidd* for all application submission information and instructions. Application submissions will be accepted for 30 calendar days from the date this posting is published in the **Federal Register**.

**DATES:** *Application Period:* The application submissions will be accepted for 30 calendar days from the date this posting is published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Maxine Kellman, DVM, Ph.D., PMP, Alternate Designated Federal Official for National Advisory Committees, Washington, DC, Office (202) 260–0447 or email *maxine.kellman@hhs.gov.*

**SUPPLEMENTARY INFORMATION:** The Office of the Assistant Secretary for Preparedness and Response provides management and administrative oversight to support the activities of the NACIDD.

*Description of Duties:* The NACIDD shall evaluate issues and programs and provide findings, advice, and recommendations to the Secretary of HHS, in accordance with FACA, to support and enhance all-hazards public health and medical preparedness, response activities, and recovery aimed at meeting the unique needs of individuals with disabilities across the entire spectrum of their wellbeing. The NACIDD shall (1) provide advice and consultation with respect to activities carried out pursuant to section 2814 of the PHS Act (at-risk individuals), as applicable and appropriate; (2) evaluate and provide input with respect to the medical, public health, and accessibility needs of individuals with disabilities related to preparation for, response to, and recovery from all-hazards emergencies; and (3) provide advice and consultation with respect to State emergency preparedness and response activities, including related drills and exercises pursuant to the preparedness

goals under section 2802(b) of the PHS Act (National Health Security Strategy).

The NACIDD will primarily, though not exclusively:

A. Monitor for and provide advice regarding emerging policy, scientific, technical, or operational issues and concerns related to medical and public health preparedness, response, and recovery in the event of a public health emergency declared by the Secretary of HHS;

B. Evaluate and provide advice on implementation of the preparedness goals described in the National Health Security Strategy as they apply to individuals with disabilities;

C. Monitor and make recommendations to improve HHS assistance to other Departments in planning for, responding to, and recovering from public health emergencies with respect to the effects on individuals with disabilities and their families;

D. Make recommendations to ensure that the contents of the Strategic National Stockpile take into account the unique needs of individuals with disabilities;

E. Make recommendations regarding curriculum development for public health and medical response training for medical management of casualties among individuals with disabilities;

F. Monitor and provide advice regarding novel and best practices of outreach to, and care of, individuals with disabilities before, during, and following public health emergencies;

G. Monitor and make recommendations to ensure that public health and medical information distributed by HHS during a public health emergency is delivered in a manner that takes into account the range of developmentally appropriate communication needs of individuals with disabilities and their families or guardians;

H. Provide advice for coordination of systems for situational awareness and biosurveillance that require incorporation of data and information from Federal, State, local, Tribal, and Territorial public health officials and relevant entities to identify health threats to individuals with disabilities and families.

I. Evaluate and provide inputs with respect to the medical, mental and behavioral, and public health needs of individuals with disabilities as they relate to preparation for, response to, and recovery from all-hazards emergencies;

J. Provide advice and consultation with respect to individuals with disabilities and State, Tribal, and Territorial emergency preparedness and response activities, including related drills and exercises pursuant to the preparedness goals in the National Health Security Strategy.

*Structure:* Members shall be appointed by the HHS Secretary from among the nation's preeminent scientific, public health, and medical experts in areas consistent with the purpose and functions of the advisory committee. The HHS Secretary, in consultation with such other heads of federal agencies as may be appropriate, shall appoint a maximum of 17 members to the NACIDD, ensuring that the total membership is an odd number.

The NACIDD shall consist of at least seven non-federal voting members, including a Chairperson, including:

(A) At least two non-federal health care professionals with expertise in disability accessibility before, during, and after disasters, medical and mass care disaster planning, preparedness, response, or recovery;

(B) At least two representatives from State, local, Tribal, or territorial agencies with expertise in disaster planning, preparedness, response, or recovery for individuals with disabilities; and

(C) At least two individuals with a disability with expertise in disaster planning, preparedness, response, or recovery for individuals with disabilities.

The NACIDD shall also have up to 10 federal, non-voting ex officio members including the following officials or their designees:

A. The Assistant Secretary for Preparedness and Response;

B. The Administrator for the Administration for Community Living;

C. The Director of the Biomedical Advanced Research and Development Authority;

D. The Director of the Centers for Disease Control and Prevention;

E. The Commissioner of Food and Drugs;

F. The Director of the National Institutes of Health;

G. The Administrator of the Federal Emergency Management Agency;

H. The Chair of the National Council on Disability;

I. The Chair of the United States Access Board;

J. The Under Secretary for Health of the Department of Veterans Affairs.

A voting member of the NACIDD shall serve for a term of three years, except that the Secretary may adjust the terms of appointees who are initially appointed after the date of enacted of the Pandemic and All-Hazards Preparedness and Advancing Innovation Act of 2019 (June 24, 2019) in order to provide for a staggered term of appointment for all members. A voting member may serve not more than three terms on the NACIDD, and not more than two of such terms may be served consecutively. Voting members shall not be full-time or permanent part-time federal employees but shall be appointed by the Secretary as Special Government Employees (5 U.S.C. 3109). A member may serve after the expiration of his/her term until a successor has been appointed. Vacancies will be filled as members rotate out or resign using the same procedures as the initial selection process.

A quorum for the NACIDD shall consist of a majority of the appointed voting members. Of the voting members, any who are disqualified from participating in an action on a particular issue shall not count toward the quorum.

**Nikki Bratcher-Bowman,**

*Acting Assistant Secretary for Preparedness and Response.*

[FR Doc. 2021–10080 Filed 5–12–21; 8:45 am]

**BILLING CODE 4150–37–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Advisory Committee on Seniors and Disasters: Establishment

**AGENCY:** Office of the Assistant Secretary for Preparedness and Response (ASPR), Department of Health and Human Services (HHS).

**ACTION:** Notice.

**SUMMARY:** The Office of the Assistant Secretary for Preparedness and Response (ASPR), in the Department of Health and Human Services (HHS) Office of the Secretary announces establishment of the National Advisory Committee on Seniors and Disasters (NACSD or Advisory Committee). The Advisory Committee will provide advice and recommendations to the Secretary of HHS, in accordance with the Federal Advisory Committee Act (FACA), to support and enhance all-hazards public health and medical preparedness, response activities, and recovery aimed at meeting the unique needs of seniors (older adults). The ASPR shall provide management and administrative oversight to support the activities of the Advisory Committee. The Office of the Secretary is accepting application submissions from qualified individuals who wish to be considered for membership on the NACSD. Up to seven new voting members with

expertise in senior medical disaster planning, preparedness, response, or recovery will be selected for the Committee. Please visit the NACSD website at *www.phe.gov/nacsd* for all application submission information and instructions. Application submissions will be accepted for 30 calendar days from the date this posting is published in the **Federal Register**.

**DATES:** *Application Period:* The application submissions will be accepted for 30 calendar days from the date this posting is published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Maxine Kellman, DVM, Ph.D., PMP, Designated Federal Official for National Advisory Committees, Washington, DC, Office (202) 260–0447 or email *maxine.kellman@hhs.gov.*

**SUPPLEMENTARY INFORMATION:** Pursuant to the Public Health Service (PHS) Act and FACA, the HHS Secretary, in consultation with the Secretary of the U.S. Department of Homeland Security, has established the National Advisory Committee on Seniors and Disasters (NACSD). Section 2811B of the PHS Act (42 U.S.C. 300hh–10c), as amended, by the Pandemic and All-Hazards Preparedness and Advancing Innovation Act (PAHPAIA), Public Law 116–22 requires that the HHS Secretary establish the NACSD to provide advice and consultation to the HHS Secretary with respect to the medical and public health needs of seniors in relation to disasters. The purpose of the NACSD is to provide findings, advice, and recommendation to the Secretary of HHS, in accordance with FACA, to support and enhance all-hazards public health and medical preparedness, response activities, and recovery aimed at meeting the unique needs of seniors. The Office of the Assistant Secretary for Preparedness and Response provides management and administrative oversight to support the activities of the NACSD.

*Description of Duties:* The NACSD: (1) Provide advice and consultation with respect to the activities carried out pursuant to section 2814 of the PHS Act, as applicable and appropriate; (2) evaluate and provide input with respect to the medical and public health needs of seniors related to preparation for, response to, and recovery from all-hazards emergencies; and (3) provide advice and consultation with respect to State emergency preparedness and response activities relating to seniors, including related drills and exercises pursuant to the preparedness goals under section 2802(b) of the PHS Act. The NACSD may provide advice and recommendations to the Secretary with respect to seniors and the medical and public health grants and cooperative agreements as applicable to preparedness and response activities under Titles XXVIII and III of the PHS Act.

*Structure:* The Advisory Committee consists of not more than seven voting members, including the Chairperson. Members will be appointed by the HHS Secretary, in consultation with such other Secretaries as may be appropriate, from among the nation's preeminent scientific, public health, and medical experts in areas consistent with the purpose and functions of the NACSD. Section 2811B of the PHS Act States:

(2) *Required Non–Federal Members.*— The Secretary, in consultation with such other heads of Federal agencies as may be appropriate, shall appoint to the Advisory Committee under paragraph (1) at least seven individuals, including—

(A) At least two non-federal health care professionals with expertise in geriatric medical disaster planning, preparedness, response, or recovery; and;

(B) At least two representatives from State, local, Tribal, or territorial agencies with expertise in geriatric disaster planning, preparedness, response, or recovery.

The NACSD shall also have up to 10 federal, non-voting members (*ex officio*), including the following officials or their designees:

A. The Assistant Secretary for Preparedness and Response;

B. The Director of the Biomedical Advanced Research and Development Authority;

C. The Director of the Centers for Disease Control and Prevention;

D. The Commissioner of Food and Drugs;

E. The Director of the National Institutes of Health;

F. The Administrator of the Centers for Medicare & Medicaid Services;

G. The Administrator of the Administration for Community Living;

H. The Administrator of the Federal Emergency Management Agency;

I. The Under Secretary for Health of the Department of Veterans Affairs; and

J. Representatives of such other Federal agencies as the Secretary determines necessary to fulfill the duties of the Advisory Committee.

A voting member of the NACSD shall serve for a term of three years, except that the Secretary may adjust the terms of appointees who are initially appointed after the date of enacted of the Pandemic and All-Hazards Preparedness and Advancing Innovation Act of 2019 (June 24, 2019) in order to provide for a staggered term of appointment for all members. A voting member may serve not more than three terms on the NACSD, and not more than two of such terms may be served consecutively. Voting members shall not be full-time or permanent part-time federal employees but shall be appointed by the Secretary as Special Government Employees (5 U.S.C. 3109). A member may serve after the expiration of his/her term until a successor has been appointed. Vacancies will be filled as members rotate out or resign using the same procedures as the initial selection process.

**Nikki Bratcher-Bowman,**

*Acting Assistant Secretary for Preparedness and Response.*

[FR Doc. 2021–10081 Filed 5–12–21; 8:45 am]

**BILLING CODE 4150–37–P**

## DEPARTMENT OF HOMELAND SECURITY

**[Docket Number DHS–2021–0015]**

### Agency Information Collection Activities: Public Perceptions of Emerging Technologies

**AGENCY:** Science and Technology Directorate (S&T), Department of Homeland Security (DHS).

**ACTION:** 60-Day notice and request for comments; 1640–NEW.

**SUMMARY:** DHS S&T will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The survey will collect information from the public regarding applications of artificial intelligence, including facial recognition. DHS has already used or piloted AI-based technologies in several of its key functions, including customs and border protection, transportation security, and investigations. However, AI in general and facial recognition in particular are not without public controversy, including concerns about bias, security, and privacy. Therefore, understanding how the public perceives these technologies, and then designing and deploying them in a manner responsive to the public's concerns, is critical in gaining public support for DHS's use of these technologies.

**DATES:** Comments are encouraged and will be accepted until July 12, 2021. This process is conducted in accordance with 5 CFR 1320.1

**ADDRESSES:** You may submit comments, identified by docket number DHS–2021–0015 at:

○ *Federal eRulemaking Portal: http://www.regulations.gov.* Please follow the instructions for submitting comments.

*Instructions:* All submissions received must include the agency name and docket number DHS–2021–0015. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

*Docket:* For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

**SUPPLEMENTARY INFORMATION:** DHS, in accordance with the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. DHS is soliciting comments on the proposed information collection request (ICR) that is described below. DHS 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.

**Analysis**

*Agency:* Department of Homeland Security (DHS).

*Title:* Public Perceptions of Emerging Technologies.

*OMB Number:* Insert.

*Frequency:* One per request.

*Affected Public:* Individuals and households.

*Number of Respondents:* 3000.

*Estimated Time per Respondent:* 12 minutes.

*Total Burden Hours:* 600.

Dated: May 7, 2021.

**Gregg Piermarini,**

*Chief Information Officer, Science and Technology Directorate, Department of Homeland Security.*

[FR Doc. 2021–10076 Filed 5–12–21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF HOMELAND SECURITY

### Transportation Security Administration

**[Docket No. TSA–2009–0018]**

### Extension of Agency Information Collection Activity Under OMB Review: Certified Cargo Screening Standard Security Program

**AGENCY:** Transportation Security Administration, DHS.

**ACTION:** 30-Day notice.

**SUMMARY:** This notice announces that the Transportation Security Administration (TSA) has forwarded the Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0053, abstracted below to OMB for an extension in compliance with the Paperwork Reduction Act. The ICR describes the nature of the information collection and its expected burden. The collection involves: (1) Applications from entities that wish to become Certified Cargo Screening Facilities (CCSFs) or Third-Party Canine-Cargo (3PK9–C) Certifiers; (2) personally identifiable information to allow TSA to conduct security threat assessments (STA) on certain individuals employed by the CCSFs or 3PK9–C Certifiers and those authorized to conduct 3PK9–C Program activities; (3) standard security programs or submission of a proposed modified security program or amendment to a security program by CCSFs, or standards provided by TSA or submission of a proposed modified standard by 3PK9–C Certifiers; (4) recordkeeping requirements for CCSFs and 3PK9–C Certifiers; (5) designation of a Security Coordinator (SC) by CCSFs and 3PK9–C Certifiers; and (6) significant security concerns detailing information of incidents, suspicious activities, and/or threat information by CCSFs and 3PK9–C Certifiers.

**DATES:** Send your comments by June 14, 2021. A comment to OMB is most effective if OMB receives it within 30 days of publication.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' and by using the find function.

**FOR FURTHER INFORMATION CONTACT:** Christina A. Walsh, TSA PRA Officer, Information Technology (IT), TSA–11, Transportation Security Administration, 6595 Springfield Center Drive, Springfield, VA 20598–6011; telephone (571) 227–2062; email *TSAPRA@tsa.dhs.gov.*

**SUPPLEMENTARY INFORMATION:** TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on November 18, 2020, 85 FR 73502.

**Comments Invited**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation will be available at *http://www.reginfo.gov* upon its submission to OMB. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

**Information Collection Requirement**

*Title:* Certified Cargo Screening Standard Security Program.

*Type of Request:* Revision of one currently approved ICR.

*OMB Control Number:* 1652–0053.

*Forms(s):* The forms used for this collection of information include Letter of Intent (TSA Form 419A); CCSF Profile Application (TSA Form 419B); CCSF Principal Attestation (TSA Form 419D); CCSF Security Profile (TSA Form 419E); and the Security Threat Assessment Application (TSA Form 419F).

*Affected Public:* The collections of information that make up this ICR involve entities other than aircraft operators and include facilities upstream in the air cargo supply chain, such as shippers, manufacturers, warehousing entities, distributors, third party logistics companies, indirect air carriers, CCSFs and 3PK9 Certifiers

located in the United States. For purposes of this document, CCSFs refers to both facility-based CCSFs and CCSF–K9s.

*Abstract:* TSA is seeking continued approval from OMB for the collection of information contained in the ICR. Section 1602 of the Implementing Recommendations of the 9/11 Commission Act of 2007, Public Law 110–53 (121 Stat. 266, Aug. 3, 2007) (9/11 Act) required the development of a system to screen 100 percent of such cargo no later than August 2010. TSA currently requires 100 percent screening of all cargo transported on passenger aircraft.[1] The screening of air cargo must be in a manner approved by TSA and be commensurate with the level of security for the screening of passenger checked baggage.[2]

TSA's regulations in 49 CFR part 1549 for the Certified Cargo Screening Program (CCSP) support the 9/11 Act mandate by providing an alternative means of compliance with the 100 percent screening requirement. In order to comply with the statutory mandate, the CCSP allows shippers, indirect air carriers, and other entities to voluntarily participate in a program through which TSA certifies entities to screen air cargo off-airport before it is tendered to air carriers for transport on passenger aircraft. CCSFs may screen cargo off-airport and must implement measures to ensure a secure chain of custody from the point of screening to the point at which the cargo is tendered to the aircraft operator. In addition, TSA developed a program to certify 3PK9–C Teams to screen air cargo.[3] TSA incorporated this capability under the framework of the CCSP, providing an opportunity for canine team providers to choose to be regulated as CCSFs under 49 CFR part 1549 and approved to use Certified 3PK9–C Teams to screen cargo for TSA regulated entities.

TSA's three primary programs issued under 49 CFR part 1549 provides standards for compliance for those entities subject to the program's requirements: (1) The Certified Cargo Screening Security Program, applicable to facilities-based CCSFs; (2) the Certified Cargo Security Program–K9, applicable to canine team providers; and (3) the 3PK9–C Certifier Order, applicable to third-party certifiers.

The following are required to maintain the CCSP: CCSF applications, 3KP9 certifier applications, STA applications, criminal history records check, recordkeeping requirements, security program information, 3PK9–C Certifier Order, significant security concerns information, and security coordinator information.

*Total Estimated Number of Respondent:* 2,527.

*Total Estimated Annual Burden Hours:* 16,041 hours annually.[4]

Dated: May 10, 2021.

**Christina A. Walsh,**

*Paperwork Reduction Act Officer, Information Technology.*

[FR Doc. 2021–10131 Filed 5–12–21; 8:45 am]

**BILLING CODE 9110–05–P**

[1] *See* 49 CFR 1544.205(g) and 1546.205(g)(1).

[2] *Id. See also* 49 U.S.C. 44901(g)(2).

[3] *See* sec. 1941 of the FAA Reauthorization Act of 2019, Division K, Title I (Pub. L. 115–254; 132 Stat. 3186; Oct. 5, 2018).

[4] The annual burden number has been updated since the submission of the 60-day notice, which reported, 16,189.98.

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

**[OMB Control Number 1615–0045]**

### Agency Information Collection Activities; Revision of a Currently Approved Collection: Petition by Entrepreneur To Remove Conditions on Permanent Resident Status

**AGENCY:** U.S. Citizenship and Immigration Services, Department of Homeland Security.

**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

**DATES:** Comments are encouraged and will be accepted for 60 days until July 12, 2021.

**ADDRESSES:** All submissions received must include the OMB Control Number 1615–0045 in the body of the letter, the agency name and Docket ID USCIS–2006–0009. Submit comments via the Federal eRulemaking Portal website at *https://www.regulations.gov* under e-Docket ID number USCIS–2006–0009. USCIS is limiting communications for this Notice as a result of USCIS' COVID–19 response actions.

**FOR FURTHER INFORMATION CONTACT:** USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *https://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

**SUPPLEMENTARY INFORMATION:** This Information Collection Revision would amend the Form I–829, Petition by Investor to Remove Conditions on Permanent Resident Status to clarify who may file the petition in different situations.

#### Background

On January 13, 2017, DHS published a Notice of Proposed Rulemaking (NPRM), EB–5 Immigrant Investor Program Modernization. See 82 FR 4738 (Jan. 13, 2017). The NPRM sought to ''clarify the process by which an immigrant investor's spouse and children file separate Form I–829 petitions when they are not included in the Form I–829 filed by the immigrant investor. Generally, an immigrant investor's derivatives should be included in the principal immigrant investor's Form I–829 petition. See [prior] 8 CFR 216.6(a)(1). However, there are situations in which derivatives may not be included on the principal immigrant investor's Form I–829 petition . . . In such circumstances, if the immigrant investor would have otherwise been eligible to have his or her conditions on status removed, then the derivatives would remain eligible to remove the conditions on their status even if the immigrant investor cannot or will not file a Form I–829 petition.'' 82 FR at 4750.

The NPRM continued, ''DHS also clarifies, however, that consistent with current practice, each derivative must file a separate Form I–829 petition in all other situations in which the investor's spouse and children are not included in the investor's Form I–829 petition. *See id.*'' 82 FR at 4750.

On July 24, 2019, DHS published a Final Rule, EB–5 Immigrant Investor

Program Modernization. See 84 FR 35750 (Jul. 24, 2019). In response to a public comment regarding derivative filing, DHS responded that it ''proposed to standardize the process for those derivatives who file an individual Form I–829 petition and cannot be included on the principal's Form I–829, generally because the principal fails or refuses to file a Form I–829. Under these circumstances, the final rule clarifies the current DHS practice of requiring all derivatives connected to a single principal investor to file separately . . . This final rule only allows derivatives to apply together on a single Form I–829 petition when the principal is deceased, because INA 204(l) directs DHS to adjudicate 'notwithstanding the death of the qualifying relative.'. . .This rule does not change the current DHS practice, and DHS is simply clarifying language in 8 CFR 216.6(a)(1) to avoid a situation where derivatives filing separately do so incorrectly, causing their petition to be rejected.'' 84 FR at 35782.

**Reasons for Change**

DHS is clarifying language from the preamble of both the NPRM and the Final Rule with this form revision regarding who may file the form. When DHS stated that a derivative may file a Form I–829 petition if the principal immigrant investor ''fails or refuses to file a Form I–829,'' DHS was referring to the principal's failure or refusal to file a Form I–829 for the derivative(s). The current DHS practice is for derivatives not included on the principal's Form I–829 to file a separate Form I–829. Therefore, DHS intended the comment response in the Final Rule to be read as: DHS proposed to standardize the process for those derivatives who file an individual Form I–829 petition and cannot be included on the principal's Form I–829, generally because the principal fails or refuses to file a Form I–829 for the derivative(s).

DHS understands that the failure to include ''for the derivative(s)'' may have caused confusion concerning whether the derivative of a principal immigrant investor can petition for and obtain the removal of conditions if the principal immigrant investor has not petitioned to remove his or her conditions. Through its regulation, DHS only intended to clarify existing practice for derivatives seeking to remove conditions on permanent residence. Currently, if the principal immigrant is unable to remove his or her conditions, the derivative immigrant is generally unable to remove his or her conditions, except where the principal has died, as statutorily required by INA 204(l).

This is consistent with the terms 'alien spouse' and 'alien child' as defined by INA 216A(f)(2). It is also consistent with 8 CFR 216.6(a)(1)(ii), and how derivative status is similarly interpreted across immigration benefits: That a derivative generally does not have status without the principal.

**Comments**

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: *https://www.regulations.gov* and entering USCIS–2006–0009 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at *https://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *https://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(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.

**Overview of This Information Collection**

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Petition by Entrepreneur to Remove Conditions on Permanent Resident Status.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–829; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households; Business or other for-profit. This form is used by a conditional resident alien entrepreneur who obtained such status through a qualifying investment, to apply to remove conditions on his or her conditional residence.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–829 is 2,790 and the estimated hour burden per response is 4.17 hours. The estimated total number of respondents for the information collection Site Visit is 150 and the estimated hour burden per response is 2 hours. The estimated total number of respondents for the information collection of Biometric Processing is 2,790 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 15,189 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $1,308,077.

Dated: May 7, 2021.

**Samantha L. Deshommes,**

*Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.*

[FR Doc. 2021–10108 Filed 5–12–21; 8:45 am]

**BILLING CODE 9111–97–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

**[212A2100DD/AAKC001030/A0A501010.999900 253G; OMB Control Number 1076–0190]**

### Agency Information Collection Activities; Indian Highway Safety Grant

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, we, the Bureau of Indian Affairs (BIA) are

proposing renew an information collection.

**DATES:** Interested persons are invited to submit comments on or before July 12, 2021.

**ADDRESSES:** Send your comments on this information collection request (ICR) by mail to the Indian Highway Safety Program Coordinator, Ms. Kimberly Belone, 1001 Indian School Road NW, Albuquerque, NM 87104; or by email to *Kimberly.belone@bia.gov.* Please reference OMB Control Number 1076–0190 in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact Indian Highway Program Director L.G. Robertson, 1001 Indian School Road NW, Albuquerque, NM 87104 by email at *Lawrence.robertson@bia.gov,* or by telephone at 505–563–3780. Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

*Abstract:* This information is collected from tribal entities concerning population, land base, highway miles and statistical data concerning vehicle fatalities, crashes, traffic enforcement actions and proposed financial data. This data collected is a requirement for the BIA IHSP to fulfil the data obligations of 23 CFR 1300.11 and will be used for review and consideration by the IHSP Selection Committee for consideration of grant awards.

*Title of Collection:* Indian Highway Safety Grants.

*OMB Control Number:* 1076–0190.

*Form Number:* None.

*Type of Review:* Extension of a currently approved collection.

*Respondents/Affected Public:* Tribal governments.

*Total Estimated Number of Annual Respondents:* 80.

*Total Estimated Number of Annual Responses:* 80.

*Estimated Completion Time per Response:* Varies from 1 hours to 4 hours, depending on the availability of Tribal statistical and financial data.

*Total Estimated Number of Annual Burden Hours:* 160, on average.

*Respondent's Obligation:* Required to obtain or retain a benefit.

*Frequency of Collection:* Annually if elect to apply for the grant(s).

*Total Estimated Annual Nonhour Burden Cost:* None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**Elizabeth K. Appel,**

*Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.*

[FR Doc. 2021–10078 Filed 5–12–21; 8:45 am]

**BILLING CODE 4337–15–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

**[212D0102DR/DS5A300000/DR.5A311.IA000118]**

### Native American Business Development Institute (NABDI) Grant; Solicitation of Proposals

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

**SUMMARY:** The Office of Indian Energy and Economic Development (IEED), through its Native American Business Development Institute (NABDI) grant, is soliciting proposals from Tribes for technical assistance funding to hire consultants to perform feasibility studies of economic development opportunities. In addition to the feasibility study, NABDI grants may fund business plans for proposed businesses or Tribal businesses recovering from the economic impacts of the COVID–19 pandemic.

**DATES:** Grant application packages must be submitted to the *Grants.gov* no later than 5 p.m. Alaska Daylight Time July 2, 2021. IEED will not consider proposals received after this time and date.

**ADDRESSES:** The required method of submitting proposals is through *Grants.gov.* For information on how to apply for grants in *Grants.gov*, see the instructions available at *https://www.grants.gov/help/html/help/Applicants/HowToApplyForGrants.htm.* Proposals must be submitted to *Grants.gov* by the deadline established in the **DATES** section.

**FOR FURTHER INFORMATION CONTACT:** Mr. James R. West, Native American Business Development Institute (NABDI) Manager, Office of Indian Energy and Economic Development, Room 6049–B, 12220 Sunrise Valley Drive, Reston, Virginia 20191; telephone: (202) 595–4766; email: *jamesr.west@bia.gov.* Additional Program information can be found at *https://www.bia.gov/service/grants/ntbg.*

**SUPPLEMENTARY INFORMATION:**

I. General Information

II. Number of Projects Funded

III. Background
IV. Eligibility for Funding
V. Who may perform feasibility studies funded by NABDI grants?
VI. Applicant Procurement Procedures
VII. Limitations
VIII. NABDI Application Guidance
IX. Mandatory Components
X. Incomplete Applications
XI. Review and Selection Process
XII. Evaluation Criteria
XIII. Transfer of Funds
XIV. Reporting Requirements for Award Recipients
XV. Conflicts of Interest
XVI. Questions and Requests for IEED Assistance
XVII. Paperwork Reduction Act
XVIII. Authority

## I. General Information

*Award Ceiling:* $75,000.
*Award Floor:* $25,000.
*CFDA Number:* 15.133.
*Cost Sharing or Matching Requirement:* No.
*Number of Awards:* 20–35.
*Category:* Business Development.

## II. Number of Projects Funded

IEED anticipates award of approximately twenty (20) to thirty-five (35) grants under this announcement ranging in value from approximately $25,000 to $75,000. The program can fund projects only one year at a time. IEED will use a competitive evaluation process based on criteria described in the Review and Selection Process section at section X of this notice.

## III. Background

The Office of the Assistant Secretary—Indian Affairs, through IEED, is soliciting proposals from Indian Tribes, as defined at 25 U.S.C. 5304(e), for grant funding to retain consultants to perform feasibility studies of economic development opportunities. Consultants may include universities and colleges, private consulting firms, non-academic/non-profit entities, or others. The feasibility studies will help facilitate informed decision-making regarding Tribes' economic futures. Feasibility studies may concern the viability of an economic development project or business, or the practicality of a technology, that a Tribe may choose to pursue. Feasibility studies may also explore how a current Tribal business or enterprise could recover and adapt to the challenges resulting from the COVID–19 pandemic. In addition to the feasibility study, NABDI grants may fund business plans for proposed businesses or recovering Tribal businesses.

The IEED administers this program through its Division of Economic Development (DED).

These grants will be funded under a non-recurring appropriation of the Bureau of Indian Affairs (BIA) budget. Congress appropriates funds on a year-to-year basis. Thus, while some projects may extend over several years, funding for successive years depends on each fiscal year's appropriations.

The funding periods and amounts referenced in this solicitation are subject to the availability of funds at the time of award, as well as the Department of the Interior (DOI) and Indian Affairs priorities at the time of the award. Neither DOI nor Indian Affairs will be held responsible for proposal or application preparation costs. Publication of this solicitation does not obligate DOI or Indian Affairs to award any specific grant or to obligate all or any part of available funds. Future funding is subject to the availability of appropriations and cannot be guaranteed. DOI or Indian Affairs may cancel or withdraw this solicitation at any time.

## IV. Eligibility for Funding

Federally recognized tribes are eligible as listed in the current **Federal Register** notice of Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs, which is the official listing of all federally recognized tribes in the U.S. pursuant to Section 104 under the Federally Recognized Indian Tribe List Act of 1994 (Pub. L. 103–454; 108 Stat. 4791–4792). The current notice was published in the **Federal Register** at 86 FR 7554 (January 29, 2021).

## V. Who may perform feasibility studies or develop business plans funded by NABDI grants?

The applicant determines who will conduct its feasibility study or business plan. An applicant has several choices, including but not limited to:

- Universities and colleges;
- Private consulting firms; or
- Non-academic, non-profit entities.

## VI. Applicant Procurement Procedures

The applicant is subject to the procurement standards in 2 CFR 200.318 through 200.326. In accordance with 2 CFR 200.318, an applicant must use its own documented procurement procedures which reflect Tribal laws and regulations, provided that the procurements conform to applicable Federal law and standards identified in title 2 of the Code of Federal Regulations.

## VII. Limitations

NABDI grant funding must be expended in accordance with applicable statutory and regulatory requirements, including 2 CFR part 200. As part of the grant application review process, IEED may conduct a review of an applicant's prior IEED grant awards(s).

Applicants that are currently under BIA sanction Level 2 or higher resulting from non-compliance with the Single Audit Act are ineligible for a NABDI award. Applicants at Sanction Level 1 will be considered for funding.

An applicant may submit more than one grant application. For example, an applicant may submit an application to study the practicality of developing a Tribal business and a separate application to assess whether that business would be competitive in the global marketplace. However, applications should address one project and any submissions that contain multiple project proposals will not be considered. IEED will apply the same objective ranking criteria to each proposal.

The purpose of NABDI grants is to fund feasibility studies and business plans for proposed economic development projects, businesses, technologies and for businesses recovering from the effects of the COVID–19 pandemic. An application can request funding for a feasibility study and a business plan. Generally, feasibility studies cost up to $50,000 and business plans between $5,000–$20,000.

NABDI awards may not be used for:

- Establishing or operating a Tribal office;
- Indirect costs or administrative costs as defined by the Federal Acquisition Regulation (FAR);
- Purchase of equipment that is used to develop the feasibility studies, such as computers, vehicles, field gear, etc. (however, leasing of this type of equipment for the purpose of developing feasibility studies is allowed);
- Creating Tribal jobs to complete the project. An NABDI grant is not intended to create temporary administrative jobs or supplement employment for Tribal members;
- Legal fees;
- Application fees associated with permitting;
- Training;
- Contract negotiation fees;
- Feasibility studies of energy, mineral, energy legal infrastructure, or broadband related projects, businesses, or technologies that are addressed by IEED's Energy and Mineral Development Program (EMDP), Tribal Energy Development Capacity (TEDC); and

• Any other activities not authorized by the grant award letter.

**VIII. NABDI Application Guidance**

Submission of entire application in digital form to grants.gov is required. For instructions, see *https://www.grants.gov/help/html/help/Applicants/HowToApplyForGrants.htm.* In very limited circumstances, IEED may accept a non-digital application. Please contact IEED at least a week prior to the submission deadline for approval.

**IX. Mandatory Components**

There are four mandatory components that must be included in each proposal package: Application for Federal Assistance SF–424, Project Narrative, Budget, and Critical Information Page.

*Application for Federal Assistance SF–424 (Mandatory Component 1)*

It is required that the applicant complete the Application for Federal Assistance SF–424. Please use a descriptive file name that includes tribal name and project description. For example: NABDISF424.Tribalname.Project.

*Project Narrative (Mandatory Component 2)*

The first paragraph of the project narrative must include the title and basic description of the proposed feasibility study and/or business plan. The Project Narrative must not exceed 15 pages. At a minimum, it should include:

• A technical description of the project and, if applicable, an explanation of how the proposed new study and/or business plan would benefit the applicant and does not duplicate previous work;

• A description of the project objectives and goals;

• Deliverable products that the consultant is expected to generate, including interim deliverables (such as status reports and technical data to be obtained) and final deliverables (the feasibility study); and

• Resumes of key consultants and personnel to be retained, if available, and the names of subcontractors, if applicable. This information may be included as an attachment to the application and will not be counted towards the 15-page limitation.

• Please use a descriptive file name that includes tribal name and project description. For example: NABDINarrative.Tribalname.Project.

In addition, unless prohibited by tribal procurement procedures, please include a description of the consultant(s) the applicant wishes to retain, including the consultant's contact information, technical expertise, training, qualifications, and suitability to undertake the feasibility study. These documents may be included at the end of the Project Narrative and will not be counted toward the 15-page limitation.

Project Narratives are not judged based on their length. Please do not submit any attachments or documents beyond what is listed above, *e.g.,* Tribal history, unrelated photos and maps.

*Budget (Mandatory Component 3)*

It is required that the budget be submitted using the SF–424A form. Please use a descriptive file name that includes tribal name and project description. For example: NABDIBudget.Tribalname.Project.

The budget must identify the amount of grant funding requested and a comprehensive breakdown of all projected and anticipated expenditures, including contracted personnel fees, consulting fees (hourly or fixed), travel costs, data collection and analysis costs, computer rentals, report generation, drafting, advertising costs for a proposed project and other relevant project expenses, and their subcomponents.

• Travel costs should be itemized by airfare, vehicle rental, lodging, and per diem, based on the current Federal government per diem schedule.

• Data collection and analysis costs should be itemized in sufficient detail for the IEED review committee to evaluate the charges.

• Other expenses may include computer rental, report generation, drafting, and advertising costs for a proposed project.

*Critical Information Page (Mandatory Component 4)*

Applicants must include a critical information page that includes:

• Project Manager's contact information including address, email, desk, and cell phone number;

• DUNS number;

• Active SAM number (please ensure that the SAM number is not expired);

• An *active* Automated Standard Application for Payment (ASAP) number;

• Counties where the project is located; and

• Congressional District number where the project is located.

• Please use a descriptive file name that includes tribal name and identifies that it is the critical information page (CIP). For example: NABDICIP.Tribalname.Project.

*Tribal Resolution (Mandatory Component 5)*

Applicants must include a Tribal resolution issued in the fiscal year of the grant application, authorizing the submission of a FY 2021 NABDI grant application. It must be signed by authorized Tribal representative(s). The Tribal resolution must also include a description of the feasibility study and/or business plan to be developed.

**X. Incomplete Applications**

Applications submitted without one or more of the five mandatory components described above will be returned to the applicant with an explanation. The applicant will then be allowed to correct any deficiencies and resubmit the proposal for consideration on or before the deadline. This option will not be available to an applicant once the deadline has passed.

**XI. Review and Selection Process**

Upon receiving a NABDI application, IEED will determine whether the application is complete and that the proposed project does not duplicate or overlap previous or currently funded IEED technical assistance projects. Any proposal that is received after the date and time in the **DATES** section of this notice will not be reviewed. If an application is not complete and the submission deadline has not passed, the applicant will be notified and given an opportunity to resubmit its application.

The IEED Review Committee, comprised of IEED staff, staff from other Federal agencies, and subject matter experts, will evaluate the proposals against the ranking criteria. Proposals will be evaluated using the four ranking criteria listed below, with a maximum achievable total of 100 points.

Final award selections will be approved by the Assistant Secretary—Indian Affairs and the Associate Deputy Secretary, U.S. Department of the Interior. Applicants not selected for award will be notified in writing.

**XII. Evaluation Criteria**

Proposals will be formally evaluated by an IEED review committee using the five criteria listed below. Each criterion provides a percentage of the total maximum rating of 100 points:

*The Project's Economic Benefits:* 50 points.

*Project Deliverables:* 20 points.

*Feasibility Process and Analysis:* 10 points.

*Costs of Proposal:* 10 points.

*Specificity:* 10 points.

*The Project's Economic Benefits: 50 Points*

The reviewers will determine if the proposal's scope of work clearly states the opportunity to be studied. Factors that the reviewers will consider when awarding points are, but not limited to:

- Does the proposal describe how the project will potentially stimulate economic development?
- Does the proposal describe the benefits that the project would have if implemented?
- Does the proposal include information on how the project will reduce joblessness and stimulate economic activity within a Native community?
- Does the proposal describe the economic development challenges and how the study will address those conditions?
- Does the proposal describe if the applicant has the financial resources to conduct the study absent NABDI grant assistance?

*Project Deliverables: 20 Points*

The reviewers will determine if the proposal describes in detail applicable proposed deliverables. For example, a hotel feasibility study would include deliverables such as, but not limited to, site analysis, market demographics, drive-time market, regional competition, market demands, and a financial model that includes investment and return on investment projections.

*Project Tasks and Timeline: 10 Points*

The reviewers will determine if a comprehensive timeline has been developed to address tasks that are needed to successfully complete the objectives outlined in the scope of work.

*Costs of Proposal/Budget: 10 Points*

The reviewers will assess the costs listed in the budget to determine if the overall value of the project is competitively priced and in accordance with the goals stated within the proposal/scope of work.

*Specificity: 10 Points*

The reviewers understand that applicants may retain consultant(s) that prepare the NABDI proposal to also conduct the feasibility study if the grant is awarded. This does not prejudice an applicant's chances of being selected as a grantee. However, the Committee will view unfavorably proposals that show little evidence of communication between the consultant(s) and the applicant or scant regard for the applicant community's unique circumstances. Facsimile applications prepared by the same consultant(s) and submitted by multiple applicants will receive scrutiny in this regard.

**XIII. Transfer of Funds**

IEED's obligation under this solicitation is contingent on receipt of congressionally appropriated funds. No liability on the part of the U.S. Government for any payment may arise until funds are made available to the awarding officer for this grant and until the recipient receives notice of such availability, to be confirmed in writing by the grant officer.

All payments under this agreement will be made by electronic funds transfer through the ASAP. All award recipients are required to have a current and accurate DUNS number to receive funds. All payments will be deposited to the banking information designated by the applicant in the System for Award Management (SAM).

**XIV. Reporting Requirements for Award Recipients**

The applicant must deliver all products and data required by the signed Grant Agreement for the proposed NABDI feasibility study and business plan project to IEED within 30 days of the end of each reporting period and 90 days after completion of the project. The reporting periods will be established in the terms and conditions of the final award.

IEED requires that deliverable products be provided in digital format. Reports can be provided in either Microsoft Word or Adobe Acrobat PDF format. Spreadsheet data can be provided in Microsoft Excel, Microsoft Access, or Adobe PDF formats. All vector figures should be converted to PDF format. Raster images can be provided in PDF, JPEG, TIFF, or any of the Windows metafile formats. The contract between the grantee and the consultant conducting the NABDI funded feasibility study must include deliverable products and require that the products be prepared in the format described above.

The contract should include budget amounts for all printed and digital copies to be delivered in accordance with the grant agreement. In addition, the contract must specify that all products generated by a consultant belong to the grantee and cannot be released to the public without the grantee's written approval. Products include, but are not limited to, all reports and technical data obtained, maps, status reports, and the final report.

In addition, this funding opportunity and financial assistance award must adhere to the following provisions.

**XV. Conflicts of Interest**

*Applicability*

- This section intends to ensure that non-Federal entities and their employees take appropriate steps to avoid conflicts of interest in their responsibilities under or with respect to Federal financial assistance agreements.
- In the procurement of supplies, equipment, construction, and services by recipients and by sub-recipients, the conflict of interest provisions in 2 CFR 200.318 apply.

*Requirements*

- Non-Federal entities must avoid prohibited conflicts of interest, including any significant financial interests that could cause a reasonable person to question the recipient's ability to provide impartial, technically sound, and objective performance under or with respect to a Federal financial assistance agreement.
- In addition to any other prohibitions that may apply with respect to conflicts of interest, no key official of an actual or proposed recipient or sub-recipient, who is substantially involved in the proposal or project, may have been a former Federal employee who, within the last one (1) year, participated personally and substantially in the evaluation, award, or administration of an award with respect to that recipient or sub-recipient or in development of the requirement leading to the funding announcement.
- No actual or prospective recipient or sub-recipient may solicit, obtain, or use non-public information regarding the evaluation, award, administration of an award to that recipient or sub-recipient or the development of a Federal financial assistance opportunity that may be of competitive interest to that recipient or sub-recipient.

*Notification*

- Non-Federal entities, including applicants for financial assistance awards, must disclose in writing any conflict of interest to the DOI awarding agency or pass-through entity in accordance with 2 CFR 200.112, Conflicts of Interest.
- Recipients must establish internal controls that include, at a minimum, procedures to identify, disclose, and mitigate or eliminate identified conflicts of interest. The recipient is responsible for notifying the Financial Assistance Officer in writing of any conflicts of interest that may arise during the life of the award, including those that have been reported by sub-recipients.
- *Restrictions on Lobbying.* Non-Federal entities are strictly prohibited

from using funds under this grant or cooperative agreement for lobbying activities and must provide the required certifications and disclosures pursuant to 43 CFR part 18 and 31 U.S.C. 1352.

• *Review Procedures.* The Financial Assistance Officer will examine each conflict of interest disclosure on the basis of its particular facts and the nature of the proposed grant or cooperative agreement, and will determine whether a significant potential conflict exists and, if it does, develop an appropriate means for resolving it.

• *Enforcement.* Failure to resolve conflicts of interest in a manner that satisfies the Government may be cause for termination of the award. Failure to make the required disclosures may result in any of the remedies described in 2 CFR 200.338, Remedies for Noncompliance, including suspension or debarment (see also 2 CFR part 180).

*Data Availability*

• *Applicability.* The Department of the Interior is committed to basing its decisions on the best available science and providing the American people with enough information to thoughtfully and substantively evaluate the data, methodology, and analysis used by the Department to inform its decisions.

• *Use of Data.* The regulations at 2 CFR 200.315 apply to data produced under a Federal award, including the provision that the Federal Government has the right to obtain, reproduce, publish, or otherwise use the data produced under a Federal award as well as authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

• *Availability of Data.* The recipient shall make the data produced under this award and any subaward(s) available to the Government for public release, consistent with applicable law, to allow meaningful third-party evaluation and reproduction of the following:

○ The scientific data relied upon;
○ The analysis relied upon; and
○ The methodology, including models, used to gather and analyze data.

**XVI. Questions and Requests for IEED Assistance**

IEED staff may provide technical consultation, upon written request by an applicant. The request must clearly identify the type of assistance sought. Technical consultation does not include funding to prepare a grant proposal, grant writing assistance, or pre-determinations as to the likelihood that a proposal will be awarded. The applicant is solely responsible for preparing its grant proposal. Technical consultation may include clarifying application requirements, confirming whether an applicant previously submitted the same or similar proposal, and registration information for SAM or ASAP.

**XVII. Paperwork Reduction Act**

The information collection requirements contained in this notice have been reviewed and approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3504(h). The OMB control number is 4040–0004. The authorization expires on 12/31/2022. An agency may not conduct or sponsor, and you are not required to respond to, any information collection that does not display a currently valid OMB Control Number.

**XVIII. Authority**

This is a discretionary grant program authorized under the Snyder Act (25 U.S.C. 13) and the Further Consolidated Appropriations Act 2020 (Pub. L. 116–94). The Snyder Act authorizes the BIA to expend such moneys as Congress may appropriate for the benefit, care, and assistance of Indians for the purposes listed in the Act. NABDI grants facilitate two of the purposes listed in the Snyder Act: ''General support and civilization, including education'' and ''industrial assistance and advancement.'' The Further Consolidated Appropriations Act 2020 authorizes the BIA to ''carry out the operation of Indian programs by direct expenditure, contracts, cooperative agreements, compacts, and grants, either directly or in cooperation with States and other organizations.''

**Bryan Newland,**

*Principal Deputy Assistant Secretary—Indian Affairs.*

[FR Doc. 2021–10086 Filed 5–12–21; 8:45 am]

**BILLING CODE 4337–10–P**

## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

### Advisory Council on Employee Welfare and Pension Benefit Plans Nominations for Vacancy; Insurance Representative

Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 88 Stat. 895, 29 U.S.C. 1142, provides for the establishment of an Advisory Council on Employee Welfare and Pension Benefit Plans (the Council), consisting of 15 members appointed by the Secretary of Labor (the Secretary) as follows:

• Three representatives of employee organizations (at least one of whom shall be a representative of an organization whose members are participants in a multiemployer plan);

• three representatives of employers (at least one of whom shall be a representative of employers maintaining or contributing to multiemployer plans);

• three representatives from the general public (one of whom shall be a person representing those receiving benefits from a pension plan); and

• one representative each from the fields of insurance, corporate trust, actuarial counseling, investment counseling, investment management, and accounting.

No more than eight members of the Council shall be members of the same political party.

Council members must be qualified to appraise the programs instituted under ERISA. The Council's prescribed duties are to advise the Secretary with respect to carrying out his functions under ERISA, and to submit to the Secretary, or his designee, related recommendations. The Council will meet at least four times each year.

This notice seeks nominations for an individual to fill a vacancy on the Council representing the field of insurance. This vacancy is due to the resignation of a member whose term would have expired on December 31, 2022. As such, the individual selected to fill the vacancy will begin serving upon appointment and will serve until December 31, 2022, in accordance with ERISA section 512(a)(4). Note that this solicitation is only to fill the vacant insurance representative position noted above. There will be a separate request published this summer for nominations for individuals to fill five additional positions that will become vacant at the end of 2021.

If you or your organization wants to nominate one or more people for appointment to the Council to represent the group or field of insurance, submit nominations to Christine Donahue, Council Executive Secretary, as email attachments to *donahue.christine@dol.gov* or by mail to U.S. Department of Labor, 200 Constitution Ave. NW, Suite N–5700, Washington, DC 20210. Nominations must be received on or before June 14, 2021. The Department will not consider nominations received after June 14, 2021. If sending electronically, please use an attachment in rich text, Word, or pdf format. Please allow three weeks for regular mail delivery to the Department of Labor. Nominations may be in the form of a letter, resolution, or petition signed by the person making the nomination or, in

the case of a nomination by an organization, by an authorized representative of the organization. The Department of Labor encourages you to include additional supporting letters of nomination. The Department of Labor will not consider self-nominees who have no supporting letters.

Nominations, including supporting letters, should:

- State the person's qualifications to serve on the Council (including any particular specialized knowledge or experience relevant to the nominee's proposed Council position);
- state that the candidate will accept appointment to the Council if offered;
- include the nominee's full name, work affiliation, mailing address, phone number, and email address;
- include the nominator's full name, work affiliation, mailing address, phone number, and email address;
- include the nominator's signature, whether sent by email or otherwise.

Please do not include any information that you do not want publicly disclosed.

The Department of Labor is committed to equal opportunity in the workplace and seeks a broad-based and diverse Council. The Department of Labor will contact nominees for information on their political affiliation and their status as registered lobbyists. Anyone currently subject to federal registration requirements as a lobbyist is not eligible for appointment. Additionally, nominees will be evaluated in accordance with Secretary's Order 10–2020 (85 FR 71104) to ensure they are financially independent from the Department programs and activities for which they may be called upon to provide advice. Nominees should be aware of the time commitment for attending meetings and actively participating in the work of the Council. Historically, this has meant a commitment of at least 20 days per year. The Department of Labor has a process for vetting nominees under consideration for appointment.

Signed at Washington, DC, this 6th day of May, 2021.

**Ali Khawar,**

*Acting Assistant Secretary, Employee Benefits Security Administration.*

[FR Doc. 2021–10090 Filed 5–12–21; 8:45 am]

**BILLING CODE 4510–29–P**

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

**[Docket No. OSHA–2011–0187]**

### Electrical Standards for Construction and General Industry; Extension of the Office of Management and Budget's (OMB) Approval of the Information Collection (Paperwork) Requirements

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Request for public comments.

**SUMMARY:** OSHA solicits public comments concerning the request for an extension of the information collection requirements contained in the Electrical Standards for Construction and for General Industry. The Standards address safety procedures for installation and maintenance of electric utilization equipment that prevent death and serious injuries among construction and general industry workers in the workplace caused by electrical hazards.

**DATES:** Comments must be submitted (postmarked, sent, or received) by July 12, 2021.

**ADDRESSES:**

*Electronically:* You may submit comments and attachments electronically at *https://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

*Docket:* To read or download comments or other material in the docket, go to *https://www.regulations.gov*. Documents in the docket are listed in the *https://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

*Instructions:* All submissions must include the agency name and OSHA docket number for this **Federal Register** notice (OSHA–2011–0187). OSHA will place comments, including any personal information you provide, in the public docket, which may be available online. Therefore, OSHA cautions interested parties about submitting personal information such as Social Security numbers and dates of birth. For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** Seleda Perryman or Theda Kenney, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Washington, DC; telephone (202) 693–2222.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

The Department of Labor, as part of the continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)).

This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The information collection requirements specified by the Electrical Standards for Construction (29 CFR part 1926, subpart K) and for General Industry (29 CFR part 1910, subpart S) alert workers to the presence and types of electrical hazards in the workplace, thereby preventing serious injury and death by electrocution. The information collection requirements in these Standards involve the following: The employer using electrical equipment that is marked with the manufacturer's name, trademark, or other descriptive markings that identify the producer of the equipment, and marking the equipment with the voltage, current, wattage, or other ratings necessary; requiring each disconnecting means for motors and appliances to be marked legibly to indicate its purpose, unless located and arranged so the purpose is evident; requiring the entrances to rooms and other guarded locations containing exposed live parts to be marked with conspicuous warning signs

forbidding unqualified persons from entering; and, for construction employers only, establishing and implementing the assured equipment grounding conductor program instead of using ground-fault circuit interrupters.

**II. Special Issues for Comment**

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and cost) of the information collection requirements, including the validity of the methodology, and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

**III. Proposed Actions**

OSHA is proposing an increase adjustment to the existing burden hours from 194,976 hours to 200,662 for the Electrical Standards for Construction and for General Industry, a total increase of 5,686. The cost of the labels is $10.66, which increased from $4.25, a difference of $6.41. The cost of caution and warning signs remains $19.19. The total cost over a five-year period to the employer is $44,753,780 (or $8,950,756 per year). The agency will summarize any comments submitted in response to this notice, and will include this summary in the request to OMB to extend the approval of the information collection requirements contained in these Standards.

*Type of Review:* Extension of a currently approved collection.

*Title:* Electrical Standards for Construction (29 CFR part 1926, subpart K) and for General Industry (29 CFR part 1910, subpart S).

*OMB Number:* 1218–0130.

*Affected Public:* Business or other for-profits; Not-for-profit institutions; Federal Government; State, local, or tribal governments.

*Number of Respondents:* 923,147.

*Frequency of Response:* Occasionally.

*Total Responses:* 2,822,871.

*Average Time per Response:* Various.

*Estimated Total Burden Hours:* 200,662.

*Estimated Cost (Operation and Maintenance):* $8,950,756.

**IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions**

You may submit comments in response to this document as follows: (1) Electronically at *https://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. *Please note:* While OSHA's Docket Office is continuing to accept and process submissions by regular mail, due to the COVID–19 pandemic, the Docket Office is closed to the public and not able to receive submissions to the docket by hand, express mail, messenger, and courier service. All comments, attachments, and other materials must identify the agency name and the OSHA docket number for the ICR (Docket No. OSHA–2011–0187). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the agency can attach them to your comments.

Due to security procedures, the use of regular mail may cause a significant delay in the receipt of comments.

Comments and submissions are posted without change at *https://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *https://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download through this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *https://www.regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link. Contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627) for information about materials not available through the website, and for assistance in using the internet to locate docket submissions.

**V. Authority and Signature**

James S. Frederick, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on May 6, 2021.

**James S. Frederick,**

*Acting Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. 2021–10089 Filed 5–12–21; 8:45 am]

**BILLING CODE 4510–26–P**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice: 21–028]**

### Name of Information Collection: Term and Condition Notification of Harassment Form

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of information collection.

**SUMMARY:** The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections.

**DATES:** Comments are due by June 14, 2021.

**ADDRESSES:** All comments should be addressed to Claire Little, National Aeronautics and Space Administration, 300 E Street SW, Washington, DC 20546–0001 or call 202–358–2375.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Claire Little, NASA Clearance Officer, NASA Headquarters, 300 E Street SW, JF0000, Washington, DC 20546 or email *claire.a.little@nasa.gov.*

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

This collection of information supports NASA's term and condition regarding sexual harassment, other forms of harassment, and sexual assault. This term and condition require recipient organizations to report to NASA any findings/determinations of sexual harassment, other forms of harassment, or sexual assault regarding a NASA funded Principle Investigator (PI) or Co-Investigator (Co-I). The new term and condition will also require the recipient to report to NASA if the PI or Co-I is placed on administrative leave or if the recipient has imposed any administrative action on the PI or Co-I, or any determination or an investigation

of an alleged violation of the recipient's policies or codes of conduct, statutes, regulations, or executive orders relating to sexual harassment, other forms of harassment, or sexual assault.

In reviewing harassment notifications pursuant to the term and condition, it will be necessary for the Agency to have complete information provided in a consistent manner. The information provided will be used by the Agency to assess the matters reported and to consult with the Authorized Organizational Representative (AOR), or designee of the reporting institution. Based on the results of this review and consultation, NASA may, if necessary, assert its programmatic stewardship responsibilities and oversight authority to initiate the substitution or removal of the PI or any co-PI, reduce the award funding amount, or where neither of those previous options is available or adequate, to suspend or terminate the award.

**II. Methods of Collection**

Electronic.

**III. Data**

*Title:* NASA Term and Condition Notification of Harassment Form.

*OMB Number:*

*Type of review:* New.

*Affected Public:* NASA grant recipient institution reporting officials.

*Estimated Annual Number of Activities:* 20.

*Estimated Number of Respondents per Activity:* 1.

*Annual Responses:* 20.

*Estimated Time per Response:* 1 hour.

*Estimated Total Annual Burden Hours:* 20.

*Estimated Total Annual Cost:* $2,000.

**IV. Request for Comments**

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

**Authority:** 44 U.S.C. 3501 *et seq.*

**Lori Parker,**

*NASA PRA Clearance Officer.*

[FR Doc. 2021–10101 Filed 5–12–21; 8:45 am]

**BILLING CODE 7510–13–P**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[21–029]**

## Agency Information Collection Activities; NASA Assurance of Civil Rights Compliance

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of information collection.

**SUMMARY:** The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections.

**DATES:** Comments are due by July 12, 2021.

**ADDRESSES:** Written comments and recommendations for this information collection should be sent within 60 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information collection by selecting ''Currently under 60-day Review—Open for Public Comments'' or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Claire Little, NASA Clearance Officer, NASA Headquarters, 300 E Street SW, JF0000, Washington, DC 20546 or email *claire.a.little@nasa.gov*.

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

The National Aeronautics and Space Administration (NASA) Office of Diversity and Equal Opportunity and the Office of Procurement, in accordance with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, requires grant awardees to submit an assurance of non-discrimination (NASA Form 1206) as part of their initial grant application package. The requirement for assurance of nondiscrimination compliance associated with federally assisted programs is long standing, derives from civil rights implementing regulations, and extends to the grant recipient's sub-grantees, contractors, successors, transferees, and assignees. Grant selectees are required to submit compliance information triennially when their award period exceeds 36 consecutive months. This information collection will also be used to enable NASA to conduct post-award civil rights compliance reviews.

**II. Methods of Collection**

Electronic.

**III. Data**

*Title:* NASA Assurance of Civil Rights Compliance.

*OMB Number:* 2700–0148.

*Type of Review:* Extension of a previously approved information collection.

*Affected Public:* Business, other for-profit, or not-for-profit.

*Estimated Annual Number of Activities:* 50.

*Estimated Number of Respondents per Activity:* 1.

*Annual Responses:* 50.

*Estimated Time per Response:* 4 hours.

*Estimated Total Annual Burden Hours:* 200.

*Estimated Total Annual Cost:* $6,000.

**IV. Request for Comments**

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

**Lori Parker,**

*NASA PRA Clearance Officer.*

[FR Doc. 2021–10099 Filed 5–12–21; 8:45 am]

**BILLING CODE 7510–13–P**

## NATIONAL FOUNDATION OF THE ARTS AND THE HUMANITIES

### Institute of Museum and Library Services

### 43rd Meeting of the National Museum and Library Services Board

**AGENCY:** Institute of Museum and Library Services (IMLS), National Foundation of the Arts and the Humanities (NFAH).

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act, notice is hereby given that the National Museum and Library Services Board will meet to advise the Director of the Institute of Museum and Library Services (IMLS) with respect to duties, powers, and authority of IMLS relating to museum, library, and information services, as well as coordination of activities for the improvement of these services.

**DATES:** The meeting will be held on June 15, 2021, from 11:00 a.m. Eastern Time until adjourned.

**ADDRESSES:** The meeting will convene virtually. In order to enhance openness and public participation, virtual meeting and audio conference technology will be used during the meeting. Instructions will be sent to all public registrants.

**FOR FURTHER INFORMATION CONTACT:** Katherine Maas, Project Specialist and Alternate Designated Federal Officer, Institute of Museum and Library Services, Suite 4000, 955 L'Enfant Plaza North SW, Washington, DC 20024; (202) 653–4798; *kmaas@imls.gov* (*mailto:kmaas@imls.gov*).

**SUPPLEMENTARY INFORMATION:** The National Museum and Library Services Board is meeting pursuant to the National Museum and Library Service Act, 20 U.S.C. 9105a, and the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App.

The 43rd Meeting of the National Museum and Library Services Board, which is open to the public, will convene online at 11:00 a.m. Eastern Time on June 15, 2021.

The agenda for the 43rd Meeting of the National Museum and Library Services Board will be as follows:

I. Call to Order
II. Approval of Minutes of the 42nd Meeting
III. Director's Welcome and Update
IV. Governmental Engagement and Legislative Update
V. Financial Update
VI. National Medals Update
VII. Office of Library Services Update
VIII. Office of Museum Services Update
IX. Museums and Libraries and Civic Infrastructure

If you wish to attend the virtual public session of the meeting, please inform IMLS as soon as possible, but no later than close of business on June 14, 2021, by contacting Katherine Maas at *kmaas@imls.gov* (*mailto:kmaas@imls.gov*). Virtual meeting and audio instructions will be sent to all public registrants. Please provide notice of any special needs or accommodations by June 1, 2021.

Dated: May 10, 2021.

**Kim Miller,**

*Senior Grants Management Specialist, Institute of Museum and Library Services.*

[FR Doc. 2021–10117 Filed 5–12–21; 8:45 am]

**BILLING CODE 7036–01–P**

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### National Endowment for the Arts

### Arts Advisory Panel Meetings

**AGENCY:** National Endowment for the Arts, National Foundation on the Arts and the Humanities.

**ACTION:** Notice of meetings.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act, as amended, notice is hereby given that 44 meetings of the Arts Advisory Panel to the National Council on the Arts will be held by teleconference.

**DATES:** See the **SUPPLEMENTARY INFORMATION** section for individual meeting times and dates. All meetings are Eastern time and ending times are approximate.

**ADDRESSES:** National Endowment for the Arts, Constitution Center, 400 7th St. SW, Washington, DC 20506.

**FOR FURTHER INFORMATION CONTACT:** Further information with reference to these meetings can be obtained from Ms. Sherry P. Hale, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506; *hales@arts.gov,* or call 202–682–5696.

**SUPPLEMENTARY INFORMATION:** The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of September 10, 2019, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of title 5, United States Code.

The upcoming meetings are:

*Media* (review of applications): This meeting will be closed.

*Date and time:* June 2, 2021; 11:30 a.m. to 1:30 p.m.

*Media* (review of applications): This meeting will be closed.

*Date and time:* June 2, 2021; 2:30 p.m. to 4:30 p.m.

*Media* (review of applications): This meeting will be closed.

*Date and time:* June 4, 2021; 11:30 a.m. to 1:30 p.m.

*Media* (review of applications): This meeting will be closed.

*Date and time:* June 4, 2021; 2:30 p.m. to 4:30 p.m.

*Media* (review of applications): This meeting will be closed.

*Date and time:* June 8, 2021; 2:30 p.m. to 4:30 p.m.

*Opera* (review of applications): This meeting will be closed.

*Date and time:* June 10, 2021; 12:00 p.m. to 2:00 p.m.

*Opera* (review of applications): This meeting will be closed.

*Date and time:* June 10, 2021; 3:00 p.m. to 5:00 p.m.

*Arts Education* (review of applications): This meeting will be closed.

*Date and time:* June 15, 2021; 1:30 p.m. to 3:30 p.m.

*Musical Theater* (review of applications): This meeting will be closed.

*Date and time:* June 15, 2021; 1:00 p.m. to 3:00 p.m.

*Theater* (review of applications): This meeting will be closed.

*Date and time:* June 15, 2021; 4:00 p.m. to 6:00 p.m.

*Artist Communities* (review of applications): This meeting will be closed.

*Date and time:* June 17, 2021; 2:00 p.m. to 4:00 p.m.

*Arts Education* (review of applications): This meeting will be closed.

*Date and time:* June 17, 2021; 1:30 p.m. to 3:30 p.m.

*Design* (review of applications): This meeting will be closed.

*Date and time:* June 17, 2021; 11:30 a.m. to 1:30 p.m.

*Design* (review of applications): This meeting will be closed.

*Date and time:* June 17, 2021; 2:30 p.m. to 4:30 p.m.

*Theater* (review of applications): This meeting will be closed.

*Date and time:* June 17, 2021; 1:00 p.m. to 3:00 p.m.

*Theater* (review of applications): This meeting will be closed.

*Date and time:* June 17, 2021; 4:00 p.m. to 6:00 p.m.

*Artist Communities* (review of applications): This meeting will be closed.

*Date and time:* June 18, 2021; 2:00 p.m. to 4:00 p.m.

*Music* (review of applications): This meeting will be closed.

*Date and time:* June 21, 2021; 12:00 p.m. to 2:00 p.m.

*Music* (review of applications): This meeting will be closed.

*Date and time:* June 21, 2021; 3:00 p.m. to 5:00 p.m.

*Locals* (review of applications): This meeting will be closed.

*Date and time:* June 22, 2021; 1:00 p.m. to 3:00 p.m.

*Locals* (review of applications): This meeting will be closed.

*Date and time:* June 22, 2021; 3:30 p.m. to 5:30 p.m.

*Theater* (review of applications): This meeting will be closed.

*Date and time:* June 22, 2021; 1:00 p.m. to 3:00 p.m.

*Theater* (review of applications): This meeting will be closed.

*Date and time:* June 22, 2021; 4:00 p.m. to 6:00 p.m.

*Music* (review of applications): This meeting will be closed.

*Date and time:* June 23, 2021; 12:00 p.m. to 2:00 p.m.

*Music* (review of applications): This meeting will be closed.

*Date and time:* June 23, 2021; 3:00 p.m. to 5:00 p.m.

*Visual Arts* (review of applications): This meeting will be closed.

*Date and time:* June 23, 2021; 11:30 a.m. to 1:30 p.m.

*Visual Arts* (review of applications): This meeting will be closed.

*Date and time:* June 23, 2021; 2:30 p.m. to 4:30 p.m.

*Dance* (review of applications): This meeting will be closed.

*Date and time:* June 24, 2021; 12:00 p.m. to 2:00 p.m.

*Dance* (review of applications): This meeting will be closed.

*Date and time:* June 24, 2021; 3:00 p.m. to 5:00 p.m.

*Visual Arts* (review of applications): This meeting will be closed.

*Date and time:* June 24, 2021; 11:30 a.m. to 1:30 p.m.

*Visual Arts* (review of applications): This meeting will be closed.

*Date and time:* June 24, 2021; 2:30 p.m. to 4:30 p.m.

*Dance* (review of applications): This meeting will be closed.

*Date and time:* June 25, 2021; 12:00 p.m. to 2:00 p.m.

*Dance* (review of applications): This meeting will be closed.

*Date and time:* June 25, 2021; 3:00 p.m. to 5:00 p.m.

*Visual Arts* (review of applications): This meeting will be closed.

*Date and time:* June 25, 2021; 2:30 p.m. to 4:30 p.m.

*Music* (review of applications): This meeting will be closed.

*Date and time:* June 28, 2021; 12:00 p.m. to 2:00 p.m.

*Music* (review of applications): This meeting will be closed.

*Date and time:* June 28, 2021; 3:00 p.m. to 5:00 p.m.

*Presenting and Multidisciplinary Works* (review of applications): This meeting will be closed.

*Date and time:* June 28, 2021; 2:00 p.m. to 4:00 p.m.

*Presenting and Multidisciplinary Works* (review of applications): This meeting will be closed.

*Date and time:* June 29, 2021; 2:00 p.m. to 4:00 p.m.

*Theater* (review of applications): This meeting will be closed.

*Date and time:* June 29, 2021; 1:00 p.m. to 3:00 p.m.

*Research Grants in the Arts* (review of applications): This meeting will be closed.

*Date and time:* June 29, 2021; 11:00 a.m. to 1:00 p.m.

*Arts Education* (review of applications): This meeting will be closed.

*Date and time:* June 30, 2021; 1:30 p.m. to 3:30 p.m.

*Dance* (review of applications): This meeting will be closed.

*Date and time:* June 30, 2021; 12:00 p.m. to 2:00 p.m.

*Presenting and Multidisciplinary Works* (review of applications): This meeting will be closed.

*Date and time:* June 30, 2021; 2:00 p.m. to 4:00 p.m.

*Research Grants in the Arts* (review of applications): This meeting will be closed.

*Date and time:* June 30, 2021; 2:00 p.m. to 4:00 p.m.

Dated: May 10, 2021.

**Sherry P. Hale,**

*Staff Assistant, National Endowment for the Arts.*

[FR Doc. 2021–10088 Filed 5–12–21; 8:45 am]

**BILLING CODE 7537–01–P**

## NATIONAL SCIENCE FOUNDATION

### Proposal Review Panel for Physics; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

**NAME AND COMMITTEE CODE:** ATLAS Annual Review of Operations for the Division of Physics (1208).

**DATE AND TIME:** July 20–21, 2021; 10:30 a.m.–5:30 p.m.

**PLACE:** NSF, 2415 Eisenhower Avenue, Alexandria, VA 22314 | Virtual.

**TYPE OF MEETING:** Part-Open.

**CONTACT PERSON:** Mark Coles, Program Director, Division of Physics, National Science Foundation, 2415 Eisenhower Avenue, Room 9219, Alexandria, VA 22314; Telephone: (703) 292–4432.

**PURPOSE OF MEETING:** Evaluate a proposal to fund operation, maintenance, and associated activities for the U.S. ATLAS collaboration.

**Agenda**

Agenda (all times Eastern Daylight Time [EDT]): *NSF will provide the Zoom coordinates for each meeting.*

*July 20 (Tuesday)*

10:30 a.m.–11:00 a.m. Executive Session (Closed)
11:00 a.m.–5:00 p.m. Presentations by ATLAS (with breaks)
5:00 p.m.–5:30 p.m. Executive Session (Closed)

*July 21 (Wednesday)*

10:30 a.m.–11:00 a.m. Executive Session (Closed)
11:00 a.m. –3:00 p.m. Homework reporting, presentations, breakouts, with breaks
3:00 p.m.–5:00 p.m. Executive Session (Closed)
5:00 p.m.–5:30 p.m. Closeout report by panel

**REASON FOR CLOSING:** The work being reviewed during closed portions of the virtual site visit include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the project. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 7, 2021.

**Crystal Robinson,**

*Committee Management Officer.*

[FR Doc. 2021–10082 Filed 5–12–21; 8:45 am]

**BILLING CODE 7555–01–P**

## NATIONAL SCIENCE FOUNDATION

### Proposal Review Panel for Physics; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

**NAME AND COMMITTEE CODE:** CMS Annual Review of Operations for the Division of Physics (1208).

**DATE AND TIME:** July 27–28, 2021; 10:30 a.m.–5:30 p.m.

**PLACE:** NSF, 2415 Eisenhower Avenue, Alexandria, VA 22314 | Virtual.

**TYPE OF MEETING:** Part-Open.

**CONTACT PERSON:** Mark Coles, Program Director, Division of Physics, National Science Foundation, 2415 Eisenhower Avenue, Room 9219, Alexandria, VA 22314; Telephone: (703) 292–4432.

**PURPOSE OF MEETING:** Evaluate a proposal to fund operation, maintenance, and associated activities for the U.S. CMS collaboration.

**Agenda**

Agenda (all times are Eastern Daylight Time [EDT]): *NSF will provide the Zoom coordinates for each meeting.*

*July 20 (Tuesday)*

10:30 a.m.–11:00 a.m. Executive Session (Closed)
11:00 a.m.–5:00 p.m. Presentations by CMS (with breaks)
5:00 p.m.–5:30 p.m. Executive Session (Closed)

*July 21 (Wednesday)*

10:30 a.m.–11:00 a.m. Executive Session (Closed)
11:00 a.m. –3:00 p.m. Homework reporting, presentations, breakouts, with breaks
3:00 p.m.–5:00 p.m. Executive Session (Closed)
5:00 p.m.–5:30 p.m. Closeout report by panel

**REASON FOR CLOSING:** The work being reviewed during closed portions of the virtual site visit include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the project. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 7, 2021.

**Crystal Robinson,**

*Committee Management Officer.*

[FR Doc. 2021–10083 Filed 5–12–21; 8:45 am]

**BILLING CODE 7555–01–P**

## POSTAL REGULATORY COMMISSION

**[Docket Nos. MC2021–89 and CP2021–92]**

### New Postal Products

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* May 17, 2021.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202–789–6820.

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

I. Introduction
II. Docketed Proceeding(s)

**I. Introduction**

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

**II. Docketed Proceeding(s)**

1. *Docket No(s).:* MC2021–89 and CP2021–92; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 193 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* May 7, 2021; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* May 17, 2021.

This Notice will be published in the **Federal Register**.

**Erica A. Barker,**

*Secretary.*

[FR Doc. 2021–10104 Filed 5–12–21; 8:45 am]

**BILLING CODE 7710–FW–P**

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–91790; File Nos. SR–NYSE–2021–15, SR–NYSEAMER–2021–13, SR–NYSEArca–2021–15, SR–NYSECHX–2021–04, SR–NYSENAT–2021–05]**

### Self-Regulatory Organizations; New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc.; Suspension of and Order Instituting Proceedings To Determine Whether To Approve or Disapprove Proposed Rule Changes To Amend the Fee Schedules Related to Co-Location

May 7, 2021.

**I. Introduction**

On March 10, 2021, New York Stock Exchange LLC (''NYSE''), NYSE American LLC (''NYSE American''), NYSE Arca, Inc. (''NYSE Arca''), NYSE Chicago, Inc. (''NYSE Chicago''), and NYSE National, Inc. (''NYSE National'') (collectively, the ''Exchanges'') each filed with the Securities and Exchange Commission (the ''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 provide Users with access to the systems and connectivity to the data feeds of several third parties and establish associated fees.[3] Each proposed rule change was immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.[4] The proposed rule changes were published for comment in the **Federal Register** on March 29, 2021.[5] The Commission received no comment letters on the proposals. Pursuant to Section 19(b)(3)(C) of the Act,[6] the Commission is hereby: (1) Temporarily suspending File Nos. SR–NYSE–2021–15, SR–NYSEAMER–2021–13, SR–NYSEArca–2021–15, SR–NYSECHX–2021–04, and SR–NYSENAT–2021–05; and (2) instituting proceedings to determine whether to approve or disapprove File Nos. SR–NYSE–2021–15, SR–NYSEAMER–2021–13, SR–NYSEArca–2021–15, SR–NYSECHX–2021–04, and SR–NYSENAT–2021–05.

## II. Description of the Proposed Rule Change

The Exchanges, as part of their co-location services, offer Users connectivity to the execution systems of third party markets and other content service providers (''Third Party Systems''), and data feeds from third party markets and other content service providers (''Third Party Data Feeds'').[7] The Exchanges charge fees for connectivity to Third Party Systems and Third Party Data Feeds. The list of Third Party Systems and Third Party Data Feeds and associated fees for connectivity thereto are set forth in the Exchanges' fee schedules.

In the instant filings, the Exchanges propose to offer and charge fees for connectivity to several additional Third Party Systems and Third Party Data Feeds. Specifically, the Exchanges propose to expand their offerings to include connectivity to the systems of Long Term Stock Exchange, Members Exchange (''MEMX''), MIAX Emerald, MIAX PEARL Equities, Morgan Stanley, and TD Ameritrade, and (''Proposed Third Party Systems'').[8] The fees associated with these connections would be determined by the bandwidth a User chooses.[9] The Exchanges also propose to expand their offerings to include connectivity to the data feeds of MEMX, MIAX Emerald, MIAX PEARL Equities, and ICE Data Services—ICE TMC (''Proposed Third Party Data Feeds).'' [10] The Exchanges propose to charge the following monthly connectivity fees for each of the Proposed Third Party Data Feeds: $3,000 for Members Exchange, $3,500 for MIAX Emerald, and $2,500 for MIAX PEARL Equities, and $200 for ICE Data Services—ICE TMC.[11]

## III. Suspension of the Proposed Rule Change

Pursuant to Section 19(b)(3)(C) of the Act,[12] at any time within 60 days of the date of filing of an immediately effective proposed rule change pursuant to Section 19(b)(1) of the Act,[13] the Commission summarily may temporarily suspend the change in the rules of a self-regulatory organization (''SRO'') 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. As discussed below, the Commission believes a temporary suspension of the proposed rule changes is necessary and appropriate to allow for additional analysis of the proposed rule changes' consistency with the Act and the rules thereunder.

The Exchanges provide various arguments in support of the proposed fees for connections to the Proposed Third Party Data Systems and Proposed Third Party Data Feeds. With respect to whether the proposed fees are reasonable, the Exchanges argue that the market for access to Third Party Data Systems and Third Party Data Feeds is competitive, and that the availability of substitutes is a check on their ability to charge unreasonable fees for these services.[14] The Exchanges also maintain that fees charged for co-location are constrained by active competition for order flow of, and other business from, such market participants.[15] The Exchanges state that they compete with other providers, including other colocation providers and market data vendors, which may include Hosting Users.[16] They state that they understand that at least one other vendor currently offers the Proposed MIAX Third Party Data Feeds, and that they are aware of no impediment to third parties offering substitute services.[17] The Exchanges also state that if one or more third parties presently offer, or in the future opt to offer, access and connectivity to Third Party Systems and Third Party Data Feeds to Users, a User may utilize the IDS network, a third party telecommunication network, a cross connect, or a combination thereof to access such services and products through a connection to an access center outside the data center (which could be an IDS access center, a third-party access center, or both), another User, or a third party vendor.[18] The Exchanges also state that the fees are reasonable because they allow the Exchanges to defray or cover the costs of the data center facility hardware and technology infrastructure necessary to provide connectivity to Users.[19] Regarding differences in fees for the Proposed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See also infra* note 11.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] *See* Securities Exchange Act Release Nos. 91386 (March 23, 2021), 86 FR 16410 (March 29, 2021) (SR–NYSE–2021–15); 91387 (March 23, 2021), 86 FR 16417 (March 29, 2021) (SR–NYSEAMER–2021–13); 91388 (March 23, 2021), 86 FR 16433 (March 29, 2021) (SR–NYSEArca–2021–15); 91390 (March 23, 2021), 86 FR 16424 (March 29, 2021) (SR–NYSECHX–2021–04) (each, a ''Notice). For ease of reference, page citations are to the Notice for NYSE–2021–15.

[6] 15 U.S.C. 78s(b)(3)(C).

[7] *See* Notice, *supra* note 5, at 16410. For purposes of the Exchanges' co-location services, a ''User'' means any market participant that requests to receive co-location services directly from one or more of the Exchanges, and a User that incurs colocation fees for a particular co-location service charged by one Exchange would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates. *See id.* at 16410 n.5.

[8] *See* Notice, *supra* note 5, at 16410–11.

[9] The Exchanges' fee schedules set forth the current monthly recurring fees per connection to Third Party Systems based on the bandwidth of the connection: $200 for 1 Mb, $400 for 3 Mb, $500 for 5 Mb, $800 for 10 Mb, $1,200 for 25 Mb, $1,800 for 50 Mb, $2,500 for 100 Mb, $3,000 for 200 Mb, $3,500 for 1 Gb.

[10] Notice, *supra* note 5, at 16411. The Exchange represents that the Proposed ICE TMC Third Party Data Feed is generated by ICE Bonds, an indirect subsidiary of ICE, and includes market data for the ICE TMC alternative trading system and that it does not include market data of the Exchange or Affiliate SROs. *Id.* at 16411 n.7.

[11] *Id.* at 16411. The Exchanges also propose to amend the fee schedules to change the name of the ''Miami International Securities Exchange'' Third Party System to ''MIAX Options,'' to change the name of the ''MIAX PEARL'' Third Party System to ''MIAX PEARL Options,'' and to combine MIAX Options, MIAX PEARL Options, MIAX PEARL Equities, and MIAX Emerald as a single Third Party System on the fee schedules. The Exchanges further propose to remove obsolete rule text from their co-location fee schedules: (i) The reference to the ICE Data Global Index from the list of Third Party Data Feeds available for connectivity in the fee schedules and to remove the text noting that the Exchanges would inform customers that it would cease offering connectivity to the ICE Data Global Index once it was unavailable; and (ii) the reference in fee schedule indicating waiver of the Hot Hands fees from the date of the closing of the data center in Mahwah, New Jersey, through the date of the reopening of the data center (which occurred on October 1, 2020). *See* Notice, *supra* note 5, at 16411–16413.

[12] 15 U.S.C. 78s(b)(3)(C).

[13] 15 U.S.C. 78s(b)(1).

[14] *See* Notice, *supra* note 5, at 16414.

[15] *See id.* at 16414 and 16416.

[16] *See id.*

[17] *See id.* at 16414.

[18] *See id.* at 16415.

[19] *See id.* at 16414.

Third Party Data Feeds, the Exchanges state that they can charge the ICE TMC Third Party Data Feed a lower price because they can offer the feed over their established connection with less effort, since they already offer several Third Party Data Feeds supplied by ICE Data Service.[20] They state that they must establish and maintain connections to the exchanges for the other proposed Third Party Data Feeds,[21] and that MIAX charges separate fees to the Exchange to become a distributor of each of its data feed products, and that the distribution fees that the Exchange must pay to MIAX are higher for the proposed MIAX Emerald Third Party Data Feed than for the proposed MIAX PEARL Equities Third Party Data Feed.[22]

In addition, the Exchanges state that the proposed fees are equitably allocated and not unfairly discriminatory because they would apply to all Users equally, the proposed services are voluntary, and Users would only be charged if they opted to use them.[23] Further, the Exchanges state that the proposals do not impose a burden on competition that is not necessary or appropriate because they offer choice and reflects the competitive environment.[24]

When exchanges file their proposed rule changes with the Commission, including fee filings, they are required to provide a statement supporting the proposal's basis under the Act and the rules and regulations thereunder applicable to the exchange.[25] The instructions to Form 19b–4, on which exchanges file their proposed rule changes, specify that such statement ''should be sufficiently detailed and specific to support a finding that the proposed rule change is consistent with [those] requirements'' [26]

Section 6 of the Act, including Sections 6(b)(4), (5), and (8), require the rules of an exchange to: (1) Provide for the equitable allocation of reasonable fees among members, issuers, and other persons using the exchange's facilities; [27] (2) perfect the mechanism of a free and open market and a national market system, protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers; [28] and (3) not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[29]

In temporarily suspending the Exchanges' proposed rule changes, the Commission intends to further consider whether the proposed fees for connections to the Proposed Third Party Data Systems and the Proposed Third Party Data Feeds are consistent with the statutory requirements applicable to a national securities exchange under the Act. In particular, the Commission will consider whether the proposed rule changes satisfy the standards under the Act and the rules thereunder requiring, among other things, that an exchange's rules provide for the equitable allocation of reasonable fees among members, issuers, and other persons using its facilities; are designed to perfect the operation of a free and open market and a national market system, and to protect investors and the public interest; are not designed to permit unfair discrimination between customers, issuers, brokers or dealers; and do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[30]

Therefore, the Commission finds that it is appropriate in the public interest, for the protection of investors, and otherwise in furtherance of the purposes of the Act, to temporarily suspend the proposed rule changes.[31]

## IV. Proceedings To Determine Whether To Approve or Disapprove the Proposed Rule Changes

In addition to temporarily suspending the proposals, the Commission also hereby institutes proceedings pursuant to Sections 19(b)(3)(C) [32] and 19(b)(2)(B) of the Act [33] to determine whether the Exchanges proposed rule changes should be approved or disapproved. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to provide additional comment on the proposed rule changes to inform the Commission's analysis of whether to approve or disapprove the proposed rule changes.

Pursuant to Section 19(b)(2)(B) of the Act,[34] the Commission is providing notice of the grounds for possible disapproval under consideration:

- Whether the Exchanges have demonstrated how the proposed fees are consistent with Section 6(b)(4) of the Act, which requires that the rules of a national securities exchange ''provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities''; [35]
- Whether the Exchanges have demonstrated how the proposed fees are consistent with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange not be ''designed to permit unfair discrimination between customers, issuers, brokers, or dealers''; [36] and
- Whether the Exchanges have demonstrated how the proposed fees are consistent with Section 6(b)(8) of the Act, which requires that the rules of a national securities exchange ''not impose any burden on competition not necessary or appropriate in furtherance of the purposes of [the Act].'' [37]

As discussed in Section III above, the Exchanges argue that the fees proposed for connectivity to the Proposed Third Party Data Systems and Proposed Third Party Data Feeds are constrained by competition, and allow the Exchanges to defray or cover the costs of offering the services. The Commission believes that there are questions as to whether the Exchanges have provided sufficient information to demonstrate that the proposals, including in particular the fees for connectivity to the Proposed Third Party Systems and Proposed Third Party Data Feeds, are consistent with the Act.

Under the Commission's Rules of Practice, the ''burden to demonstrate that a proposed rule change is consistent with the [Act] and the rules

[20] *See id.*

[21] *See id.*

[22] *See id.*

[23] *See id.* at 16415.

[24] *See id.* at 16416.

[25] *See* 17 CFR 240.19b–4 (Item 3 entitled ''Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change'').

[26] *See id.*

[27] 15 U.S.C. 78f(b)(4).

[28] 15 U.S.C. 78f(b)(5).

[29] 15 U.S.C. 78f(b)(8).

[30] *See* 15 U.S.C. 78f(b)(4), (5), and (8), respectively.

[31] For purposes of temporarily suspending the proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[32] 15 U.S.C. 78s(b)(3)(C). Once the Commission temporarily suspends a proposed rule change, Section 19(b)(3)(C) of the Act requires that the Commission institute proceedings under Section 19(b)(2)(B) to determine whether a proposed rule change should be approved or disapproved.

[33] 15 U.S.C. 78s(b)(2)(B).

[34] 15 U.S.C. 78s(b)(2)(B). Section 19(b)(2)(B) of the Act also provides that proceedings to determine whether to disapprove a proposed rule change must be concluded within 180 days of the date of publication of notice of the filing of the proposed rule change. *See id.* The time for conclusion of the proceedings may be extended for up to 60 days if the Commission finds good cause for such extension and publishes its reasons for so finding, or if the exchange consents to the longer period. *See id.*

[35] 15 U.S.C. 78f(b)(4).

[36] 15 U.S.C. 78f(b)(5).

[37] 15 U.S.C. 78f(b)(8).

and regulations issued thereunder . . . is on the [SRO] that proposed the rule change.'' [38] The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding,[39] and any failure of an SRO to provide this information may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Act and the applicable rules and regulations.[40]

The Commission is instituting proceedings to allow for additional consideration and comment on the issues raised herein, including as to whether the proposed fees are consistent with the Act, and specifically, with its requirements that the rules of a national securities exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers, and other persons using its facilities; are designed to perfect the operation of a free and open market and a national market system, and to protect investors and the public interest; are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers; and do not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act; as well as any other provision of the Act, or the rules and regulations thereunder.

## V. Commission's Solicitation of Comments

The Commission requests written views, data, and arguments with respect to the concerns identified above as well as any other relevant concerns. Such comments should be submitted by June 3, 2021. Rebuttal comments should be submitted by June 17, 2021. Although there do not appear to be any issues relevant to approval or disapproval which would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[41]

The Commission asks that commenters address the sufficiency and merit of the Exchange's statements in support of the proposals, in addition to any other comments they may wish to submit about the proposed rule changes.

Interested persons are invited to submit written data, views, and arguments concerning the proposed rule changes, 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 Nos. SR–NYSE–2021–15, SR–NYSEAMER–2021–13, SR–NYSEArca–2021–15, SR–NYSECHX–2021–04, and SR–NYSENAT–2021–05 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 Nos. SR–NYSE–2021–15, SR–NYSEAMER–2021–13, SR–NYSEArca–2021–15, SR–NYSECHX–2021–04, and SR–NYSENAT–2021–05. The 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 publicly available. All submissions should refer to File Nos. SR–NYSE–2021–15, SR–NYSEAMER–2021–13, SR–NYSEArca–2021–15, SR–NYSECHX–2021–04, and SR–NYSENAT–2021–05 and should be submitted on or before June 3, 2021. Rebuttal comments should be submitted by June 17, 2021.

## VI. Conclusion

*It is therefore ordered,* pursuant to Section 19(b)(3)(C) of the Act,[42] that File Nos. SR–NYSE–2021–15, SR–NYSEAMER–2021–13, SR–NYSEArca–2021–15, SR–NYSECHX–2021–04, and SR–NYSENAT–2021–05, be and hereby are, temporarily suspended. In addition, the Commission is instituting proceedings to determine whether the proposed rule changes should be approved or disapproved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[43]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 2021–10056 Filed 5–12–21; 8:45 am]

**BILLING CODE 8011–01–P**

[38] 17 CFR 201.700(b)(3).

[39] *See id.*

[40] *See id.*

[41] 15 U.S.C. 78s(b)(2). Section 19(b)(2) of the Act grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by an SRO. *See* Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing and Urban Affairs to Accompany S. 249, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[42] 15 U.S.C. 78s(b)(3)(C).

[43] 17 CFR 200.30–3(a)(57) and (58).

## SOCIAL SECURITY ADMINISTRATION

**[Docket No. SSA–2021–0004]**

## Privacy Act of 1974; System of Records

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Notice of a modified system of records.

**SUMMARY:** In accordance with the Privacy Act, we are issuing public notice of our intent to modify an existing system of records entitled, Mass Emergency Notification System (MENS) (60–0386), last published on April 15, 2019. This notice publishes details of the modified system as set forth below under the caption, **SUPPLEMENTARY INFORMATION**.

**DATES:** The system of records notice (SORN) is applicable upon its publication in today's **Federal Register**, with the exception of the new routine use, which is effective June 14, 2021. We invite public comment on the routine use or other aspects of this SORN. In accordance with the Privacy Act of 1974, the public is given a 30-day period in which to submit comments.

Therefore, please submit any comments by June 14, 2021.

**ADDRESSES:** The public, Office of Management and Budget (OMB), and Congress may comment on this publication by writing to the Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, SSA, Room G–401 West High Rise, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, or through the Federal e-Rulemaking Portal at *http://www.regulations.gov.* Please reference docket number SSA–2021–0004. All comments we receive will be available for public inspection at the above address and we will post them to *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Elisa Vasta, Government Information Specialist, Privacy Implementation Division, Office of Privacy and Disclosure, Office of the General Counsel, SSA, Room G–401 West High Rise, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, telephone: (410) 966–5855, email: *elisa.vasta@ssa.gov.*

**SUPPLEMENTARY INFORMATION:** We are updating the system number and modifying the system manager to clarify contact information in MENS. We are updating the legal authority for maintenance of this system. We are also modifying the records source categories to clarify the individuals, entities, and systems from where information in this system may originate.

We are adding one new routine use to permit disclosures to the Federal Labor Relations Authority, its General Counsel, the Federal Mediation and Conciliation Service, the Federal Service Impasses Panel, or an arbitrator for investigations of allegations of unfair practices and matters before an arbitrator of the Federal Service Impasses Panel. We are also modifying the policies and practices for the storage of records. In addition, we are modifying the policies and practices for the retrieval of records, as well as modifying the policies and practices for the retention and disposal of records.

Lastly, we are modifying the notice throughout to correct miscellaneous stylistic formatting and typographical errors of the previously published notice, and to ensure the language reads consistently across multiple systems. We are republishing the entire notice for ease of reference.

In accordance with 5 U.S.C. 552a(r), we have provided a report to OMB and Congress on this modified system of records.

**Matthew Ramsey,**

*Executive Director, Office of Privacy and Disclosure, Office of the General Counsel.*

**SYSTEM NAME AND NUMBER:**

Mass Emergency Notification System (MENS), 60–0386.

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Social Security Administration, Office of Budget, Finance, and Management, Office of Security and Emergency Preparedness, 6401 Security Boulevard, Baltimore, Maryland 21235–6401.

Everbridge, Inc., 25 Corporate Drive, Suite 400, Burlington, MA 01803.

**SYSTEM MANAGER(S):**

Social Security Administration, Deputy Commissioner for the Office of Budget, Finance, and Management, Office of Security and Emergency Preparedness, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 966–5855.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Homeland Security Presidential Directive 5; Occupational Safety and Health Administration Act of 1970; Presidential Policy Directive 40; and Federal Continuity Directive 1.

**PURPOSE(S) OF THE SYSTEM:**

We will use the information in this system:

- To collect and store personal contact information; and
- to notify Social Security Administration (SSA) employees, contractors, and any others who may be affected by emergency or urgent situations at an SSA site or property.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Current SSA employees, contractors, and any others who may be affected by emergency or urgent situations at an SSA site or property (*e.g.,* non-employee parents of children at an SSA childcare facility).

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system maintains contact information and other information necessary to provide notice through MENS including, but not limited to, the individual's name, personal telephone number, personal email address, business phone number, business email address, and business location.

**RECORD SOURCE CATEGORIES:**

We obtain information in this system of records from individuals who register for MENS and existing SSA systems of records such as the Identity Management System (IDMS), 60–0361; Personnel Records in Operating Offices, 60–0239; and OPM/GOVT–1, General Personnel Records. In addition, we may obtain information from entities located on SSA sites or properties whose personnel or visitors could be affected by emergency or urgent situations at an SSA site or property, such as third party childcare facilities operated at SSA sites.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:**

We will disclose records pursuant to the following routine uses; however, we will not disclose any information defined as ''return or return information'' under 26 U.S.C. 6103 of the Internal Revenue Code (IRC), unless authorized by a statute, the Internal Revenue Service (IRS), or IRS regulations.

1. To a congressional office in response to an inquiry from that office made on behalf of, and at the request of, the subject of the record or a third party acting on the subject's behalf.

2. To the Office of the President, in response to an inquiry received from that office made on behalf of, and at the request of, the subject of record or a third party acting on the subject's behalf.

3. To the National Archives and Records Administration (NARA) under 44 U.S.C. 2904 and 2906.

4. To appropriate agencies, entities, and persons when:

(a) SSA suspects or has confirmed that there has been a breach of the system of records;

(b) SSA has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, SSA (including its information systems, programs, and operations), the Federal Government, or national security; and

(c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with SSA's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

5. To another Federal agency or Federal entity, when we determine that information from this system of records is reasonably necessary to assist the recipient agency or entity in:

(a) Responding to a suspected or confirmed breach; or

(b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or

entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

6. To disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

7. To the Department of Justice (DOJ), a court or other tribunal, or another party before such a court or tribunal, when:

(a) SSA, or any component thereof; or

(b) any SSA employee in his or her official capacity; or

(c) any SSA employee in his or her individual capacity where DOJ (or SSA, where it is authorized to do so) has agreed to represent the employee; or

(d) the United States or any agency thereof where SSA determines the litigation is likely to affect SSA or any of its components, is a party to the litigation or has an interest in such litigation, and SSA determines that the use of such records by DOJ, a court or other tribunal, or another party before the tribunal, is relevant and necessary to the litigation, provided, however, that in each case, the agency determines that disclosure of the records to DOJ, court or other tribunal, or another party is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

8. To Federal, State and local law enforcement agencies and private security contractors, as appropriate, information necessary:

(a) To enable them to protect the safety of SSA employees and customers, the security of the SSA workplace, the operation of SSA facilities, or

(b) to assist investigations or prosecutions with respect to activities that affect such safety and security or activities that disrupt the operations of SSA facilities.

9. To the Equal Employment Opportunity Commission (EEOC) when requested in connection with investigations into alleged or possible discriminatory practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission.

10. To the Office of Personnel Management (OPM), the Merit Systems Protection Board, or the Office of Special Counsel in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigations of alleged or possible prohibited practices, and other such functions promulgated in 5 U.S.C. Chapter 12, or as may be required by law.

11. To contractors and other Federal agencies, as necessary, for the purpose of assisting SSA in the efficient administration of its programs. We will disclose information under this routine use only in situations in which SSA may enter into a contractual or similar agreement with a third party to assist in accomplishing an agency function relating to this system of records.

12. To student volunteers, individuals working under a personal services contract, and other workers who technically do not have the status of Federal employees, when they are performing work for SSA, as authorized by law, and they need access to personally identifiable information (PII) in SSA records in order to perform their assigned agency functions.

13. To the Federal Labor Relations Authority, its General Counsel, the Federal Mediation and Conciliation Service, the Federal Service Impasses Panel, or an arbitrator when information is requested in connection with investigations of allegations of unfair practices, matters before an arbitrator or the Federal Service Impasses Panel.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

We will maintain records in this system in electronic form.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

We will retrieve records in this system by the individual's name and email address.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

In accordance with NARA rules codified at 36 CFR 1225.16, we maintain records in accordance with the approved NARA General Records Schedules (GRS) 5.3, Continuity and Emergency Planning Records, item 020 (DAA–GRS–2016–0004–0002) and GRS 5.5, Mail, Printing, and Telecommunication Service Management Records, item 020 (DAA–GRS–2016–0012–0002).

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

We retain electronic files containing personal identifiers in secure storage areas accessible only by our authorized employees and contractors who have a need for the information when performing their official duties. Security measures include, but are not limited to, the use of codes and profiles, personal identification numbers and passwords, and personal identification verification cards. We annually provide our employees and contractors with appropriate security awareness training that includes reminders about the need to protect PII and the criminal penalties that apply to unauthorized access to, or disclosure of, PII (5 U.S.C. 552a(i)(1)). Furthermore, employees and contractors with access to databases maintaining PII must sign a sanctions document annually that acknowledge their accountability for inappropriately accessing or disclosing such information.

**RECORD ACCESS PROCEDURES:**

Individuals may submit requests for information about whether this system contains a record about them by submitting written requests to the system manager at the above address, which include their name, Social Security number (SSN), or other information that may be in this system of records that will identify them. Individuals requesting notification of, or access to, a record by mail must include: (1) A notarized statement to us to verify their identity; or (2) must certify in the request that they are the individual they claim to be and that they understand that the knowing and willful request for, or acquisition of, a record pertaining to another individual under false pretenses is a criminal offense.

Individuals requesting notification of, or access to, records in person must provide their name, SSN, or other information that may be in this system of records that will identify them, as well as provide an identity document, preferably with a photograph, such as a driver's license. Individuals lacking identification documents sufficient to establish their identity must certify in writing that they are the individual they claim to be and that they understand that the knowing and willful request for, or acquisition of, a record pertaining to another individual under false pretenses is a criminal offense.

These procedures are in accordance with our regulations at 20 CFR 401.40 and 401.45.

**CONTESTING RECORD PROCEDURES:**

Same as record access procedures. Individuals should also reasonably identify the record, specify the information they are contesting, and state the corrective action sought and the reasons for the correction with supporting justification showing how the record is incomplete, untimely, inaccurate, or irrelevant. These

procedures are in accordance with our regulations at 20 CFR 401.65(a).

**NOTIFICATION PROCEDURES:**

Same as records access procedures. These procedures are in accordance with our regulations at 20 CFR 401.40 and 401.45.

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:**

None.

**HISTORY:**

84 FR 15275, Mass Emergency Notification System (MENS).

[FR Doc. 2021–10046 Filed 5–12–21; 8:45 am]

**BILLING CODE 4191–02–P**

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

**[Docket Number USTR–2021–0009]**

## Annual Review of Country Eligibility for Benefits Under the African Growth and Opportunity Act

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Office of the U.S. Trade Representative (USTR) is announcing the initiation of the annual review of the eligibility of the sub-Saharan African countries to receive the benefits of the African Growth and Opportunity Act (AGOA). The AGOA Implementation Subcommittee of the Trade Policy Staff Committee (AGOA Subcommittee) is developing recommendations for the President on AGOA country eligibility for calendar year 2022 and requests comments for this review. Due to COVID–19, the AGOA Subcommittee will foster public participation via written submissions rather than an in-person hearing. This notice includes the schedule for submission of comments and responses to questions from the AGOA Subcommittee related to this review.

**DATES:**

*June 23, 2021 at 11:59 p.m. EDT:* Deadline for submission of written comments on the eligibility of sub-Saharan African countries to receive the benefits of AGOA.

*July 7, 2021 at 11:59 p.m. EDT:* Deadline for the AGOA Subcommittee to pose any questions on written comments.

*July 16, 2021 at 11:59 p.m. EDT:* Deadline for submission of commenters' responses to questions from the AGOA Subcommittee.

*July 23, 2021 at 11:59 p.m. EDT:* Deadline for replies from other interested parties to the written comments and responses to questions.

*August 3, 2021 at 11:59 p.m. EDT:* Deadline for the AGOA Subcommittee to pose any additional questions on written comments.

*August 12, 2021 at 11:59 p.m. EDT:* Deadline for submission of responses to any additional questions from the AGOA Subcommittee.

**ADDRESSES:** USTR strongly prefers electronic submissions made through the Federal eRulemaking Portal: *https://www.regulations.gov* (*Regulations.gov*), using Docket Number USTR–2021–0009. Follow the instructions for submitting comments in 'Requirements for Submissions' below. For alternatives to on-line submissions, please contact Jeremy Streatfeild, Director, Office of African Affairs, in advance of the relevant deadline at *Jeremy.E.Streatfeild@ustr.eop.gov* or (202) 395–8642.

**FOR FURTHER INFORMATION CONTACT:** Jeremy Streatfeild, Director, Office of African Affairs, at *Jeremy.E.Streatfeild@ustr.eop.gov* or (202) 395–8642.

**SUPPLEMENTARY INFORMATION:**

### I. Background

AGOA (Title I of the Trade and Development Act of 2000, Pub. L. 106–200) (19 U.S.C. 2466a *et seq.*), as amended, authorizes the President to designate sub-Saharan African countries as beneficiaries eligible for duty-free treatment for certain additional products not included for duty-free treatment under the Generalized System of Preferences (GSP) (Title V of the Trade Act of 1974 (19 U.S.C. 2461 *et seq.*) (1974 Act), as well as for the preferential treatment for certain textile and apparel articles. The President may designate a country as a beneficiary sub-Saharan African country eligible for AGOA benefits if he determines that the country meets the eligibility criteria set forth in section 104 of AGOA (19 U.S.C. 3703) and section 502 of the 1974 Act (19 U.S.C. 2462).

Section 104 of AGOA includes requirements that the country has established or is making continual progress toward establishing, among other things:

- A market-based economy
- the rule of law
- political pluralism
- the right to due process
- the elimination of barriers to U.S. trade and investment
- economic policies to reduce poverty
- a system to combat corruption and bribery
- protection of internationally recognized worker rights

In addition, the country may not engage in activities that undermine U.S. national security or foreign policy interests or engage in gross violations of internationally recognized human rights. Section 502 of the 1974 Act provides for country eligibility criteria under GSP. For a complete list of the AGOA eligibility criteria and more information on the GSP criteria, see section 104 of the AGOA and section 502 of the 1974 Act.

Section 506A of the 1974 Act requires the President to monitor and annually review the progress of each sub-Saharan African country in meeting the foregoing eligibility criteria in order to determine if a beneficiary sub-Saharan African country should continue to be eligible, and if a sub-Saharan African country that currently is not a beneficiary, should be designated as a beneficiary. If the President determines that a beneficiary sub-Saharan African country is not making continual progress in meeting the eligibility requirements, the President must terminate the designation of the country as a beneficiary sub-Saharan African country. The President also may withdraw, suspend, or limit the application of duty-free treatment with respect to specific articles from a country if he determines that it would be more effective in promoting compliance with AGOA eligibility requirements than terminating the designation of the country as a beneficiary sub-Saharan African country.

For 2021, the President designated the following 39 countries as beneficiary sub-Saharan African countries:

1. Angola
2. Benin
3. Botswana
4. Burkina Faso
5. Cabo Verde
6. Central African Republic
7. Chad
8. Comoros
9. Democratic Republic of Congo (re-instated in 2021)
10. Republic of Congo
11. Cote d'Ivoire
12. Djibouti
13. Eswatini
14. Ethiopia
15. Gabon
16. The Gambia
17. Ghana
18. Guinea
19. Guinea-Bissau
20. Kenya
21. Lesotho
22. Liberia
23. Madagascar
24. Malawi
25. Mali
26. Mauritius
27. Mozambique

28. Namibia
29. Niger
30. Nigeria
31. Rwanda (AGOA apparel benefits suspended effective July 31, 2018)
32. Sao Tome & Principe
33. Senegal
34. Sierra Leone
35. South Africa
36. Tanzania
37. Togo
38. Uganda
39. Zambia

The President did not designate the following sub-Saharan African countries as beneficiary sub-Saharan African countries for 2021:

1. Burundi
2. Cameroon
3. Equatorial Guinea (graduated from GSP)
4. Eritrea
5. Mauritania
6. Seychelles (graduated from GSP)
7. Somalia
8. South Sudan
9. Sudan
10. Zimbabwe

The AGOA Subcommittee is seeking public comments to develop recommendations to the President in connection with the annual review of sub-Saharan African countries' eligibility for AGOA benefits. The Secretary of Labor may consider comments related to the child labor criteria to prepare the U.S. Department of Labor's report on child labor as required under section 504 of the 1974 Act.

**II. Public Participation**

Due to COVID–19, the AGOA Subcommittee will foster public participation via written submissions rather than an in-person hearing for the 2022 AGOA Eligibility Review. USTR invites public comment according to the schedule set out in the Dates section above. The AGOA Subcommittee will review comments and replies to comments, if any, and may ask clarifying questions to commenters according to the schedule set out above. The AGOA Subcommittee will post the questions it asks on the public docket, other than questions that include properly designated business confidential information (BCI). Any questions that include properly designated BCI will not be posted on the docket for public viewing, but rather will be sent via email to the relevant commenters. Replies to these questions that also contain BCI must follow procedures laid out in section IV.

**III. Requirements for Submissions**

You must submit comments and answers to questions from the AGOA Subcommittee by the applicable deadlines set forth in this notice. You must make all submissions in English via *Regulations.gov,* using Docket Number USTR–2021–0009. USTR will not accept hand-delivered submissions. To make a submission using *Regulations.gov,*, enter Docket Number USTR–2021–0009 in the 'search for' field on the home page and click 'search.' The site will provide a search results page listing all documents associated with this docket. Find a reference to this notice by selecting 'notice' under 'document type' in the 'filter results by' section on the left side of the screen and click on the link entitled 'comment now.' The *Regulations.gov* website offers the option of providing comments by filling in a 'type comment' field or by attaching a document using the 'upload file(s)' field. The AGOA Subcommittee prefers that you provide submissions in an attached document and note 'see attached' in the 'type comment' field on the online submission form. At the beginning of the submission, or on the first page (if an attachment) include the following text (in bold and underlined): (1) ''2022 AGOA Eligibility Review''; (2) the relevant country or countries; and (3) whether the document is a comment, a reply to a comment, or an answer to an AGOA Subcommittee question. Submissions should not exceed 30 single-spaced, standard letter-size pages in 12-point type, including attachments. Include any data attachments to the submission in the same file as the submission itself, and not as separate files. You will receive a tracking number upon completion of the submission procedure at *Regulations.gov.* The tracking number is confirmation that *Regulations.gov* received the submission. Keep the confirmation for your records. USTR is not able to provide technical assistance for *Regulations.gov.* USTR may not consider documents that you do not submit in accordance with these instructions. If you are unable to provide submissions as requested, please contact Jeremy Streatfeild, Director, Office of African Affairs, in advance of the relevant deadline at *Jeremy.E.Streatfeild@ustr.eop.gov* or (202) 395–8642, to arrange for an alternative method of transmission. General information concerning USTR is available at *www.ustr.gov.*

**IV. Business Confidential Submissions**

If you ask USTR to treat information you submitted as BCI, you must certify that the information is business confidential and you would not customarily release it to the public. You must clearly designate BCI by marking the submission 'BUSINESS CONFIDENTIAL' at the top and bottom of the cover page and each succeeding page, and indicating, via brackets, the specific information that is BCI. Additionally, you must include 'Business Confidential' in the 'type comment' field. For any submission containing BCI, you must separately submit a non-confidential version, *i.e.,* not as part of the same submission with the confidential version, indicating where BCI has been redacted. USTR will post the non-confidential version in the docket and it will be open to public inspection.

**V. Public Viewing of Review Submissions**

USTR will make public versions of all documents relating to these reviews available for public viewing pursuant to 15 CFR 2017.4, in Docket Number USTR–2021–0009 on *Regulations.gov,* upon completion of processing. This usually is within two weeks of the relevant due date or date of the submission.

**VI. Petitions**

At any time, any interested party may submit a petition to USTR with respect to whether a beneficiary sub-Saharan African country is meeting the AGOA eligibility requirements. An interested party may file a petition through *Regulations.gov,* under docket number USTR–2021–0009.

**Edward Gresser,**

*Chair of the Trade Policy Staff Committee, Office of the United States Trade Representative.*

[FR Doc. 2021–10079 Filed 5–12–21; 8:45 am]

**BILLING CODE 3290–F1–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Drone Advisory Committee (DAC); Notice of Public Meeting

**AGENCY:** Federal Aviation Administration, Department of Transportation.

**ACTION:** Notice of public meeting.

**SUMMARY:** This notice announces a meeting of the Drone Advisory Committee.

**DATES:** The meeting will be held on June 23, 2021, between 12:00 p.m. to 2:30 p.m. Eastern Time. Requests for reasonable accommodations must be received by June 16, 2021. Requests to submit written materials to be reviewed during the meeting must be received no later than June 16, 2021.

**ADDRESSES:** The meeting will be held virtually. Members of the public who wish to observe the virtual meeting can access the livestream from either of the following FAA social media platforms on the day of the event, *https://www.facebook.com/FAA* or *https://www.youtube.com/FAAnews.* For copies of meeting minutes, along with all other information please visit the DAC internet website at *https://www.faa.gov/uas/programs_partnerships/drone_advisory_committee/.*

**FOR FURTHER INFORMATION CONTACT:** Gary Kolb, UAS Stakeholder & Committee Liaison, Federal Aviation Administration, U.S. Department of Transportation, at *gary.kolb@faa.gov* or 202–267–4441. Any committee related request or request for reasonable accommodations should be sent to the person listed in this section.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The DAC was created under the Federal Advisory Committee Act (FACA), in accordance with Title 5 of the United States Code (5 U.S.C. App. 2) to provide the FAA with advice on key UAS integration issues by helping to identify challenges and prioritize improvements.

**II. Agenda**

At the meeting, the agenda will cover the following topics:

- Official Statement of the Designated Federal Officer
- Approval of the Agenda and Previous Meeting Minutes
- Opening Remarks
- FAA Update
- Industry-Led Technical Topics
- New Business/Agenda Topics
- Closing Remarks
- Adjourn

Additional details will be posted on the DAC internet website address listed in the **ADDRESSES** section at least seven days in advance of the meeting.

**III. Public Participation**

The meeting will be open to the public and livestreamed. Members of the public who wish to observe the virtual meeting can access the livestream from either of the following FAA social media platforms on the day of the event, *https://www.facebook.com/FAA* or *https://www.youtube.com/FAAnews.* The U.S. Department of Transportation is committed to providing equal access to this meeting for all participants. If you need alternative formats or services because of a disability, such as sign language, interpretation, or other ancillary aids, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

The FAA is not accepting oral presentations at this meeting due to time constraints. Written statements submitted by the deadline will be provided to the DAC members before the meeting. Any member of the public may submit a written statement to the committee at any time.

Issued in Washington, DC, on May 10, 2021.

**Erik W. Amend,**

*Manager, Executive Office, AUS–10, Federal Aviation Administration.*

[FR Doc. 2021–10135 Filed 5–12–21; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Intent To Rule on Request to Disposal of Former Air Force Industrial Building at Pease International Tradeport, Portsmouth, NH

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

**ACTION:** Request for Public Comments.

**SUMMARY:** Notice is being given that the FAA is considering a request from the Pease Development Authority to dispose of a former Air Force industrial building at Pease International Tradeport, Portsmouth, NH, under the provisions of 49 U.S.C. 47107(h)(2). The building is no longer needed by the Pease Development Authority and can be sold to a company. The proceeds of the sale of the building will be placed in the airport operations and maintenance account. The land upon which the building lies will be retained by the Pease Development Authority for long term non-aeronautical lease revenue generation.

**DATES:** Comments must be received on or before June 14, 2021.

**ADDRESSES:** You may send comments using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov,* and follow the instructions on providing comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W 12–140, 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.

Interested persons may inspect the request and supporting documents by contacting the FAA at the address listed under **FOR FURTHER INFORMATION CONTACT**.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jorge E. Panteli, Compliance and Land Use Specialist, Federal Aviation Administration New England Region Airports Division, 1200 District Avenue, Burlington, Massachusetts 01803. Telephone: 781–238–7618.

Issued in Burlington, Massachusetts on May 7, 2021.

**Julie Seltsam-Wilps,**

*Deputy Director, ANE–600.*

[FR Doc. 2021–10053 Filed 5–12–21; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA- FMCSA–2003–14223; FMCSA–2005–20027; FMCSA–2009–0054; FMCSA–2010–0114; FMCSA–2010–0385; FMCSA–2011–0057; FMCSA–2012–0338; FMCSA–2013–0021; FMCSA–2013–0022; FMCSA–2013–0023; FMCSA–2014–0010; FMCSA–2014–0302; FMCSA–2016–0028; FMCSA–2016–0206; FMCSA–2019–0008]**

### Qualification of Drivers; Exemption Applications; Vision

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to renew exemptions for 17 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these individuals to continue to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

**DATES:** Each group of renewed exemptions are applicable on the dates stated in the discussions below and will expire on the dates provided below.

**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 Dockets Operations, (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

## I. Public Participation

*A. Viewing Comments*

To view comments go to *www.regulations.gov.* Insert the docket number, FMCSA–2003–14223, FMCSA–2005–20027, FMCSA–2009–0054, FMCSA–2010–0114, FMCSA–2010–0385, FMCSA–2011–0057, FMCSA–2012–0338, FMCSA–2013–0021, FMCSA–2013–0022, FMCSA–2013–0023, FMCSA–2014–0010, FMCSA–2014–0302, FMCSA–2016–0028, FMCSA–2016–0206, FMCSA–2019–0008 in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

*B. 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

On March 25, 2021, FMCSA published a notice announcing its decision to renew exemptions for 17 individuals from the vision requirement in 49 CFR 391.41(b)(10) to operate a CMV in interstate commerce and requested comments from the public (86 FR 16018). The public comment period ended on April 26, 2021, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with the current regulation § 391.41(b)(10).

The physical qualification standard for drivers regarding vision found in § 391.41(b)(10) states that a person is physically qualified to drive a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber.

## III. Discussion of Comments

FMCSA received no comments in this proceeding.

## IV. Conclusion

Based on its evaluation of the 17 renewal exemption applications and comments received, FMCSA confirms its decision to exempt the following drivers from the vision requirement in § 391.41(b)(10).

In accordance with 49 U.S.C. 31136(e) and 31315(b), the following groups of drivers received renewed exemptions in the month of May and are discussed below. As of May 7, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following 15 individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers 68 FR 10301, 68 FR 19596, 70 FR 2701, 70 FR 16886, 70 FR 16887, 72 FR 11425, 72 FR 18726, 74 FR 8842, 74 FR 11988, 74 FR 11991, 74 FR 21427, 75 FR 34209, 75 FR 47886, 75 FR 77942, 76 FR 5425, 76 FR 12216, 76 FR 17483, 76 FR 21796, 77 FR 52388, 77 FR 74731, 78 FR 10251, 78 FR 12811, 78 FR 12815, 78 FR 14405, 78 FR 14410, 78 FR 18667, 78 FR 20379, 78 FR 22596, 78 FR 22602, 78 FR 24296, 79 FR 51643, 79 FR 52388, 79 FR 64001, 80 FR 3723, 80 FR 12248, 80 FR 12251, 80 FR 12254, 80 FR 14220, 80 FR 15859, 80 FR 16500, 80 FR 16502, 80 FR 16509, 80 FR 29152, 81 FR 39320, 81 FR 60115, 81 FR 66720, 81 FR 71173, 81 FR 72642, 81 FR 80161, 81 FR 96165, 82 FR 13043, 82 FR 15277, 82 FR 18818, 82 FR 18949, 82 FR 23712, 83 FR 34661, 83 FR 56902, 84 FR 2311, 84 FR 2326, 84 FR 12665, 84 FR 16320, 84 FR 21401):

Michael L. Bergman (KS)
Keith E. Breeding (IN)
Lee A. Clason (NE)
Ryan E. Cox (WI)
Michael P. Curtin (IL)
David M. Field (NH)
Daryl G. Gibson (FL)
Terry R. Hunt (FL)
Oscar Juarez (ID)
Jose M. Limon-Alvarado (WA)
Eugene R. Lydick (VA)
Steve A. Reece (TN)
Gale L. Smith (PA)
Christopher M. Vincent (NC)
Steven M. Vujicic (IL)

The drivers were included in docket numbers FMCSA–2003–14223, FMCSA–2005–20027, FMCSA–2009–0054, FMCSA–2010–0114, FMCSA–2010–0385, FMCSA–2012–0338, FMCSA–2013–0021, FMCSA–2013–0022, FMCSA–2013–0023, FMCSA–2014–0010, FMCSA–2014–0302, FMCSA–2016–0028, and FMCSA–2016–0206. Their exemptions are applicable as of May 7, 2021, and will expire on May 7, 2023.

As of May 19, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), James O. Cook (GA) has satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (76 FR 18824, 76 FR 29024, 79 FR 24298, 80 FR 20558, 82 FR 18949, 84 FR 12665).

This driver was included in docket number FMCSA–2011–0057. The exemption is applicable as of May 19, 2021, and will expire on May 19, 2023.

As of May 21, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), Samuel Sanchez (DE) has satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (84 FR 16333, 84 FR 27688).

This driver was included in docket number FMCSA–2019–0008. The exemption is applicable as of May 21, 2021, and will expire on May 21, 2023.

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (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 prior to being 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).

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2021–10096 Filed 5–12–21; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2000–7165; FMCSA–2000–7363; FMCSA–2000–7918; FMCSA–2002–12844; FMCSA–2004–17984; FMCSA–2005–20027; FMCSA–2006–25246; FMCSA–2006–26066; FMCSA–2008–0106; FMCSA–2008–0231; FMCSA–2008–0266; FMCSA–2008–0292; FMCSA–2010–0161; FMCSA–2010–0327; FMCSA–2010–0354; FMCSA–2010–0385; FMCSA–2010–0413; FMCSA–2011–0010; FMCSA–2012–0214; FMCSA–2012–0279; FMCSA–2012–0280; FMCSA–2013–0030; FMCSA–2014–0002; FMCSA–2014–0003; FMCSA–2014–0010; FMCSA–2014–0011; FMCSA–2014–0296; FMCSA–2014–0298; FMCSA–2014–0299; FMCSA–2014–0300; FMCSA–2014–0301; FMCSA–2014–0302; FMCSA–2014–0304; FMCSA–2016–0028; FMCSA–2016–0031; FMCSA–2016–0033; FMCSA–2016–0208; FMCSA–2016–0212; FMCSA–2016–0213; FMCSA–2016–0214; FMCSA–2018–0007; FMCSA–2018–0013; FMCSA–2018–0207; FMCSA–2018–0208; FMCSA–2018–0209; FMCSA–2019–0005; FMCSA–2019–0006]**

### Qualification of Drivers; Exemption Applications; Vision

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to renew exemptions for 68 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these individuals to continue to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

**DATES:** Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates provided below.

**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 Dockets Operations, (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

## I. Public Participation

*A. Viewing Comments*

To view comments go to *www.regulations.gov.* Insert the docket number, FMCSA–2000–7165, FMCSA–2000–7363, FMCSA–2000–7918, FMCSA–2002–12844, FMCSA–2004–17984, FMCSA–2005–20027, FMCSA–2006–25246, FMCSA–2006–26066, FMCSA–2008–0106, FMCSA–2008–0231, FMCSA–2008–0266, FMCSA–2008–0292, FMCSA–2010–0161, FMCSA–2010–0327, FMCSA–2010–0354, FMCSA–2010–0385, FMCSA–2010–0413, FMCSA–2011–0010, FMCSA–2012–0214, FMCSA–2012–0279, FMCSA–2012–0280, FMCSA–2013–0030, FMCSA–2014–0002, FMCSA–2014–0003, FMCSA–2014–0010, FMCSA–2014–0011, FMCSA–2014–0296, FMCSA–2014–0298, FMCSA–2014–0299, FMCSA–2014–0300, FMCSA–2014–0301, FMCSA–2014–0302, FMCSA–2014–0304, FMCSA–2016–0028, FMCSA–2016–0031, FMCSA–2016–0033, FMCSA–2016–0208, FMCSA–2016–0212, FMCSA–2016–0213, FMCSA–2016–0214, FMCSA–2018–0007, FMCSA–2018–0013, FMCSA–2018–0207, FMCSA–2018–0208, FMCSA–2018–0209, FMCSA–2019–0005, or FMCSA–2019–0006 in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

*B. 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

On March 23, 2021, FMCSA published a notice announcing its decision to renew exemptions for 68 individuals from the vision requirement in 49 CFR 391.41(b)(10) to operate a CMV in interstate commerce and requested comments from the public (86 FR 15542). The public comment period ended on April 22, 2021, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with the current regulation § 391.41(b)(10).

The physical qualification standard for drivers regarding vision found in § 391.41(b)(10) states that a person is physically qualified to drive a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber.

## III. Discussion of Comments

FMCSA received no comments in this proceeding.

## IV. Conclusion

Based on its evaluation of the 68 renewal exemption applications and comments received, FMCSA confirms its decision to exempt the following drivers from the vision requirement in § 391.41(b)(10).

As of April 1, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following 58 individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (65 FR 33406, 65 FR 45817, 65 FR 57234, 65 FR 77066, 67 FR 57266, 67 FR 68719, 67 FR 71610, 68 FR 2629, 69 FR 33997, 69 FR 52741, 69 FR 61292, 69 FR 64810, 69 FR 71100, 70 FR 7545, 71 FR 53489, 71 FR 55820, 71 FR 63379, 71 FR 66217, 72 FR 180, 72 FR 1051, 72 FR 1053, 72 FR 7812, 72 FR 9397, 73 FR 35199, 73 FR 46973, 73 FR 48275, 73 FR 51336, 73 FR 51689, 73 FR 54888, 73 FR 61922, 73 FR 61925, 73 FR 63047, 73 FR 65009, 73 FR 74563, 73 FR 74565, 73 FR 76440, 73 FR 78423, 74 FR 6211, 74 FR 6689, 75 FR 39725, 75 FR 44051, 75 FR 52062, 75 FR 52063, 75 FR 57105, 75 FR 59327, 75 FR 61833, 75 FR 65057, 75 FR 72863, 75 FR 77492, 75 FR 77949, 75 FR 79081, 75 FR 79083, 75 FR 80887, 76 FR 1493, 76 FR 2190, 76 FR 5425, 76 FR 9859, 76 FR 9861, 76 FR 9865, 76 FR 12408, 77 FR 46153, 77 FR 46793, 77 FR 52388, 77 FR 52389, 77 FR 56262, 77 FR 59245, 77 FR 60008, 77 FR 60010, 77 FR 64583, 77 FR 64839, 77 FR 68202, 77 FR 70537, 77 FR 71671, 77 FR 74273, 77 FR 74734, 77 FR 75494, 77 FR 76167, 78 FR 800, 78 FR 8689, 78 FR 10250, 78 FR 11731, 78 FR 12813,

78 FR 41975, 78 FR 56986, 79 FR 10606, 79 FR 14571, 79 FR 22003, 79 FR 28588, 79 FR 46153, 79 FR 46300, 79 FR 51642, 79 FR 51643, 79 FR 56099, 79 FR 56117, 79 FR 58856, 79 FR 64001, 79 FR 65759, 79 FR 65760, 79 FR 69985, 79 FR 70928, 79 FR 72754, 79 FR 73393, 79 FR 73397, 79 FR 73686, 79 FR 73687, 79 FR 73689, 79 FR 74168, 80 FR 603, 80 FR 2473, 80 FR 3723, 80 FR 6162, 80 FR 7678, 80 FR 7679, 80 FR 8751, 80 FR 8927, 80 FR 9304, 80 FR 15859, 80 FR 18693, 80 FR 20562, 80 FR 48411, 81 FR 39320, 81 FR 52514, 81 FR 59266, 81 FR 66720, 81 FR 68098, 81 FR 70253, 81 FR 71173, 81 FR 74494, 81 FR 80161, 81 FR 81230, 81 FR 86063, 81 FR 90050, 81 FR 96165, 81 FR 96180, 81 FR 96191, 81 FR 96196, 82 FR 12683, 82 FR 13043, 82 FR 13048, 82 FR 15277, 83 FR 15214, 83 FR 28325, 83 FR 28328, 83 FR 28335, 83 FR 34661, 83 FR 40638, 83 FR 40648, 83 FR 53724, 83 FR 56140, 83 FR 56902, 83 FR 60954, 84 FR 2305, 84 FR 2309, 84 FR 2311, 84 FR 2314, 84 FR 2323, 84 FR 2326, 84 FR 16320, 84 FR 16336, 84 FR 21401):

Ramon Adame (IL)
Terry L. Anderson (PA)
Alan A. Andrews (NE)
Jason P. Atwater (UT)
Richard D. Auger (CA)
Randal D. Aukes (MN)
Dewey E. Ballard, Jr. (SC)
Robert S. Bowen (GA)
Gerald D. Bowser (PA)
Nathan A. Buckles (IN)
Monty G. Calderon (OH)
Patricio C. Carvalho (MD)
John B. Casper (OK)
Joshua L. Cecotti (WA)
Edward Cunningham (MI)
Jeffrey D. Davis (NC)
William W. Dunn (PA)
Stephen R. Ehlenburg (IL)
Darrell B. Emery (OK)
John E. Evenson (WI)
Ronald Gaines (FL)
Marc C. Goss (NE)
Jerry L. Hayden (IA)
Christopher L. Humphries (TX)
Thomas J. Ivins (FL)
Kendall S. Lane (OK)
Garry D. Layton (TX)
Jackie Lee (FL)
Billy J. Lewis (LA)
Kenneth Liuzza (LA)
Carl A. Lohrbach (OH)
Thomas J. Long III (PA)
Lawrence D. Malecha (MN)
Wayne R. Mantela (KY)
Hollis J. Martin (AL)
Ellis T. McKneely (LA)
Patrick J. McMillen (WI)
James E. Menz (NY)
Rocky D. Moorhead (NM)
Ali Nimer (IL)
Jeffrey S. Pennell (VT)
Gary W. Phelps (PA)
Jeffrey Sanders (NC)
Stephen A. Scales (IL)
Steven D. Schlichting (NE)
Kirk Scott (CT)
Mustafa Shahadeh (OH)
Gerardo Silva (IL)
John D. Stork (IL)
Sherman L. Taylor (FL)
Jason E. Thomas (ND)
Karl M. Vanderstucken (TX)
Kenneth E. Vigue, Jr. (WA)
Khamla Vongvoraseng (NC)
James R. Wagner (IL)
Bobby M. Warren (KY)
Patricia A. White (IL)
Jeffrey D. Wilson (CO)

The drivers were included in docket numbers FMCSA–2000–7165, FMCSA–2000–7363, FMCSA–2002–12844, FMCSA–2004–17984, FMCSA–2006–25246, FMCSA–2006–26066, FMCSA–2008–0106; FMCSA–2008–0231, FMCSA–2008–0266; FMCSA–2008–0292, FMCSA–2010–0161, FMCSA–2010–0327, FMCSA–2010–0354, FMCSA–2010–0385, FMCSA–2010–0413, FMCSA–2012–0214, FMCSA–2012–0279, FMCSA–2012–0280, FMCSA–2013–0030, FMCSA–2014–0002, FMCSA–2014–0003, FMCSA–2014–0010, FMCSA–2014–0011, FMCSA–2014–0296, FMCSA–2014–0298, FMCSA–2014–0299, FMCSA–2014–0300, FMCSA–2014–0301, FMCSA–2016–0028, FMCSA–2016–0031, FMCSA–2016–0033, FMCSA–2016–0208, FMCSA–2016–0212, FMCSA–2018–0007, FMCSA–2018–0013, FMCSA–2018–0207, FMCSA–2018–0208, and FMCSA–2018–0209. Their exemptions were applicable as of April 1, 2021, and will expire on April 1, 2023.

As of April 5, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), Donald P. Dodson, Jr. (WV) has satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (70 FR 2701, 70 FR 16887, 72 FR 12665, 74 FR 9329, 76 FR 15360, 78 FR 16035, 80 FR 13070, 82 FR 15277, 84 FR 21401).

This driver was included in docket number FMCSA–2005–20027. The exemption was applicable as of April 5, 2021 and will expire on April 5, 2023.

As of April 6, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following two individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (82 FR 12678, 82 FR 18949, 84 FR 21401):

Cory W. Haupt (SD);
Kendrick T. Williams (NC)

The drivers were included in docket number FMCSA–2016–0214. Their exemptions were applicable as of April 6, 2021, and will expire on April 6, 2023.

As of April 7, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), Bradley J. Compton (ID) has satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (80 FR 12248, 80 FR 29152, 82 FR 15277, 84 FR 21401).

This driver was included in docket number FMCSA–2014–0302. The exemption was applicable as of April 7, 2021, and will expire on April 7, 2023.

As of April 11, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following two individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (76 FR 9856, 76 FR 20076, 78 FR 16762, 80 FR 15863, 82 FR 13187, 82 FR 15277, 82 FR 23712, 84 FR 21401):

Wesley M. Creamer (NM);
Wade C. Uhlir (MN)

The drivers were included in docket numbers FMCSA–2011–0010, and FMCSA–2016–0213. Their exemptions were applicable as of April 11, 2021, and will expire on April 11, 2023.

As of April 18, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), Jaroslav Cigler (IN) has satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (80 FR 14223, 80 FR 33011, 84 FR 21401).

This driver was included in docket number FMCSA–2014–0304. The exemption was applicable as of April 18, 2021, and will expire on April 18, 2023.

As of April 20, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), Keith A. Larson (MA) has satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (84 FR 10389, 84 FR 21393).

This driver was included in docket number FMCSA–2019–0005. The exemption was applicable as of April 20, 2021, and will expire on April 20, 2023.

As of April 21, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), James R. Rieck (CA) has satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (65 FR 66286, 66 FR 13825, 68 FR 10300, 70 FR 7546, 72 FR 7111, 76 FR 17483, 78 FR 18667, 80 FR 16500, 82 FR 15277, 84 FR 21401).

This driver was included in docket number FMCSA–2010–7918. The exemption was applicable as of April 21, 2021, and will expire on April 21, 2023.

As of April 30, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), Clay A. Applegarth (ND) has satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (84 FR 11859, 84 FR 27685).

This driver was included in docket number FMCSA–2019–0006. The exemption was applicable as of April 30, 2021, and will expire on April 30, 2023.

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (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 prior to being 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).

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2021–10095 Filed 5–12–21; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**[Docket No. FRA–2021–0046]**

### Draft General Conformity Determination for the California High-Speed Train System Bakersfield to Palmdale Section

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice; request for comment.

**SUMMARY:** FRA is issuing this notice to advise the public that a draft General Conformity Determination for the Bakersfield to Palmdale Section of the California High-Speed Rail (HSR) System is available for public and agency review and comment.

**DATES:** Comments must be received on or before June 14, 2021.

**ADDRESSES:** Comments related to Docket No. FRA–2021–0046 may be submitted by going to *http://www.regulations.gov* and following the online instructions for submitting comments.

*Instructions:* All submissions must include the agency name and docket number (FRA–2021–0046). All comments received will be posted without change to *https://www.regulations.gov;* this includes any personal information. Please see the *Privacy Act Statement* heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted comments or materials.

*Docket:* For access to the docket to read the draft General Conformity Determination, background documents, or comments received, go to *https://www.regulations.gov* and follow the online instructions for accessing the docket.

**FOR FURTHER INFORMATION CONTACT:** Andréa Martin, Senior Environmental Protection Specialist, Office of Railroad Policy and Development (RPD), telephone: (202) 493–6201, email: *Andrea.Martin@dot.gov;* or Marlys Osterhues, Chief Environment and Project Engineering, RPD, telephone: (202) 493–0413, email: *Marlys.Osterhues@dot.gov.*

**SUPPLEMENTARY INFORMATION:**

*Privacy Act Statement:* FRA will post comments it receives, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, inclusion of names is completely optional. Whether commenters identify themselves or not, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

*Background:* The California High-Speed Rail Authority (CHSRA) is advancing the environmental review of the Bakersfield to Palmdale Section (Project) of the California HSR System pursuant to 23 U.S.C. 327, under which it has assumed FRA's environmental review responsibilities. However, under Section 327, FRA remains responsible for making General Conformity Determinations under the Clean Air Act. This draft General Conformity Determination documents FRA's evaluation of the Bakersfield to Palmdale Section, consistent with the relevant section of the Clean Air Act, and implementing regulations.

FRA's analysis of the Project's potential emissions, completed in close collaboration with CHSRA, found that construction period emissions would exceed the General Conformity de minimis threshold for Nitrogen Dioxide ($NO_X$) and volatile organic compounds (VOC), a precursor for ozone. However, operation of the Project would result in an overall reduction of regional emissions of all applicable air pollutants and would not cause a localized exceedance of an air quality standard. Conformance of the Project will be accomplished through offsets of the $NO_X$ and VOC emissions, consistent with applicable regulatory requirements.

**Next Steps**

The draft General Conformity Determination for the California HSR System, Bakersfield to Palmdale Section is being issued for public review and comment for 30-days at Docket No. FRA–2021–0046. Comments related to Docket No. FRA–2021–0046 may be submitted by going to *http://www.regulations.gov* and following the online instructions for submitting comments. Although CHSRA is assisting FRA by disseminating notice of the availability of the draft General Conformity Determination through its usual outreach methods, CHSRA is not accepting comments on behalf of FRA. FRA cannot ensure consideration of any comment that is not submitted via *http://www.regulations.gov.* FRA will consider all relevant comments it receives before issuing a final General Conformity Determination.

Issued in Washington, DC.

**Jamie P. Rennert,**

*Director, Office of Infrastructure Investment.*

[FR Doc. 2021–10110 Filed 5–12–21; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Open Meeting of the Taxpayer Advocacy Panel's Notices and Correspondence Project Committee

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of meeting.

**SUMMARY:** An open meeting of the Taxpayer Advocacy Panel's Notices and Correspondence Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. This meeting will still be held via teleconference.

**DATES:** The meeting will be held Wednesday, June 9, 2021.

**FOR FURTHER INFORMATION CONTACT:** Robert Rosalia at 1–888–912–1227 or (718) 834–2203.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel's Notices and Correspondence Project Committee will be held Wednesday, June 9, 2021, at 1:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Robert Rosalia. For more information please contact Robert Rosalia at 1–888–912–1227 or (718) 834–2203, or write TAP Office, 2 Metrotech Center, 100 Myrtle Avenue, Brooklyn, NY 11201 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: May 6, 2021.

**Kevin Brown,**

*Acting Director, Taxpayer Advocacy Panel.*

[FR Doc. 2021–10070 Filed 5–12–21; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Open Meeting of the Taxpayer Advocacy Panel Joint Committee

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of meeting.

**SUMMARY:** An open meeting of the Taxpayer Advocacy Panel Joint Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

**DATES:** The meeting will be held Thursday, June 24, 2021.

**FOR FURTHER INFORMATION CONTACT:** Gilbert Martinez at 1–888–912–1227 or (737) 800–4060.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Joint Committee will be held Thursday, June 24, 2021, at 1:30 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. For more information please contact Gilbert Martinez at 1–888–912–1227 or (737–800–4060), or write TAP Office 3651 S. IH–35, STOP 1005 AUSC, Austin, TX 78741, or post comments to the website: *http://www.improveirs.org.*

The agenda will include various committee issues for submission to the IRS and other TAP related topics. Public input is welcomed.

Dated: May 6, 2021.

**Kevin Brown,**

*Acting Director, Taxpayer Advocacy Panel.*

[FR Doc. 2021–10075 Filed 5–12–21; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Open Meeting of the Taxpayer Advocacy Panel's Tax Forms and Publications Project Committee

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of meeting.

**SUMMARY:** An open meeting of the Taxpayer Advocacy Panel's Tax Forms and Publications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

**DATES:** The meeting will be held Thursday, June 10, 2021.

**FOR FURTHER INFORMATION CONTACT:** Fred Smith at 1–888–912–1227 or (202) 317–3087.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel's Tax Forms and Publications Project Committee will be held Thursday, June 10, 2021 at 2:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Fred Smith. For more information please contact Fred Smith at 1–888–912–1227 or (202) 317–3087, or write TAP Office, 1111 Constitution Ave. NW, Room 1509, Washington, DC 20224 or contact us at the website: *http://www.improveirs.org.*

Dated: May 3, 2021.

**Kevin Brown,**

*Acting Director, Taxpayer Advocacy Panel.*

[FR Doc. 2021–10073 Filed 5–12–21; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Open Meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Improvements Project Committee

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of meeting.

**SUMMARY:** An open meeting of the Taxpayer Advocacy Panel's Taxpayer Assistance Center Improvements Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

**DATES:** The meeting will be held Thursday, June 10, 2021.

**FOR FURTHER INFORMATION CONTACT:** Matthew O'Sullivan at 1–888–912–1227 or (510) 907–5274.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel's Taxpayer Assistance Center Improvements Project Committee will be held Thursday, June 10, 2021, at 12:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Matthew O'Sullivan. For more information please contact Matthew O'Sullivan at 1–888–912–1227 or (510) 907–5274, or write TAP Office, 1301 Clay Street, Oakland, CA 94612–5217 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: May 6, 2021.

**Kevin Brown,**

*Acting Director, Taxpayer Advocacy Panel.*

[FR Doc. 2021–10072 Filed 5–12–21; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request on Burden Related to Form 8801, Credit for Prior Year Minimum Tax—Individuals, Estates, and Trusts

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning the burden related to completing form 8801, *Credit for Prior Year Minimum Tax—Individuals, Estates, and Trusts.*

**DATES:** Written comments should be received on or before May 13, 2021 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Kinna Brewington, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224. Requests for additional information or copies of the regulations should be directed to R. Joseph Durbala, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW, Washington DC 20224, or through the internet, at *RJoseph.Durbala@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Credit for Prior Year Minimum Tax—Individuals, Estates, and Trusts.

*OMB Number:* 1545–1073.

*Regulation Project/Form Number:* Form 8801.

*Abstract:* Form 8801 is used by individuals, estates, and trusts to compute the minimum tax credit, if any, available from a tax year beginning after 1986 to be used in the current year or to be carried forward for use in a future year.

*Current Actions:* There is no change to the burden previously approved.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households.

*Estimated Number of Responses:* 12,914.

*Estimated Time per Respondent:* 7 hrs., 4 min.

*Estimated Total Annual Burden Hours:* 91,173.

The following paragraph applies to all 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 if 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.

*Desired Focus of Comments:* The Internal Revenue Service (IRS) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: May 10, 2021.

**Ronald J. Durbala,**

*IRS Tax Analyst.*

[FR Doc. 2021–10120 Filed 5–12–21; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Open Meeting of the Taxpayer Advocacy Panel's Toll-Free Phone Lines Project Committee

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of meeting.

**SUMMARY:** An open meeting of the Taxpayer Advocacy Panel's Toll-Free Phone Lines Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

**DATES:** The meeting will be held Tuesday, June 8, 2021.

**FOR FURTHER INFORMATION CONTACT:** Rosalind Matherne at 1–888–912–1227 or 202–317–4115.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Toll-Free Phone Lines Project Committee will be held Tuesday, June 8, 2021 at 11:00 a.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Rosalind Matherne. For more information please contact Rosalind Matherne at 1–888–912–1227 or 202–317–4115, or write TAP Office, 1111 Constitution Ave. NW, Room 1509, Washington, DC 20224 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: May 6, 2021.

**Kevin Brown,**

*Acting Director, Taxpayer Advocacy Panel.*

[FR Doc. 2021–10071 Filed 5–12–21; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Open Meeting of the Taxpayer Advocacy Panel's Special Projects Committee

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of meeting.

**SUMMARY:** An open meeting of the Taxpayer Advocacy Panel's Special Projects Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

**DATES:** The meeting will be held Thursday, June 10, 2021.

**FOR FURTHER INFORMATION CONTACT:** Antoinette Ross at 1–888–912–1227 or 202–317–4110.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel's Special Projects Committee will be held Thursday, June 10, 2021, at 11:00 a.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Antoinette Ross. For more information please contact Antoinette Ross at 1–

888–912–1227 or 202–317–4110, or write TAP Office, 1111 Constitution Ave. NW, Room 1509, Washington, DC 20224 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: May 6, 2021.

**Kevin Brown,**

*Acting Director, Taxpayer Advocacy Panel.*

[FR Doc. 2021–10074 Filed 5–12–21; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Open Meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of meeting.

**SUMMARY:** An open meeting of the Taxpayer Advocacy Panel's Taxpayer Communications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. This meeting will still be held via teleconference.

**DATES:** The meeting will be held Tuesday, June 8, 2021.

**FOR FURTHER INFORMATION CONTACT:** Conchata Holloway at 1–888–912–1227 or 336–690–6217.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee will be held Tuesday, June 8, 2021, at 12:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Conchata Holloway. For more information please contact Conchata Holloway at 1–888–912–1227 or 336–690–6217, or write TAP Office, 4905 Koger Boulevard, Greensboro, NC 27407–2734 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: May 6, 2021.

**Kevin Brown,**

*Acting Director, Taxpayer Advocacy Panel.*

[FR Doc. 2021–10069 Filed 5–12–21; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0654]**

### Agency Information Collection Activity Under OMB Review: Annual Certification of Veteran Status and Veteran-Relatives

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

**DATES:** 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. Refer to ''OMB Control No. 2900–0654.''

**FOR FURTHER INFORMATION CONTACT:** Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0654'' in any correspondence.

**SUPPLEMENTARY INFORMATION:**

*Authority:* 5 U.S.C. 552a (e) (10)

*Title:* Annual Certification of Veteran Status and Veteran-Relatives (VA Form 20–0344).

*OMB Control Number:* 2900–0654.

*Type of Review:* Reinstatement of a previously approved collection.

*Abstract:* VA Form 20–0344 is necessary to ensure that benefit records of employees and employees' relatives are properly maintained in accordance with VA policy. Without the information provided on this form, VA would be unable to determine which benefit records require special handling to guard against fraud, conflict of interest, improper influence etc. by VA and non-VA employees.

This is a request to reinstate only with no substantive changes. The respondent burden did not change.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 86 FR 45 on March 10, 2021, pages 13790 and 13791.

*Affected Public:* Individuals or Households.

*Estimated Annual Burden:* 5,834.

*Estimated Average Burden per Respondent:* 25 minutes.

*Frequency of Response:* One time.

*Estimated Number of Respondents:* 14,000.

By direction of the Secretary.

**Maribel Aponte,**

*VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.*

[FR Doc. 2021–10115 Filed 5–12–21; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–XXXX]**

### Agency Information Collection Activity: Receipt of Supplies (Chapter 31—Veteran Readiness and Employment)

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before July 12, 2021.

**ADDRESSES:** Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *Nancy.Kessinger@va.gov.* Please refer to

''OMB Control No. 2900–XXXX'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

**FOR FURTHER INFORMATION CONTACT:** Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–XXXX'' in any correspondence.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, Veterans Benefits Administration (VBA) invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Authority:* 38 United States Code (U.S.C.) 3104(a)(7).

*Title:* Receipt of Supplies (Chapter 31—Veteran Readiness and Employment), VA Form 28–1905r.

*OMB Control Number:* 2900–XXXX.

*Type of Review:* Request for approval of a new collection.

*Abstract:* A claimant will use VA Form 28–1905r, Receipt of Supplies (Chapter 31—Veteran Readiness and Employment), to verify that the supplies and/or equipment provided as part of a rehabilitation program under 38 U.S.C. Chapter 31 have been received and are in good condition. The VR&E program subsequently uses the information on this form to justify processing payments for the supplies and/or equipment provided to claimants under 38 U.S.C. 3104(a)(7). Without the information gathered on this form, the VR&E program would be unable to verify that the claimant received the supplies and/or equipment, which could result in inaccurate payments being rendered.

*Affected Public:* Individuals and households.

*Estimated Annual Burden:* 4,667 hours.

*Estimated Average Burden per Respondent:* 10 minutes.

*Frequency of Response:* On occasion.

*Estimated Number of Respondents:* 28,000.

By direction of the Secretary.

**Maribel Aponte,**

*VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.*

[FR Doc. 2021–10112 Filed 5–12–21; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0510]**

### Agency Information Collection Activity Under OMB Review: Application for Exclusion of Children's Income

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

**DATES:** 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. Refer to ''OMB Control No. 2900–0510''.

**FOR FURTHER INFORMATION CONTACT:** Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0510'' in any correspondence.

**SUPPLEMENTARY INFORMATION:**

*Authority:* 38 U.S.C. 1521, 38 U.S.C 1541.

*Title:* Application for Exclusion of Children's Income (VA Form 21P–0571).

*OMB Control Number:* 2900–0510.

*Type of Review:* Extension of a currently approved collection.

*Abstract:* VBA administers Pension Benefits, which is a needs-based benefit program for wartime Veterans, who are aged 65 or older or have a permanent and total *non-service-connected* disability and limited income and net worth. Eligibility is determined based on the income of and asset amounts for the Veteran and their spouse. A Veteran's or surviving spouses' rate of Improved Pension is determined by family income. Normally, the income of children who are members of the household is included in this determination. However, children's income may be excluded if it is unavailable or if consideration of that income would cause hardship. 38 U.S.C. 1521(h) and 1541(g) provide the authority for the exclusion of children's income based on unavailability or hardship. VA Form 21P–0571, *Application for Exclusion of Children's Income,* is used for the sole purpose of collecting the information needed to determine if the children's income is available to the beneficiary, and if it would case a hardship to consider their income.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 86 FR 45 on March 10, 2021 page 13791.

*Affected Public:* Individuals or Households.

*Estimated Annual Burden:* 2,025 Hours.

*Estimated Average Burden per Respondent:* 45 Minutes.

*Frequency of Response:* One time.

*Estimated Number of Respondents:* 2,700.

By direction of the Secretary.

**Maribel Aponte,**

*VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.*

[FR Doc. 2021–10113 Filed 5–12–21; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0404]**

### Agency Information Collection Activity Under OMB Review: Veteran's Application for Increased Compensation Based on Unemployability

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

**DATES:** 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. Refer to ''OMB Control No. 2900–0404.

**FOR FURTHER INFORMATION CONTACT:** Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0404'' in any correspondence.

**SUPPLEMENTARY INFORMATION:**

*Authority:* 38 U.S.C. 1163.

*Title:* Veteran's Application for Increased Compensation Based on Unemployability (VA Form 21–8940).

*OMB Control Number:* 2900–0404.

*Type of Review:* Reinstatement of a previously approved collection.

*Abstract:* VA Form 21–8940 is used by veterans to apply for increased VA disability compensation based on the inability to secure or follow a substantially gainful occupation due to service-connected disabilities. Without this information, entitlement to individual unemployability benefits could not be determined.

This is a reinstatement only with no changes. The respondent burden has decreased due to the estimated number of receivables averaged over the past year.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 86 FR 46 on March 11, 2021, pages 13968 and 13969.

*Affected Public:* Individuals or Households.

*Estimated Annual Burden:* 14,707.

*Estimated Average Burden per Respondent:* 45 minutes.

*Frequency of Response:* One time.

*Estimated Number of Respondents:* 19,609.

By direction of the Secretary.

**Maribel Aponte,**

*VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.*

[FR Doc. 2021–10114 Filed 5–12–21; 8:45 am]

**BILLING CODE 8320–01–P**

# FEDERAL REGISTER

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Part II

## Federal Communications Commission

47 CFR Part 1
Assessment and Collection of Regulatory Fees for Fiscal Year 2021; Proposed Rule

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 1

**[MD Docket Nos. 20–105; MD Docket Nos. 21–190; FCC 21–49; FRS 26021]**

## Assessment and Collection of Regulatory Fees for Fiscal Year 2021

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) seeks comment on revising the fee schedule of FY 2021 regulatory fees.

**DATES:** Submit comments on or before June 3, 2021; and reply comments on or before June 18, 2021.

**ADDRESSES:** Interested parties may file comments and reply comments identified by MD Docket No. 21–190, by any of the following methods below.

1. *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *http://apps.fcc.gov/ecfs/.*

2. *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.

3. Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

4. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.U.S.

5. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.

For detailed instructions for submitting comments and additional information on the rulemaking process, *see* the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Roland Helvajian, Office of Managing Director at (202) 418–0444.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Notice of Proposed Rulemaking* (NPRM), FCC 21–49, MD Docket No. 20–105, and MD Docket No. 21–190, adopted on May 3, 2021 and released on May 4, 2021. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 45 L Street NE, Washington, DC 20554, and may also be purchased from the Commission's copy contractor, BCPI, Inc., 45 L Street NE, Washington, DC 20554. Customers may contact BCPI, Inc. via their website, *http://www.bcpi.com,* or call 1–800–378–3160. This document is available in alternative formats (computer diskette, large print, audio record, and braille). Persons with disabilities who need documents in these formats may contact the FCC by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432. Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy,* Public Notice, DA 20–304 (March 19, 2020). *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.* During the time the Commission's building is closed to the general public and until further notice, if more than one docket or rulemaking number appears in the caption of a proceeding, paper filers need not submit two additional copies for each additional docket or rulemaking number; an original and one copy are sufficient.

### I. Procedural Matters

8. *Ex Parte Information.* This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with section 1.1206(b) of the Commission's rules. In proceedings governed by section 1.49(f) of the Commission's rules or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

9. *Initial Regulatory Flexibility Analysis.* An initial regulatory flexibility analysis (IRFA) is contained in this summary. Comments to the IRFA must be identified as responses to the IRFA and filed by the deadlines for comments on the *Notice of Proposed Rulemaking.* The Commission will send a copy of the *Notice of Proposed Rulemaking,* including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

10. *Initial Paperwork Reduction Act of 1995 Analysis.* This document does not contain new or modified information collection requirements 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).

### I. Introduction

1. Notice of Proposed Rulemaking, we seek comment on the Commission's proposed regulatory fees for fiscal year (FY) 2021. Specifically, we propose to collect $374,000,000 in regulatory fees for FY 2021, pursuant to sections 9 and 9A of the Communications Act of 1934, as amended (Act or Communications Act), and the Commission's FY 2021 Appropriation.

2. In this Notice of Proposed Rulemaking, we seek comment on several specific regulatory fee issues: (i) Including non-geographic numbers in the calculation of the number of subscribers for each commercial mobile radio service (CMRS) provider; (ii) ending our phase in of direct broadcast satellite (DBS) regulatory fees, and instead including the Media Bureau-based DBS regulatory fee in the same fee category as cable television and Internet

Protocol Television (IPTV); (iii) assessing regulatory fees for full service broadcast television using the same population-based methodology that we used for FY 2020 and continuing the changes we adopted previously for stations in Puerto Rico; (iv) adopting new regulatory fees for the new NGSO fee subcategories for ''less complex'' NGSO systems and ''other'' NGSO systems; and (v) extending our streamlined waiver provisions adopted last year for FY 2021.

3. Each year the Commission issues a Notice of Proposed Rulemaking to seek comment on its regulatory fee methodology and proposed regulatory fees for the fiscal year. The Commission also seeks to improve the regulatory fee methodology. Since 2013, the Commission has made numerous reforms to the regulatory fee schedule. In 2019, the Commission adopted several rule amendments to conform them to the RAY BAUM'S Act of 2018. Last year, the Commission added non-U.S. licensed space stations with United States market access grants to the regulatory fee schedule. The Commission concluded that assessing the same regulatory fees on all space stations with U.S. market access, whether U.S. licensed or non-U.S. licensed, would better reflect the benefits received by these operators through the Commission's adjudicatory, enforcement, regulatory, and international coordination activities, and would promote regulatory parity and fairness among space station operating in the United States.

## II. Notice of Proposed Rulemaking

### *A. Methodology for Allocating FTEs*

4. Congress requires us to collect $374,000,000 in regulatory fees for FY 2021. In doing so, section 9 of the Act requires us to set regulatory fees to ''reflect the full-time equivalent number of employees within the bureaus and offices of the Commission adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities.'' We implement this directive by looking first to the core bureaus, *i.e.,* the bureaus that conduct work that directly benefits fee payors, in order to establish the number of direct FTEs from each bureau. The remaining non-auction FTEs and other Commission costs are categorized as indirect. Once we have identified the direct FTEs for each core bureau, we look within each core bureau to allocate fees to specific fee categories. These proportional calculations allocate all Commission non-auction related costs across all fee categories. We seek comment on this methodology.

5. The Commission identifies the number of FTEs within each of the four core bureaus (*i.e.,* Wireline Competition Bureau, Wireless Telecommunications Bureau, International Bureau, and Media Bureau) and then further subdivides within each core bureau to account for its regulatory fee categories. As a general matter, we expect that the work of the FTEs in the four core bureaus will remain focused on the industry segment regulated by each of those bureaus. Consistent with past practices, we propose that the allocation of fee categories for FY 2021 will be based on the Commission's calculation of FTEs in each regulatory fee category. The work of the FTEs in the indirect bureaus and offices benefits the Commission and the telecommunications industry generally and is not specifically focused on the regulatees and licensees of one core bureau. We propose that, consistent with past practices, the total FTEs for each fee category include the direct FTEs associated with that category plus a proportional allocation of indirect FTEs. Applying the section 9 requirements to calculate regulatory fees, we propose to allocate the total collection target across all regulatory fee categories. Each regulatee within a fee category then pays its proportionate share based on an objective measure (*e.g.,* revenues or number of subscribers). To calculate fees for each licensee, we identify ''units'' used to calculate the fees. For example, broadcast licensee fees will vary by population served and wireless licensees will pay fees based on their number of subscribers. These calculations are illustrated in Table 2. The sources for the unit estimates that are used in these calculations are listed in Table 4.

6. We project approximately $32.0 million (8.56% of the total FTE allocation, 28 direct FTEs) in fees from International Bureau regulatees; $83.5 million (22.33% of the total FTE allocation, 73 direct FTEs) in fees from Wireless Telecommunications Bureau regulatees; $122.4 million (32.72% of the total FTE allocation, 107 direct FTEs) from Wireline Competition Bureau regulatees; and $136.1 million (36.39% of the total FTE allocation, 119 direct FTEs) from Media Bureau regulatees. We seek comment on our calculation for the FY 2021 FTEs (327 total direct FTEs). The proposed fees are based on the established methodology, applied to the allocated FTEs and based on the Commission's appropriation amount of $374,000,000. We seek comment on this methodology and on the schedule of FY 2021 regulatory fees as set forth in Tables 2 and 3.

### *B. Calculating Regulatory Fees for Commercial Mobile Radio Services*

7. The Commission sets regulatory fees by identifying a unit for a fee category, calculating the amount to be collected from that category, and then dividing the target collection amount by the unit count. The regulatory fee unit for the Commercial Mobile Radio Services (CMRS) fee category is the number of subscribers. Historically, each CMRS provider self-reported its subscriber count for regulatory fee purposes. In 2004, the Commission started using the ''assigned number'' count as the proxy for subscribers to address concerns regarding the accuracy of prior estimates.

8. The definition of assigned numbers is as follows: Assigned numbers are numbers working in the Public Switched Telephone Network under an agreement such as a contract or tariff at the request of specific end users or customers for their use, or numbers not yet working but having a customer service order pending. Numbers that are not yet working and have a service order pending for more than five days shall not be classified as assigned numbers.

9. The Commission currently provides each CMRS provider with its estimated subscriber counts based on information included in the Numbering Resource Utilization Forecast (NRUF) Report. The NRUF Report is based upon data provided by telecommunications carriers holding numbering resources, which include CMRS providers. CMRS providers are responsible for certifying the accuracy of their subscriber counts and can adjust the counts to correct any inaccuracies.

10. Non-geographic numbers are not associated with any particular geographic area, as typical numbers are, such as numbers in the 202 area code. They are also included in NRUF data and fall within the definition of assigned numbers. Historically, non-geographic numbers were commonly used for ''follow me'' services, which allowed a consumer to receive a call at different locations, and were not used for independent subscribers. The Commission, therefore, has not previously included these numbers in the CMRS subscriber count estimates.

11. More recently, usage of non-geographic numbers has increased substantially. Non-geographic numbers are often used for machine-to-machine calling, such as wireless alarm monitoring and car emergency services subscriptions, and counting non-

geographic numbers for regulatory fee purposes would no longer be duplicative of the geographic number. CMRS service providers have the information necessary to determine if their non-geographic numbers should be counted for calculating their number of subscribers for regulatory fee purposes. Accordingly, we propose to include non-geographic numbers in the calculation of the number of subscribers for each CMRS provider, as reflected in Table 2 and the CMRS regulatory fee factor, as reflected in Table 3. Under this proposal, CMRS provider regulatory fees will be calculated and should be paid based on the inclusion of non-geographic numbers. CMRS providers could then adjust the total number of subscribers, if needed. We note that including non-geographic numbers, if appropriate, will not change the total amount to be collected from this industry, but will likely reduce the per subscriber fee because the number of units will increase. We seek comment on this analysis.

12. In addition, we seek comment on whether there are any other changes in the CMRS industry that we should consider in calculating regulatory fees. For example, are there subscriber devices accessing wireless carrier 4G and 5G networks for IP-only use cases not requiring traditional phone numbers (*e.g.,* industrial sensors, remote health monitoring devices, etc.) and if so, what identifiers govern their access (*e.g.,* International Mobile Subscriber Identity, or IMSI) and who is in the best position to identify how many are in use by each licensee? Other categories of CMRS subscriber numbers, if added to the CMRS calculation, would not increase the total amount collected from the industry, but may reduce the amount per subscriber by increasing the number of units.

### *C. Direct Broadcast Satellite Regulatory Fees*

13. Direct Broadcast Satellite (DBS) service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic dish antenna at the subscriber's location. The two DBS providers, AT&T and DISH Network, are MVPDs. The Media Bureau oversees the regulation of MVPDs, *i.e.,* regulated companies that make available for purchase, by subscribers or customers, multiple channels of video programming. The Media Bureau relies on a common pool of FTEs to carry out its oversight of MVPDs and other video distribution providers. These responsibilities include market modifications, local-into-local, must-carry and retransmission consent disputes, program carriage and program access complaints, over-the-air reception device declaratory rulings and waivers, rulemakings, and proposed transactions. For Media Bureau activities in FY 2021, the Commission must collect $74.84 million in regulatory fees from MVPDs, *i.e.,* cable TV systems (including CARS licenses), IPTV providers, and DBS operators.

14. We propose to end the phase in of the DBS regulatory fee and assess all DBS, cable television, and IPTV providers at the same per subscriber regulatory fee, *i.e.,* the fee category would equally include cable television, IPTV, and DBS. The Commission has been phasing in the DBS operator regulatory fee for 6 years. In FY 2015, the Commission decided to phase in the new Media Bureau-based regulatory fee for DBS, starting at 12 cents per subscriber per year, as a subcategory in the cable television and IPTV category. At the same time, the Commission committed to updating the regulatory fee rate in future years. The DBS regulatory fee is based on the significant number of Media Bureau FTEs that work on MVPD issues that include DBS, ''not a particular number of FTEs focused solely on DBS'' or ''specific recent proceedings.'' The Commission has increased the DBS regulatory fee by 12 cents per subscriber per year in each subsequent year and in FY 2020 the DBS fee was 72 cents. We propose to end the phase in and assess the same regulatory fee, *i.e.,* $0.96, per subscriber, per year, for DBS, cable television, and IPTV. We seek comment on this proposal.

### *D. Television Broadcaster Issues*

15. Last year the Commission completed the transition to a population-based full-power broadcast television regulatory fee. We seek comment again on the use of population-based fees for full-power broadcast television stations based on the station's contour. We propose adopting a factor of .8525 of one cent ($.008525) per population served for FY 2021 full-power broadcast television station fees. The population data for broadcasters' service areas are extracted from the TVStudy database, based on a station's projected noise-limited service contour. The population data for each licensee and the population-based fee (population multiplied by $.008525) for each full-power broadcast television station, including each satellite station, is listed in Table 7. We seek comment on these proposed fees.

16. We also seek comment on streamlining our current methodology, for FY 2022, by refining the current television broadcaster table, in Table 7, to a tiered table, similar to the tiered table used for radio licensees. The current process required to implement a per call sign fee calculation imposes a significant administrative cost on the Commission and a portion of fee payors. Specifically, the Commission must generate and publish the 50 plus page table of all call signs and their respective fees in the **Federal Register** each year to ensure a fee for every call sign is established. Publication is necessary, regardless of whether a particular call sign is exempt, as a station's status may change over the course of a year. This has caused confusion to some fee payors. Further, discrepancies last year led to several hundred inquiries by fee payors. Using a tiered system would simplify the process for fee payors and the Commission while still assessing fees based on each broadcasters' population served. We seek comment on whether the administrative benefits for the Commission and fee payors of using a tiered table to establish television broadcaster regulatory fees would outweigh the costs and be easier for fee payors to navigate. Commenters should discuss whether such a table would be more administrable than the current population-based chart establishing individual fee amounts for each station. A model streamlined table based on the proposed FY 2021 television broadcaster fees is set forth below in Table 1.

TABLE 1—PROPOSED BROADCAST TELEVISION FEE TIERS

| Population served | Proposed tiered fee amount |
|---|---|
| <=75,000 | $400 |
| 75,001–150,000 | 925 |
| 150,001–500,000 | 2,625 |
| 500,001–1,500,000 | 8,175 |
| 1,500,001–3,000,000 | 18,000 |
| 3,000,001–5,000,000 | 32,225 |
| 5,000,001–7,000,000 | 50,975 |
| 7,000,001–10,000,000 | 70,150 |
| 10,000,001–15,000,000 | 93,100 |
| >15,000,000 | 154,525 |

17. *Stations in Puerto Rico.* Previously, a group of broadcasters in Puerto Rico argued that the population-based methodology overstates the population served by Puerto Rico stations because the mountainous terrain conditions result in TVStudy overstating the population served. They also argued that significant and measurable drops in Puerto Rico's population resulting from an exodus caused in part by Hurricane Maria overstated that the population counts

underlying TVStudy. For those reasons, the Commission sought comment last year on adjusting the fees of such broadcasters in two discrete ways and adopted such proposals in the *FY 2020 Report and Order,* 36 FCC Rcd 1731. We seek comment on continuing those adjustments for FY 2021. We propose to account for the objectively measurable reduction in population by reducing the population counts used in TVStudy by 16.9%, or the decline between the last census in 2010 and the current population estimate, as we did for FY 2020. Additionally, in FY 2020 the Commission adopted a proposal to limit the market served by a primary television stations and commonly owned satellite broadcast stations in Puerto Rico to no more than 3.10 million people, the latest population estimate. We seek comment on adopting these proposals again for FY 2021.

*E. NGSO Regulatory Fees*

18. The Commission has adopted two new fee subcategories, one for ''less complex'' NGSO systems and a second for all other NGSO systems identified as ''other'' NGSO systems, both under the broader category of ''Space Stations (Non-Geostationary Orbit).'' We have analyzed the time International Bureau FTEs devote to oversight and regulation of the less complex systems listed in Appendix E and we seek comment on the percentage of regulatory fees that should be allocated to each subcategory of NGSO systems. We propose an 20/80 allocation within the category of NGSO fees, with ''less complex'' NGSO systems responsible for 20% of NGSO regulatory fees and '' the remaining NGSO systems (''Other'') responsible for 80% of NGSO regulatory fees. Based on our current experience and considering our costs reasonably related to regulating and overseeing all NGSO systems, we think that a 20/80 percent split between less complex systems and other NGSO systems would be appropriate. The proposed 80 percent of total NGSO fees apportionment to other NGSO systems category is based on the fact that a small minority of Commission efforts appear to involve NGSO systems that meet our definition of a less complex NGSO system.

19. We recognize the considerable challenge of assigning a precise number to the apportionment of regulatory fees between less complex and other categories of NGSO space stations, given that all of these systems are NGSO systems and continue to benefit from our various activities, including rulemakings, enforcement, applications, and international activities, to some extent. For example, a number of systems with limited U.S. earth stations providing EESS have been granted waivers of the processing round procedures. Although there is no cost associated with a processing round, these waivers provide continuous benefits to these less complex systems. Based on our NGSO experience and judgement, we believe an approximate apportionment of FTEs' time working on oversight for each category of operators may be the most practical way to estimate the relative percentages of the benefits driven by our activities. Accordingly, we propose that a 20/80 split would be a reasonable apportionment to distribute our regulatory cost reasonably related to the benefits these fee payors are receiving. We seek comment on these conclusions. Accordingly, we propose regulatory fees of $105,525 per Space Station (Non-Geostationary Orbit)—Less Complex and $337,725 per Space Station (Non-Geostationary Orbit)—Other, as reflected in Table 6.

*F. Continued Flexibility in FY 2021 for Regulatory Payors Seeking Waivers Due to Financial Hardship Caused by the COVID–19 Pandemic*

20. We seek comment on whether we should extend to the FY 2021 regulatory fee season the temporary measures the Commission adopted in FY 2020 with respect to FY 2020 regulatory fees to provide relief to regulatees whose businesses have suffered financial harm due to the pandemic. The *FY 2020 Report and Order,* 36 FCC Rcd 1731, included several mechanisms to provide such relief, such as: Waiver of section 1.1166(a) of the Commission's rules to permit parties seeking regulatory fee waiver and deferral for financial hardship reasons to make a single request for both waiver and deferral; waiver of the same rule to permit requests to be submitted electronically to the Commission, rather than in paper form; waivers to allow parties seeking extended payment terms to do so by submitting an email request, and allowing a combined installment payment request with any waiver, reduction, and deferral requests in a single filing.

21. In addition to those rule waivers, the Commission exercised its discretion to reduce the interest rate typically charged on installments payments to a nominal rate—and it also waived the down payment normally required before granting an installment payment request. The Commission also partially waived the requirement that parties seeking relief on financial hardship grounds submit with their requests all financial documentation needed to prove financial hardship. This allowed regulatees experiencing pandemic related financial hardship to submit additional financial documentation post-filing if necessary to determine whether relief should be granted. The Commission directed the Managing Director to work with individual regulatees that filed requests if additional documents were needed to render a decision on the request.

22. Finally, the Commission allowed debtors barred from filing requests or applications by the red-light rule who are experiencing financial hardship due to the pandemic to nonetheless request relief with respect to their regulatory fees. The Commission authorized the Managing Director to partially waive the red light to permit consideration of those requests while requiring those parties to resolve all delinquent debt to the Commission's satisfaction in the process.

23. We seek comment on extending these temporary measures for FY 2021 regulatory fees due to the continuing pandemic. We remind commenters that we cannot relax the standard for granting a waiver or deferral of fees, penalties, or other charges for late payment of regulatory fees under section 9A of the Act. Under that statute, the Commission may only waive a regulatory fee, penalty or interest if it finds there is good cause for the waiver and that the waiver is in the public interest. The Commission has only granted financial hardship waivers when the requesting party has shown it ''lacks sufficient funds to pay the regulatory fees and to maintain its service to the public.'' Other statutory limitations include that the Commission must act on waiver requests individually, and cannot extend the deadline we set for payment of fees beyond September 30.

*G. Additional Regulatory Fee Reform*

24. We seek comment on additional regulatory fee reform and ways to further improve our regulatory fee process to make it less burdensome for all entities. We seek comment on whether there are licensees who are not listed as a fee category in our current regulatory fee schedule and should be included. We also seek comment on whether our fee setting methodologies could be improved or updated to ensure that our regulatory fees are more equitable or otherwise streamlined to make the fee schedule simpler. As part of this analysis, we seek comment on the costs and benefits of reforming our fee-setting process.

**III. Procedural Matters**

25. Included below are procedural items as well as our current payment and collection methods. We include these payments and collection procedures here as a useful way of reminding regulatory fee payers and the public about these aspects of the annual regulatory fee collection process.

26. *Credit Card Transaction Levels.* In accordance with *Treasury Financial Manual,* Volume I, Part 5, Chapter 7000, Section 7045—*Limitations on Card Collection Transactions,* the highest amount that can be charged on a credit card for transactions with federal agencies is $24,999.99. Transactions greater than $24,999.99 will be rejected. This limit applies to single payments or bundled payments of more than one bill. Multiple transactions to a single agency in one day may be aggregated and treated as a single transaction subject to the $24,999.99 limit. Customers who wish to pay an amount greater than $24,999.99 should consider available electronic alternatives such as Visa or MasterCard debit cards, ACH debits from a bank account, and wire transfers. Each of these payment options is available after filing regulatory fee information in Fee Filer. Further details will be provided regarding payment methods and procedures at the time of FY 2021 regulatory fee collection in Fact Sheets, *https://www.fcc.gov/regfees.*

27. *Payment Methods.* Pursuant to an Office of Management and Budget (OMB) directive, the Commission is moving towards a paperless environment, extending to disbursement and collection of select federal government payments and receipts. In 2015, the Commission stopped accepting checks (including cashier's checks and money orders) and the accompanying hardcopy forms (*e.g.,* Forms 159, 159–B, 159–E, 159–W) for the payment of regulatory fees. During the fee season for collecting regulatory fees, regulatees can pay their fees by credit card through *Pay.gov*, ACH, debit card, or by wire transfer. Additional payment instructions are posted on the Commission's website at *http://transition.fcc.gov/fees/regfees.html.* The receiving bank for all wire payments is the U.S. Treasury, New York, NY (TREAS NYC). Any other form of payment (*e.g.,* checks, cashier's checks, or money orders) will be rejected. For payments by wire, a Form 159–E should still be transmitted via fax so that the Commission can associate the wire payment with the correct regulatory fee information. The fax should be sent to the Federal Communications Commission at (202) 418–2843 at least one hour before initiating the wire transfer (but on the same business day) so as not to delay crediting their account. Regulatees should discuss arrangements (including bank closing schedules) with their bankers several days before they plan to make the wire transfer to allow sufficient time for the transfer to be initiated and completed before the deadline. Complete instructions for making wire payments are posted at *https://www.fcc.gov/licensing-databases/fees/wire-transfer.*

28. *De Minimis Regulatory Fees, Section 9(e)(2) Exemption.* Under the de minimis rule, and pursuant to our analysis under section 9(e)(2) of the Act, a regulatee is exempt from paying regulatory fees if the sum total of all of its annual regulatory fee liabilities is $1,000 or less for the fiscal year. The de minimis threshold applies only to filers of annual regulatory fees, not regulatory fees paid through multi-year filings, and it is not a permanent exemption. Each regulatee will need to reevaluate the total annual fee liability each fiscal year to determine whether they meet the de minimis exemption.

29. *Standard Fee Calculations and Payment Dates.*—The Commission will accept fee payments made in advance of the window for the payment of regulatory fees. The responsibility for payment of fees by service category is as follows:

- *Media Services:* Regulatory fees must be paid for initial construction permits that were granted on or before October 1, 2020 for AM/FM radio stations, VHF/UHF broadcast television stations, and satellite television stations. Regulatory fees must be paid for all broadcast facility licenses granted on or before October 1, 2020.
- *Wireline (Common Carrier) Services:* Regulatory fees must be paid for authorizations that were granted on or before October 1, 2020. In instances where a permit or license is transferred or assigned after October 1, 2020, responsibility for payment rests with the holder of the permit or license as of the fee due date. Audio bridging service providers are included in this category. For Responsible Organizations (RespOrgs) that manage Toll Free Numbers (TFN), regulatory fees should be paid on all working, assigned, and reserved toll free numbers as well as toll free numbers in any other status as defined in section 52.103 of the Commission's rules. The unit count should be based on toll free numbers managed by RespOrgs on or about December 31, 2020.
- *Wireless Services:* CMRS cellular, mobile, and messaging services (fees based on number of subscribers or telephone number count): Regulatory fees must be paid for authorizations that were granted on or before October 1, 2020. The number of subscribers, units, or telephone numbers on December 31, 2020 will be used as the basis from which to calculate the fee payment. In instances where a permit or license is transferred or assigned after October 1, 2020, responsibility for payment rests with the holder of the permit or license as of the fee due date.
- *Wireless Services, Multi-year fees:* The first seven regulatory fee categories in our Schedule of Regulatory Fees pay ''small multi-year wireless regulatory fees.'' Entities pay these regulatory fees in advance for the entire amount period covered by the ten-year terms of their initial licenses, and pay regulatory fees again only when the license is renewed, or a new license is obtained. We include these fee categories in our rulemaking to publicize our estimates of the number of ''small multi-year wireless'' licenses that will be renewed or newly obtained in FY 2021.
- *Multichannel Video Programming Distributor Services (cable television operators, CARS licensees, DBS, and IPTV):* Regulatory fees must be paid for the number of basic cable television subscribers as of December 31, 2020. Regulatory fees also must be paid for CARS licenses that were granted on or before October 1, 2020. In instances where a permit or license is transferred or assigned after October 1, 2020, responsibility for payment rests with the holder of the permit or license as of the fee due date. For providers of DBS service and IPTV-based MVPDs, regulatory fees should be paid based on a subscriber count on or about December 31, 2020. In instances where a permit or license is transferred or assigned after October 1, 2020, responsibility for payment rests with the holder of the permit or license as of the fee due date.
- *International Services:* Regulatory fees must be paid for (1) earth stations and (2) geostationary orbit space stations and non-geostationary orbit satellite systems that were licensed and operational on or before October 1, 2020. In instances where a permit or license is transferred or assigned after October 1, 2020, responsibility for payment rests with the holder of the permit or license as of the fee due date.

*International Services (Submarine Cable Systems, Terrestrial and Satellite Services):* Regulatory fees for submarine cable systems are to be paid on a per cable landing license basis based on lit circuit capacity as of December 31, 2020. Regulatory fees for terrestrial and satellite IBCs are to be paid based on

active (used or leased) international bearer circuits as of December 31, 2020 in any terrestrial or satellite transmission facility for the provision of service to an end user or resale carrier. When calculating the number of such active circuits, entities must include circuits used by themselves or their affiliates. For these purposes, ''active circuits'' include backup and redundant circuits as of December 31, 2020. Whether circuits are used specifically for voice or data is not relevant for purposes of determining that they are active circuits. In instances where a permit or license is transferred or assigned after October 1, 2020, responsibility for payment rests with the holder of the permit or license as of the fee due date.

30. *Commercial Mobile Radio Service (CMRS) and Mobile Services Assessments.* The Commission will compile data from the Numbering Resource Utilization Forecast (NRUF) report that is based on ''assigned'' telephone number (subscriber) counts that have been adjusted for porting to net Type 0 ports (''in'' and ''out''). We have included non-geographic numbers in the calculation of the number of subscribers for each CMRS provider in Table 2 and the CMRS regulatory fee factor proposed in Table 3. CMRS provider regulatory fees will be calculated and should be paid based on the inclusion of non-geographic numbers. CMRS providers can adjust the total number of subscribers, if needed. This information of telephone numbers (subscriber count) will be posted on the Commission's electronic filing and payment system (Fee Filer).

31. A carrier wishing to revise its telephone number (subscriber) count can do so by accessing Fee Filer and follow the prompts to revise their telephone number counts. Any revisions to the telephone number counts should be accompanied by an explanation or supporting documentation. The Commission will then review the revised count and supporting documentation and either approve or disapprove the submission in Fee Filer. If the submission is disapproved, the Commission will contact the provider to afford the provider an opportunity to discuss its revised subscriber count and/or provide additional supporting documentation. If we receive no response from the provider, or we do not reverse our initial disapproval of the provider's revised count submission, the fee payment must be based on the number of subscribers listed initially in Fee Filer. Once the timeframe for revision has passed, the telephone number counts are final and are the basis upon which CMRS regulatory fees are to be paid. Providers can view their final telephone counts online in Fee Filer. A final CMRS assessment letter will not be mailed out.

32. Because some carriers do not file the NRUF report, they may not see their telephone number counts in Fee Filer. In these instances, the carriers should compute their fee payment using the standard methodology that is currently in place for CMRS Wireless services (*i.e.,* compute their telephone number counts as of December 31, 2020), and submit their fee payment accordingly. Whether a carrier reviews its telephone number counts in Fee Filer or not, the Commission reserves the right to audit the number of telephone numbers for which regulatory fees are paid. In the event that the Commission determines that the number of telephone numbers that are paid is inaccurate, the Commission will bill the carrier for the difference between what was paid and what should have been paid.

## IV. List of Tables

TABLE 2—CALCULATION OF FY 2021 REVENUE REQUIREMENTS AND PRO-RATA FEES

[Regulatory fees for the categories shaded in gray are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed.]

| Fee category | FY 2021 Payment units | Yrs. | FY 2020 Revenue estimate | Pro-rated FY 2021 revenue requirement | Computed FY 2021 regulatory fee | Rounded FY 2021 reg. fee | Expected FY 2021 revenue |
|---|---|---|---|---|---|---|---|
| PLMRS (Exclusive Use) | 300 | 10 | 187,500 | 75,000 | 25.00 | 25 | 187,500 |
| PLMRS (Shared use) | 9,900 | 10 | 1,170,000 | 990,000 | 10.00 | 10 | 1,170,000 |
| Microwave | 19,000 | 10 | 3,150,000 | 4,750,000 | 25.00 | 25 | 3,150,000 |
| Marine (Ship) | 6,150 | 10 | 1,065,000 | 922,500 | 15.00 | 15 | 1,065,000 |
| Aviation (Aircraft) | 3,900 | 10 | 550,000 | 390,000 | 10.00 | 10 | 550,000 |
| Marine (Coast) | 40 | 10 | 36,000 | 16,000 | 40.00 | 40 | 36,000 |
| Aviation (Ground) | 550 | 10 | 220,000 | 110,000 | 20.00 | 20 | 220,000 |
| AM Class A [1] | 63 | 1 | 296,100 | 319,125 | 4,706 | 4,700 | 296,100 |
| AM Class B [1] | 1,456 | 1 | 3,681,450 | 3,959,298 | 2,523 | 2,525 | 3,681,450 |
| AM Class C [1] | 825 | 1 | 1,310,400 | 1,417,458 | 1,608 | 1,600 | 1,310,400 |
| AM Class D [1] | 1,397 | 1 | 4,356,100 | 4,683,387 | 3,172 | 3,175 | 4,356,100 |
| FM Classes A, B1 & C3 [1] | 3,059 | 1 | 9,141,975 | 9,855,412 | 3,080 | 3,075 | 9,141,975 |
| FM Classes B, C, C0, C1 & C2 [1] | 3,118 | 1 | 11,246,950 | 12,072,952 | 3,565 | 3,575 | 11,246,950 |
| AM Construction Permits [2] | 6 | 1 | 3,960 | 3,960 | 660 | 660 | 3,960 |
| FM Construction Permits [2] | 55 | 1 | 63,250 | 63,250 | 1,150 | 1,150 | 63,250 |
| Digital Television [5] (including Satellite TV) | 3.262 billion population | 1 | 25,473,855 | 27,805,580 | .0085252 | .008525 | 27,805,580 |
| Digital TV Construction Permits [2] | 4 | 1 | 14,850 | 20,600 | 5,150 | 5,150 | 20,600 |
| LPTV/Translators/Boosters/Class A TV | 5,156 | 1 | 1,682,100 | 1,813,236 | 351.7 | 350 | 1,804,600 |
| CARS Stations | 150 | 1 | 208,000 | 224,612 | 1,497 | 1,500 | 225,000 |
| Cable TV Systems, including IPTV & DBS | 77,800,000 | 1 | 49,395,000 | 74,616,008 | .959 | .96 | 74,688,000 |
| Interstate Telecommunication Service Providers | $30,500,000,000 | 1 | 98,547,000 | 118,307,694 | 0.003879 | 0.00388 | 118,340,000 |
| Toll Free Numbers | 33,500,000 | 1 | 3,960,000 | 4,065,106 | 0.1213 | 0.12 | 4,020,000 |
| CMRS Mobile Services (Cellular/Public Mobile) | 500,000,000 | 1 | 72,250,000 | 75,174,308 | 0.1503 | 0.15 | 75,000,000 |
| CMRS Messaging Services | 1,700,000 | 1 | 152,000 | 136,000 | 0.0800 | 0.080 | 136,000 |
| BRS/ [3] | | | | | | | |
| LMDS | 1,250 | 1 | 716,800 | 743,750 | 595 | 595 | 743,750 |
| | 342 | 1 | 190,400 | 203,490 | 594.99 | 595 | 203,490 |
| Per Gbps circuit Int'l Bearer Circuits. Terrestrial (Common & Non-Common) & Satellite (Common & Non-Common) | 10,900 | 1 | 438,700 | 457,326 | 41.95 | 42 | 457,800 |
| Submarine Cable Providers (See chart at bottom of Appendix C) [4] | 58.188 | 1 | 8,280,333 | 8,689,188 | 149,331 | 149,325 | 8,688,848 |
| Earth Stations | 3,000 | 1 | 1,680,000 | 1,760,792 | 587 | 585 | 1,755,000 |
| Space Stations (Geostationary) | 149 | 1 | 16,092,500 | 16,885,675 | 113,327 | 113,325 | 16,885,425 |
| Space Stations (Non-Geostationary, Other) | 10 | 1 | 4,023,000 | 3,377,135 | 337,714 | 337,725 | 3.377,250 |

TABLE 2—CALCULATION OF FY 2021 REVENUE REQUIREMENTS AND PRO-RATA FEES—Continued

[Regulatory fees for the categories shaded in gray are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed.]

| Fee category | FY 2021 Payment units | Yrs. | FY 2020 Revenue estimate | Pro-rated FY 2021 revenue requirement | Computed FY 2021 regulatory fee | Rounded FY 2021 reg. fee | Expected FY 2021 revenue |
|---|---|---|---|---|---|---|---|
| Space Stations (Non-Geostationary, Less Complex) | 8 | 1 | | 844,284 | 105,536 | 105,525 | 844,200 |
| ****** Total Estimated Revenue to be Collected | | | 338,940,733 | 373,922,577 | | | 373,844,229 |
| ****** Total Revenue Requirement | | | 339,000,000 | 374,000,000 | | | 374,000,000 |
| Difference | | | (59,267) | (77,423) | | | (155,771) |

**Notes on Table 2**

[1] The fee amounts listed in the column entitled ''Rounded New FY 2021 Regulatory Fee'' constitute a weighted average broadcast regulatory fee by class of service. The actual FY 2021 regulatory fees for AM/FM radio station are listed on a grid located at the end of Table 3.

[2] The AM and FM Construction Permit revenues and the Digital (VHF/UHF) Construction Permit revenues were adjusted, respectively, to set the regulatory fee to an amount no higher than the lowest licensed fee for that class of service. Reductions in the Digital (VHF/UHF) Construction Permit revenues, and in the AM and FM Construction Permit revenues, were offset by increases in the revenue totals for Digital television stations by market size, and in the AM and FM radio stations by class size and population served, respectively.

[3] The MDS/MMDS category was renamed Broadband Radio Service (BRS). *See Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150–2162 and 2500–2690 MHz Bands,* Report & Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 14165, 14169, para. 6 (2004).

[4] The chart at the end of Table 3 lists the submarine cable bearer circuit regulatory fees (common and non-common carrier basis) that resulted from the adoption of the *Assessment and Collection of Regulatory Fees for Fiscal Year 2008,* Report and Order and Further Notice of Proposed Rulemaking, 24 FCC Rcd 6388 (2008) and *Assessment and Collection of Regulatory Fees for Fiscal Year 2008,* Second Report and Order, 24 FCC Rcd 4208 (2009). The Submarine Cable fee in Table 2 is a weighted average of the various fee payers in the chart at the end of Table 3.

[5] The actual digital television regulatory fees to be paid by call sign are identified in Table 7.

TABLE 3—FY 2021 SCHEDULE OF REGULATORY FEES

[Regulatory fees for the categories shaded in gray are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed.]

| Fee category | Annual regulatory fee (U.S. $s) |
|---|---|
| PLMRS (per license) (Exclusive Use) (47 CFR part 90) | 25. |
| Microwave (per license) (47 CFR part 101) | 25. |
| Marine (Ship) (per station) (47 CFR part 80) | 15. |
| Marine (Coast) (per license) (47 CFR part 80) | 40. |
| Rural Radio (47 CFR part 22) (previously listed under the Land Mobile category) | 10. |
| PLMRS (Shared Use) (per license) (47 CFR part 90) | 10. |
| Aviation (Aircraft) (per station) (47 CFR part 87) | 10. |
| Aviation (Ground) (per license) (47 CFR part 87) | 20. |
| CMRS Mobile/Cellular Services (per unit) (47 CFR parts 20, 22, 24, 27, 80 and 90) (Includes Non-Geographic telephone numbers). | .15. |
| CMRS Messaging Services (per unit) (47 CFR parts 20, 22, 24 and 90) | .08. |
| Broadband Radio Service (formerly MMDS/MDS) (per license) (47 CFR part 27) | 595. |
| Local Multipoint Distribution Service (per call sign) (47 CFR, part 101) | 595. |
| AM Radio Construction Permits | 660. |
| FM Radio Construction Permits | 1,150. |
| AM and FM Broadcast Radio Station Fees | See Table Below. |
| Digital TV (47 CFR part 73) VHF and UHF Commercial Fee Factor | $.008525.* |
| Digital TV Construction Permits | 5,150. |
| Low Power TV, Class A TV, TV/FM Translators & Boosters (47 CFR part 74) | 350. |
| CARS (47 CFR part 78) | 1,500. |
| Cable Television Systems (per subscriber) (47 CFR part 76), Including IPTV | .96. |
| Interstate Telecommunication Service Providers (per revenue dollar) | .00388. |
| Toll Free (per toll free subscriber) (47 CFR section 52.101 (f) of the rules) | .12. |
| Earth Stations (47 CFR part 25) | 585. |
| Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes DBS Service (per operational station) (47 CFR part 100). | 113,325. |
| Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25) (Other) | 337,725. |
| Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25) (Less Complex) | 105,525. |
| International Bearer Circuits—Terrestrial/Satellites (per Gbps circuit) | 42. |
| Submarine Cable Landing Licenses Fee (per cable system) | See Table Below. |

*See Appendix F for fee amounts due, also available at *https://www.fcc.gov/licensing-databases/fees/regulatory-fees*.

FY 2021 RADIO STATION REGULATORY FEES

| Population served | AM class A | AM class B | AM class C | AM class D | FM classes A, B1 & C3 | FM classes B, C, C0, C1 & C2 |
|---|---|---|---|---|---|---|
| <=25,000 | $1,050 | $760 | $660 | $725 | $1,150 | $1,325 |

FY 2021 RADIO STATION REGULATORY FEES—Continued

| Population served | AM class A | AM class B | AM class C | AM class D | FM classes A, B1 & C3 | FM classes B, C, C0, C1 & C2 |
|---|---|---|---|---|---|---|
| 25,001–75,000 | 1,575 | 1,150 | 990 | 1,100 | 1,725 | 2,000 |
| 75,001–150,000 | 2,375 | 1,700 | 1,475 | 1,625 | 2,600 | 2,975 |
| 150,001–500,000 | 3,550 | 2,575 | 2,225 | 2,450 | 3,875 | 4,475 |
| 500,001–1,200,000 | 5,325 | 3,850 | 3,350 | 3,675 | 5,825 | 6,700 |
| 1,200,001–3,000,000 | 7,975 | 5,775 | 5,025 | 5,500 | 8,750 | 10,075 |
| 3,000,001–6,000,000 | 11,950 | 8,650 | 7,525 | 8,250 | 13,100 | 15,100 |
| >6,000,000 | 17,950 | 13,000 | 11,275 | 12,400 | 19,650 | 22,650 |

FY 2021 INTERNATIONAL BEARER CIRCUITS—SUBMARINE CABLE SYSTEMS

| Submarine cable systems (capacity as of December 31, 2020) | Fee ratio (units) | FY 2021 regulatory fees |
|---|---|---|
| Less than 50 Gbps | .0625 | $9,350 |
| 50 Gbps or greater, but less than 250 Gbps | .125 | 18,675 |
| 250 Gbps or greater, but less than 1,500 Gbps | .25 | 37,350 |
| 1,500 Gbps or greater, but less than 3,500 Gbps | .5 | 74,675 |
| 3,500 Gbps or greater, but less than 6,500 Gbps | 1.0 | 149,325 |
| 6,500 Gbps or greater | 2.0 | 298,650 |

**Table 4—Sources of Payment Unit Estimates for FY 2021**

In order to calculate individual service fees for FY 2021, we adjusted FY 2020 payment units for each service to more accurately reflect expected FY 2021 payment liabilities. We obtained our updated estimates through a variety of means and sources. For example, we used Commission licensee data bases, actual prior year payment records and industry and trade association projections, when available. The databases we consulted include our Universal Licensing System (ULS), International Bureau Filing System (IBFS), Consolidated Database System (CDBS), Licensing and Management System (LMS) and Cable Operations and Licensing System (COALS), as well as reports generated within the Commission such as the Wireless Telecommunications Bureau's *Numbering Resource Utilization Forecast.* Regulatory fee payment units are not all the same for all fee categories. For most fee categories, the term ''units'' reflect licenses or permits that have been issued, but for other fee categories, the term ''units'' reflect quantities such as subscribers, population counts, circuit counts, telephone numbers, and revenues.

We sought verification for these estimates from multiple sources and, in all cases, we compared FY 2021 estimates with actual FY 2020 payment units to ensure that our revised estimates were reasonable. Where appropriate, we adjusted and/or rounded our final estimates to take into consideration the fact that certain variables that impact on the number of payment units cannot yet be estimated with sufficient accuracy. These include an unknown number of waivers and/or exemptions that may occur in FY 2021 and the fact that, in many services, the number of actual licensees or station operators fluctuates from time to time due to economic, technical, or other reasons. When we note, for example, that our estimated FY 2021 payment units are based on FY 2020 actual payment units, it does not necessarily mean that our FY 2021 projection is exactly the same number as in FY 2020. We have either rounded the FY 2020 number or adjusted it slightly to account for these variables.

| Fee category | Sources of payment unit estimates |
|---|---|
| Land Mobile (All), Microwave, Marine (Ship & Coast), Aviation (Aircraft & Ground), Domestic Public Fixed. | Based on Wireless Telecommunications Bureau (WTB) projections of new applications and renewals taking into consideration existing Commission licensee data bases. Aviation (Aircraft) and Marine (Ship) estimates have been adjusted to take into consideration the licensing of portions of these services on a voluntary basis. |
| CMRS Cellular/Mobile Services | Based on WTB projection reports, and FY 2020 payment data. |
| CMRS Messaging Services | Based on WTB reports, and FY 2020 payment data. |
| AM/FM Radio Stations | Based on CDBS data, adjusted for exemptions, and actual FY 2020 payment units. |
| Digital TV Stations (Combined VHF/UHF units) | Based on LMS data, fee rate adjusted for exemptions, and population figures are calculated based on individual station parameters. |
| AM/FM/TV Construction Permits | Based on CDBS data, adjusted for exemptions, and actual FY 2020 payment units. |
| LPTV, Translators and Boosters, Class A Television. | Based on LMS data, adjusted for exemptions, and actual FY 2020 payment units. |
| BRS (formerly MDS/MMDS) LMDS | Based on WTB reports and actual FY 2020 payment units. Based on WTB reports and actual FY 2020 payment units. |
| Cable Television Relay Service (CARS) Stations | Based on data from Media Bureau's COALS database and actual FY 2020 payment units. |
| Cable Television System Subscribers, Including IPTV Subscribers. | Based on publicly available data sources for estimated subscriber counts and actual FY 2020 payment units. |
| Interstate Telecommunication Service Providers | Based on FCC Form 499–Q data for the four quarters of calendar year 2020, the Wireline Competition Bureau projected the amount of calendar year 2020 revenue that will be reported on the 2021 FCC Form 499–A worksheets due in April 2021. |
| Earth Stations | Based on International Bureau licensing data and actual FY 2020 payment units. |

| Fee category | Sources of payment unit estimates |
|---|---|
| Space Stations (GSOs & NGSOs) | Based on International Bureau data reports and actual FY 2020 payment units. |
| International Bearer Circuits | Based on International Bureau reports and submissions by licensees, adjusted as necessary, and actual FY 2020 payment units. |
| Submarine Cable Licenses | Based on International Bureau license information, and actual FY 2020 payment units. |

**Table 5—Factors, Measurements, and Calculations That Determine Station Signal Contours and Associated Population Coverages**

*AM Stations*

For stations with nondirectional daytime antennas, the theoretical radiation was used at all azimuths. For stations with directional daytime antennas, specific information on each day tower, including field ratio, phase, spacing, and orientation was retrieved, as well as the theoretical pattern root-mean-square of the radiation in all directions in the horizontal plane (RMS) figure (milliVolt per meter (mV/m) @1 km) for the antenna system. The standard, or augmented standard if pertinent, horizontal plane radiation pattern was calculated using techniques and methods specified in sections 73.150 and 73.152 of the Commission's rules. Radiation values were calculated for each of 360 radials around the transmitter site. Next, estimated soil conductivity data was retrieved from a database representing the information in FCC Figure R3. Using the calculated horizontal radiation values, and the retrieved soil conductivity data, the distance to the principal community (5 mV/m) contour was predicted for each of the 360 radials. The resulting distance to principal community contours were used to form a geographical polygon. Population counting was accomplished by determining which 2010 block centroids were contained in the polygon. (A block centroid is the center point of a small area containing population as computed by the U.S. Census Bureau.) The sum of the population figures for all enclosed blocks represents the total population for the predicted principal community coverage area.

*FM Stations*

The greater of the horizontal or vertical effective radiated power (ERP) (kW) and respective height above average terrain (HAAT) (m) combination was used. Where the antenna height above mean sea level (HAMSL) was available, it was used in lieu of the average HAAT figure to calculate specific HAAT figures for each of 360 radials under study. Any available directional pattern information was applied as well, to produce a radial-specific ERP figure. The HAAT and ERP figures were used in conjunction with the Field Strength (50–50) propagation curves specified in 47 CFR 73.313 of the Commission's rules to predict the distance to the principal community (70 dBu (decibel above 1 microVolt per meter) or 3.17 mV/m) contour for each of the 360 radials. The resulting distance to principal community contours were used to form a geographical polygon. Population counting was accomplished by determining which 2010 block centroids were contained in the polygon. The sum of the population figures for all enclosed blocks represents the total population for the predicted principal community coverage area.

TABLE 6—SATELLITE CHARTS FOR FY 2021 REGULATORY FEES

[U.S.-licensed space stations]

| Licensee | Call sign | Satellite name | Type |
|---|---|---|---|
| DIRECTV Enterprises, LLC | S2922 | SKY–B1 | GSO |
| DIRECTV Enterprises, LLC | S2640 | DIRECTV T11 | GSO |
| DIRECTV Enterprises, LLC | S2711 | DIRECTV RB–1 | GSO |
| DIRECTV Enterprises, LLC | S2632 | DIRECTV T8 | GSO |
| DIRECTV Enterprises, LLC | S2669 | DIRECTV T9S | GSO |
| DIRECTV Enterprises, LLC | S2641 | DIRECTV T10 | GSO |
| DIRECTV Enterprises, LLC | S2797 | DIRECTV T12 | GSO |
| DIRECTV Enterprises, LLC | S2930 | DIRECTV T15 | GSO |
| DIRECTV Enterprises, LLC | S2673 | DIRECTV T5 | GSO |
| DIRECTV Enterprises, LLC | S2455 | DIRECTV T7S | GSO |
| DIRECTV Enterprises, LLC | S2133 | SPACEWAY 2 | GSO |
| DIRECTV Enterprises, LLC | S3039 | DIRECTV T16 | GSO |
| DISH Operating L.L.C | S2931 | ECHOSTAR 18 | GSO |
| DISH Operating L.L.C | S2738 | ECHOSTAR 11 | GSO |
| DISH Operating L.L.C | S2694 | ECHOSTAR 10 | GSO |
| DISH Operating L.L.C | S2740 | ECHOSTAR 7 | GSO |
| DISH Operating L.L.C | S2790 | ECHOSTAR 14 | GSO |
| EchoStar Satellite Operating Corporation | S2811 | ECHOSTAR 15 | GSO |
| EchoStar Satellite Operating Corporation | S2844 | ECHOSTAR 16 | GSO |
| EchoStar Satellite Operating Corporation | S2653 | ECHOSTAR 12 | GSO |
| EchoStar Satellite Services L.L.C | S2179 | ECHOSTAR 9 | GSO |
| ES 172 LLC | S2610 | EUTELSAT 174A | GSO |
| ES 172 LLC | S3021 | EUTELSAT 172B | GSO |
| Horizon–3 Satellite LLC | S2947 | HORIZONS–3e | GSO |
| Hughes Network Systems, LLC | S2663 | SPACEWAY 3 | GSO |
| Hughes Network Systems, LLC | S2834 | ECHOSTAR 19 | GSO |
| Hughes Network Systems, LLC | S2753 | ECHOSTAR XVII | GSO |
| Intelsat License LLC/ViaSat, Inc | S2160 | GALAXY 28 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2414 | INTELSAT 10–02 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2972 | INTELSAT 37e | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2854 | NSS–7 | GSO |

TABLE 6—SATELLITE CHARTS FOR FY 2021 REGULATORY FEES—Continued

[U.S.-licensed space stations]

| Licensee | Call sign | Satellite name | Type |
|---|---|---|---|
| Intelsat License LLC, Debtor-in-Possession | S2409 | INELSAT 905 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2411 | INTELSAT 907 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2405 | INTELSAT 901 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2408 | INTELSAT 904 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2804 | INTELSAT 25 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2959 | INTELSAT 35e | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2237 | INTELSAT 11 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2785 | INTELSAT 14 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2913 | INTELSAT 29E | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2380 | INTELSAT 9 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2831 | INTELSAT 23 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2915 | INTELSAT 34 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2863 | INTELSAT 21 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2750 | INTELSAT 16 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2715 | GALAXY 17 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2154 | GALAXY 25 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2253 | GALAXY 11 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2381 | GALAXY 3C | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2887 | INTELSAT 30 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2924 | INTELSAT 31 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2647 | GALAXY 19 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2687 | GALAXY 16 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2733 | GALAXY 18 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2385 | GALAXY 14 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2386 | GALAXY 13 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2422 | GALAXY 12 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2387 | GALAXY 15 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2704 | INTELSAT 5 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2817 | INTELSAT 18 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2960 | JCSAT–RA | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2850 | INTELSAT 19 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2368 | INTELSAT 1R | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2988 | TELKOM–2 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2789 | INTELSAT 15 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2423 | HORIZONS 2 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2846 | INTELSAT 22 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2847 | INTELSAT 20 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2948 | INTELSAT 36 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2814 | INTELSAT 17 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2410 | INTELSAT 906 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2406 | INTELSAT 902 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2939 | INTELSAT 33e | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2382 | INTELSAT 10 | GSO |
| Intelsat License LLC, Debtor-in-Possession | S2751 | NEW DAWN | GSO |
| Intelsat License LLC, Debtor-in-Possession | S3023 | INTELSAT 39 | GSO |
| Leidos, Inc | S2371 | LM–RPS2 | GSO |
| Ligado Networks Subsidiary, LLC | S2358 | SKYTERRA–1 | GSO |
| Ligado Networks Subsidiary, LLC | AMSC–1 | MSAT–2 | GSO |
| Novavision Group, Inc | S2861 | DIRECTV KU–79W | GSO |
| Satellite CD Radio LLC | S2812 | FM–6 | GSO |
| SES Americom, Inc | S2415 | NSS–10 | GSO |
| SES Americom, Inc | S2162 | AMC–3 | GSO |
| SES Americom, Inc | S2347 | AMC–6 | GSO |
| SES Americom, Inc | S2134 | AMC–2 | GSO |
| SES Americom, Inc | S2826 | SES–2 | GSO |
| SES Americom, Inc | S2807 | SES–1 | GSO |
| SES Americom, Inc | S2892 | SES–3 | GSO |
| SES Americom, Inc | S2180 | AMC–15 | GSO |
| SES Americom, Inc | S2445 | AMC–1 | GSO |
| SES Americom, Inc | S2135 | AMC–4 | GSO |
| SES Americom, Inc | S2155 | AMC–7 | GSO |
| SES Americom, Inc | S2713 | AMC–18 | GSO |
| SES Americom, Inc | S2433 | AMC–11 | GSO |
| SES Americom, Inc./Alascom, Inc | S2379 | AMC–8 | GSO |
| SES Americom, Inc./EchoStar Satellite Services L.L.C | S2181 | AMC–16 | GSO |
| Sirius XM Radio Inc | S2710 | FM–5 | GSO |
| Skynet Satellite Corporation | S2933 | TELSTAR 12V | GSO |
| Skynet Satellite Corporation | S2357 | TELSTAR 11N | GSO |
| ViaSat, Inc | S2747 | VIASAT–1 | GSO |
| XM Radio LLC | S2617 | XM–3 | GSO |
| XM Radio LLC | S2616 | XM–4 | GSO |

NON-U.S.-LICENSED SPACE STATIONS—MARKET ACCESS THROUGH PETITION FOR DECLARATORY RULING

| Licensee | Call sign | Satellite common name | Satellite type |
|---|---|---|---|
| ABS Global Ltd | S2987 | ABS–3A | GSO |
| DBSD Services Ltd | S2651 | DBSD G1 | GSO |
| Empresa Argentina de Soluciones Satelitales S.A | S2956 | ARSAT–2 | GSO |
| European Telecommunications Satellite Organization | S2596 | Atlantic Bird 2 | GSO |
| European Telecommunications Satellite Organization | S3031 | EUTELSAT 133 WEST A | GSO |
| Gamma Acquisition L.L.C | S2633 | TerreStar 1 | GSO |
| Hispamar Satélites, S.A | S2793 | AMAZONAS–2 | GSO |
| Hispamar Satélites, S.A | S2886 | AMAZONAS–3 | GSO |
| Hispasat, S.A | S2969 | HISPASAT 30W–6 | GSO |
| Inmarsat PLC | S2932 | Inmarsat-4 F3 | GSO |
| Inmarsat PLC | S2949 | Inmarsat-3 F5 | GSO |
| Inmarsat Mobile Networks, Inc | E150028 | Inmarsat 5F3 | GSO |
| Intelsat License LLC | S2592/S2868 | Galaxy 23 | GSO |
| Intelsat License LLC | S3058 | HISPASAT 143W–1 | GSO |
| New Skies Satellites B.V | S2756 | NSS–9 | GSO |
| New Skies Satellites B.V | S2870 | SES–6 | GSO |
| New Skies Satellites B.V | S3048 | NSS–6 | GSO |
| New Skies Satellites B.V | S2828 | SES–4 | GSO |
| New Skies Satellites B.V | S2950 | SES–10 | GSO |
| Satelites Mexicanos, S.A. de C.V | S2695 | EUTELSAT 113 WEST A | GSO |
| Satelites Mexicanos, S.A. de C.V | S2926 | EUTELSAT 117 WEST B | GSO |
| Satelites Mexicanos, S.A. de C.V | S2938 | EUTELSAT 115 WEST B | GSO |
| Satelites Mexicanos, S.A. de C.V | S2873 | EUTELSAT 117 WEST A | GSO |
| SES Satellites (Gibraltar) Ltd | S2676 | AMC 21 | GSO |
| SES Americom, Inc | S3037 | NSS–11 | GSO |
| SES Americom, Inc | S2964 | SES–11 | GSO |
| SES DTH do Brasil Ltd | S2974 | SES–14 | GSO |
| SES Satellites (Gibraltar) Ltd | S2951 | SES–15 | GSO |
| Embratel Tvsat Telecommunicacoes S.A | S2677 | STAR ONE C1 | GSO |
| Embratel Tvsat Telecommunicacoes S.A | S2678 | STAR ONE C2 | GSO |
| Embratel Tvsat Telecommunicacoes S.A | S2845 | STAR ONE C3 | GSO |
| Telesat Brasil Capacidade de Satelites Ltda | S2821 | ESTRELA DO SUL 2 | GSO |
| Telesat Canada | S2674 | ANIK F1R | GSO |
| Telesat Canada | S2703 | ANIK F3 | GSO |
| Telesat Canada | S2646/S2472 | ANIK F2 | GSO |
| Telesat International Ltd | S2955 | TELSTAR 19 VANTAGE | GSO |
| Viasat, Inc | S2902 | VIASAT–2 | GSO |

NON-U.S.-LICENSED SPACE STATIONS—MARKET ACCESS THROUGH EARTH STATION LICENSES

| ITU Name (if available) | Common name | Call sign | GSO/NGSO |
|---|---|---|---|
| APSTAR VI | APSTAR 6 | M292090 | GSO |
| AUSSAT B 152E | OPTUS D2 | M221170 | GSO |
| CAN–BSS3 and CAN–BSS | ECHOSTAR 23 | SM1987 | GSO |
| Ciel Satellite Group | Ciel-2 | E050029 | GSO |
| ECHOSTAR 23 | ECHOSTAR 23 | SM2975 | GSO |
| ECHOSTAR 8 (MEX) | ECHOSTAR 8 | NUS1108 | GSO |
| Eutelsat 65 West A | Eutelsat 65 West A | E160081 | GSO |
| INMARSAT 3F3 | INMARSAT 3F3 | E000284 | GSO |
| INMARSAT 4F1 | INMARSAT 4F1 | KA25 | GSO |
| JCSAT–2B | JCSAT–2B | M174163 | GSO |
| NIMIQ 5 | NIMIQ 5 | E080107 | GSO |
| MSAT–1 | MSAT–1 | E980179 | GSO |
| QUETZSAT–1(MEX) | QUETZSAT–1 | NUS1101 | GSO |
| Superbird C2 | Superbird C2 | M334100 | GSO |
| WILDBLUE–1 | WILDBLUE–1 | E040213 | GSO |
| Yamal 300K | Yamal 300K | M174162 | GSO |

NON-GEOSTATIONARY SPACE STATIONS (NGSO)

| ITU name (if available) | Common name | Call sign | NGSO |
|---|---|---|---|
| **U.S.-Licensed NGSO Systems** | | | |
| ORBCOMM License Corp | ORBCOMM | S2103 | Other. |
| Iridium Constellation LLC | IRIDIUM | S2110 | Other. |
| Space Exploration Holdings, LLC | SPACEX Ku/Ka-Band | S2983/S3018 | Other. |

NON-GEOSTATIONARY SPACE STATIONS (NGSO)—Continued

| ITU name (if available) | Common name | Call sign | NGSO |
|---|---|---|---|
| Swarm Technologies | SWARM | S3041 | Other. |
| Planet Labs | Flock | S2912 | Less Complex. |
| Planet Labs | Skysats | S2862 | Less Complex. |
| Maxar License | WorldView 1, 2, 3 & 4 | S2129/S2348 | Less Complex. |
| BlackSky Global | Global 1, 2, 3 & 4 | S3032 | Less Complex. |
| Astro Digital U.S., Inc | LANDMAPPER | S3014 | Less Complex. |
| Hawkeye 360 | HE360 | S3042 | Less Complex. |
| **Non-U.S.-Licensed NGSO Systems—Market Access Through Petition for Declaratory Ruling** | | | |
| Telesat Canada | TELESAT Ku/Ka-Band | S2976 | Other. |
| Kepler Communications, Inc | KEPLER | S2981 | Other. |
| WorldVu Satellites Ltd | ONEWEB | S2963 | Other. |
| Hiber Inc | HIBER | S3038 | Other. |
| O3b Ltd | O3b | S2935 | Other. |
| **Non-U.S.-Licensed NGSO Systems—Market Access Through Earth Station Licenses** | | | |
| EXACTVIEW–1 | EXACTVIEW–1 | SM2989 | Less Complex. |
| **NGSO Systems that Are Partly U.S.-Licensed and Partly Non-U.S.-Licensed with Market Access Through Petition for Declaratory Ruling** | | | |
| Globalstar License LLC | GLOBALSTAR | S2115 | Other. |
| Spire Global | LEMUR & MINAS | S2946/S3045 | Less Complex. |

TABLE 7—FY 2021 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN

| Facility Id. | Call sign | Service area population | Terrain limited population | Terrain limited fee amount |
|---|---|---|---|---|
| 3246 | KAAH–TV | 955,391 | 879,906 | $7,501 |
| 18285 | KAAL | 589,502 | 568,169 | 4,844 |
| 11912 | KAAS–TV | 220,262 | 219,922 | 1,875 |
| 56528 | KABB | 2,474,296 | 2,456,689 | 20,943 |
| 282 | KABC–TV | 17,540,791 | 16,957,292 | 144,561 |
| 1236 | KACV–TV | 372,627 | 372,330 | 3,174 |
| 33261 | KADN–TV | 877,965 | 877,965 | 7,485 |
| 8263 | KAEF–TV | 138,085 | 122,808 | 1,047 |
| 2728 | KAET | 4,217,217 | 4,184,386 | 35,672 |
| 2767 | KAFT | 1,204,376 | 1,122,928 | 9,573 |
| 62442 | KAID | 711,035 | 702,721 | 5,991 |
| 4145 | KAII–TV | 188,810 | 165,396 | 1,410 |
| 67494 | KAIL | 1,967,744 | 1,948,341 | 16,610 |
| 13988 | KAIT | 861,149 | 845,812 | 7,211 |
| 40517 | KAJB | 383,886 | 383,195 | 3,267 |
| 65522 | KAKE | 803,937 | 799,254 | 6,814 |
| 804 | KAKM | 380,240 | 379,105 | 3,232 |
| 148 | KAKW–DT | 2,615,956 | 2,531,813 | 21,584 |
| 51598 | KALB–TV | 943,307 | 942,043 | 8,031 |
| 51241 | KALO | 948,683 | 844,503 | 7,199 |
| 40820 | KAMC | 391,526 | 391,502 | 3,338 |
| 8523 | KAMR–TV | 366,476 | 366,335 | 3,123 |
| 65301 | KAMU–TV | 346,892 | 342,455 | 2,919 |
| 2506 | KAPP | 319,797 | 283,944 | 2,421 |
| 3658 | KARD | 703,234 | 700,887 | 5,975 |
| 23079 | KARE | 3,924,944 | 3,907,483 | 33,311 |
| 33440 | KARK–TV | 1,212,038 | 1,196,196 | 10,198 |
| 37005 | KARZ–TV | 1,066,386 | 1,050,270 | 8,954 |
| 32311 | KASA–TV | 1,161,789 | 1,119,108 | 9,540 |
| 41212 | KASN | 1,175,627 | 1,159,721 | 9,887 |
| 7143 | KASW | 4,174,437 | 4,160,497 | 35,468 |
| 55049 | KASY–TV | 1,144,839 | 1,099,825 | 9,376 |
| 33471 | KATC | 1,348,897 | 1,348,897 | 11,499 |
| 13813 | KATN | 97,466 | 97,128 | 828 |
| 21649 | KATU | 2,977,993 | 2,845,582 | 24,259 |
| 33543 | KATV | 1,257,777 | 1,234,933 | 10,528 |
| 50182 | KAUT–TV | 1,637,333 | 1,636,330 | 13,950 |
| 6864 | KAUZ–TV | 381,671 | 379,435 | 3,235 |
| 73101 | KAVU–TV | 319,618 | 319,484 | 2,724 |
| 49579 | KAWB | 186,919 | 186,845 | 1,593 |

TABLE 7—FY 2021 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

| Facility Id. | Call sign | Service area population | Terrain limited population | Terrain limited fee amount |
|---|---|---|---|---|
| 49578 | KAWE | 136,033 | 133,937 | 1,142 |
| 58684 | KAYU–TV | 809,464 | 750,766 | 6,400 |
| 29234 | KAZA–TV | 14,973,535 | 13,810,130 | 117,731 |
| 17433 | KAZD | 6,776,778 | 6,774,172 | 57,750 |
| 1151 | KAZQ | 1,097,010 | 1,084,327 | 9,244 |
| 35811 | KAZT–TV | 436,925 | 359,273 | 3,063 |
| 4148 | KBAK–TV | 1,510,400 | 1,263,910 | 10,775 |
| 16940 | KBCA | 479,260 | 479,219 | 4,085 |
| 53586 | KBCB | 1,256,193 | 1,223,883 | 10,434 |
| 69619 | KBCW | 8,227,562 | 7,375,199 | 62,874 |
| 22685 | KBDI–TV | 4,042,177 | 3,683,394 | 31,401 |
| 56384 | KBEH | 17,736,497 | 17,695,306 | 150,852 |
| 65395 | KBFD–DT | 953,207 | 834,341 | 7,113 |
| 169030 | KBGS–TV | 159,269 | 156,802 | 1,337 |
| 61068 | KBHE–TV | 140,860 | 133,082 | 1,135 |
| 48556 | KBIM–TV | 205,701 | 205,647 | 1,753 |
| 29108 | KBIN–TV | 912,921 | 911,725 | 7,772 |
| 33658 | KBJR–TV | 275,585 | 271,298 | 2,313 |
| 83306 | KBLN–TV | 297,384 | 134,927 | 1,150 |
| 63768 | KBLR | 1,964,979 | 1,915,861 | 16,333 |
| 53324 | KBME–TV | 123,571 | 123,485 | 1,053 |
| 10150 | KBMT | 743,009 | 742,369 | 6,329 |
| 22121 | KBMY | 119,993 | 119,908 | 1,022 |
| 49760 | KBOI–TV | 715,191 | 708,374 | 6,039 |
| 55370 | KBRR | 149,869 | 149,868 | 1,278 |
| 66414 | KBSD–DT | 155,012 | 154,891 | 1,320 |
| 66415 | KBSH–DT | 102,781 | 100,433 | 856 |
| 19593 | KBSI | 756,501 | 754,722 | 6,434 |
| 66416 | KBSL–DT | 49,814 | 48,483 | 413 |
| 4939 | KBSV | 1,352,166 | 1,262,708 | 10,765 |
| 62469 | KBTC–TV | 3,697,981 | 3,621,965 | 30,877 |
| 61214 | KBTV–TV | 734,008 | 734,008 | 6,257 |
| 6669 | KBTX–TV | 4,404,648 | 4,401,048 | 37,519 |
| 35909 | KBVO | 1,498,015 | 1,312,360 | 11,188 |
| 58618 | KBVU | 135,249 | 120,827 | 1,030 |
| 6823 | KBYU–TV | 2,389,548 | 2,209,060 | 18,832 |
| 33756 | KBZK | 120,807 | 107,817 | 919 |
| 21422 | KCAL–TV | 17,499,483 | 16,889,157 | 143,980 |
| 11265 | KCAU–TV | 714,315 | 706,224 | 6,021 |
| 14867 | KCBA | 3,088,394 | 2,369,803 | 20,203 |
| 27507 | KCBD | 414,804 | 414,091 | 3,530 |
| 9628 | KCBS–TV | 17,853,152 | 16,656,778 | 141,999 |
| 49750 | KCBY–TV | 89,156 | 73,211 | 624 |
| 33710 | KCCI | 1,102,130 | 1,095,326 | 9,338 |
| 9640 | KCCW–TV | 284,280 | 276,935 | 2,361 |
| 63158 | KCDO–TV | 2,798,103 | 2,650,225 | 22,593 |
| 62424 | KCDT | 698,389 | 657,101 | 5,602 |
| 83913 | KCEB | 1,163,228 | 1,159,665 | 9,886 |
| 57219 | KCEC | 3,831,192 | 3,613,287 | 30,803 |
| 10245 | KCEN–TV | 1,795,767 | 1,757,018 | 14,979 |
| 13058 | KCET | 16,875,019 | 15,402,588 | 131,307 |
| 18079 | KCFW–TV | 148,162 | 129,122 | 1,101 |
| 132606 | KCGE–DT | 123,930 | 123,930 | 1,057 |
| 60793 | KCHF | 1,118,671 | 1,085,205 | 9,251 |
| 33722 | KCIT | 382,477 | 381,818 | 3,255 |
| 62468 | KCKA | 953,680 | 804,362 | 6,857 |
| 41969 | KCLO–TV | 138,413 | 132,157 | 1,127 |
| 47903 | KCNC–TV | 3,794,400 | 3,541,089 | 30,188 |
| 71586 | KCNS | 8,270,858 | 7,381,656 | 62,929 |
| 33742 | KCOP–TV | 17,386,133 | 16,647,708 | 141,922 |
| 19117 | KCOS | 1,014,396 | 1,014,205 | 8,646 |
| 63165 | KCOY–TV | 664,655 | 459,468 | 3,917 |
| 33894 | KCPQ | 4,439,875 | 4,311,994 | 36,760 |
| 53843 | KCPT | 2,507,879 | 2,506,224 | 21,366 |
| 33875 | KCRA–TV | 10,612,483 | 6,500,774 | 55,419 |
| 9719 | KCRG–TV | 1,136,762 | 1,107,130 | 9,438 |
| 60728 | KCSD–TV | 273,553 | 273,447 | 2,331 |
| 59494 | KCSG | 174,814 | 164,765 | 1,405 |
| 33749 | KCTS–TV | 4,177,824 | 4,115,603 | 35,086 |
| 41230 | KCTV | 2,547,456 | 2,545,645 | 21,702 |
| 58605 | KCVU | 630,068 | 616,068 | 5,252 |

TABLE 7—FY 2021 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

| Facility Id. | Call sign | Service area population | Terrain limited population | Terrain limited fee amount |
|---|---|---|---|---|
| 10036 | KCWC–DT | 44,216 | 39,439 | 336 |
| 64444 | KCWE | 2,460,172 | 2,458,913 | 20,962 |
| 51502 | KCWI–TV | 1,043,811 | 1,042,642 | 8,889 |
| 42008 | KCWO–TV | 50,707 | 50,685 | 432 |
| 166511 | KCWV | 207,398 | 207,370 | 1,768 |
| 24316 | KCWX | 3,961,268 | 3,954,787 | 33,715 |
| 68713 | KCWY–DT | 79,948 | 79,414 | 677 |
| 22201 | KDAF | 6,648,507 | 6,645,226 | 56,651 |
| 33764 | KDBC–TV | 1,015,564 | 1,015,162 | 8,654 |
| 79258 | KDCK | 43,088 | 43,067 | 367 |
| 166332 | KDCU–DT | 796,251 | 795,504 | 6,782 |
| 38375 | KDEN–TV | 3,376,799 | 3,351,182 | 28,569 |
| 17037 | KDFI | 6,684,439 | 6,682,487 | 56,968 |
| 33770 | KDFW | 6,659,312 | 6,657,023 | 56,751 |
| 29102 | KDIN–TV | 1,088,376 | 1,083,845 | 9,240 |
| 25454 | KDKA–TV | 3,611,796 | 3,450,690 | 29,417 |
| 60740 | KDKF | 71,413 | 64,567 | 550 |
| 4691 | KDLH | 263,422 | 260,394 | 2,220 |
| 41975 | KDLO–TV | 208,354 | 208,118 | 1,774 |
| 55379 | KDLT–TV | 639,284 | 628,281 | 5,356 |
| 55375 | KDLV–TV | 96,873 | 96,620 | 824 |
| 25221 | KDMD | 375,328 | 373,408 | 3,183 |
| 78915 | KDMI | 1,141,990 | 1,140,939 | 9,727 |
| 56524 | KDNL–TV | 2,987,219 | 2,982,311 | 25,424 |
| 24518 | KDOC–TV | 17,503,793 | 16,701,233 | 142,378 |
| 1005 | KDOR–TV | 1,112,060 | 1,108,556 | 9,450 |
| 60736 | KDRV | 519,706 | 440,002 | 3,751 |
| 61064 | KDSD–TV | 64,314 | 59,635 | 508 |
| 53329 | KDSE | 42,896 | 41,432 | 353 |
| 56527 | KDSM–TV | 1,096,220 | 1,095,478 | 9,339 |
| 49326 | KDTN | 6,602,327 | 6,600,186 | 56,267 |
| 83491 | KDTP | 26,564 | 24,469 | 209 |
| 33778 | KDTV–DT | 7,959,349 | 7,129,638 | 60,780 |
| 67910 | KDTX–TV | 6,680,738 | 6,679,424 | 56,942 |
| 126 | KDVR | 3,644,912 | 3,521,884 | 30,024 |
| 18084 | KECI–TV | 211,745 | 193,803 | 1,652 |
| 51208 | KECY–TV | 399,372 | 394,379 | 3,362 |
| 58408 | KEDT | 513,683 | 513,683 | 4,379 |
| 55435 | KEET | 177,313 | 159,960 | 1,364 |
| 41983 | KELO–TV | 705,364 | 646,126 | 5,508 |
| 34440 | KEMO–TV | 8,270,858 | 7,381,656 | 62,929 |
| 2777 | KEMV | 619,889 | 559,135 | 4,767 |
| 26304 | KENS | 2,544,094 | 2,529,382 | 21,563 |
| 63845 | KENV–DT | 47,220 | 40,677 | 347 |
| 18338 | KENW | 87,017 | 87,017 | 742 |
| 50591 | KEPB–TV | 576,964 | 523,655 | 4,464 |
| 56029 | KEPR–TV | 453,259 | 433,260 | 3,694 |
| 49324 | KERA–TV | 6,681,083 | 6,677,852 | 56,929 |
| 40878 | KERO–TV | 1,285,357 | 1,164,979 | 9,931 |
| 61067 | KESD–TV | 166,018 | 159,195 | 1,357 |
| 25577 | KESQ–TV | 1,334,172 | 572,057 | 4,877 |
| 50205 | KETA–TV | 1,702,441 | 1,688,227 | 14,392 |
| 62182 | KETC | 2,913,924 | 2,911,313 | 24,819 |
| 37101 | KETD | 3,323,570 | 3,285,231 | 28,007 |
| 2768 | KETG | 426,883 | 409,511 | 3,491 |
| 12895 | KETH–TV | 6,088,821 | 6,088,677 | 51,906 |
| 55643 | KETK–TV | 1,031,567 | 1,030,122 | 8,782 |
| 2770 | KETS | 1,185,111 | 1,166,796 | 9,947 |
| 53903 | KETV | 1,355,714 | 1,350,740 | 11,515 |
| 92872 | KETZ | 526,890 | 523,877 | 4,466 |
| 68853 | KEYC–TV | 544,900 | 531,079 | 4,527 |
| 33691 | KEYE–TV | 2,732,257 | 2,652,529 | 22,613 |
| 60637 | KEYT–TV | 1,419,564 | 1,239,577 | 10,567 |
| 83715 | KEYU | 339,348 | 339,302 | 2,893 |
| 34406 | KEZI | 1,113,171 | 1,065,880 | 9,087 |
| 34412 | KFBB–TV | 93,519 | 91,964 | 784 |
| 125 | KFCT | 795,114 | 788,747 | 6,724 |
| 51466 | KFDA–TV | 385,064 | 383,977 | 3,273 |
| 22589 | KFDM | 732,665 | 732,588 | 6,245 |
| 65370 | KFDX–TV | 381,703 | 381,318 | 3,251 |
| 49264 | KFFV | 4,020,926 | 3,987,153 | 33,990 |

TABLE 7—FY 2021 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

| Facility Id. | Call sign | Service area population | Terrain limited population | Terrain limited fee amount |
|---|---|---|---|---|
| 12729 | KFFX–TV | 409,952 | 403,692 | 3,441 |
| 83992 | KFJX | 515,708 | 505,647 | 4,311 |
| 42122 | KFMB–TV | 3,947,735 | 3,699,981 | 31,542 |
| 53321 | KFME | 393,045 | 392,472 | 3,346 |
| 74256 | KFNB | 80,382 | 79,842 | 681 |
| 21613 | KFNE | 54,988 | 54,420 | 464 |
| 21612 | KFNR | 10,988 | 10,965 | 93 |
| 66222 | KFOR–TV | 1,616,459 | 1,615,614 | 13,773 |
| 33716 | KFOX–TV | 1,023,999 | 1,018,549 | 8,683 |
| 41517 | KFPH–DT | 347,579 | 282,838 | 2,411 |
| 81509 | KFPX–TV | 963,969 | 963,846 | 8,217 |
| 31597 | KFQX | 186,473 | 163,637 | 1,395 |
| 59013 | KFRE–TV | 1,721,275 | 1,705,484 | 14,539 |
| 51429 | KFSF–DT | 7,348,828 | 6,528,430 | 55,655 |
| 66469 | KFSM–TV | 906,728 | 884,919 | 7,544 |
| 8620 | KFSN–TV | 1,836,607 | 1,819,585 | 15,512 |
| 29560 | KFTA–TV | 818,859 | 809,173 | 6,898 |
| 83714 | KFTC | 61,990 | 61,953 | 528 |
| 60537 | KFTH–DT | 6,080,688 | 6,080,373 | 51,835 |
| 60549 | KFTR–DT | 17,560,679 | 16,305,726 | 139,006 |
| 61335 | KFTS | 74,936 | 65,126 | 555 |
| 81441 | KFTU–DT | 113,876 | 109,731 | 935 |
| 34439 | KFTV–DT | 1,794,984 | 1,779,917 | 15,174 |
| 36917 | KFVE | 953,895 | 851,585 | 7,260 |
| 592 | KFVS–TV | 895,871 | 873,777 | 7,449 |
| 29015 | KFWD | 6,610,836 | 6,598,496 | 56,252 |
| 35336 | KFXA | 875,538 | 874,070 | 7,451 |
| 17625 | KFXB–TV | 373,280 | 368,466 | 3,141 |
| 70917 | KFXK–TV | 934,043 | 931,791 | 7,944 |
| 84453 | KFXL–TV | 862,531 | 854,678 | 7,286 |
| 41427 | KFYR–TV | 130,881 | 128,301 | 1,094 |
| 25685 | KGAN | 1,083,213 | 1,057,597 | 9,016 |
| 34457 | KGBT–TV | 1,230,798 | 1,230,791 | 10,492 |
| 52593 | KGBY | 270,089 | 218,544 | 1,863 |
| 7841 | KGCW | 949,575 | 945,476 | 8,060 |
| 24485 | KGEB | 1,186,225 | 1,150,201 | 9,805 |
| 34459 | KGET–TV | 917,927 | 874,332 | 7,454 |
| 53320 | KGFE | 114,564 | 114,564 | 977 |
| 7894 | KGIN | 230,535 | 228,338 | 1,947 |
| 83945 | KGLA–DT | 1,645,641 | 1,645,641 | 14,029 |
| 34445 | KGMB | 953,398 | 851,088 | 7,256 |
| 23302 | KGMC | 1,824,786 | 1,803,796 | 15,377 |
| 36914 | KGMD–TV | 94,323 | 93,879 | 800 |
| 36920 | KGMV | 193,564 | 162,230 | 1,383 |
| 10061 | KGNS–TV | 267,236 | 259,548 | 2,213 |
| 34470 | KGO–TV | 8,637,074 | 7,929,294 | 67,597 |
| 56034 | KGPE | 1,699,131 | 1,682,082 | 14,340 |
| 81694 | KGPX–TV | 685,626 | 624,955 | 5,328 |
| 25511 | KGTF | 161,885 | 160,568 | 1,369 |
| 40876 | KGTV | 3,960,667 | 3,682,219 | 31,391 |
| 36918 | KGUN–TV | 1,398,527 | 1,212,484 | 10,336 |
| 34874 | KGW | 3,058,216 | 2,881,387 | 24,564 |
| 63177 | KGWC–TV | 80,475 | 80,009 | 682 |
| 63162 | KGWL–TV | 38,125 | 38,028 | 324 |
| 63166 | KGWN–TV | 469,467 | 440,388 | 3,754 |
| 63170 | KGWR–TV | 51,315 | 50,957 | 434 |
| 4146 | KHAW–TV | 95,204 | 94,851 | 809 |
| 34846 | KHBC–TV | 74,884 | 74,884 | 638 |
| 60353 | KHBS | 631,770 | 608,052 | 5,184 |
| 27300 | KHCE–TV | 2,353,883 | 2,348,391 | 20,020 |
| 26431 | KHET | 959,060 | 944,568 | 8,052 |
| 21160 | KHGI–TV | 233,973 | 229,173 | 1,954 |
| 29085 | KHIN | 1,041,244 | 1,039,383 | 8,861 |
| 17688 | KHME | 181,345 | 179,706 | 1,532 |
| 47670 | KHMT | 175,601 | 170,957 | 1,457 |
| 47987 | KHNE–TV | 203,931 | 202,944 | 1,730 |
| 34867 | KHNL | 953,398 | 851,088 | 7,256 |
| 60354 | KHOG–TV | 765,360 | 702,984 | 5,993 |
| 4144 | KHON–TV | 953,207 | 886,431 | 7,557 |
| 34529 | KHOU | 6,083,336 | 6,081,785 | 51,847 |
| 4690 | KHQA–TV | 318,469 | 316,134 | 2,695 |

TABLE 7—FY 2021 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

| Facility Id. | Call sign | Service area population | Terrain limited population | Terrain limited fee amount |
|---|---|---|---|---|
| 34537 | KHQ–TV | 822,371 | 774,821 | 6,605 |
| 30601 | KHRR | 1,227,847 | 1,166,890 | 9,948 |
| 34348 | KHSD–TV | 188,735 | 185,202 | 1,579 |
| 24508 | KHSL–TV | 625,904 | 608,850 | 5,190 |
| 69677 | KHSV | 2,059,794 | 2,020,045 | 17,221 |
| 64544 | KHVO | 94,226 | 93,657 | 798 |
| 23394 | KIAH | 6,099,694 | 6,099,297 | 51,997 |
| 34564 | KICU–TV | 8,233,041 | 7,174,316 | 61,161 |
| 56028 | KIDK | 305,509 | 302,535 | 2,579 |
| 58560 | KIDY | 116,614 | 116,596 | 994 |
| 53382 | KIEM–TV | 174,390 | 160,801 | 1,371 |
| 66258 | KIFI–TV | 324,422 | 320,118 | 2,729 |
| 10188 | KIII | 569,864 | 566,796 | 4,832 |
| 29095 | KIIN | 1,365,215 | 1,335,707 | 11,387 |
| 34527 | KIKU | 953,896 | 850,963 | 7,254 |
| 63865 | KILM | 17,256,205 | 15,804,489 | 134,733 |
| 56033 | KIMA–TV | 308,604 | 260,593 | 2,222 |
| 66402 | KIMT | 654,083 | 643,384 | 5,485 |
| 67089 | KINC | 2,002,066 | 1,920,903 | 16,376 |
| 34847 | KING–TV | 4,074,288 | 4,036,926 | 34,415 |
| 51708 | KINT–TV | 1,015,582 | 1,015,274 | 8,655 |
| 26249 | KION–TV | 2,400,317 | 855,808 | 7,296 |
| 62427 | KIPT | 171,405 | 170,455 | 1,453 |
| 66781 | KIRO–TV | 4,058,101 | 4,030,968 | 34,364 |
| 62430 | KISU–TV | 311,827 | 307,651 | 2,623 |
| 12896 | KITU–TV | 712,362 | 712,362 | 6,073 |
| 64548 | KITV | 953,207 | 839,906 | 7,160 |
| 59255 | KIVI–TV | 710,819 | 702,619 | 5,990 |
| 47285 | KIXE–TV | 467,518 | 428,118 | 3,650 |
| 13792 | KJJC–TV | 82,749 | 81,865 | 698 |
| 14000 | KJLA | 17,929,100 | 16,794,896 | 143,176 |
| 20015 | KJNP–TV | 98,403 | 98,097 | 836 |
| 53315 | KJRE | 16,187 | 16,170 | 138 |
| 59439 | KJRH–TV | 1,416,108 | 1,397,311 | 11,912 |
| 55364 | KJRR | 45,515 | 44,098 | 376 |
| 7675 | KJTL | 379,594 | 379,263 | 3,233 |
| 55031 | KJTV–TV | 406,283 | 406,260 | 3,463 |
| 13814 | KJUD | 31,229 | 30,106 | 257 |
| 36607 | KJZZ–TV | 2,388,965 | 2,209,183 | 18,833 |
| 83180 | KKAI | 955,203 | 941,214 | 8,024 |
| 58267 | KKAP | 957,786 | 923,172 | 7,870 |
| 24766 | KKCO | 206,018 | 172,628 | 1,472 |
| 35097 | KKJB | 629,939 | 624,784 | 5,326 |
| 22644 | KKPX–TV | 7,588,288 | 6,758,490 | 57,616 |
| 35037 | KKTV | 2,892,126 | 2,478,864 | 21,132 |
| 35042 | KLAS–TV | 2,094,297 | 1,940,030 | 16,539 |
| 52907 | KLAX–TV | 367,212 | 366,839 | 3,127 |
| 3660 | KLBK–TV | 387,783 | 387,743 | 3,306 |
| 65523 | KLBY | 31,102 | 31,096 | 265 |
| 38430 | KLCS | 16,875,019 | 15,402,588 | 131,307 |
| 77719 | KLCW–TV | 381,889 | 381,816 | 3,255 |
| 51479 | KLDO–TV | 250,832 | 250,832 | 2,138 |
| 37105 | KLEI | 175,045 | 138,087 | 1,177 |
| 56032 | KLEW–TV | 164,908 | 148,256 | 1,264 |
| 35059 | KLFY–TV | 1,355,890 | 1,355,409 | 11,555 |
| 54011 | KLJB | 1,027,104 | 1,012,309 | 8,630 |
| 11264 | KLKN | 932,757 | 895,101 | 7,631 |
| 47975 | KLNE–TV | 120,338 | 120,277 | 1,025 |
| 38590 | KLPA–TV | 414,699 | 414,447 | 3,533 |
| 38588 | KLPB–TV | 749,053 | 749,053 | 6,386 |
| 749 | KLRN | 2,374,472 | 2,353,440 | 20,063 |
| 11951 | KLRT–TV | 1,171,678 | 1,152,541 | 9,825 |
| 8564 | KLRU | 2,614,658 | 2,575,518 | 21,956 |
| 8322 | KLSR–TV | 564,415 | 508,157 | 4,332 |
| 31114 | KLST | 199,067 | 169,551 | 1,445 |
| 24436 | KLTJ | 6,034,131 | 6,033,867 | 51,439 |
| 38587 | KLTL–TV | 423,574 | 423,574 | 3,611 |
| 38589 | KLTM–TV | 694,280 | 688,915 | 5,873 |
| 38591 | KLTS–TV | 883,661 | 882,589 | 7,524 |
| 68540 | KLTV | 1,069,690 | 1,051,361 | 8,963 |
| 12913 | KLUJ–TV | 1,195,751 | 1,195,751 | 10,194 |

TABLE 7—FY 2021 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

| Facility Id. | Call sign | Service area population | Terrain limited population | Terrain limited fee amount |
|---|---|---|---|---|
| 57220 | KLUZ–TV | 1,079,718 | 1,019,302 | 8,690 |
| 11683 | KLVX | 2,044,150 | 1,936,083 | 16,505 |
| 82476 | KLWB | 1,065,748 | 1,065,748 | 9,086 |
| 40250 | KLWY | 541,043 | 538,231 | 4,588 |
| 64551 | KMAU | 213,060 | 188,953 | 1,611 |
| 51499 | KMAX–TV | 10,767,605 | 7,132,240 | 60,802 |
| 65686 | KMBC–TV | 2,507,895 | 2,506,661 | 21,369 |
| 56079 | KMBH | 1,225,732 | 1,225,732 | 10,449 |
| 35183 | KMCB | 69,357 | 66,203 | 564 |
| 41237 | KMCC | 2,064,592 | 2,010,262 | 17,137 |
| 42636 | KMCI–TV | 2,429,392 | 2,428,626 | 20,704 |
| 38584 | KMCT–TV | 267,004 | 266,880 | 2,275 |
| 22127 | KMCY | 71,797 | 71,793 | 612 |
| 162016 | KMDE | 35,409 | 35,401 | 302 |
| 26428 | KMEB | 221,810 | 203,470 | 1,735 |
| 39665 | KMEG | 708,748 | 704,130 | 6,003 |
| 35123 | KMEX–DT | 17,628,354 | 16,318,720 | 139,117 |
| 40875 | KMGH–TV | 3,815,253 | 3,574,365 | 30,471 |
| 35131 | KMID | 383,449 | 383,439 | 3,269 |
| 16749 | KMIR–TV | 2,760,914 | 730,764 | 6,230 |
| 63164 | KMIZ | 532,025 | 530,008 | 4,518 |
| 53541 | KMLM–DT | 293,290 | 293,290 | 2,500 |
| 52046 | KMLU | 711,951 | 708,107 | 6,037 |
| 47981 | KMNE–TV | 47,232 | 44,189 | 377 |
| 24753 | KMOH–TV | 199,885 | 184,283 | 1,571 |
| 4326 | KMOS–TV | 804,745 | 803,129 | 6,847 |
| 41425 | KMOT | 81,517 | 79,504 | 678 |
| 70034 | KMOV | 3,035,077 | 3,029,405 | 25,826 |
| 51488 | KMPH–TV | 1,725,397 | 1,697,871 | 14,474 |
| 73701 | KMPX | 6,678,829 | 6,674,706 | 56,902 |
| 44052 | KMSB | 1,321,614 | 1,039,442 | 8,861 |
| 68883 | KMSP–TV | 3,832,040 | 3,805,141 | 32,439 |
| 12525 | KMSS–TV | 1,068,120 | 1,066,388 | 9,091 |
| 43095 | KMTP–TV | 5,252,062 | 4,457,617 | 38,001 |
| 35189 | KMTR | 589,948 | 520,666 | 4,439 |
| 35190 | KMTV–TV | 1,346,549 | 1,344,796 | 11,464 |
| 77063 | KMTW | 761,521 | 761,516 | 6,492 |
| 35200 | KMVT | 184,647 | 176,351 | 1,503 |
| 32958 | KMVU–DT | 308,150 | 231,506 | 1,974 |
| 86534 | KMYA–DT | 200,764 | 200,719 | 1,711 |
| 51518 | KMYS | 2,273,888 | 2,267,913 | 19,334 |
| 54420 | KMYT–TV | 1,314,197 | 1,302,378 | 11,103 |
| 35822 | KMYU | 133,563 | 130,198 | 1,110 |
| 993 | KNAT–TV | 1,157,630 | 1,124,619 | 9,587 |
| 24749 | KNAZ–TV | 332,321 | 227,658 | 1,941 |
| 47906 | KNBC | 17,859,647 | 16,555,232 | 141,133 |
| 81464 | KNBN | 145,493 | 136,995 | 1,168 |
| 9754 | KNCT | 1,751,838 | 1,726,148 | 14,715 |
| 82611 | KNDB | 118,154 | 118,122 | 1,007 |
| 82615 | KNDM | 72,216 | 72,209 | 616 |
| 12395 | KNDO | 314,875 | 270,892 | 2,309 |
| 12427 | KNDU | 475,612 | 462,556 | 3,943 |
| 17683 | KNEP | 101,389 | 95,890 | 817 |
| 48003 | KNHL | 277,777 | 277,308 | 2,364 |
| 125710 | KNIC–DT | 2,398,296 | 2,383,294 | 20,318 |
| 59363 | KNIN–TV | 708,289 | 703,838 | 6,000 |
| 48525 | KNLC | 2,981,508 | 2,978,979 | 25,396 |
| 48521 | KNLJ | 655,000 | 642,705 | 5,479 |
| 84215 | KNMD–TV | 1,120,286 | 1,100,869 | 9,385 |
| 55528 | KNME–TV | 1,149,036 | 1,103,695 | 9,409 |
| 47707 | KNMT | 2,887,142 | 2,794,995 | 23,827 |
| 48975 | KNOE–TV | 733,097 | 729,703 | 6,221 |
| 49273 | KNOP–TV | 87,904 | 85,423 | 728 |
| 10228 | KNPB | 604,614 | 462,732 | 3,945 |
| 55362 | KNRR | 25,957 | 25,931 | 221 |
| 35277 | KNSD | 3,861,660 | 3,618,321 | 30,846 |
| 19191 | KNSN–TV | 611,981 | 459,485 | 3,917 |
| 58608 | KNSO | 1,976,317 | 1,931,825 | 16,469 |
| 35280 | KNTV | 8,525,818 | 8,027,505 | 68,434 |
| 144 | KNVA | 2,550,225 | 2,529,184 | 21,561 |
| 33745 | KNVN | 495,902 | 470,252 | 4,009 |

TABLE 7—FY 2021 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

| Facility Id. | Call sign | Service area population | Terrain limited population | Terrain limited fee amount |
|---|---|---|---|---|
| 69692 | KNVO | 1,247,014 | 1,247,014 | 10,631 |
| 29557 | KNWA–TV | 822,906 | 804,682 | 6,860 |
| 16950 | KNXT | 2,180,045 | 2,160,460 | 18,418 |
| 59440 | KNXV–TV | 4,183,943 | 4,173,022 | 35,575 |
| 59014 | KOAA–TV | 1,608,528 | 1,203,731 | 10,262 |
| 50588 | KOAB–TV | 207,070 | 203,371 | 1,734 |
| 50590 | KOAC–TV | 1,957,282 | 1,543,401 | 13,157 |
| 58552 | KOAM–TV | 595,307 | 584,921 | 4,986 |
| 53928 | KOAT–TV | 1,132,372 | 1,105,116 | 9,421 |
| 35313 | KOB | 1,152,841 | 1,113,162 | 9,490 |
| 35321 | KOBF | 201,911 | 166,177 | 1,417 |
| 8260 | KOBI | 562,463 | 519,063 | 4,425 |
| 62272 | KOBR | 211,709 | 211,551 | 1,803 |
| 50170 | KOCB | 1,629,783 | 1,629,152 | 13,889 |
| 4328 | KOCE–TV | 17,447,903 | 16,331,792 | 139,229 |
| 84225 | KOCM | 1,434,325 | 1,433,605 | 12,221 |
| 12508 | KOCO–TV | 1,716,569 | 1,708,085 | 14,561 |
| 83181 | KOCW | 83,807 | 83,789 | 714 |
| 18283 | KODE–TV | 740,156 | 731,512 | 6,236 |
| 66195 | KOED–TV | 1,497,297 | 1,459,833 | 12,445 |
| 50198 | KOET | 658,606 | 637,640 | 5,436 |
| 51189 | KOFY–TV | 5,252,062 | 4,457,617 | 38,001 |
| 34859 | KOGG | 190,829 | 161,310 | 1,375 |
| 166534 | KOHD | 201,310 | 197,662 | 1,685 |
| 35380 | KOIN | 3,028,482 | 2,881,460 | 24,564 |
| 35388 | KOKH–TV | 1,627,116 | 1,625,246 | 13,855 |
| 11910 | KOKI–TV | 1,366,220 | 1,352,227 | 11,528 |
| 48663 | KOLD–TV | 1,216,228 | 887,754 | 7,568 |
| 7890 | KOLN | 1,225,400 | 1,190,178 | 10,146 |
| 63331 | KOLO–TV | 959,178 | 826,985 | 7,050 |
| 28496 | KOLR | 1,076,144 | 1,038,613 | 8,854 |
| 21656 | KOMO–TV | 4,132,260 | 4,087,435 | 34,845 |
| 65583 | KOMU–TV | 551,658 | 542,544 | 4,625 |
| 35396 | KONG | 4,006,008 | 3,985,271 | 33,974 |
| 60675 | KOOD | 113,416 | 113,285 | 966 |
| 50589 | KOPB–TV | 3,059,231 | 2,875,815 | 24,516 |
| 2566 | KOPX–TV | 1,501,110 | 1,500,883 | 12,795 |
| 64877 | KORO | 560,983 | 560,983 | 4,782 |
| 6865 | KOSA–TV | 340,978 | 338,070 | 2,882 |
| 34347 | KOTA–TV | 174,876 | 152,861 | 1,303 |
| 8284 | KOTI | 298,175 | 97,132 | 828 |
| 35434 | KOTV–DT | 1,417,753 | 1,403,838 | 11,968 |
| 56550 | KOVR | 10,784,477 | 7,162,989 | 61,064 |
| 51101 | KOZJ | 429,982 | 427,991 | 3,649 |
| 51102 | KOZK | 839,841 | 834,308 | 7,112 |
| 3659 | KOZL–TV | 992,495 | 963,281 | 8,212 |
| 35455 | KPAX–TV | 206,895 | 193,201 | 1,647 |
| 67868 | KPAZ–TV | 4,190,080 | 4,176,323 | 35,603 |
| 6124 | KPBS | 3,584,237 | 3,463,189 | 29,524 |
| 50044 | KPBT–TV | 340,080 | 340,080 | 2,899 |
| 77452 | KPCB–DT | 30,861 | 30,835 | 263 |
| 35460 | KPDX | 2,970,703 | 2,848,423 | 24,283 |
| 12524 | KPEJ–TV | 368,212 | 368,208 | 3,139 |
| 41223 | KPHO–TV | 4,195,073 | 4,175,139 | 35,593 |
| 61551 | KPIC | 156,687 | 105,807 | 902 |
| 86205 | KPIF | 265,080 | 258,174 | 2,201 |
| 25452 | KPIX–TV | 8,340,753 | 7,480,594 | 63,772 |
| 58912 | KPJK | 7,884,411 | 6,955,179 | 59,293 |
| 166510 | KPJR–TV | 3,402,088 | 3,372,831 | 28,753 |
| 13994 | KPLC | 1,406,085 | 1,403,853 | 11,968 |
| 41964 | KPLO–TV | 55,827 | 52,765 | 450 |
| 35417 | KPLR–TV | 2,968,619 | 2,965,673 | 25,282 |
| 12144 | KPMR | 1,731,370 | 1,473,251 | 12,559 |
| 47973 | KPNE–TV | 92,675 | 89,021 | 759 |
| 35486 | KPNX | 4,215,834 | 4,184,428 | 35,672 |
| 77512 | KPNZ | 2,394,311 | 2,208,707 | 18,829 |
| 73998 | KPOB–TV | 144,525 | 143,656 | 1,225 |
| 26655 | KPPX–TV | 4,186,998 | 4,171,450 | 35,562 |
| 53117 | KPRC–TV | 6,099,422 | 6,099,076 | 51,995 |
| 48660 | KPRY–TV | 42,521 | 42,426 | 362 |
| 61071 | KPSD–TV | 19,886 | 18,799 | 160 |

TABLE 7—FY 2021 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

| Facility Id. | Call sign | Service area population | Terrain limited population | Terrain limited fee amount |
|---|---|---|---|---|
| 53544 | KPTB–DT | 322,780 | 320,646 | 2,734 |
| 81445 | KPTF–DT | 84,512 | 84,512 | 720 |
| 77451 | KPTH | 660,556 | 655,373 | 5,587 |
| 51491 | KPTM | 1,414,998 | 1,414,014 | 12,054 |
| 33345 | KPTS | 832,000 | 827,866 | 7,058 |
| 50633 | KPTV | 2,998,460 | 2,847,263 | 24,273 |
| 82575 | KPTW | 80,374 | 80,012 | 682 |
| 1270 | KPVI–DT | 271,379 | 264,204 | 2,252 |
| 58835 | KPXB–TV | 6,062,472 | 6,062,271 | 51,681 |
| 68695 | KPXC–TV | 3,362,518 | 3,341,951 | 28,490 |
| 68834 | KPXD–TV | 6,555,157 | 6,553,373 | 55,868 |
| 33337 | KPXE–TV | 2,437,178 | 2,436,024 | 20,767 |
| 5801 | KPXG–TV | 3,026,219 | 2,882,598 | 24,574 |
| 81507 | KPXJ | 1,138,632 | 1,135,626 | 9,681 |
| 61173 | KPXL–TV | 2,257,007 | 2,243,520 | 19,126 |
| 35907 | KPXM–TV | 3,507,312 | 3,506,503 | 29,893 |
| 58978 | KPXN–TV | 17,256,205 | 15,804,489 | 134,733 |
| 77483 | KPXO–TV | 953,329 | 913,341 | 7,786 |
| 21156 | KPXR–TV | 828,915 | 821,250 | 7,001 |
| 10242 | KQCA | 10,077,891 | 6,276,197 | 53,505 |
| 41430 | KQCD–TV | 35,623 | 33,415 | 285 |
| 18287 | KQCK | 3,220,160 | 3,162,711 | 26,962 |
| 78322 | KQCW–DT | 1,128,198 | 1,123,324 | 9,576 |
| 35525 | KQDS–TV | 304,935 | 301,439 | 2,570 |
| 35500 | KQED | 8,195,398 | 7,283,828 | 62,095 |
| 35663 | KQEH | 8,195,398 | 7,283,828 | 62,095 |
| 8214 | KQET | 2,981,040 | 2,076,157 | 17,699 |
| 5471 | KQIN | 596,371 | 596,277 | 5,083 |
| 17686 | KQME | 188,783 | 184,719 | 1,575 |
| 61063 | KQSD–TV | 32,526 | 31,328 | 267 |
| 8378 | KQSL | 196,316 | 133,564 | 1,139 |
| 20427 | KQTV | 1,494,987 | 1,401,160 | 11,945 |
| 78921 | KQUP | 697,016 | 551,824 | 4,704 |
| 306 | KRBC–TV | 229,395 | 229,277 | 1,955 |
| 166319 | KRBK | 983,888 | 966,187 | 8,237 |
| 22161 | KRCA | 17,540,791 | 16,957,292 | 144,561 |
| 57945 | KRCB | 8,783,441 | 8,503,802 | 72,495 |
| 41110 | KRCG | 684,989 | 662,418 | 5,647 |
| 8291 | KRCR–TV | 423,000 | 402,594 | 3,432 |
| 10192 | KRCW–TV | 2,966,912 | 2,842,523 | 24,233 |
| 49134 | KRDK–TV | 349,941 | 349,929 | 2,983 |
| 52579 | KRDO–TV | 2,622,603 | 2,272,383 | 19,372 |
| 70578 | KREG–TV | 149,306 | 95,141 | 811 |
| 34868 | KREM | 817,619 | 752,113 | 6,412 |
| 51493 | KREN–TV | 810,039 | 681,212 | 5,807 |
| 70596 | KREX–TV | 145,700 | 145,606 | 1,241 |
| 70579 | KREY–TV | 74,963 | 65,700 | 560 |
| 48589 | KREZ–TV | 148,079 | 105,121 | 896 |
| 43328 | KRGV–TV | 1,247,057 | 1,247,029 | 10,631 |
| 82698 | KRII | 133,840 | 132,912 | 1,133 |
| 29114 | KRIN | 949,313 | 923,735 | 7,875 |
| 25559 | KRIS–TV | 561,825 | 561,718 | 4,789 |
| 22204 | KRIV | 6,078,936 | 6,078,846 | 51,822 |
| 14040 | KRMA–TV | 3,722,512 | 3,564,949 | 30,391 |
| 14042 | KRMJ | 174,094 | 159,511 | 1,360 |
| 20476 | KRMT | 2,956,144 | 2,864,236 | 24,418 |
| 84224 | KRMU | 85,274 | 72,499 | 618 |
| 20373 | KRMZ | 36,293 | 33,620 | 287 |
| 47971 | KRNE–TV | 47,473 | 38,273 | 326 |
| 60307 | KRNV–DT | 955,490 | 792,543 | 6,756 |
| 65526 | KRON–TV | 8,573,167 | 8,028,256 | 68,441 |
| 53539 | KRPV–DT | 65,943 | 65,943 | 562 |
| 48575 | KRQE | 1,135,461 | 1,105,093 | 9,421 |
| 57431 | KRSU–TV | 1,000,289 | 998,310 | 8,511 |
| 82613 | KRTN–TV | 96,062 | 74,452 | 635 |
| 35567 | KRTV | 92,645 | 90,849 | 774 |
| 84157 | KRWB–TV | 111,538 | 110,979 | 946 |
| 35585 | KRWF | 85,596 | 85,596 | 730 |
| 55516 | KRWG–TV | 894,492 | 661,703 | 5,641 |
| 48360 | KRXI–TV | 725,391 | 548,865 | 4,679 |
| 307 | KSAN–TV | 135,063 | 135,051 | 1,151 |

TABLE 7—FY 2021 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

| Facility Id. | Call sign | Service area population | Terrain limited population | Terrain limited fee amount |
|---|---|---|---|---|
| 11911 | KSAS–TV | 752,513 | 752,504 | 6,415 |
| 53118 | KSAT–TV | 2,539,658 | 2,502,246 | 21,332 |
| 35584 | KSAX | 365,209 | 365,209 | 3,113 |
| 35587 | KSAZ–TV | 4,203,126 | 4,178,448 | 35,621 |
| 38214 | KSBI | 1,577,231 | 1,575,865 | 13,434 |
| 19653 | KSBW | 5,083,461 | 4,429,165 | 37,759 |
| 19654 | KSBY | 535,029 | 495,562 | 4,225 |
| 82910 | KSCC | 517,740 | 517,740 | 4,414 |
| 10202 | KSCE | 1,015,148 | 1,010,581 | 8,615 |
| 35608 | KSCI | 17,447,903 | 16,331,792 | 139,229 |
| 72348 | KSCW–DT | 915,691 | 910,511 | 7,762 |
| 46981 | KSDK | 2,986,764 | 2,979,035 | 25,396 |
| 35594 | KSEE | 1,761,193 | 1,746,282 | 14,887 |
| 48658 | KSFY–TV | 670,536 | 607,844 | 5,182 |
| 17680 | KSGW–TV | 62,178 | 57,629 | 491 |
| 59444 | KSHB–TV | 2,432,205 | 2,431,273 | 20,727 |
| 73706 | KSHV–TV | 943,947 | 942,978 | 8,039 |
| 29096 | KSIN–TV | 340,143 | 338,811 | 2,888 |
| 664 | KSIX–TV | 82,902 | 73,553 | 627 |
| 35606 | KSKN | 731,818 | 643,590 | 5,487 |
| 70482 | KSLA | 1,017,556 | 1,016,667 | 8,667 |
| 6359 | KSL–TV | 2,390,742 | 2,206,920 | 18,814 |
| 71558 | KSMN | 320,813 | 320,808 | 2,735 |
| 33336 | KSMO–TV | 2,401,201 | 2,398,686 | 20,449 |
| 28510 | KSMQ–TV | 524,391 | 507,983 | 4,331 |
| 35611 | KSMS–TV | 1,589,263 | 882,948 | 7,527 |
| 21161 | KSNB–TV | 658,560 | 656,650 | 5,598 |
| 72359 | KSNC | 174,135 | 173,744 | 1,481 |
| 67766 | KSNF | 621,919 | 617,868 | 5,267 |
| 72361 | KSNG | 145,058 | 144,822 | 1,235 |
| 72362 | KSNK | 48,715 | 45,414 | 387 |
| 67335 | KSNT | 622,818 | 594,604 | 5,069 |
| 10179 | KSNV | 1,967,781 | 1,919,296 | 16,362 |
| 72358 | KSNW | 791,403 | 791,127 | 6,744 |
| 61956 | KSPS–TV | 819,101 | 769,852 | 6,563 |
| 52953 | KSPX–TV | 7,078,228 | 5,275,946 | 44,977 |
| 166546 | KSQA | 382,328 | 374,290 | 3,191 |
| 53313 | KSRE | 75,181 | 75,181 | 641 |
| 35843 | KSTC–TV | 3,843,788 | 3,835,674 | 32,699 |
| 63182 | KSTF | 51,317 | 51,122 | 436 |
| 28010 | KSTP–TV | 3,788,898 | 3,782,053 | 32,242 |
| 60534 | KSTR–DT | 6,632,577 | 6,629,296 | 56,515 |
| 64987 | KSTS | 8,363,473 | 7,264,852 | 61,933 |
| 22215 | KSTU | 2,384,996 | 2,201,716 | 18,770 |
| 23428 | KSTW | 4,265,956 | 4,186,266 | 35,688 |
| 5243 | KSVI | 175,390 | 173,667 | 1,481 |
| 58827 | KSWB–TV | 3,677,190 | 3,488,655 | 29,741 |
| 60683 | KSWK | 79,012 | 78,784 | 672 |
| 35645 | KSWO–TV | 483,132 | 458,057 | 3,905 |
| 61350 | KSYS | 519,209 | 443,204 | 3,778 |
| 59988 | KTAB–TV | 270,967 | 268,579 | 2,290 |
| 999 | KTAJ–TV | 2,343,843 | 2,343,227 | 19,976 |
| 35648 | KTAL–TV | 1,094,332 | 1,092,958 | 9,317 |
| 12930 | KTAS | 471,882 | 464,149 | 3,957 |
| 81458 | KTAZ | 4,182,503 | 4,160,481 | 35,468 |
| 35649 | KTBC | 3,242,215 | 2,956,614 | 25,205 |
| 67884 | KTBN–TV | 17,795,677 | 16,510,302 | 140,750 |
| 67999 | KTBO–TV | 1,585,283 | 1,583,664 | 13,501 |
| 35652 | KTBS–TV | 1,163,228 | 1,159,665 | 9,886 |
| 28324 | KTBU | 6,035,927 | 6,035,725 | 51,455 |
| 67950 | KTBW–TV | 4,202,104 | 4,108,031 | 35,021 |
| 35655 | KTBY | 348,080 | 346,562 | 2,954 |
| 68594 | KTCA–TV | 3,693,877 | 3,684,081 | 31,407 |
| 68597 | KTCI–TV | 3,606,606 | 3,597,183 | 30,666 |
| 35187 | KTCW | 103,341 | 89,207 | 760 |
| 36916 | KTDO | 1,015,336 | 1,010,771 | 8,617 |
| 2769 | KTEJ | 419,750 | 417,368 | 3,558 |
| 83707 | KTEL–TV | 53,423 | 53,414 | 455 |
| 35666 | KTEN | 602,788 | 599,778 | 5,113 |
| 24514 | KTFD–TV | 3,210,669 | 3,172,543 | 27,046 |
| 35512 | KTFF–DT | 2,225,169 | 2,203,398 | 18,784 |

TABLE 7—FY 2021 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

| Facility Id. | Call sign | Service area population | Terrain limited population | Terrain limited fee amount |
|---|---|---|---|---|
| 20871 | KTFK–DT | 6,969,307 | 5,211,719 | 44,430 |
| 68753 | KTFN | 1,017,335 | 1,013,157 | 8,637 |
| 35084 | KTFQ–TV | 1,151,433 | 1,117,061 | 9,523 |
| 29232 | KTGM | 159,358 | 159,091 | 1,356 |
| 2787 | KTHV | 1,275,062 | 1,246,348 | 10,625 |
| 29100 | KTIN | 281,096 | 279,385 | 2,382 |
| 66170 | KTIV | 751,089 | 746,274 | 6,362 |
| 49397 | KTKA–TV | 759,369 | 746,370 | 6,363 |
| 35670 | KTLA | 18,156,910 | 16,870,262 | 143,819 |
| 62354 | KTLM | 1,044,526 | 1,044,509 | 8,904 |
| 49153 | KTLN–TV | 5,381,955 | 4,740,894 | 40,416 |
| 64984 | KTMD | 6,095,741 | 6,095,606 | 51,965 |
| 14675 | KTMF | 187,251 | 168,526 | 1,437 |
| 10177 | KTMW | 2,261,671 | 2,144,791 | 18,284 |
| 21533 | KTNC–TV | 8,270,858 | 7,381,656 | 62,929 |
| 47996 | KTNE–TV | 100,341 | 95,324 | 813 |
| 60519 | KTNL–TV | 8,642 | 8,642 | 74 |
| 74100 | KTNV–TV | 2,094,506 | 1,936,752 | 16,511 |
| 71023 | KTNW | 450,926 | 432,398 | 3,686 |
| 8651 | KTOO–TV | 31,269 | 31,176 | 266 |
| 7078 | KTPX–TV | 1,066,196 | 1,063,754 | 9,069 |
| 68541 | KTRE | 441,879 | 421,406 | 3,592 |
| 35675 | KTRK–TV | 6,114,259 | 6,112,870 | 52,112 |
| 28230 | KTRV–TV | 714,833 | 707,557 | 6,032 |
| 69170 | KTSC | 3,124,536 | 2,949,795 | 25,147 |
| 61066 | KTSD–TV | 83,645 | 82,828 | 706 |
| 37511 | KTSF | 7,959,349 | 7,129,638 | 60,780 |
| 67760 | KTSM–TV | 1,015,348 | 1,011,264 | 8,621 |
| 35678 | KTTC | 815,213 | 731,919 | 6,240 |
| 28501 | KTTM | 76,133 | 73,664 | 628 |
| 11908 | KTTU | 1,324,801 | 1,060,613 | 9,042 |
| 22208 | KTTV | 17,380,551 | 16,693,085 | 142,309 |
| 28521 | KTTW | 329,633 | 326,405 | 2,783 |
| 65355 | KTTZ–TV | 380,240 | 380,225 | 3,241 |
| 35685 | KTUL | 1,416,959 | 1,388,183 | 11,834 |
| 10173 | KTUU–TV | 380,240 | 379,047 | 3,231 |
| 77480 | KTUZ–TV | 1,668,531 | 1,666,026 | 14,203 |
| 49632 | KTVA | 342,517 | 342,300 | 2,918 |
| 34858 | KTVB | 714,865 | 707,882 | 6,035 |
| 31437 | KTVC | 137,239 | 100,204 | 854 |
| 68581 | KTVD | 3,800,970 | 3,547,607 | 30,243 |
| 35692 | KTVE | 641,139 | 640,201 | 5,458 |
| 49621 | KTVF | 98,068 | 97,929 | 835 |
| 5290 | KTVH–DT | 228,832 | 184,264 | 1,571 |
| 35693 | KTVI | 2,995,764 | 2,991,513 | 25,503 |
| 40993 | KTVK | 4,184,825 | 4,173,028 | 35,575 |
| 22570 | KTVL | 419,849 | 369,469 | 3,150 |
| 18066 | KTVM–TV | 260,105 | 217,694 | 1,856 |
| 59139 | KTVN | 955,490 | 800,420 | 6,824 |
| 21251 | KTVO | 148,780 | 148,647 | 1,267 |
| 35694 | KTVQ | 179,797 | 173,271 | 1,477 |
| 50592 | KTVR | 147,808 | 54,480 | 464 |
| 23422 | KTVT | 6,912,366 | 6,908,715 | 58,897 |
| 35703 | KTVU | 8,297,634 | 7,406,751 | 63,143 |
| 35705 | KTVW–DT | 4,173,111 | 4,159,807 | 35,462 |
| 68889 | KTVX | 2,389,392 | 2,200,520 | 18,759 |
| 55907 | KTVZ | 201,828 | 198,558 | 1,693 |
| 18286 | KTWO–TV | 80,426 | 79,905 | 681 |
| 70938 | KTWU | 1,703,798 | 1,562,305 | 13,319 |
| 51517 | KTXA | 6,915,461 | 6,911,822 | 58,923 |
| 42359 | KTXD–TV | 6,706,651 | 6,704,781 | 57,158 |
| 51569 | KTXH | 6,092,710 | 6,092,525 | 51,939 |
| 10205 | KTXL | 8,306,449 | 5,896,320 | 50,266 |
| 308 | KTXS–TV | 247,603 | 246,760 | 2,104 |
| 69315 | KUAC–TV | 98,717 | 98,189 | 837 |
| 51233 | KUAM–TV | 159,358 | 159,358 | 1,359 |
| 2722 | KUAS–TV | 994,802 | 977,391 | 8,332 |
| 2731 | KUAT–TV | 1,485,024 | 1,253,342 | 10,685 |
| 60520 | KUBD | 14,817 | 13,363 | 114 |
| 70492 | KUBE–TV | 6,090,970 | 6,090,817 | 51,924 |
| 1136 | KUCW | 2,388,889 | 2,199,787 | 18,753 |

TABLE 7—FY 2021 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

| Facility Id. | Call sign | Service area population | Terrain limited population | Terrain limited fee amount |
|---|---|---|---|---|
| 69396 | KUED | 2,388,995 | 2,203,093 | 18,781 |
| 69582 | KUEN | 2,364,481 | 2,184,483 | 18,623 |
| 82576 | KUES | 30,925 | 25,978 | 221 |
| 82585 | KUEW | 132,168 | 120,411 | 1,027 |
| 66611 | KUFM–TV | 187,680 | 166,697 | 1,421 |
| 169028 | KUGF–TV | 86,622 | 85,986 | 733 |
| 68717 | KUHM–TV | 154,836 | 145,241 | 1,238 |
| 69269 | KUHT | 6,090,213 | 6,089,665 | 51,914 |
| 62382 | KUID–TV | 432,855 | 284,023 | 2,421 |
| 169027 | KUKL–TV | 124,505 | 115,844 | 988 |
| 35724 | KULR–TV | 177,242 | 170,142 | 1,450 |
| 41429 | KUMV–TV | 41,607 | 41,224 | 351 |
| 81447 | KUNP | 130,559 | 43,472 | 371 |
| 4624 | KUNS–TV | 4,027,849 | 4,015,626 | 34,233 |
| 86532 | KUOK | 28,974 | 28,945 | 247 |
| 66589 | KUON–TV | 1,375,257 | 1,360,005 | 11,594 |
| 86263 | KUPB | 318,914 | 318,914 | 2,719 |
| 65535 | KUPK | 149,642 | 148,180 | 1,263 |
| 27431 | KUPT | 87,602 | 87,602 | 747 |
| 89714 | KUPU | 956,178 | 948,005 | 8,082 |
| 57884 | KUPX–TV | 2,374,672 | 2,191,229 | 18,680 |
| 23074 | KUSA | 3,803,461 | 3,561,587 | 30,363 |
| 61072 | KUSD–TV | 460,480 | 460,277 | 3,924 |
| 10238 | KUSI–TV | 3,572,818 | 3,435,670 | 29,289 |
| 43567 | KUSM–TV | 122,678 | 109,830 | 936 |
| 69694 | KUTF | 1,210,774 | 1,031,870 | 8,797 |
| 81451 | KUTH–DT | 2,219,788 | 2,027,174 | 17,282 |
| 68886 | KUTP | 4,191,015 | 4,176,014 | 35,601 |
| 35823 | KUTV | 2,388,625 | 2,199,731 | 18,753 |
| 63927 | KUVE–DT | 1,294,971 | 964,396 | 8,221 |
| 7700 | KUVI–DT | 1,204,490 | 1,009,943 | 8,610 |
| 35841 | KUVN–DT | 6,680,126 | 6,678,157 | 56,931 |
| 58609 | KUVS–DT | 4,043,413 | 4,005,657 | 34,148 |
| 49766 | KVAL–TV | 1,016,673 | 866,173 | 7,384 |
| 32621 | KVAW | 76,153 | 76,153 | 649 |
| 58795 | KVCR–DT | 18,215,524 | 17,467,140 | 148,907 |
| 35846 | KVCT | 288,221 | 287,446 | 2,450 |
| 10195 | KVCW | 1,967,550 | 1,918,811 | 16,358 |
| 64969 | KVDA | 2,566,563 | 2,548,720 | 21,728 |
| 19783 | KVEA | 17,423,429 | 16,146,250 | 137,647 |
| 12523 | KVEO–TV | 1,244,504 | 1,244,504 | 10,609 |
| 2495 | KVEW | 476,720 | 464,347 | 3,959 |
| 35852 | KVHP | 747,917 | 747,837 | 6,375 |
| 49832 | KVIA–TV | 1,015,350 | 1,011,266 | 8,621 |
| 35855 | KVIE | 10,759,440 | 7,467,369 | 63,659 |
| 40450 | KVIH–TV | 91,912 | 91,564 | 781 |
| 40446 | KVII–TV | 379,042 | 378,218 | 3,224 |
| 61961 | KVLY–TV | 350,732 | 350,449 | 2,988 |
| 16729 | KVMD | 6,145,526 | 4,116,524 | 35,093 |
| 83825 | KVME–TV | 26,711 | 22,802 | 194 |
| 25735 | KVOA | 1,317,956 | 1,030,404 | 8,784 |
| 35862 | KVOS–TV | 2,202,674 | 2,131,652 | 18,172 |
| 69733 | KVPT | 1,744,349 | 1,719,318 | 14,657 |
| 55372 | KVRR | 356,645 | 356,645 | 3,040 |
| 166331 | KVSN–DT | 2,706,244 | 2,283,409 | 19,466 |
| 608 | KVTH–DT | 303,755 | 299,230 | 2,551 |
| 2784 | KVTJ–DT | 1,466,426 | 1,465,802 | 12,496 |
| 607 | KVTN–DT | 936,328 | 925,884 | 7,893 |
| 35867 | KVUE | 2,661,290 | 2,611,314 | 22,261 |
| 78910 | KVUI | 257,964 | 251,872 | 2,147 |
| 35870 | KVVU–TV | 2,042,029 | 1,935,466 | 16,500 |
| 36170 | KVYE | 396,495 | 392,498 | 3,346 |
| 35095 | KWBA–TV | 1,129,524 | 1,073,029 | 9,148 |
| 78314 | KWBM | 657,822 | 639,560 | 5,452 |
| 27425 | KWBN | 953,207 | 840,455 | 7,165 |
| 76268 | KWBQ | 1,148,810 | 1,105,600 | 9,425 |
| 66413 | KWCH–DT | 883,647 | 881,674 | 7,516 |
| 71549 | KWCM–TV | 252,284 | 244,033 | 2,080 |
| 35419 | KWDK | 4,194,152 | 4,117,852 | 35,105 |
| 42007 | KWES–TV | 424,862 | 423,544 | 3,611 |
| 50194 | KWET | 127,976 | 112,750 | 961 |

TABLE 7—FY 2021 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

| Facility Id. | Call sign | Service area population | Terrain limited population | Terrain limited fee amount |
|---|---|---|---|---|
| 35881 | KWEX–DT | 2,376,463 | 2,370,469 | 20,208 |
| 35883 | KWGN–TV | 3,706,495 | 3,513,577 | 29,953 |
| 37099 | KWHB | 979,393 | 978,719 | 8,344 |
| 37103 | KWHD | 97,959 | 94,560 | 806 |
| 36846 | KWHE | 952,966 | 834,341 | 7,113 |
| 26231 | KWHY–TV | 17,736,497 | 17,695,306 | 150,852 |
| 35096 | KWKB | 1,121,676 | 1,111,629 | 9,477 |
| 162115 | KWKS | 39,708 | 39,323 | 335 |
| 12522 | KWKT–TV | 1,299,675 | 1,298,478 | 11,070 |
| 21162 | KWNB–TV | 91,093 | 89,332 | 762 |
| 67347 | KWOG | 512,412 | 505,049 | 4,306 |
| 56852 | KWPX–TV | 4,220,008 | 4,148,577 | 35,367 |
| 6885 | KWQC–TV | 1,063,507 | 1,054,618 | 8,991 |
| 29121 | KWSD | 280,675 | 280,672 | 2,393 |
| 53318 | KWSE | 54,471 | 53,400 | 455 |
| 71024 | KWSU–TV | 725,554 | 468,295 | 3,992 |
| 25382 | KWTV–DT | 1,628,106 | 1,627,198 | 13,872 |
| 35903 | KWTX–TV | 2,071,023 | 1,972,365 | 16,814 |
| 593 | KWWL | 1,089,498 | 1,078,458 | 9,194 |
| 84410 | KWWT | 293,291 | 293,291 | 2,500 |
| 14674 | KWYB | 86,495 | 69,598 | 593 |
| 10032 | KWYP–DT | 128,874 | 126,992 | 1,083 |
| 35920 | KXAN–TV | 2,678,666 | 2,624,648 | 22,375 |
| 49330 | KXAS–TV | 6,774,295 | 6,771,827 | 57,730 |
| 24287 | KXGN–TV | 14,217 | 13,883 | 118 |
| 35954 | KXII | 2,323,974 | 2,264,951 | 19,309 |
| 55083 | KXLA | 17,929,100 | 16,794,896 | 143,176 |
| 35959 | KXLF–TV | 258,100 | 217,808 | 1,857 |
| 53847 | KXLN–DT | 6,085,891 | 6,085,712 | 51,881 |
| 35906 | KXLT–TV | 348,025 | 347,296 | 2,961 |
| 61978 | KXLY–TV | 772,116 | 740,960 | 6,317 |
| 55684 | KXMA–TV | 32,005 | 31,909 | 272 |
| 55686 | KXMB–TV | 142,755 | 138,506 | 1,181 |
| 55685 | KXMC–TV | 97,569 | 89,483 | 763 |
| 55683 | KXMD–TV | 37,962 | 37,917 | 323 |
| 47995 | KXNE–TV | 300,021 | 298,839 | 2,548 |
| 81593 | KXNW | 602,168 | 597,747 | 5,096 |
| 35991 | KXRM–TV | 1,843,363 | 1,500,689 | 12,793 |
| 1255 | KXTF | 121,558 | 121,383 | 1,035 |
| 25048 | KXTV | 10,759,864 | 7,477,140 | 63,743 |
| 35994 | KXTX–TV | 6,721,578 | 6,718,616 | 57,276 |
| 62293 | KXVA | 185,478 | 185,276 | 1,579 |
| 23277 | KXVO | 1,404,703 | 1,403,380 | 11,964 |
| 9781 | KXXV | 1,771,620 | 1,748,287 | 14,904 |
| 31870 | KYAZ | 6,038,257 | 6,038,071 | 51,475 |
| 21488 | KYES–TV | 381,413 | 380,355 | 3,243 |
| 29086 | KYIN | 581,748 | 574,691 | 4,899 |
| 60384 | KYLE–TV | 323,330 | 323,225 | 2,755 |
| 33639 | KYMA–DT | 396,278 | 391,619 | 3,339 |
| 47974 | KYNE–TV | 929,406 | 929,242 | 7,922 |
| 53820 | KYOU–TV | 651,334 | 640,935 | 5,464 |
| 36003 | KYTV | 1,095,904 | 1,083,524 | 9,237 |
| 55644 | KYTX | 927,327 | 925,550 | 7,890 |
| 13815 | KYUR | 379,943 | 379,027 | 3,231 |
| 5237 | KYUS–TV | 12,496 | 12,356 | 105 |
| 33752 | KYVE | 301,951 | 259,559 | 2,213 |
| 55762 | KYVV–TV | 67,201 | 67,201 | 573 |
| 25453 | KYW–TV | 11,061,941 | 10,876,511 | 92,722 |
| 69531 | KZJL | 6,037,458 | 6,037,272 | 51,468 |
| 69571 | KZJO | 4,147,016 | 4,097,776 | 34,934 |
| 61062 | KZSD–TV | 41,207 | 35,825 | 305 |
| 33079 | KZTV | 567,635 | 564,464 | 4,812 |
| 57292 | WAAY–TV | 1,498,006 | 1,428,197 | 12,175 |
| 1328 | WABC–TV | 20,948,273 | 20,560,001 | 175,274 |
| 43203 | WABG–TV | 393,020 | 392,348 | 3,345 |
| 17005 | WABI–TV | 530,773 | 510,729 | 4,354 |
| 16820 | WABM | 1,703,202 | 1,675,700 | 14,285 |
| 23917 | WABW–TV | 1,097,560 | 1,096,376 | 9,347 |
| 19199 | WACH | 1,403,222 | 1,400,385 | 11,938 |
| 189358 | WACP | 9,415,263 | 9,301,049 | 79,291 |
| 23930 | WACS–TV | 621,686 | 616,443 | 5,255 |

TABLE 7—FY 2021 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

| Facility Id. | Call sign | Service area population | Terrain limited population | Terrain limited fee amount |
|---|---|---|---|---|
| 60018 | WACX | 4,292,829 | 4,288,149 | 36,556 |
| 361 | WACY–TV | 946,580 | 946,071 | 8,065 |
| 455 | WADL | 4,610,065 | 4,606,521 | 39,271 |
| 589 | WAFB | 1,857,882 | 1,857,418 | 15,834 |
| 591 | WAFF | 1,527,517 | 1,456,436 | 12,416 |
| 70689 | WAGA–TV | 6,000,355 | 5,923,191 | 50,495 |
| 48305 | WAGM–TV | 64,721 | 63,331 | 540 |
| 37809 | WAGV | 1,193,158 | 1,060,935 | 9,044 |
| 706 | WAIQ | 611,733 | 609,794 | 5,198 |
| 701 | WAKA | 799,637 | 793,645 | 6,766 |
| 4143 | WALA–TV | 1,320,419 | 1,318,127 | 11,237 |
| 70713 | WALB | 773,899 | 772,467 | 6,585 |
| 60536 | WAMI–DT | 5,449,193 | 5,449,193 | 46,454 |
| 70852 | WAND | 1,388,118 | 1,386,074 | 11,816 |
| 39270 | WANE–TV | 1,146,442 | 1,146,442 | 9,773 |
| 52280 | WAOE | 2,943,679 | 2,887,654 | 24,617 |
| 64546 | WAOW | 636,957 | 629,068 | 5,363 |
| 52073 | WAPA–TV | 3,764,742 | 2,794,738 | 23,825 |
| 49712 | WAPT | 793,621 | 791,620 | 6,749 |
| 67792 | WAQP | 2,135,670 | 2,131,399 | 18,170 |
| 13206 | WATC–DT | 5,732,204 | 5,705,819 | 48,642 |
| 71082 | WATE–TV | 1,874,433 | 1,638,059 | 13,964 |
| 22819 | WATL | 5,882,837 | 5,819,099 | 49,608 |
| 20287 | WATM–TV | 893,989 | 749,183 | 6,387 |
| 11907 | WATN–TV | 1,787,595 | 1,784,560 | 15,213 |
| 13989 | WAVE | 1,891,797 | 1,880,563 | 16,032 |
| 71127 | WAVY–TV | 2,080,708 | 2,080,691 | 17,738 |
| 54938 | WAWD | 579,079 | 579,023 | 4,936 |
| 65247 | WAWV–TV | 705,790 | 700,361 | 5,971 |
| 12793 | WAXN–TV | 2,677,951 | 2,669,224 | 22,755 |
| 65696 | WBAL–TV | 9,743,335 | 9,344,875 | 79,665 |
| 74417 | WBAY–TV | 1,225,928 | 1,225,335 | 10,446 |
| 71085 | WBBH–TV | 2,017,267 | 2,017,267 | 17,197 |
| 65204 | WBBJ–TV | 662,148 | 658,839 | 5,617 |
| 9617 | WBBM–TV | 9,914,233 | 9,907,806 | 84,464 |
| 9088 | WBBZ–TV | 1,269,256 | 1,260,686 | 10,747 |
| 70138 | WBDT | 3,660,544 | 3,646,874 | 31,090 |
| 51349 | WBEC–TV | 5,421,355 | 5,421,355 | 46,217 |
| 10758 | WBFF | 8,523,983 | 8,381,042 | 71,448 |
| 12497 | WBFS–TV | 5,349,613 | 5,349,613 | 45,605 |
| 6568 | WBGU–TV | 1,343,816 | 1,343,816 | 11,456 |
| 81594 | WBIF | 309,707 | 309,707 | 2,640 |
| 84802 | WBIH | 718,439 | 706,994 | 6,027 |
| 717 | WBIQ | 1,563,080 | 1,532,266 | 13,063 |
| 46984 | WBIR–TV | 1,978,347 | 1,701,857 | 14,508 |
| 67048 | WBKB–TV | 136,823 | 130,625 | 1,114 |
| 34167 | WBKI | 2,062,137 | 2,046,808 | 17,449 |
| 4692 | WBKO | 963,413 | 862,651 | 7,354 |
| 76001 | WBKP | 55,655 | 55,305 | 471 |
| 68427 | WBMM | 562,284 | 562,123 | 4,792 |
| 73692 | WBNA | 1,699,683 | 1,666,248 | 14,205 |
| 23337 | WBNG–TV | 1,435,634 | 1,051,932 | 8,968 |
| 71217 | WBNS–TV | 2,847,721 | 2,784,795 | 23,740 |
| 72958 | WBNX–TV | 3,639,256 | 3,630,531 | 30,950 |
| 71218 | WBOC–TV | 813,888 | 813,888 | 6,938 |
| 71220 | WBOY–TV | 711,302 | 621,367 | 5,297 |
| 60850 | WBPH–TV | 10,613,847 | 9,474,797 | 80,773 |
| 7692 | WBPX–TV | 6,833,712 | 6,761,949 | 57,646 |
| 5981 | WBRA–TV | 1,726,408 | 1,677,204 | 14,298 |
| 71221 | WBRC | 1,884,007 | 1,849,135 | 15,764 |
| 71225 | WBRE–TV | 2,879,196 | 2,244,735 | 19,136 |
| 38616 | WBRZ–TV | 2,223,336 | 2,222,309 | 18,945 |
| 82627 | WBSF | 1,836,543 | 1,832,446 | 15,622 |
| 30826 | WBTV | 4,433,020 | 4,295,962 | 36,623 |
| 66407 | WBTW | 1,975,457 | 1,959,172 | 16,702 |
| 16363 | WBUI | 981,884 | 981,868 | 8,370 |
| 59281 | WBUP | 126,472 | 112,603 | 960 |
| 60830 | WBUY–TV | 1,569,254 | 1,567,815 | 13,366 |
| 72971 | WBXX–TV | 2,142,759 | 1,984,544 | 16,918 |
| 25456 | WBZ–TV | 7,960,556 | 7,730,847 | 65,905 |
| 63153 | WCAU | 11,269,831 | 11,098,540 | 94,615 |

TABLE 7—FY 2021 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

| Facility Id. | Call sign | Service area population | Terrain limited population | Terrain limited fee amount |
|---|---|---|---|---|
| 363 | WCAV | 1,032,270 | 874,886 | 7,458 |
| 46728 | WCAX–TV | 784,748 | 665,685 | 5,675 |
| 39659 | WCBB | 964,079 | 910,222 | 7,760 |
| 10587 | WCBD–TV | 1,149,489 | 1,149,489 | 9,799 |
| 12477 | WCBI–TV | 680,511 | 678,424 | 5,784 |
| 9610 | WCBS–TV | 22,087,789 | 21,511,236 | 183,383 |
| 49157 | WCCB | 3,642,232 | 3,574,928 | 30,476 |
| 9629 | WCCO–TV | 3,837,442 | 3,829,714 | 32,648 |
| 14050 | WCCT–TV | 5,818,471 | 5,307,612 | 45,247 |
| 69544 | WCCU | 694,550 | 693,317 | 5,911 |
| 3001 | WCCV–TV | 3,391,703 | 2,062,994 | 17,587 |
| 23937 | WCES–TV | 1,098,868 | 1,097,706 | 9,358 |
| 65666 | WCET | 3,123,290 | 3,110,519 | 26,517 |
| 46755 | WCFE–TV | 445,131 | 411,198 | 3,505 |
| 71280 | WCHS–TV | 1,352,824 | 1,274,766 | 10,867 |
| 42124 | WCIA | 834,084 | 833,547 | 7,106 |
| 711 | WCIQ | 3,186,320 | 3,016,907 | 25,719 |
| 71428 | WCIU–TV | 10,052,136 | 10,049,244 | 85,670 |
| 9015 | WCIV | 1,152,800 | 1,152,800 | 9,828 |
| 42116 | WCIX | 554,002 | 549,911 | 4,688 |
| 16993 | WCJB–TV | 977,492 | 977,492 | 8,333 |
| 11125 | WCLF | 4,097,389 | 4,096,624 | 34,924 |
| 68007 | WCLJ–TV | 2,305,723 | 2,303,534 | 19,638 |
| 50781 | WCMH–TV | 2,756,260 | 2,712,989 | 23,128 |
| 9917 | WCML | 233,439 | 224,255 | 1,912 |
| 9908 | WCMU–TV | 707,702 | 699,551 | 5,964 |
| 9922 | WCMV | 425,499 | 411,288 | 3,506 |
| 9913 | WCMW | 106,975 | 104,859 | 894 |
| 32326 | WCNC–TV | 3,883,049 | 3,809,706 | 32,478 |
| 53734 | WCNY–TV | 1,342,821 | 1,279,429 | 10,907 |
| 73642 | WCOV–TV | 889,102 | 884,417 | 7,540 |
| 40618 | WCPB | 560,426 | 560,426 | 4,778 |
| 59438 | WCPO–TV | 3,330,885 | 3,313,654 | 28,249 |
| 10981 | WCPX–TV | 9,753,235 | 9,751,916 | 83,135 |
| 71297 | WCSC–TV | 1,028,018 | 1,028,018 | 8,764 |
| 39664 | WCSH | 1,755,325 | 1,548,824 | 13,204 |
| 69479 | WCTE | 612,760 | 541,314 | 4,615 |
| 18334 | WCTI–TV | 1,671,152 | 1,668,833 | 14,227 |
| 31590 | WCTV | 1,065,524 | 1,065,464 | 9,083 |
| 33081 | WCTX | 7,844,936 | 7,332,431 | 62,509 |
| 65684 | WCVB–TV | 7,780,868 | 7,618,496 | 64,948 |
| 9987 | WCVE–TV | 1,721,004 | 1,712,249 | 14,597 |
| 83304 | WCVI–TV | 50,601 | 50,495 | 430 |
| 34204 | WCVN–TV | 2,129,816 | 2,120,349 | 18,076 |
| 9989 | WCVW | 1,505,484 | 1,505,330 | 12,833 |
| 73042 | WCWF | 1,077,314 | 1,077,194 | 9,183 |
| 35385 | WCWG | 3,630,551 | 3,299,114 | 28,125 |
| 29712 | WCWJ | 1,661,270 | 1,661,132 | 14,161 |
| 73264 | WCWN | 1,909,223 | 1,621,751 | 13,825 |
| 2455 | WCYB–TV | 2,363,002 | 2,057,404 | 17,539 |
| 11291 | WDAF–TV | 2,539,581 | 2,537,411 | 21,631 |
| 21250 | WDAM–TV | 512,594 | 500,343 | 4,265 |
| 22129 | WDAY–TV | 339,239 | 338,856 | 2,889 |
| 22124 | WDAZ–TV | 151,720 | 151,659 | 1,293 |
| 71325 | WDBB | 1,792,728 | 1,762,643 | 15,027 |
| 71326 | WDBD | 940,665 | 939,489 | 8,009 |
| 71329 | WDBJ | 1,626,017 | 1,435,762 | 12,240 |
| 51567 | WDCA | 8,070,491 | 8,015,328 | 68,331 |
| 16530 | WDCQ–TV | 1,269,199 | 1,269,199 | 10,820 |
| 30576 | WDCW | 8,155,998 | 8,114,847 | 69,179 |
| 54385 | WDEF–TV | 1,731,483 | 1,508,250 | 12,858 |
| 32851 | WDFX–TV | 271,499 | 270,942 | 2,310 |
| 43846 | WDHN | 452,377 | 451,978 | 3,853 |
| 71338 | WDIO–DT | 341,506 | 327,469 | 2,792 |
| 714 | WDIQ | 663,062 | 620,124 | 5,287 |
| 53114 | WDIV–TV | 5,450,318 | 5,450,174 | 46,463 |
| 71427 | WDJT–TV | 3,267,652 | 3,256,507 | 27,762 |
| 39561 | WDKA | 658,699 | 658,277 | 5,612 |
| 64017 | WDKY–TV | 1,204,817 | 1,173,579 | 10,005 |
| 67893 | WDLI–TV | 4,147,298 | 4,114,920 | 35,080 |
| 72335 | WDPB | 596,888 | 596,888 | 5,088 |

TABLE 7—FY 2021 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

| Facility Id. | Call sign | Service area population | Terrain limited population | Terrain limited fee amount |
|---|---|---|---|---|
| 83740 | WDPM–DT | 1,365,977 | 1,364,744 | 11,634 |
| 1283 | WDPN–TV | 11,594,463 | 11,467,616 | 97,761 |
| 6476 | WDPX–TV | 6,833,712 | 6,761,949 | 57,646 |
| 28476 | WDRB | 2,054,813 | 2,037,086 | 17,366 |
| 12171 | WDSC–TV | 3,389,559 | 3,389,559 | 28,896 |
| 17726 | WDSE | 330,994 | 316,643 | 2,699 |
| 71353 | WDSI–TV | 1,100,302 | 1,042,191 | 8,885 |
| 71357 | WDSU | 1,649,083 | 1,649,083 | 14,058 |
| 7908 | WDTI | 2,092,242 | 2,091,941 | 17,834 |
| 65690 | WDTN | 3,660,544 | 3,646,874 | 31,090 |
| 70592 | WDTV | 962,532 | 850,394 | 7,250 |
| 25045 | WDVM–TV | 3,074,837 | 2,646,508 | 22,561 |
| 4110 | WDWL | 2,638,361 | 1,977,410 | 16,857 |
| 49421 | WEAO | 3,960,217 | 3,945,408 | 33,635 |
| 71363 | WEAR–TV | 1,520,973 | 1,520,386 | 12,961 |
| 7893 | WEAU | 1,006,393 | 971,050 | 8,278 |
| 61003 | WEBA–TV | 645,039 | 635,967 | 5,422 |
| 19561 | WECN | 2,886,669 | 2,157,288 | 18,391 |
| 48666 | WECT | 1,156,807 | 1,156,807 | 9,862 |
| 13602 | WEDH | 5,328,800 | 4,724,167 | 40,274 |
| 13607 | WEDN | 3,451,170 | 2,643,344 | 22,535 |
| 69338 | WEDQ | 5,379,887 | 5,365,612 | 45,742 |
| 21808 | WEDU | 5,379,887 | 5,365,612 | 45,742 |
| 13594 | WEDW | 5,996,408 | 5,544,708 | 47,269 |
| 13595 | WEDY | 5,328,800 | 4,724,167 | 40,274 |
| 24801 | WEEK–TV | 698,238 | 698,220 | 5,952 |
| 6744 | WEFS | 3,380,743 | 3,380,743 | 28,821 |
| 24215 | WEHT | 857,558 | 844,070 | 7,196 |
| 721 | WEIQ | 1,055,632 | 1,055,193 | 8,996 |
| 18301 | WEIU–TV | 458,480 | 458,416 | 3,908 |
| 69271 | WEKW–TV | 1,263,049 | 773,108 | 6,591 |
| 60825 | WELF–TV | 1,477,691 | 1,387,044 | 11,825 |
| 26602 | WELU | 2,248,146 | 1,678,682 | 14,311 |
| 40761 | WEMT | 1,726,085 | 1,186,706 | 10,117 |
| 69237 | WENH–TV | 4,500,498 | 4,328,222 | 36,898 |
| 71508 | WENY–TV | 656,240 | 517,754 | 4,414 |
| 83946 | WEPH | 604,105 | 602,833 | 5,139 |
| 81508 | WEPX–TV | 950,012 | 950,012 | 8,099 |
| 25738 | WESH | 4,059,180 | 4,048,459 | 34,513 |
| 65670 | WETA–TV | 8,315,499 | 8,258,807 | 70,406 |
| 69944 | WETK | 670,087 | 558,842 | 4,764 |
| 60653 | WETM–TV | 721,800 | 620,074 | 5,286 |
| 18252 | WETP–TV | 2,167,383 | 1,888,574 | 16,100 |
| 2709 | WEUX | 380,569 | 373,680 | 3,186 |
| 72041 | WEVV–TV | 752,417 | 751,094 | 6,403 |
| 59441 | WEWS–TV | 4,112,984 | 4,078,299 | 34,767 |
| 72052 | WEYI–TV | 3,715,686 | 3,652,991 | 31,142 |
| 72054 | WFAA | 6,917,502 | 6,907,616 | 58,887 |
| 81669 | WFBD | 814,185 | 813,564 | 6,936 |
| 69532 | WFDC–DT | 8,155,998 | 8,114,847 | 69,179 |
| 10132 | WFFF–TV | 633,649 | 552,182 | 4,707 |
| 25040 | WFFT–TV | 1,095,429 | 1,095,411 | 9,338 |
| 11123 | WFGC | 3,018,351 | 3,018,351 | 25,731 |
| 6554 | WFGX | 1,493,866 | 1,493,319 | 12,731 |
| 13991 | WFIE | 743,079 | 740,909 | 6,316 |
| 715 | WFIQ | 546,563 | 544,258 | 4,640 |
| 64592 | WFLA–TV | 5,583,544 | 5,576,649 | 47,541 |
| 22211 | WFLD | 9,957,301 | 9,954,828 | 84,865 |
| 72060 | WFLI–TV | 1,294,209 | 1,189,897 | 10,144 |
| 39736 | WFLX | 5,740,086 | 5,740,086 | 48,934 |
| 72062 | WFMJ–TV | 4,328,477 | 3,822,691 | 32,588 |
| 72064 | WFMY–TV | 4,772,783 | 4,746,167 | 40,461 |
| 39884 | WFMZ–TV | 10,613,847 | 9,474,797 | 80,773 |
| 83943 | WFNA | 1,391,519 | 1,390,447 | 11,854 |
| 47902 | WFOR–TV | 5,398,266 | 5,398,266 | 46,020 |
| 11909 | WFOX–TV | 1,603,324 | 1,603,324 | 13,668 |
| 40626 | WFPT | 5,829,226 | 5,442,352 | 46,396 |
| 21245 | WFPX–TV | 2,637,949 | 2,634,141 | 22,456 |
| 25396 | WFQX–TV | 537,340 | 534,314 | 4,555 |
| 9635 | WFRV–TV | 1,263,353 | 1,256,376 | 10,711 |
| 53115 | WFSB | 4,752,788 | 4,370,519 | 37,259 |

TABLE 7—FY 2021 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

| Facility Id. | Call sign | Service area population | Terrain limited population | Terrain limited fee amount |
|---|---|---|---|---|
| 6093 | WFSG | 364,961 | 364,796 | 3,110 |
| 21801 | WFSU–TV | 576,105 | 576,093 | 4,911 |
| 11913 | WFTC | 3,787,177 | 3,770,207 | 32,141 |
| 64588 | WFTS–TV | 5,236,379 | 5,236,287 | 44,639 |
| 16788 | WFTT–TV | 4,523,828 | 4,521,879 | 38,549 |
| 72076 | WFTV | 3,882,888 | 3,882,888 | 33,102 |
| 70649 | WFTX–TV | 1,758,172 | 1,758,172 | 14,988 |
| 60553 | WFTY–DT | 5,678,755 | 5,560,460 | 47,403 |
| 25395 | WFUP | 234,863 | 234,436 | 1,999 |
| 60555 | WFUT–DT | 19,992,096 | 19,643,518 | 167,461 |
| 22108 | WFWA | 1,035,114 | 1,034,862 | 8,822 |
| 9054 | WFXB | 1,393,865 | 1,393,510 | 11,880 |
| 3228 | WFXG | 1,070,032 | 1,057,760 | 9,017 |
| 70815 | WFXL | 793,637 | 785,106 | 6,693 |
| 19707 | WFXP | 583,315 | 562,500 | 4,795 |
| 24813 | WFXR | 1,426,061 | 1,286,450 | 10,967 |
| 6463 | WFXT | 7,494,070 | 7,400,830 | 63,092 |
| 22245 | WFXU | 218,273 | 218,273 | 1,861 |
| 43424 | WFXV | 702,682 | 612,494 | 5,222 |
| 25236 | WFXW | 274,078 | 270,967 | 2,310 |
| 41397 | WFYI | 2,389,627 | 2,388,970 | 20,366 |
| 53930 | WGAL | 6,287,688 | 5,610,833 | 47,832 |
| 2708 | WGBA–TV | 1,170,375 | 1,170,127 | 9,975 |
| 24314 | WGBC | 249,415 | 249,235 | 2,125 |
| 72099 | WGBH–TV | 7,711,842 | 7,601,732 | 64,805 |
| 12498 | WGBO–DT | 9,771,815 | 9,769,552 | 83,285 |
| 72098 | WGBX–TV | 7,803,280 | 7,636,641 | 65,102 |
| 72096 | WGBY–TV | 4,470,009 | 3,739,675 | 31,881 |
| 72120 | WGCL–TV | 6,027,276 | 5,961,471 | 50,822 |
| 62388 | WGCU | 1,510,671 | 1,510,671 | 12,878 |
| 54275 | WGEM–TV | 361,598 | 356,682 | 3,041 |
| 27387 | WGEN–TV | 43,037 | 43,037 | 367 |
| 7727 | WGFL | 877,163 | 877,163 | 7,478 |
| 25682 | WGGB–TV | 3,443,386 | 3,053,436 | 26,031 |
| 11027 | WGGN–TV | 1,991,462 | 1,969,331 | 16,789 |
| 9064 | WGGS–TV | 2,759,326 | 2,705,067 | 23,061 |
| 72106 | WGHP | 4,174,964 | 4,123,106 | 35,149 |
| 710 | WGIQ | 363,849 | 363,806 | 3,101 |
| 12520 | WGMB–TV | 1,742,708 | 1,742,659 | 14,856 |
| 25683 | WGME–TV | 1,495,724 | 1,325,465 | 11,300 |
| 24618 | WGNM | 742,458 | 741,502 | 6,321 |
| 72119 | WGNO | 1,641,765 | 1,641,765 | 13,996 |
| 9762 | WGNT | 2,128,079 | 2,127,891 | 18,140 |
| 72115 | WGN–TV | 9,942,959 | 9,941,552 | 84,752 |
| 40619 | WGPT | 578,294 | 344,300 | 2,935 |
| 65074 | WGPX–TV | 2,765,350 | 2,754,743 | 23,484 |
| 64547 | WGRZ | 1,878,725 | 1,812,309 | 15,450 |
| 63329 | WGTA | 1,061,654 | 1,030,538 | 8,785 |
| 66285 | WGTE–TV | 2,210,496 | 2,208,927 | 18,831 |
| 59279 | WGTQ | 95,618 | 92,019 | 784 |
| 59280 | WGTU | 358,543 | 353,477 | 3,013 |
| 23948 | WGTV | 5,880,594 | 5,832,714 | 49,724 |
| 7623 | WGTW–TV | 807,797 | 807,797 | 6,886 |
| 24783 | WGVK | 2,439,225 | 2,437,526 | 20,780 |
| 24784 | WGVU–TV | 1,825,744 | 1,784,264 | 15,211 |
| 21536 | WGWG | 986,963 | 986,963 | 8,414 |
| 56642 | WGWW | 1,677,166 | 1,647,976 | 14,049 |
| 58262 | WGXA | 779,955 | 779,087 | 6,642 |
| 73371 | WHAM–TV | 1,381,564 | 1,334,653 | 11,378 |
| 32327 | WHAS–TV | 1,955,983 | 1,925,901 | 16,418 |
| 6096 | WHA–TV | 1,635,777 | 1,628,950 | 13,887 |
| 13950 | WHBF–TV | 1,712,339 | 1,704,072 | 14,527 |
| 12521 | WHBQ–TV | 1,736,335 | 1,708,345 | 14,564 |
| 10894 | WHBR | 1,302,764 | 1,302,041 | 11,100 |
| 65128 | WHDF | 1,553,469 | 1,502,852 | 12,812 |
| 72145 | WHDH | 7,441,208 | 7,343,735 | 62,605 |
| 83929 | WHDT | 5,768,239 | 5,768,239 | 49,174 |
| 70041 | WHEC–TV | 1,322,243 | 1,279,606 | 10,909 |
| 67971 | WHFT–TV | 5,417,409 | 5,417,409 | 46,183 |
| 41458 | WHIO–TV | 3,877,520 | 3,868,597 | 32,980 |
| 713 | WHIQ | 1,278,174 | 1,225,940 | 10,451 |

TABLE 7—FY 2021 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

| Facility Id. | Call sign | Service area population | Terrain limited population | Terrain limited fee amount |
|---|---|---|---|---|
| 61216 | WHIZ–TV | 917,531 | 847,762 | 7,227 |
| 65919 | WHKY–TV | 3,304,037 | 3,269,549 | 27,873 |
| 18780 | WHLA–TV | 554,446 | 515,561 | 4,395 |
| 48668 | WHLT | 484,432 | 483,532 | 4,122 |
| 24582 | WHLV–TV | 3,906,201 | 3,906,201 | 33,300 |
| 37102 | WHMB–TV | 2,959,585 | 2,889,145 | 24,630 |
| 61004 | WHMC | 774,921 | 774,921 | 6,606 |
| 36117 | WHME–TV | 1,455,358 | 1,455,110 | 12,405 |
| 37106 | WHNO | 1,499,653 | 1,499,653 | 12,785 |
| 72300 | WHNS | 2,549,610 | 2,270,868 | 19,359 |
| 48693 | WHNT–TV | 1,569,885 | 1,487,578 | 12,682 |
| 66221 | WHO–DT | 1,120,480 | 1,099,818 | 9,376 |
| 6866 | WHOI | 736,125 | 736,047 | 6,275 |
| 72313 | WHP–TV | 4,030,693 | 3,538,096 | 30,162 |
| 51980 | WHPX–TV | 5,579,464 | 5,114,336 | 43,600 |
| 73036 | WHRM–TV | 495,398 | 495,174 | 4,221 |
| 25932 | WHRO–TV | 2,169,238 | 2,169,237 | 18,493 |
| 68058 | WHSG–TV | 5,870,314 | 5,808,605 | 49,518 |
| 4688 | WHSV–TV | 845,013 | 711,912 | 6,069 |
| 9990 | WHTJ | 807,960 | 690,381 | 5,885 |
| 72326 | WHTM–TV | 2,829,585 | 2,367,000 | 20,179 |
| 11117 | WHTN | 1,914,755 | 1,905,733 | 16,246 |
| 27772 | WHUT–TV | 7,649,763 | 7,617,337 | 64,938 |
| 18793 | WHWC–TV | 994,710 | 946,335 | 8,068 |
| 72338 | WHYY–TV | 10,379,045 | 9,982,651 | 85,102 |
| 5360 | WIAT | 1,837,072 | 1,802,810 | 15,369 |
| 63160 | WIBW–TV | 1,234,347 | 1,181,009 | 10,068 |
| 25684 | WICD | 1,238,332 | 1,237,046 | 10,546 |
| 25686 | WICS | 1,149,358 | 1,147,264 | 9,780 |
| 24970 | WICU–TV | 740,115 | 683,435 | 5,826 |
| 62210 | WICZ–TV | 1,249,974 | 965,416 | 8,230 |
| 18410 | WIDP | 2,559,306 | 1,899,768 | 16,196 |
| 26025 | WIFS | 1,583,693 | 1,578,870 | 13,460 |
| 720 | WIIQ | 353,241 | 347,685 | 2,964 |
| 68939 | WILL–TV | 1,178,545 | 1,158,147 | 9,873 |
| 6863 | WILX–TV | 3,378,644 | 3,218,221 | 27,435 |
| 22093 | WINK–TV | 1,851,105 | 1,851,105 | 15,781 |
| 67787 | WINM | 1,001,485 | 971,031 | 8,278 |
| 41314 | WINP–TV | 2,935,057 | 2,883,944 | 24,586 |
| 3646 | WIPB | 1,965,353 | 1,965,174 | 16,753 |
| 48408 | WIPL | 850,656 | 799,165 | 6,813 |
| 53863 | WIPM–TV | 2,196,157 | 1,554,017 | 2,460 |
| 53859 | WIPR–TV | 3,596,802 | 2,811,148 | 23,965 |
| 10253 | WIPX–TV | 2,305,723 | 2,303,534 | 19,638 |
| 39887 | WIRS | 1,153,382 | 761,454 | 5,111 |
| 71336 | WIRT–DT | 127,001 | 126,300 | 1,077 |
| 13990 | WIS | 2,644,715 | 2,600,887 | 22,173 |
| 65143 | WISC–TV | 1,734,112 | 1,697,537 | 14,472 |
| 13960 | WISE–TV | 1,070,155 | 1,070,155 | 9,123 |
| 39269 | WISH–TV | 2,912,963 | 2,855,253 | 24,341 |
| 65680 | WISN–TV | 3,003,636 | 2,997,695 | 25,555 |
| 73083 | WITF–TV | 2,412,561 | 2,191,501 | 18,683 |
| 73107 | WITI | 3,111,641 | 3,102,097 | 26,445 |
| 594 | WITN–TV | 1,861,458 | 1,836,905 | 15,660 |
| 61005 | WITV | 871,783 | 871,783 | 7,432 |
| 7780 | WIVB–TV | 1,900,503 | 1,820,106 | 15,516 |
| 11260 | WIVT | 855,138 | 613,934 | 5,234 |
| 60571 | WIWN | 3,338,845 | 3,323,941 | 28,337 |
| 62207 | WIYC | 639,641 | 637,499 | 5,435 |
| 73120 | WJAC–TV | 2,219,529 | 1,897,986 | 16,180 |
| 10259 | WJAL | 8,750,706 | 8,446,074 | 72,003 |
| 50780 | WJAR | 7,108,180 | 6,976,099 | 59,471 |
| 35576 | WJAX–TV | 1,630,782 | 1,630,782 | 13,902 |
| 27140 | WJBF | 1,601,088 | 1,588,444 | 13,541 |
| 73123 | WJBK | 5,748,623 | 5,711,224 | 48,688 |
| 37174 | WJCL | 938,086 | 938,086 | 7,997 |
| 73130 | WJCT | 1,624,624 | 1,624,033 | 13,845 |
| 29719 | WJEB–TV | 1,607,603 | 1,607,603 | 13,705 |
| 65749 | WJET–TV | 747,431 | 717,721 | 6,119 |
| 7651 | WJFB | 1,805,891 | 1,798,600 | 15,333 |
| 49699 | WJFW–TV | 277,530 | 268,295 | 2,287 |

TABLE 7—FY 2021 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

| Facility Id. | Call sign | Service area population | Terrain limited population | Terrain limited fee amount |
|---|---|---|---|---|
| 73136 | WJHG–TV | 864,121 | 859,823 | 7,330 |
| 57826 | WJHL–TV | 2,034,663 | 1,462,129 | 12,465 |
| 68519 | WJKT | 655,780 | 655,373 | 5,587 |
| 1051 | WJLA–TV | 8,750,706 | 8,447,643 | 72,016 |
| 86537 | WJLP | 21,384,863 | 21,119,366 | 180,043 |
| 9630 | WJMN–TV | 160,991 | 154,424 | 1,316 |
| 61008 | WJPM–TV | 623,965 | 623,813 | 5,318 |
| 58340 | WJPX | 3,254,481 | 2,500,195 | 21,314 |
| 21735 | WJRT–TV | 2,788,684 | 2,543,446 | 21,683 |
| 23918 | WJSP–TV | 4,225,860 | 4,188,428 | 35,706 |
| 41210 | WJTC | 1,381,529 | 1,379,283 | 11,758 |
| 48667 | WJTV | 987,206 | 980,717 | 8,361 |
| 73150 | WJW | 3,977,148 | 3,905,325 | 33,293 |
| 61007 | WJWJ–TV | 1,034,555 | 1,034,555 | 8,820 |
| 58342 | WJWN–TV | 1,962,885 | 1,405,189 | 5,111 |
| 53116 | WJXT | 1,622,616 | 1,622,616 | 13,833 |
| 11893 | WJXX | 1,618,191 | 1,617,272 | 13,787 |
| 32334 | WJYS | 9,667,341 | 9,667,317 | 82,414 |
| 25455 | WJZ–TV | 9,743,335 | 9,350,346 | 79,712 |
| 73152 | WJZY | 4,432,745 | 4,301,117 | 36,667 |
| 64983 | WKAQ–TV | 3,697,088 | 2,731,588 | 23,287 |
| 6104 | WKAR–TV | 1,693,373 | 1,689,830 | 14,406 |
| 34171 | WKAS | 542,308 | 512,994 | 4,373 |
| 51570 | WKBD–TV | 5,065,617 | 5,065,350 | 43,182 |
| 73153 | WKBN–TV | 4,898,622 | 4,535,576 | 38,666 |
| 13929 | WKBS–TV | 1,082,894 | 937,847 | 7,995 |
| 74424 | WKBT–DT | 866,325 | 824,795 | 7,031 |
| 54176 | WKBW–TV | 2,247,191 | 2,161,366 | 18,426 |
| 53465 | WKCF | 4,241,181 | 4,240,354 | 36,149 |
| 73155 | WKEF | 3,730,595 | 3,716,127 | 31,680 |
| 34177 | WKGB–TV | 413,268 | 411,587 | 3,509 |
| 34196 | WKHA | 511,281 | 400,721 | 3,416 |
| 34207 | WKLE | 856,237 | 846,630 | 7,218 |
| 34212 | WKMA–TV | 524,617 | 524,035 | 4,467 |
| 71293 | WKMG–TV | 3,803,492 | 3,803,492 | 32,425 |
| 34195 | WKMJ–TV | 1,477,906 | 1,470,645 | 12,537 |
| 34202 | WKMR | 463,316 | 428,462 | 3,653 |
| 34174 | WKMU | 344,430 | 344,050 | 2,933 |
| 42061 | WKNO | 1,645,867 | 1,642,092 | 13,999 |
| 83931 | WKNX–TV | 1,684,178 | 1,459,493 | 12,442 |
| 34205 | WKOH | 584,645 | 579,258 | 4,938 |
| 67869 | WKOI–TV | 3,660,544 | 3,646,874 | 31,090 |
| 34211 | WKON | 1,080,274 | 1,072,320 | 9,142 |
| 18267 | WKOP–TV | 1,555,654 | 1,382,098 | 11,782 |
| 64545 | WKOW | 1,918,224 | 1,899,746 | 16,195 |
| 21432 | WKPC–TV | 1,525,919 | 1,517,701 | 12,938 |
| 65758 | WKPD | 283,454 | 282,250 | 2,406 |
| 34200 | WKPI–TV | 606,666 | 481,220 | 4,102 |
| 27504 | WKPT–TV | 1,131,213 | 887,806 | 7,569 |
| 58341 | WKPV | 1,132,932 | 731,199 | 5,111 |
| 11289 | WKRC–TV | 3,281,914 | 3,229,223 | 27,529 |
| 73187 | WKRG–TV | 1,526,600 | 1,526,075 | 13,010 |
| 73188 | WKRN–TV | 2,409,767 | 2,388,588 | 20,363 |
| 34222 | WKSO–TV | 658,441 | 642,090 | 5,474 |
| 40902 | WKTC | 1,387,229 | 1,386,779 | 11,822 |
| 60654 | WKTV | 1,573,503 | 1,342,387 | 11,444 |
| 73195 | WKYC | 4,180,327 | 4,124,135 | 35,158 |
| 24914 | WKYT–TV | 1,174,615 | 1,156,978 | 9,863 |
| 71861 | WKYU–TV | 411,448 | 409,310 | 3,489 |
| 34181 | WKZT–TV | 1,044,532 | 1,020,878 | 8,703 |
| 18819 | WLAE–TV | 1,397,967 | 1,397,967 | 11,918 |
| 36533 | WLAJ | 4,100,475 | 4,063,963 | 34,645 |
| 2710 | WLAX | 469,017 | 447,381 | 3,814 |
| 68542 | WLBT | 948,671 | 947,857 | 8,080 |
| 39644 | WLBZ | 373,129 | 364,346 | 3,106 |
| 69328 | WLED–TV | 332,718 | 174,998 | 1,492 |
| 63046 | WLEF–TV | 192,283 | 191,149 | 1,630 |
| 73203 | WLEX–TV | 969,481 | 964,735 | 8,224 |
| 37806 | WLFB | 808,036 | 680,534 | 5,802 |
| 37808 | WLFG | 1,614,321 | 1,282,063 | 10,930 |
| 73204 | WLFI–TV | 2,243,009 | 2,221,313 | 18,937 |

TABLE 7—FY 2021 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

| Facility Id. | Call sign | Service area population | Terrain limited population | Terrain limited fee amount |
|---|---|---|---|---|
| 73205 | WLFL | 3,640,360 | 3,636,542 | 31,002 |
| 11113 | WLGA | 950,018 | 943,236 | 8,041 |
| 19777 | WLII–DT | 2,801,102 | 2,153,564 | 18,359 |
| 37503 | WLIO | 1,067,232 | 1,050,170 | 8,953 |
| 38336 | WLIW | 20,027,920 | 19,717,729 | 168,094 |
| 27696 | WLJC–TV | 1,401,072 | 1,281,256 | 10,923 |
| 71645 | WLJT–DT | 385,493 | 385,380 | 3,285 |
| 53939 | WLKY | 1,927,997 | 1,919,810 | 16,366 |
| 11033 | WLLA | 2,081,693 | 2,081,436 | 17,744 |
| 17076 | WLMB | 2,754,484 | 2,747,490 | 23,422 |
| 68518 | WLMT | 1,736,552 | 1,733,496 | 14,778 |
| 22591 | WLNE–TV | 6,429,522 | 6,381,825 | 54,405 |
| 74420 | WLNS–TV | 4,100,475 | 4,063,963 | 34,645 |
| 73206 | WLNY–TV | 7,501,199 | 7,415,578 | 63,218 |
| 84253 | WLOO | 913,960 | 912,674 | 7,781 |
| 56537 | WLOS | 3,086,751 | 2,544,360 | 21,691 |
| 37732 | WLOV–TV | 609,526 | 607,780 | 5,181 |
| 13995 | WLOX | 1,182,149 | 1,170,659 | 9,980 |
| 38586 | WLPB–TV | 1,219,624 | 1,219,407 | 10,395 |
| 73189 | WLPX–TV | 1,066,912 | 1,022,543 | 8,717 |
| 66358 | WLRN–TV | 5,447,399 | 5,447,399 | 46,439 |
| 73226 | WLS–TV | 10,174,464 | 10,170,757 | 86,706 |
| 73230 | WLTV–DT | 5,427,398 | 5,427,398 | 46,269 |
| 37176 | WLTX | 1,580,677 | 1,578,645 | 13,458 |
| 37179 | WLTZ | 689,521 | 685,358 | 5,843 |
| 21259 | WLUC–TV | 92,246 | 85,393 | 728 |
| 4150 | WLUK–TV | 1,251,563 | 1,247,414 | 10,634 |
| 73238 | WLVI | 7,441,208 | 7,343,735 | 62,605 |
| 36989 | WLVT–TV | 10,613,847 | 9,474,797 | 80,773 |
| 3978 | WLWC | 3,281,532 | 3,150,875 | 26,861 |
| 46979 | WLWT | 3,367,381 | 3,355,009 | 28,601 |
| 54452 | WLXI | 4,184,851 | 4,166,318 | 35,518 |
| 55350 | WLYH | 2,829,585 | 2,367,000 | 20,179 |
| 43192 | WMAB–TV | 407,794 | 401,487 | 3,423 |
| 43170 | WMAE–TV | 686,076 | 653,173 | 5,568 |
| 43197 | WMAH–TV | 1,257,393 | 1,256,995 | 10,716 |
| 43176 | WMAO–TV | 369,696 | 369,343 | 3,149 |
| 47905 | WMAQ–TV | 9,914,395 | 9,913,272 | 84,511 |
| 59442 | WMAR–TV | 9,198,495 | 9,072,076 | 77,339 |
| 43184 | WMAU–TV | 642,328 | 636,504 | 5,426 |
| 43193 | WMAV–TV | 1,008,339 | 1,008,208 | 8,595 |
| 43169 | WMAW–TV | 726,173 | 715,450 | 6,099 |
| 46991 | WMAZ–TV | 1,185,678 | 1,136,616 | 9,690 |
| 66398 | WMBB | 935,027 | 914,607 | 7,797 |
| 43952 | WMBC–TV | 18,706,132 | 18,458,331 | 157,357 |
| 42121 | WMBD–TV | 742,729 | 742,660 | 6,331 |
| 83969 | WMBF–TV | 445,363 | 445,363 | 3,797 |
| 60829 | WMCF–TV | 612,942 | 609,635 | 5,197 |
| 9739 | WMCN–TV | 10,379,045 | 9,982,651 | 85,102 |
| 19184 | WMC–TV | 2,047,403 | 2,043,125 | 17,418 |
| 189357 | WMDE | 6,384,827 | 6,257,910 | 53,349 |
| 73255 | WMDN | 278,227 | 278,018 | 2,370 |
| 16455 | WMDT | 731,931 | 731,931 | 6,240 |
| 39656 | WMEA–TV | 902,755 | 853,857 | 7,279 |
| 39648 | WMEB–TV | 511,761 | 494,574 | 4,216 |
| 70537 | WMEC | 218,027 | 217,839 | 1,857 |
| 39649 | WMED–TV | 30,488 | 29,577 | 252 |
| 39662 | WMEM–TV | 71,700 | 69,981 | 597 |
| 41893 | WMFD–TV | 1,561,367 | 1,324,244 | 11,289 |
| 41436 | WMFP | 5,792,048 | 5,564,295 | 47,436 |
| 61111 | WMGM–TV | 807,797 | 807,797 | 6,886 |
| 43847 | WMGT–TV | 601,894 | 601,309 | 5,126 |
| 73263 | WMHT | 1,719,949 | 1,550,977 | 13,222 |
| 68545 | WMLW–TV | 1,843,933 | 1,843,663 | 15,717 |
| 53819 | WMOR–TV | 5,394,541 | 5,394,541 | 45,988 |
| 81503 | WMOW | 121,150 | 105,957 | 903 |
| 65944 | WMPB | 7,279,563 | 7,190,696 | 61,301 |
| 43168 | WMPN–TV | 856,237 | 854,089 | 7,281 |
| 65942 | WMPT | 8,637,742 | 8,584,398 | 73,182 |
| 60827 | WMPV–TV | 1,423,052 | 1,422,411 | 12,126 |
| 10221 | WMSN–TV | 1,947,942 | 1,927,158 | 16,429 |

TABLE 7—FY 2021 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

| Facility Id. | Call sign | Service area population | Terrain limited population | Terrain limited fee amount |
|---|---|---|---|---|
| 2174 | WMTJ | 3,143,148 | 2,365,308 | 20,164 |
| 6870 | WMTV | 1,548,616 | 1,545,459 | 13,175 |
| 73288 | WMTW | 1,940,292 | 1,658,816 | 14,141 |
| 23935 | WMUM–TV | 862,740 | 859,204 | 7,325 |
| 73292 | WMUR–TV | 5,192,179 | 5,003,980 | 42,659 |
| 42663 | WMVS | 3,172,534 | 3,112,231 | 26,532 |
| 42665 | WMVT | 3,172,534 | 3,112,231 | 26,532 |
| 81946 | WMWC–TV | 946,858 | 916,989 | 7,817 |
| 56548 | WMYA–TV | 1,650,798 | 1,571,594 | 13,398 |
| 74211 | WMYD | 5,750,989 | 5,750,873 | 49,026 |
| 20624 | WMYT–TV | 4,432,745 | 4,301,117 | 36,667 |
| 25544 | WMYV | 3,901,915 | 3,875,210 | 33,036 |
| 73310 | WNAB | 2,176,984 | 2,166,809 | 18,472 |
| 73311 | WNAC–TV | 7,310,183 | 6,959,064 | 59,326 |
| 47535 | WNBC | 21,952,082 | 21,399,204 | 182,428 |
| 83965 | WNBW–DT | 1,400,631 | 1,396,012 | 11,901 |
| 72307 | WNCF | 667,683 | 665,950 | 5,677 |
| 50782 | WNCN | 3,795,494 | 3,783,131 | 32,251 |
| 57838 | WNCT–TV | 1,935,414 | 1,887,929 | 16,095 |
| 41674 | WNDU–TV | 1,863,764 | 1,835,398 | 15,647 |
| 28462 | WNDY–TV | 2,912,963 | 2,855,253 | 24,341 |
| 71928 | WNED–TV | 1,387,961 | 1,370,480 | 11,683 |
| 60931 | WNEH | 1,261,482 | 1,255,218 | 10,701 |
| 41221 | WNEM–TV | 1,475,094 | 1,471,908 | 12,548 |
| 49439 | WNEO | 3,353,869 | 3,271,369 | 27,888 |
| 73318 | WNEP–TV | 3,429,213 | 2,838,000 | 24,194 |
| 18795 | WNET | 21,113,760 | 20,615,190 | 175,744 |
| 51864 | WNEU | 7,135,190 | 7,067,520 | 60,251 |
| 23942 | WNGH–TV | 5,744,856 | 5,595,366 | 47,700 |
| 67802 | WNIN | 883,322 | 865,128 | 7,375 |
| 41671 | WNIT | 1,305,447 | 1,305,447 | 11,129 |
| 48457 | WNJB | 20,787,272 | 20,036,393 | 170,810 |
| 48477 | WNJN | 20,787,272 | 20,036,393 | 170,810 |
| 48481 | WNJS | 7,211,292 | 7,176,711 | 61,181 |
| 48465 | WNJT | 7,211,292 | 7,176,711 | 61,181 |
| 73333 | WNJU | 21,952,082 | 21,399,204 | 182,428 |
| 73336 | WNJX–TV | 1,585,248 | 1,149,468 | 2,600 |
| 61217 | WNKY | 379,002 | 377,357 | 3,217 |
| 71905 | WNLO | 1,900,503 | 1,820,106 | 15,516 |
| 4318 | WNMU | 181,736 | 179,662 | 1,532 |
| 73344 | WNNE | 792,551 | 676,539 | 5,767 |
| 54280 | WNOL–TV | 1,632,389 | 1,632,389 | 13,916 |
| 71676 | WNPB–TV | 2,130,047 | 1,941,707 | 16,553 |
| 62137 | WNPI–DT | 167,931 | 161,748 | 1,379 |
| 41398 | WNPT | 2,260,463 | 2,227,570 | 18,990 |
| 28468 | WNPX–TV | 2,084,890 | 2,071,017 | 17,655 |
| 61009 | WNSC–TV | 2,431,154 | 2,425,044 | 20,674 |
| 61010 | WNTV | 2,419,841 | 2,211,019 | 18,849 |
| 16539 | WNTZ–TV | 344,704 | 343,849 | 2,931 |
| 7933 | WNUV | 9,098,694 | 8,906,508 | 75,928 |
| 9999 | WNVC | 807,960 | 690,381 | 5,885 |
| 10019 | WNVT | 1,721,004 | 1,712,249 | 14,597 |
| 73354 | WNWO–TV | 2,232,660 | 2,232,660 | 19,033 |
| 136751 | WNYA | 1,540,430 | 1,406,032 | 11,986 |
| 30303 | WNYB | 1,785,269 | 1,756,096 | 14,971 |
| 6048 | WNYE–TV | 19,185,983 | 19,015,910 | 162,111 |
| 34329 | WNYI | 1,627,542 | 1,338,811 | 11,413 |
| 67784 | WNYO–TV | 1,430,491 | 1,409,756 | 12,018 |
| 73363 | WNYT | 1,679,494 | 1,516,775 | 12,931 |
| 22206 | WNYW | 20,075,874 | 19,753,060 | 168,395 |
| 69618 | WOAI–TV | 2,525,811 | 2,513,887 | 21,431 |
| 66804 | WOAY–TV | 581,486 | 443,210 | 3,778 |
| 41225 | WOFL | 4,048,104 | 4,043,672 | 34,472 |
| 70651 | WOGX | 1,112,408 | 1,112,408 | 9,483 |
| 8661 | WOI–DT | 1,173,757 | 1,170,432 | 9,978 |
| 39746 | WOIO | 3,821,233 | 3,745,335 | 31,929 |
| 71725 | WOLE–DT | 1,784,094 | 1,312,984 | 8,066 |
| 73375 | WOLF–TV | 2,990,646 | 2,522,858 | 21,507 |
| 60963 | WOLO–TV | 2,635,715 | 2,594,980 | 22,122 |
| 36838 | WOOD–TV | 2,507,053 | 2,501,084 | 21,322 |
| 67602 | WOPX–TV | 3,877,863 | 3,877,805 | 33,058 |

TABLE 7—FY 2021 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

| Facility Id. | Call sign | Service area population | Terrain limited population | Terrain limited fee amount |
|---|---|---|---|---|
| 64865 | WORA–TV | 2,733,629 | 2,149,090 | 3,138 |
| 73901 | WORO–DT | 3,243,301 | 2,511,742 | 21,413 |
| 60357 | WOST | 1,193,381 | 853,762 | 7,278 |
| 66185 | WOSU–TV | 2,843,651 | 2,776,901 | 23,673 |
| 131 | WOTF–TV | 3,451,383 | 3,451,383 | 29,423 |
| 10212 | WOTV | 2,368,797 | 2,368,397 | 20,191 |
| 50147 | WOUB–TV | 756,762 | 734,988 | 6,266 |
| 50141 | WOUC–TV | 1,713,515 | 1,649,853 | 14,065 |
| 23342 | WOWK–TV | 1,159,175 | 1,083,663 | 9,238 |
| 65528 | WOWT | 1,380,979 | 1,377,287 | 11,741 |
| 31570 | WPAN | 637,347 | 637,347 | 5,433 |
| 4190 | WPBA | 5,217,180 | 5,200,958 | 44,338 |
| 51988 | WPBF | 3,190,307 | 3,186,405 | 27,164 |
| 21253 | WPBN–TV | 442,005 | 430,953 | 3,674 |
| 62136 | WPBS–DT | 338,448 | 301,692 | 2,572 |
| 13456 | WPBT | 5,416,604 | 5,416,604 | 46,177 |
| 13924 | WPCB–TV | 2,934,614 | 2,800,516 | 23,874 |
| 64033 | WPCH–TV | 5,948,778 | 5,874,163 | 50,077 |
| 4354 | WPCT | 195,270 | 194,869 | 1,661 |
| 69880 | WPCW | 3,393,365 | 3,188,441 | 27,181 |
| 17012 | WPDE–TV | 1,772,233 | 1,769,553 | 15,085 |
| 52527 | WPEC | 5,788,448 | 5,788,448 | 49,347 |
| 84088 | WPFO | 1,329,690 | 1,209,873 | 10,314 |
| 54728 | WPGA–TV | 559,495 | 559,025 | 4,766 |
| 60820 | WPGD–TV | 2,355,629 | 2,343,715 | 19,980 |
| 73875 | WPGH–TV | 3,236,098 | 3,121,767 | 26,613 |
| 2942 | WPGX | 425,098 | 422,872 | 3,605 |
| 73879 | WPHL–TV | 10,421,216 | 10,246,856 | 87,354 |
| 73881 | WPIX | 20,638,932 | 20,213,158 | 172,317 |
| 53113 | WPLG | 5,587,129 | 5,587,129 | 47,630 |
| 11906 | WPMI–TV | 1,468,001 | 1,467,594 | 12,511 |
| 10213 | WPMT | 2,412,561 | 2,191,501 | 18,683 |
| 18798 | WPNE–TV | 1,161,295 | 1,160,631 | 9,894 |
| 73907 | WPNT | 3,172,170 | 3,064,423 | 26,124 |
| 28480 | WPPT | 10,613,847 | 9,474,797 | 80,773 |
| 51984 | WPPX–TV | 8,206,117 | 7,995,941 | 68,165 |
| 47404 | WPRI–TV | 7,254,721 | 6,990,606 | 59,595 |
| 51991 | WPSD–TV | 883,814 | 879,213 | 7,495 |
| 12499 | WPSG | 10,232,988 | 9,925,334 | 84,613 |
| 66219 | WPSU–TV | 1,055,133 | 868,013 | 7,400 |
| 73905 | WPTA | 1,099,180 | 1,099,180 | 9,371 |
| 25067 | WPTD | 3,423,417 | 3,411,727 | 29,085 |
| 25065 | WPTO | 2,961,254 | 2,951,883 | 25,165 |
| 59443 | WPTV–TV | 5,840,102 | 5,840,102 | 49,787 |
| 57476 | WPTZ | 792,551 | 676,539 | 5,767 |
| 8616 | WPVI–TV | 11,491,587 | 11,302,701 | 96,356 |
| 48772 | WPWR–TV | 9,957,301 | 9,954,828 | 84,865 |
| 51969 | WPXA–TV | 6,587,205 | 6,458,510 | 55,059 |
| 71236 | WPXC–TV | 1,561,014 | 1,561,014 | 13,308 |
| 5800 | WPXD–TV | 5,249,447 | 5,249,447 | 44,752 |
| 37104 | WPXE–TV | 3,067,071 | 3,057,388 | 26,064 |
| 48406 | WPXG–TV | 2,577,848 | 2,512,150 | 21,416 |
| 73312 | WPXH–TV | 1,471,601 | 1,451,634 | 12,375 |
| 73910 | WPXI | 3,300,896 | 3,197,864 | 27,262 |
| 2325 | WPXJ–TV | 2,357,870 | 2,289,706 | 19,520 |
| 52628 | WPXK–TV | 1,801,997 | 1,577,806 | 13,451 |
| 21729 | WPXL–TV | 1,639,180 | 1,639,180 | 13,974 |
| 48608 | WPXM–TV | 5,153,621 | 5,153,621 | 43,935 |
| 73356 | WPXN–TV | 20,878,066 | 20,454,468 | 174,374 |
| 27290 | WPXP–TV | 5,565,072 | 5,565,072 | 47,442 |
| 50063 | WPXQ–TV | 3,281,532 | 3,150,875 | 26,861 |
| 70251 | WPXR–TV | 1,375,640 | 1,200,331 | 10,233 |
| 40861 | WPXS | 2,339,305 | 2,251,498 | 19,194 |
| 53065 | WPXT | 1,002,128 | 952,535 | 8,120 |
| 37971 | WPXU–TV | 690,613 | 690,613 | 5,887 |
| 67077 | WPXV–TV | 1,919,794 | 1,919,794 | 16,366 |
| 74091 | WPXW–TV | 8,075,268 | 8,024,342 | 68,408 |
| 21726 | WPXX–TV | 1,562,675 | 1,560,834 | 13,306 |
| 73319 | WQAD–TV | 1,101,012 | 1,089,523 | 9,288 |
| 65130 | WQCW | 1,307,345 | 1,236,020 | 10,537 |
| 71561 | WQEC | 183,969 | 183,690 | 1,566 |

TABLE 7—FY 2021 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

| Facility Id. | Call sign | Service area population | Terrain limited population | Terrain limited fee amount |
|---|---|---|---|---|
| 41315 | WQED | 3,529,305 | 3,426,684 | 29,212 |
| 3255 | WQHA | 1,052,107 | 730,913 | 6,231 |
| 60556 | WQHS–DT | 3,996,567 | 3,952,672 | 33,697 |
| 53716 | WQLN | 602,232 | 577,633 | 4,924 |
| 52075 | WQMY | 410,269 | 254,586 | 2,170 |
| 64550 | WQOW | 369,066 | 358,576 | 3,057 |
| 5468 | WQPT–TV | 595,685 | 595,437 | 5,076 |
| 64690 | WQPX–TV | 1,644,283 | 1,212,587 | 10,337 |
| 52408 | WQRF–TV | 1,375,774 | 1,354,979 | 11,551 |
| 2175 | WQTO | 2,864,201 | 1,598,365 | 6,261 |
| 8688 | WRAL–TV | 3,852,675 | 3,848,801 | 32,811 |
| 10133 | WRAY–TV | 4,184,851 | 4,166,318 | 35,518 |
| 64611 | WRAZ | 3,800,594 | 3,797,515 | 32,374 |
| 136749 | WRBJ–TV | 1,030,831 | 1,028,010 | 8,764 |
| 3359 | WRBL | 1,493,140 | 1,461,459 | 12,459 |
| 57221 | WRBU | 2,933,497 | 2,929,776 | 24,976 |
| 54940 | WRBW | 4,080,267 | 4,077,341 | 34,759 |
| 59137 | WRCB | 1,587,742 | 1,363,582 | 11,625 |
| 47904 | WRC–TV | 8,188,601 | 8,146,696 | 69,451 |
| 54963 | WRDC | 3,972,477 | 3,966,864 | 33,818 |
| 55454 | WRDQ | 3,931,023 | 3,931,023 | 33,512 |
| 73937 | WRDW–TV | 1,564,584 | 1,533,682 | 13,075 |
| 66174 | WREG–TV | 1,642,307 | 1,638,585 | 13,969 |
| 61011 | WRET–TV | 2,419,841 | 2,211,019 | 18,849 |
| 73940 | WREX | 2,303,027 | 2,047,951 | 17,459 |
| 54443 | WRFB | 2,674,527 | 1,975,375 | 23,287 |
| 73942 | WRGB | 1,757,575 | 1,645,483 | 14,028 |
| 411 | WRGT–TV | 3,451,036 | 3,416,078 | 29,122 |
| 74416 | WRIC–TV | 2,059,152 | 1,996,075 | 17,017 |
| 61012 | WRJA–TV | 1,127,088 | 1,119,936 | 9,547 |
| 412 | WRLH–TV | 2,017,508 | 1,959,111 | 16,701 |
| 61013 | WRLK–TV | 1,229,094 | 1,228,616 | 10,474 |
| 43870 | WRLM | 3,960,217 | 3,945,408 | 33,635 |
| 74156 | WRNN–TV | 19,853,836 | 19,615,370 | 167,221 |
| 73964 | WROC–TV | 1,203,412 | 1,185,203 | 10,104 |
| 159007 | WRPT | 110,009 | 109,937 | 937 |
| 20590 | WRPX–TV | 2,637,949 | 2,634,141 | 22,456 |
| 62009 | WRSP–TV | 1,156,134 | 1,154,040 | 9,838 |
| 40877 | WRTV | 2,919,683 | 2,895,164 | 24,681 |
| 15320 | WRUA | 2,905,193 | 2,121,362 | 18,085 |
| 71580 | WRXY–TV | 1,784,000 | 1,784,000 | 15,209 |
| 48662 | WSAV–TV | 1,000,315 | 1,000,309 | 8,528 |
| 6867 | WSAW–TV | 652,442 | 646,386 | 5,510 |
| 36912 | WSAZ–TV | 1,239,187 | 1,168,954 | 9,965 |
| 56092 | WSBE–TV | 7,535,710 | 7,266,304 | 61,945 |
| 73982 | WSBK–TV | 7,290,901 | 7,225,463 | 61,597 |
| 72053 | WSBS–TV | 42,952 | 42,952 | 366 |
| 73983 | WSBT–TV | 1,763,215 | 1,752,698 | 14,942 |
| 23960 | WSB–TV | 5,897,425 | 5,828,269 | 49,686 |
| 69446 | WSCG | 867,516 | 867,490 | 7,395 |
| 64971 | WSCV | 5,465,435 | 5,465,435 | 46,593 |
| 70536 | WSEC | 541,118 | 540,495 | 4,608 |
| 49711 | WSEE–TV | 613,176 | 595,476 | 5,076 |
| 21258 | WSES | 1,548,117 | 1,513,982 | 12,907 |
| 73988 | WSET–TV | 1,569,722 | 1,323,180 | 11,280 |
| 13993 | WSFA | 1,168,636 | 1,133,724 | 9,665 |
| 11118 | WSFJ–TV | 1,675,987 | 1,667,150 | 14,212 |
| 10203 | WSFL–TV | 5,344,129 | 5,344,129 | 45,559 |
| 72871 | WSFX–TV | 970,833 | 970,833 | 8,276 |
| 73999 | WSIL–TV | 672,560 | 669,176 | 5,705 |
| 4297 | WSIU–TV | 1,019,939 | 937,070 | 7,989 |
| 74007 | WSJV | 1,522,499 | 1,522,499 | 12,979 |
| 78908 | WSKA | 546,588 | 431,354 | 3,677 |
| 74034 | WSKG–TV | 892,402 | 633,163 | 5,398 |
| 76324 | WSKY–TV | 1,934,585 | 1,934,519 | 16,492 |
| 57840 | WSLS–TV | 1,447,286 | 1,277,753 | 10,893 |
| 21737 | WSMH | 2,339,224 | 2,327,660 | 19,843 |
| 41232 | WSMV–TV | 2,447,769 | 2,404,766 | 20,501 |
| 70119 | WSNS–TV | 9,914,395 | 9,913,272 | 84,511 |
| 74070 | WSOC–TV | 3,706,808 | 3,638,832 | 31,021 |
| 66391 | WSPA–TV | 3,388,945 | 3,227,025 | 27,510 |

TABLE 7—FY 2021 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

| Facility Id. | Call sign | Service area population | Terrain limited population | Terrain limited fee amount |
|---|---|---|---|---|
| 64352 | WSPX–TV | 1,298,295 | 1,174,763 | 10,015 |
| 17611 | WSRE | 1,354,495 | 1,353,634 | 11,540 |
| 63867 | WSST–TV | 331,907 | 331,601 | 2,827 |
| 60341 | WSTE–DT | 3,723,930 | 3,033,241 | 25,858 |
| 21252 | WSTM–TV | 1,455,586 | 1,379,393 | 11,759 |
| 11204 | WSTR–TV | 3,297,280 | 3,286,795 | 28,020 |
| 19776 | WSUR–DT | 3,714,790 | 3,015,529 | 8,066 |
| 2370 | WSVI | 50,601 | 50,601 | 431 |
| 63840 | WSVN | 5,588,748 | 5,588,748 | 47,644 |
| 73374 | WSWB | 1,530,002 | 1,102,316 | 9,397 |
| 28155 | WSWG | 381,004 | 380,910 | 3,247 |
| 71680 | WSWP–TV | 858,726 | 659,416 | 5,622 |
| 74094 | WSYM–TV | 1,498,905 | 1,498,671 | 12,776 |
| 73113 | WSYR–TV | 1,329,933 | 1,243,035 | 10,597 |
| 40758 | WSYT | 1,970,721 | 1,739,071 | 14,826 |
| 56549 | WSYX | 2,635,937 | 2,592,420 | 22,100 |
| 65681 | WTAE–TV | 2,995,755 | 2,860,979 | 24,390 |
| 23341 | WTAJ–TV | 1,187,718 | 948,598 | 8,087 |
| 4685 | WTAP–TV | 512,358 | 494,914 | 4,219 |
| 416 | WTAT–TV | 1,111,476 | 1,111,476 | 9,475 |
| 67993 | WTBY–TV | 15,858,470 | 15,766,438 | 134,409 |
| 29715 | WTCE–TV | 2,620,599 | 2,620,599 | 22,341 |
| 65667 | WTCI | 1,204,613 | 1,099,395 | 9,372 |
| 67786 | WTCT | 608,457 | 607,620 | 5,180 |
| 28954 | WTCV | 3,254,481 | 2,500,195 | 21,314 |
| 74422 | WTEN | 1,902,431 | 1,613,747 | 13,757 |
| 9881 | WTGL | 3,707,507 | 3,707,507 | 31,606 |
| 27245 | WTGS | 966,519 | 966,357 | 8,238 |
| 70655 | WTHI–TV | 928,934 | 886,846 | 7,560 |
| 70162 | WTHR | 2,949,339 | 2,901,633 | 24,736 |
| 147 | WTIC–TV | 5,318,753 | 4,707,697 | 40,133 |
| 26681 | WTIN–TV | 3,714,547 | 2,898,224 | 2,600 |
| 66536 | WTIU | 1,570,257 | 1,569,135 | 13,377 |
| 1002 | WTJP–TV | 1,947,743 | 1,907,300 | 16,260 |
| 4593 | WTJR | 334,527 | 334,221 | 2,849 |
| 70287 | WTJX–TV | 135,017 | 121,498 | 1,036 |
| 47401 | WTKR | 2,149,376 | 2,149,375 | 18,323 |
| 82735 | WTLF | 349,696 | 349,691 | 2,981 |
| 23486 | WTLH | 1,065,127 | 1,065,105 | 9,080 |
| 67781 | WTLJ | 1,622,365 | 1,621,227 | 13,821 |
| 65046 | WTLV | 1,757,600 | 1,739,021 | 14,825 |
| 1222 | WTLW | 1,646,714 | 1,644,206 | 14,017 |
| 74098 | WTMJ–TV | 3,096,406 | 3,085,983 | 26,308 |
| 74109 | WTNH | 7,845,782 | 7,332,431 | 62,509 |
| 19200 | WTNZ | 1,699,427 | 1,513,754 | 12,905 |
| 590 | WTOC–TV | 993,098 | 992,658 | 8,462 |
| 74112 | WTOG | 4,796,964 | 4,796,188 | 40,888 |
| 4686 | WTOK–TV | 410,134 | 404,555 | 3,449 |
| 13992 | WTOL | 4,184,020 | 4,174,198 | 35,585 |
| 21254 | WTOM–TV | 83,379 | 81,092 | 691 |
| 74122 | WTOV–TV | 3,892,886 | 3,619,899 | 30,860 |
| 82574 | WTPC–TV | 2,049,246 | 2,042,851 | 17,415 |
| 86496 | WTPX–TV | 255,972 | 255,791 | 2,181 |
| 6869 | WTRF–TV | 2,941,511 | 2,565,375 | 21,870 |
| 67798 | WTSF | 922,441 | 851,465 | 7,259 |
| 11290 | WTSP | 5,511,840 | 5,494,925 | 46,844 |
| 4108 | WTTA | 5,583,544 | 5,576,649 | 47,541 |
| 74137 | WTTE | 2,690,341 | 2,650,354 | 22,594 |
| 22207 | WTTG | 8,070,491 | 8,015,328 | 68,331 |
| 56526 | WTTK | 2,844,384 | 2,825,807 | 24,090 |
| 74138 | WTTO | 1,817,151 | 1,786,516 | 15,230 |
| 56523 | WTTV | 2,522,077 | 2,518,133 | 21,467 |
| 10802 | WTTW | 9,729,982 | 9,729,634 | 82,945 |
| 74148 | WTVA | 823,492 | 810,123 | 6,906 |
| 22590 | WTVC | 1,579,628 | 1,366,976 | 11,653 |
| 8617 | WTVD | 3,790,354 | 3,775,757 | 32,188 |
| 55305 | WTVE | 5,156,905 | 5,152,997 | 43,929 |
| 36504 | WTVF | 2,384,622 | 2,367,601 | 20,184 |
| 74150 | WTVG | 4,274,274 | 4,263,894 | 36,350 |
| 74151 | WTVH | 1,350,223 | 1,275,171 | 10,871 |
| 10645 | WTVI | 2,856,703 | 2,829,960 | 24,125 |

TABLE 7—FY 2021 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

| Facility Id. | Call sign | Service area population | Terrain limited population | Terrain limited fee amount |
|---|---|---|---|---|
| 63154 | WTVJ | 5,458,451 | 5,458,451 | 46,533 |
| 595 | WTVM | 1,498,667 | 1,405,957 | 11,986 |
| 72945 | WTVO | 1,409,708 | 1,398,825 | 11,925 |
| 28311 | WTVP | 678,884 | 678,539 | 5,785 |
| 51597 | WTVQ–DT | 989,786 | 983,552 | 8,385 |
| 57832 | WTVR–TV | 1,816,197 | 1,809,035 | 15,422 |
| 16817 | WTVS | 5,511,091 | 5,510,837 | 46,980 |
| 68569 | WTVT | 5,475,385 | 5,462,416 | 46,567 |
| 3661 | WTVW | 839,003 | 834,187 | 7,111 |
| 35575 | WTVX | 3,157,609 | 3,157,609 | 26,919 |
| 4152 | WTVY | 974,532 | 971,173 | 8,279 |
| 40759 | WTVZ–TV | 2,156,534 | 2,156,346 | 18,383 |
| 66908 | WTWC–TV | 1,061,101 | 1,061,079 | 9,046 |
| 20426 | WTWO | 737,341 | 731,294 | 6,234 |
| 81692 | WTWV | 1,527,511 | 1,526,625 | 13,014 |
| 51568 | WTXF–TV | 10,784,256 | 10,492,549 | 89,449 |
| 41065 | WTXL–TV | 1,054,514 | 1,054,322 | 8,988 |
| 8532 | WUAB | 3,821,233 | 3,745,335 | 31,929 |
| 12855 | WUCF–TV | 3,707,507 | 3,707,507 | 31,606 |
| 36395 | WUCW | 3,664,480 | 3,657,236 | 31,178 |
| 69440 | WUFT | 1,372,142 | 1,372,142 | 11,698 |
| 413 | WUHF | 1,152,580 | 1,147,972 | 9,786 |
| 8156 | WUJA | 2,638,361 | 1,977,410 | 16,857 |
| 69080 | WUNC–TV | 4,184,851 | 4,166,318 | 35,518 |
| 69292 | WUND–TV | 1,506,640 | 1,506,640 | 12,844 |
| 69114 | WUNE–TV | 3,146,865 | 2,625,942 | 22,386 |
| 69300 | WUNF–TV | 2,335,055 | 2,068,975 | 17,638 |
| 69124 | WUNG–TV | 3,605,143 | 3,588,220 | 30,590 |
| 60551 | WUNI | 7,209,571 | 7,084,349 | 60,394 |
| 69332 | WUNJ–TV | 1,081,274 | 1,081,274 | 9,218 |
| 69149 | WUNK–TV | 2,018,916 | 2,013,516 | 17,165 |
| 69360 | WUNL–TV | 3,055,263 | 2,834,274 | 24,162 |
| 69444 | WUNM–TV | 1,357,346 | 1,357,346 | 11,571 |
| 69397 | WUNP–TV | 1,402,186 | 1,393,524 | 11,880 |
| 69416 | WUNU | 1,202,495 | 1,201,481 | 10,243 |
| 83822 | WUNW | 1,109,237 | 570,072 | 4,860 |
| 6900 | WUPA | 5,966,454 | 5,888,379 | 50,198 |
| 13938 | WUPL | 1,721,320 | 1,721,320 | 14,674 |
| 10897 | WUPV | 1,933,664 | 1,914,643 | 16,322 |
| 19190 | WUPW | 2,100,914 | 2,099,572 | 17,899 |
| 23128 | WUPX–TV | 1,102,435 | 1,089,118 | 9,285 |
| 65593 | WUSA | 8,750,706 | 8,446,074 | 72,003 |
| 4301 | WUSI–TV | 339,507 | 339,507 | 2,894 |
| 60552 | WUTB | 8,523,983 | 8,381,042 | 71,448 |
| 30577 | WUTF–TV | 7,918,927 | 7,709,189 | 65,721 |
| 57837 | WUTR | 526,114 | 481,957 | 4,109 |
| 415 | WUTV | 1,589,376 | 1,557,474 | 13,277 |
| 16517 | WUVC–DT | 3,768,817 | 3,748,841 | 31,959 |
| 48813 | WUVG–DT | 6,029,495 | 5,965,975 | 50,860 |
| 3072 | WUVN | 1,233,568 | 1,157,140 | 9,865 |
| 60560 | WUVP–DT | 10,421,216 | 10,246,856 | 87,354 |
| 9971 | WUXP–TV | 2,316,872 | 2,305,293 | 19,653 |
| 417 | WVAH–TV | 1,373,555 | 1,295,383 | 11,043 |
| 23947 | WVAN–TV | 1,026,862 | 1,025,950 | 8,746 |
| 65387 | WVBT | 1,885,169 | 1,885,169 | 16,071 |
| 72342 | WVCY–TV | 2,543,642 | 2,542,235 | 21,673 |
| 60559 | WVEA–TV | 4,553,004 | 4,552,113 | 38,807 |
| 74167 | WVEC | 2,098,679 | 2,092,868 | 17,842 |
| 5802 | WVEN–TV | 3,921,016 | 3,919,361 | 33,413 |
| 61573 | WVEO | 1,153,382 | 761,454 | 5,111 |
| 69946 | WVER | 888,756 | 758,441 | 6,466 |
| 10976 | WVFX | 731,193 | 609,763 | 5,198 |
| 47929 | WVIA–TV | 3,429,213 | 2,838,000 | 24,194 |
| 3667 | WVII–TV | 368,022 | 346,874 | 2,957 |
| 70309 | WVIR–TV | 1,945,637 | 1,908,395 | 16,269 |
| 74170 | WVIT | 5,846,093 | 5,357,639 | 45,674 |
| 18753 | WVIZ | 3,695,223 | 3,689,173 | 31,450 |
| 70021 | WVLA–TV | 1,897,179 | 1,897,007 | 16,172 |
| 81750 | WVLR | 1,412,728 | 1,300,554 | 11,087 |
| 35908 | WVLT–TV | 1,888,607 | 1,633,633 | 13,927 |
| 74169 | WVNS–TV | 911,630 | 606,820 | 5,173 |

TABLE 7—FY 2021 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

| Facility Id. | Call sign | Service area population | Terrain limited population | Terrain limited fee amount |
|---|---|---|---|---|
| 11259 | WVNY | 742,579 | 659,270 | 5,620 |
| 29000 | WVOZ–TV | 1,132,932 | 731,199 | 5,111 |
| 71657 | WVPB–TV | 780,268 | 752,747 | 6,417 |
| 60111 | WVPT | 767,268 | 642,173 | 5,475 |
| 70491 | WVPX–TV | 4,147,298 | 4,114,920 | 35,080 |
| 66378 | WVPY | 756,696 | 632,649 | 5,393 |
| 67190 | WVSN | 2,948,832 | 2,137,333 | 18,221 |
| 69943 | WVTA | 760,072 | 579,703 | 4,942 |
| 69940 | WVTB | 455,880 | 257,445 | 2,195 |
| 74173 | WVTM–TV | 2,009,346 | 1,940,153 | 16,540 |
| 74174 | WVTV | 3,091,132 | 3,083,108 | 26,283 |
| 77496 | WVUA | 2,209,921 | 2,160,101 | 18,415 |
| 4149 | WVUE–DT | 1,658,125 | 1,658,125 | 14,136 |
| 4329 | WVUT | 273,293 | 273,215 | 2,329 |
| 74176 | WVVA | 1,037,632 | 722,666 | 6,161 |
| 3113 | WVXF | 85,191 | 78,556 | 670 |
| 12033 | WWAY | 1,208,625 | 1,208,625 | 10,304 |
| 30833 | WWBT | 1,924,502 | 1,892,842 | 16,136 |
| 20295 | WWCP–TV | 2,811,278 | 2,548,691 | 21,728 |
| 24812 | WWCW | 1,390,985 | 1,212,308 | 10,335 |
| 23671 | WWDP | 5,792,048 | 5,564,295 | 47,436 |
| 21158 | WWHO | 2,762,344 | 2,721,504 | 23,201 |
| 14682 | WWJE–DT | 7,209,571 | 7,084,349 | 60,394 |
| 72123 | WWJ–TV | 5,562,031 | 5,561,777 | 47,414 |
| 166512 | WWJX | 518,866 | 518,846 | 4,423 |
| 6868 | WWLP | 3,838,272 | 3,077,800 | 26,238 |
| 74192 | WWL–TV | 1,788,624 | 1,788,624 | 15,248 |
| 3133 | WWMB | 1,547,974 | 1,544,778 | 13,169 |
| 74195 | WWMT | 2,460,942 | 2,455,432 | 20,933 |
| 68851 | WWNY–TV | 375,600 | 346,623 | 2,955 |
| 74197 | WWOR–TV | 19,853,836 | 19,615,370 | 167,221 |
| 65943 | WWPB | 3,197,858 | 2,775,966 | 23,665 |
| 23264 | WWPX–TV | 2,299,441 | 2,231,612 | 19,024 |
| 68547 | WWRS–TV | 2,324,155 | 2,321,066 | 19,787 |
| 61251 | WWSB | 3,340,133 | 3,340,133 | 28,475 |
| 23142 | WWSI | 11,269,831 | 11,098,540 | 94,615 |
| 16747 | WWTI | 196,531 | 190,097 | 1,621 |
| 998 | WWTO–TV | 5,613,737 | 5,613,737 | 47,857 |
| 26994 | WWTV | 1,034,174 | 1,022,322 | 8,715 |
| 84214 | WWTW | 1,527,511 | 1,526,625 | 13,014 |
| 26993 | WWUP–TV | 116,638 | 110,592 | 943 |
| 23338 | WXBU | 4,030,693 | 3,538,096 | 30,162 |
| 61504 | WXCW | 1,749,847 | 1,749,847 | 14,917 |
| 61084 | WXEL–TV | 5,416,604 | 5,416,604 | 46,177 |
| 60539 | WXFT–DT | 10,174,464 | 10,170,757 | 86,706 |
| 23929 | WXGA–TV | 608,494 | 606,849 | 5,173 |
| 51163 | WXIA–TV | 6,179,680 | 6,035,828 | 51,455 |
| 53921 | WXII–TV | 3,630,551 | 3,299,114 | 28,125 |
| 146 | WXIN | 2,836,532 | 2,814,815 | 23,996 |
| 39738 | WXIX–TV | 2,911,054 | 2,900,875 | 24,730 |
| 414 | WXLV–TV | 4,362,761 | 4,333,737 | 36,945 |
| 68433 | WXMI | 1,988,970 | 1,988,589 | 16,953 |
| 64549 | WXOW | 425,378 | 413,264 | 3,523 |
| 6601 | WXPX–TV | 4,594,588 | 4,592,639 | 39,152 |
| 74215 | WXTV–DT | 19,992,096 | 19,643,518 | 167,461 |
| 12472 | WXTX | 699,095 | 694,837 | 5,923 |
| 11970 | WXXA–TV | 1,680,670 | 1,537,868 | 13,110 |
| 57274 | WXXI–TV | 1,184,860 | 1,168,696 | 9,963 |
| 53517 | WXXV–TV | 1,191,123 | 1,189,584 | 10,141 |
| 10267 | WXYZ–TV | 5,622,543 | 5,622,140 | 47,929 |
| 12279 | WYCC | 9,729,982 | 9,729,634 | 82,945 |
| 77515 | WYCI | 35,873 | 26,508 | 226 |
| 70149 | WYCW | 3,388,945 | 3,227,025 | 27,510 |
| 62219 | WYDC | 560,266 | 449,486 | 3,832 |
| 18783 | WYDN | 2,577,848 | 2,512,150 | 21,416 |
| 35582 | WYDO | 1,097,745 | 1,097,745 | 9,358 |
| 25090 | WYES–TV | 1,872,245 | 1,872,059 | 15,959 |
| 53905 | WYFF | 2,626,363 | 2,416,551 | 20,601 |
| 49803 | WYIN | 6,956,141 | 6,956,141 | 59,301 |
| 24915 | WYMT–TV | 1,180,276 | 863,881 | 7,365 |
| 17010 | WYOU | 2,879,196 | 2,226,883 | 18,984 |

TABLE 7—FY 2021 FULL-SERVICE BROADCAST TELEVISION STATIONS BY CALL SIGN—Continued

| Facility Id. | Call sign | Service area population | Terrain limited population | Terrain limited fee amount |
|---|---|---|---|---|
| 77789 | WYOW | 91,233 | 90,799 | 774 |
| 13933 | WYPX–TV | 1,529,500 | 1,413,583 | 12,051 |
| 4693 | WYTV | 4,898,622 | 4,535,576 | 38,666 |
| 5875 | WYZZ–TV | 1,042,140 | 1,036,721 | 8,838 |
| 15507 | WZBJ | 1,606,844 | 1,439,716 | 12,274 |
| 28119 | WZDX | 1,596,771 | 1,514,654 | 12,912 |
| 70493 | WZME | 5,996,408 | 5,544,708 | 47,269 |
| 81448 | WZMQ | 73,423 | 72,945 | 622 |
| 71871 | WZPX–TV | 2,039,157 | 2,039,157 | 17,384 |
| 136750 | WZRB | 952,279 | 951,693 | 8,113 |
| 418 | WZTV | 2,312,658 | 2,301,187 | 19,618 |
| 83270 | WZVI | 76,992 | 75,863 | 647 |
| 19183 | WZVN–TV | 1,981,488 | 1,981,488 | 16,892 |
| 49713 | WZZM | 1,574,546 | 1,548,835 | 13,204 |

[1] Call signs WIPM and WIPR are stations in Puerto Rico that are linked together with a total fee of $26,425.
[2] Call signs WNJX and WAPA are stations in Puerto Rico that are linked together with a total fee of $26,425.
[3] Call signs WKAQ and WORA are stations in Puerto Rico that are linked together with a total fee of $26,425.
[4] Call signs WOLE and WLII are stations in Puerto Rico that are linked together with a total fee of $26,425.
[5] Call signs WVEO and WTCV are stations in Puerto Rico that are linked together with a total fee of $26,425.
[6] Call signs WJPX and WJWN are stations in Puerto Rico that are linked together with a total fee of $26,425.
[7] Call signs WAPA and WTIN are stations in Puerto Rico that are linked together with a total fee of $26,425.
[8] Call signs WSUR and WLII are stations in Puerto Rico that are linked together with a total fee of $26,425.
[9] Call signs WVOZ and WTCV are stations in Puerto Rico that are linked together with a total fee of $26,425.
[10] Call signs WJPX and WKPV are stations in Puerto Rico that are linked together with a total fee of $26,425.
[11] Call signs WMTJ and WQTO are stations in Puerto Rico that are linked together with a total fee of $26,425.
[12] Call signs WIRS and WJPX are stations in Puerto Rico that are linked together with a total fee of $26,425.
[13] Call signs WRFB and WORA are stations in Puerto Rico that are linked together with a total fee of $26,425.

## TABLE 8—FY 2020 SCHEDULE OF REGULATORY FEES

[Regulatory fees for the categories shaded in gray are collected by the Commission in advance to cover the term of the license and are submitted at the time the application is filed.]

| Fee category | Annual regulatory fee (U.S. $s) |
|---|---|
| PLMRS (per license) (Exclusive Use) (47 CFR part 90) | 25. |
| Microwave (per license) (47 CFR part 101) | 25. |
| Marine (Ship) (per station) (47 CFR part 80) | 15. |
| Marine (Coast) (per license) (47 CFR part 80) | 40. |
| Rural Radio (47 CFR part 22) (previously listed under the Land Mobile category) | 10. |
| PLMRS (Shared Use) (per license) (47 CFR part 90) | 10. |
| Aviation (Aircraft) (per station) (47 CFR part 87) | 10. |
| Aviation (Ground) (per license) (47 CFR part 87) | 20. |
| CMRS Mobile/Cellular Services (per unit) (47 CFR parts 20, 22, 24, 27, 80 and 90) | .17. |
| CMRS Messaging Services (per unit) (47 CFR parts 20, 22, 24 and 90) | .08. |
| Broadband Radio Service (formerly MMDS/MDS) (per license) (47 CFR part 27) | 560. |
| Local Multipoint Distribution Service (per call sign) (47 CFR, part 101) | 560. |
| AM Radio Construction Permits | 610. |
| FM Radio Construction Permits | 1,075. |
| AM and FM Broadcast Radio Station Fees | See Table Below. |
| Digital TV (47 CFR part 73) VHF and UHF Commercial Fee Factor | * .007837. |
| Digital TV Construction Permits | 4,950. |
| Low Power TV, Class A TV, TV/FM Translators & Boosters (47 CFR part 74) | 315. |
| CARS (47 CFR part 78) | 1,300. |
| Cable Television Systems (per subscriber) (47 CFR part 76), Including IPTV | .89. |
| Direct Broadcast Service (DBS) (per subscriber) (as defined by section 602(13) of the Act) | .72. |
| Interstate Telecommunication Service Providers (per revenue dollar) | .00321. |
| Toll Free (per toll free subscriber) (47 CFR section 52.101 (f) of the rules) | .12. |
| Earth Stations (47 CFR part 25) | 560. |
| Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes DBS Service (per operational station) (47 CFR part 100). | 98,125. |
| Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25) | 223,500. |
| International Bearer Circuits—Terrestrial/Satellites (per Gbps circuit) | 41. |
| Submarine Cable Landing Licenses Fee (per cable system) | See Table Below. |

* See Appendix G for fee amounts due, also available at *https://www.fcc.gov/licensing-databases/fees/regulatory-fees.*

FY 2020 RADIO STATION REGULATORY FEES

| Population served | AM class A | AM class B | AM class C | AM class D | FM classes A, B1 & C3 | FM classes B, C, C0, C1 & C2 |
|---|---|---|---|---|---|---|
| <=25,000 | $975 | $700 | $610 | $670 | $1,075 | $1,225 |
| 25,001–75,000 | 1,475 | 1,050 | 915 | 1,000 | 1,625 | 1,850 |
| 75,001–150,000 | 2,200 | 1,575 | 1,375 | 1,500 | 2,425 | 2,750 |
| 150,001–500,000 | 3,300 | 2,375 | 2,050 | 2,275 | 3,625 | 4,150 |
| 500,001–1,200,000 | 4,925 | 3,550 | 3,075 | 3,400 | 5,450 | 6,200 |
| 1,200,001–3,000,000 | 7,400 | 5,325 | 4,625 | 5,100 | 8,175 | 9,300 |
| 3,000,001–6,000,000 | 11,100 | 7,975 | 6,950 | 7,625 | 12,250 | 13,950 |
| >6,000,000 | 16,675 | 11,975 | 10,425 | 11,450 | 18,375 | 20,925 |

FY 2020 INTERNATIONAL BEARER CIRCUITS—SUBMARINE CABLE SYSTEMS

| Submarine cable systems (capacity as of December 31, 2019) | Fee ratio (units) | FY 2020 regulatory fees |
|---|---|---|
| Less than 50 Gbps | .0625 | $13,450 |
| 50 Gbps or greater, but less than 250 Gbps | .125 | 26,875 |
| 250 Gbps or greater, but less than 1,500 Gbps | .25 | 53,750 |
| 1,500 Gbps or greater, but less than 3,500 Gbps | .5 | 107,500 |
| 3,500 Gbps or greater, but less than 6,500 Gbps | 1.0 | 215,000 |
| 6,500 Gbps or greater | 2.0 | 430,000 |

## V. Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the Notice of Proposed Rulemaking (*Notice*). Written comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadline for comments on this *Notice.* The Commission will send a copy of the *Notice,* including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *Notice* and IRFA (or summaries thereof) will be published in the **Federal Register**.

### *A. Need for, and Objectives of, the Proposed Rules*

2. The *Notice* seeks comment on regulatory fees for fiscal year (FY) 2021, as required by section 9 of the Communications Act of 1934, as amended (Communications Act or Act). The *Notice* sets forth the proposed regulatory fees for FY 2021 for regulatees in the Wireless Telecommunications Bureau, Media Bureau, Wireline Competition Bureau, and International Bureau. The proposed regulatory fees are attached to the *Notice* in Tables 2 and 3.

3. This regulatory fee *Notice* is needed because the Commission is required by Congress to adopt regulatory fees each year ''to recover the costs of carrying out the activities described in section 6(a) only to the extent, and in the total amounts, provided for in Appropriation Acts.'' The objective of the *Notice* is to propose regulatory fees for FY 2021. The *Notice* seeks comment on the Commission's proposed regulatory fees for FY 2021.

4. The *Notice* proposes to collect $374,000,000 in regulatory fees for FY 2021, as detailed in the proposed fee schedules in Tables 2 and 3. In addition, the *Notice* seeks comment on a proposed increase in the DBS fee rate; proposed fees for full-power broadcast televisions using the actual population covered by the station's contour, as the Commission adopted last year; and a fee for a new regulatory fee category for ''less complex'' non-geostationary space stations. All proposed fees are listed in Tables 2 and 3 of the *Notice.*

5. The *Notice* seeks comment on whether to continue for FY 2021 regulatory fees the temporary relief measures adopted in FY 2020 for requesting waiver, reduction, deferral, and installment payment of FY 2020 regulatory fees. Specifically, the *Notice* seeks comment on whether we should extend to the FY 2021 regulatory fee season the temporary measures the Commission adopted in FY 2020 to provide relief to regulatees whose businesses have suffered financial harm due to the pandemic, *i.e.,* waiver of section 1.1166(a) of the Commission's rules to permit parties seeking regulatory fee waiver and deferral for financial hardship reasons to make a single request for both waiver and deferral; waiver of the same rule to permit requests to be submitted electronically to the Commission, rather than in paper form; waivers to allow parties seeking extended payment terms to do so by submitting an email request, and allowing a combined installment payment request with any waiver, reduction, and deferral requests in a single filing.

### *B. Legal Basis*

6. This action, including publication of proposed rules, is authorized under sections (4)(i) and (j), 159, and 303(r) of the Communications Act of 1934, as amended.

### *C. Description and Estimate of the Number of Small Entities to Which the Proposed 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 proposed rules and policies, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one 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, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States which translates to 28.8 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 August 2016, 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 indicate 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 show that the majority of 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.'' Governmental entities are, however, exempt from application fees.

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 and IPTV) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.'' The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small.

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 show that there were 3,117 firms that 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 indicate 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, one thousand three hundred and seven (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 appropriate NAICS Code category is Wired Telecommunications Carriers and 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. Also, 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. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a small business size standard specifically for Interexchange Carriers. The closest applicable 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.

16. *Prepaid Calling Card Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. The appropriate NAICS code category for prepaid calling card providers is Telecommunications Resellers. This 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. U.S. Census Bureau data for 2012 show 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, 193 carriers have reported that they are engaged in the provision of prepaid calling cards. All 193 carriers have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of prepaid calling card providers are small.

17. *Local Resellers.* The SBA has not developed a small business size standard specifically for Local Resellers. The SBA category of Telecommunications Resellers is the closest NAICs code category for 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 from 2012 show 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 and two have more than 1,500 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. 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. 2012 Census Bureau data show 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 size standard 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 in paragraph 6 of this IRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small. According to 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 Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census Bureau data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1,000 employees or more. Thus under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities.

21. *Television Broadcasting.* This Economic Census category ''comprises establishments primarily engaged in broadcasting images together with sound.'' These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for such businesses: Those having $41.5 million or less in annual receipts. The 2012 Economic Census reports that 751 firms in this category operated in that year. Of that number, 656 had annual receipts of $25,000,000 or less. Based on this data we therefore estimate that the majority of commercial television broadcasters are small entities under the applicable SBA size standard.

22. The Commission has estimated the number of licensed commercial television stations to be 1,377. Of this

total, 1,258 stations (or about 91 percent) had revenues of $41.5 million or less, according to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on November 16, 2017, and therefore these licensees qualify as small entities under the SBA definition. In addition, the Commission has estimated the number of licensed noncommercial educational television stations to be 384. Notwithstanding, the Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities. There are also 2,300 low power television stations, including Class A stations (LPTV) and 3,681 TV translator stations. Given the nature of these services, we will presume that all of these entities qualify as small entities under the above SBA small business size standard.

23. We note, however, that in assessing whether a business concern qualifies as ''small'' under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, another element of the definition of ''small business'' requires that an entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television broadcast station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any television station from the definition of a small business on this basis and is therefore possibly over-inclusive. Also, as noted above, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. The Commission notes that it is difficult at times to assess these criteria in the context of media entities and its estimates of small businesses to which they apply may be over-inclusive to this extent.

24. *Radio Stations.* This Economic Census category ''comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in their own studio, from an affiliated network, or from external sources.'' The SBA has established a small business size standard for this category as firms having $41.5 million or less in annual receipts. Economic Census data for 2012 show that 2,849 radio station firms operated during that year. Of that number, 2,806 firms operated with annual receipts of less than $25 million per year, 17 with annual receipts between $25 million and $49,999,999 million and 26 with annual receipts of $50 million or more. Therefore, based on the SBA's size standard the majority of such entities are small entities.

25. According to Commission staff review of the BIA/Kelsey, LLC's Media Access Pro Radio Database as of January 2018, about 11,261 (or about 99.9 percent) of 11,383 commercial radio stations had revenues of $41.5 million or less and thus qualify as small entities under the SBA definition. The Commission has estimated the number of licensed commercial AM radio stations to be 4,633 stations and the number of commercial FM radio stations to be 6,738, for a total number of 11,371. We note the Commission has also estimated the number of licensed noncommercial (NCE) FM radio stations to be 4,128. Nevertheless, the Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities. We also note, that in assessing whether a business entity qualifies as small under the above definition, business control affiliations must be included. The Commission's estimate therefore likely overstates the number of small entities that might be affected by its action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, to be determined a ''small business,'' an entity may not be dominant in its field of operation. We further note, that it is difficult at times to assess these criteria in the context of media entities, and the estimate of small businesses to which these rules may apply does not exclude any radio station from the definition of a small business on these basis, thus our estimate of small businesses may therefore be over-inclusive. Also, as noted above, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. The Commission notes that it is difficult at times to assess these criteria in the context of media entities and the estimates of small businesses to which they apply may be over-inclusive to this extent.

26. *Cable Companies and Systems (Rate Regulation).* The Commission has also developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers nationwide. Industry data indicate that there are 4,600 active cable systems in the United States. Of this total, all but five cable operators nationwide are small under the 400,000-subscriber size standard. In addition, under the Commission's rate regulation rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Commission records show 4,600 cable systems nationwide. Of this total, 3,900 cable systems have fewer than 15,000 subscribers, and 700 systems have 15,000 or more subscribers, based on the same records. Thus, under this standard as well, we estimate that most cable systems are small entities.

27. *Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' As of 2019, there were approximately 48,646,056 basic cable video subscribers in the United States. Accordingly, an operator serving fewer than 486,460 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Based on available data, we find that all but five cable operators are small entities under this size standard. We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million. Therefore, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

28. *Direct Broadcast Satellite (DBS) Service.* DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic ''dish'' antenna at the subscriber's location. DBS is included in SBA's economic census category ''Wired Telecommunications Carriers.'' The Wired Telecommunications Carriers industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using

wired telecommunications networks. Transmission facilities may be based on a single technology or 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 determines that a wireline business is small if it has fewer than 1,500 employees. U.S. Census Bureau data for 2012 indicates that 3,117 wireline companies were operational during that year. Of that number, 3,083 operated with fewer than 1,000 employees. Based on that data, we conclude that the majority of wireline firms are small under the applicable SBA standard. Currently, however, only two entities provide DBS service, which requires a great deal of capital for operation: DIRECTV (owned by AT&T) and DISH Network. DIRECTV and DISH Network each report annual revenues that are in excess of the threshold for a small business. Accordingly, we must conclude that internally developed FCC data are persuasive that, in general, DBS service is provided only by large firms.

29. *All Other Telecommunications.* The ''All Other Telecommunications'' category is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing internet services or voice over internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry. The SBA has developed a small business size standard for All Other Telecommunications, which consists of all such firms with annual receipts of $35 million or less. For this category, U.S. Census Bureau data for 2012 shows that there were 1,442 firms that operated for the entire year. Of those firms, a total of 1,400 had annual receipts less than $25 million and 15 firms had annual receipts of $25 million to $49, 999,999. Thus, the Commission estimates that the majority of ''All Other Telecommunications'' firms potentially affected by our action can be considered small.

30. *RespOrgs.* Responsible Organizations, or RespOrgs, are entities chosen by toll free subscribers to manage and administer the appropriate records in the toll free Service Management System for the toll free subscriber. Although RespOrgs are often wireline carriers, they can also include non-carrier entities. Therefore, in the definition herein of RespOrgs, two categories are presented, *i.e.,* Carrier RespOrgs and Non-Carrier RespOrgs.

31. *Carrier RespOrgs.* Neither the Commission, the U.S. Census, nor the SBA have developed a definition for Carrier RespOrgs. Accordingly, the Commission believes that the closest NAICS code-based definitional categories for Carrier RespOrgs are Wired Telecommunications Carriers, and Wireless Telecommunications Carriers (except satellite).

32. The U.S. Census Bureau defines Wired Telecommunications Carriers 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. U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Based on that data, we conclude that the majority of Carrier RespOrgs that operated with wireline-based technology are small.

33. The U.S. Census Bureau defines Wireless Telecommunications Carriers (except satellite) as establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves, such as cellular services, paging services, wireless internet access, and wireless video services. The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that 967 Wireless Telecommunications Carriers operated in that year. Of that number, 955 operated with less than 1,000 employees. Based on that data, we conclude that the majority of Carrier RespOrgs that operated with wireless-based technology are small.

34. *Non-Carrier RespOrgs.* Neither the Commission, the U.S. Census, nor the SBA have developed a definition of Non-Carrier RespOrgs. Accordingly, the Commission believes that the closest NAICS code-based definitional categories for Non-Carrier RespOrgs are ''Other Services Related to Advertising'' and ''Other Management Consulting Services.''

35. The U.S. Census defines Other Services Related to Advertising as comprising establishments primarily engaged in providing advertising services (except advertising agency services, public relations agency services, media buying agency services, media representative services, display advertising services, direct mail advertising services, advertising material distribution services, and marketing consulting services). The SBA has established a size standard for this industry as annual receipts of $16.5 million dollars or less. Census data for 2012 show that 5,804 firms operated in this industry for the entire year. Of that number, 5,612 operated with annual receipts of less than $10 million. Based on that data we conclude that the majority of Non-Carrier RespOrgs who provide toll-free number (TFN)-related advertising services are small.

36. The U.S. Census defines Other Management Consulting Services as establishments primarily engaged in providing management consulting services (except administrative and general management consulting; human resources consulting; marketing consulting; or process, physical distribution, and logistics consulting). Establishments providing telecommunications or utilities management consulting services are included in this industry. The SBA has established a size standard for this industry of $16.5 million dollars or less. Census data for 2012 show that 3,683 firms operated in this industry for that entire year. Of that number, 3,632 operated with less than $10 million in annual receipts. Based on this data, we conclude that a majority of non-carrier RespOrgs who provide TFN-related

management consulting services are small.

37. In addition to the data contained in the four (see above) U.S. Census NAICS code categories that provide definitions of what services and functions the Carrier and Non-Carrier RespOrgs provide, Somos, the trade association that monitors RespOrg activities, compiled data showing that as of July 1, 2016 there were 23 RespOrgs operational in Canada and 436 RespOrgs operational in the United States, for a total of 459 RespOrgs currently registered with Somos.

*D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements for Small Entities*

38. This *Notice* does not propose any changes to the Commission's current information collection, reporting, recordkeeping, or compliance requirements. Licensees, including small entities, will be required to pay application fees after such fees are adopted.

*E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

39. The RFA requires an agency to describe any significant 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 or reporting requirements under the rule for 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 small entities.

40. The *Notice* seeks comment on the Commission's proposed regulatory fees for FY 2021. The *Notice* proposes to collect $374,000,000 in regulatory fees for FY 2021, as detailed in the proposed fee schedules in Tables 2 and 3 of the *Notice.* The Commission has taken steps to minimize the economic impact on small entities by adopting a de minimis threshold under the section 9(e)(2) exemption in the Act. Under the section 9(e)(2) exemption, a regulatee is exempt from paying regulatory fees if the sum total of all of its annual regulatory fee liabilities is $1,000 or less for the fiscal year. The threshold applies only to filers of annual regulatory fees, not regulatory fees paid through multi-year filings. The Commission also adopted a new regulatory fee category for ''less complex'' NGSO satellite systems, so that these smaller systems would have a lower regulatory fee than the other NGSO systems.

*F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules*

41. None.

## VI. Ordering Clauses

42. Accordingly, *it is ordered* that, pursuant to the authority found in sections 4(i) and (j), 9, 9A, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 159, 159A, and 303(r), this Notice of Proposed Rulemaking *is hereby adopted.*

Federal Communications Commission.

**Cecilia Sigmund,**

*Federal Register Liaison Officer, Office of the Secretary.*

[FR Doc. 2021–10119 Filed 5–12–21; 8:45 am]

**BILLING CODE 6712–01–P**

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Part III

## Department of Health and Human Services

Centers for Medicare & Medicaid Services
42 CFR Part 483

Medicare and Medicaid Programs; COVID–19 Vaccine Requirements for Long-Term Care (LTC) Facilities and Intermediate Care Facilities for Individuals With Intellectual Disabilities (ICFs–IID) Residents, Clients, and Staff; Final Rule

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Medicare & Medicaid Services**

**42 CFR Part 483**

**[CMS–3414–IFC]**

**RIN 0938–AU57**

# Medicare and Medicaid Programs; COVID–19 Vaccine Requirements for Long-Term Care (LTC) Facilities and Intermediate Care Facilities for Individuals With Intellectual Disabilities (ICFs–IID) Residents, Clients, and Staff

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

**ACTION:** Interim final rule with comment period.

**SUMMARY:** This interim final rule with comment period (IFC) revises the infection control requirements that long-term care (LTC) facilities (Medicaid nursing facilities and Medicare skilled nursing facilities, also collectively known as ''nursing homes'') and intermediate care facilities for individuals with intellectual disabilities (ICFs–IID) must meet to participate in the Medicare and Medicaid programs. This IFC aims to reduce the spread of SARS–CoV–2 infections, the virus that causes COVID–19, by requiring education about COVID–19 vaccines for LTC facility residents, ICF–IID clients, and staff serving both populations, and by requiring that such vaccines, when available, be offered to all residents, clients, and staff. It also requires LTC facilities to report COVID–19 vaccination status of residents and staff to the Centers for Disease Control and Prevention (CDC). These requirements are necessary to help protect the health and safety of ICF–IID clients and LTC facility residents. In addition, the rule solicits public comments on the potential application of these or other requirements to other congregate living settings over which CMS has regulatory or other oversight authority.

**DATES:** These regulations are effective on May 21, 2021.

*Comment date:* To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on July 12, 2021.

**ADDRESSES:** In commenting, please refer to file code CMS–3414–IFC.

Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3414–IFC, P.O. Box 8010, Baltimore, MD 21244–1850.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3414–IFC, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** Diane Corning, (410) 786–8486, Lauren Oviatt, (410) 786–4683, Kim Roche, (410) 786–3524, or Kristin Shifflett, (410) 786–4133, for all rule related issues.

**SUPPLEMENTARY INFORMATION:** *Inspection of Public Comments:* All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that website to view public comments. CMS will not post on *Regulations.gov* public comments that make threats to individuals or institutions or suggest that the individual will take actions to harm the individual. CMS continues to encourage individuals not to submit duplicative comments. We will post acceptable comments from multiple unique commenters even if the content is identical or nearly identical to other comments.

## I. Background

Currently, the United States (U.S.) is responding to a public health emergency of respiratory disease caused by a novel coronavirus that has now been detected in more than 190 countries internationally, all 50 States, the District of Columbia, and all U.S. territories. The virus has been named ''severe acute respiratory syndrome coronavirus 2'' (SARS–CoV–2), and the disease it causes has been named ''coronavirus disease 2019'' (COVID–19). On January 30, 2020, the International Health Regulations Emergency Committee of the World Health Organization (WHO) declared the outbreak a ''Public Health Emergency of International Concern.'' On January 31, 2020, pursuant to section 319 of the Public Health Service Act (PHSA) (42 U.S.C. 247d), the Secretary of the Department of Health and Human Services (Secretary) determined that a public health emergency (PHE) exists for the United States to aid the nation's health care community in responding to COVID–19 (hereafter referred to as the PHE for COVID–19). On March 11, 2020, the WHO publicly declared COVID–19 a pandemic. On March 13, 2020, the President of the United States declared the COVID–19 pandemic a national emergency. The January 31, 2020 determination that a PHE for COVID–19 exists and has existed since January 27, 2020, lasted for 90 days, and was renewed on April 21, 2020; July 23, 2020; October 2, 2020; and January 7, 2021. Pursuant to section 319 of the PHSA, the determination that a PHE continues to exist may be renewed at the end of each 90-day period.[1] Data from the Centers for Disease Control and Prevention (CDC) and other sources have determined that some people are at higher risk of severe illness from COVID–19.[2]

Individuals residing in congregate settings, regardless of health or medical conditions, are at greater risk of acquiring infections, and many residents and clients of long-term care (LTC) facilities and Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs–IID) face higher risk of severe illness due to age, disability, or underlying health conditions. Nursing home residents are less than 1 percent of the American population, but have historically accounted for over one-third of all COVID–19 deaths.[3]

[1] *https://www.phe.gov/emergency/events/COVID19/Pages/2019-Public-Health-and-Medical-Emergency-Declarations-and-Waivers.aspx.*

[2] Centers for Disease Control and Prevention. (2020). People at Increased Risk. Retrieved from: *https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/index.html.*

[3] See The Long-Term Care COVID Tracker at *https://covidtracking.com/nursing-homes-long-term-care-facilities,* and the KFF State COVID–19 Data and Policy Actions at *https://www.kff.org/coronavirus-covid-19/issue-brief/state-covid-19-data-and-policy-actions/#longtermcare.* These data may understate the problem because some states do

*A. COVID–19 in Congregate Living Settings*

Since there is no single official definition of congregate living settings, also referred to as residential habilitation settings, for purposes of this discussion we describe them as shared residences of any size that provide services to clients and residents. People living and working in these living situations may have challenges with social distancing and other mitigation measures, like mask use and handwashing, that help to prevent the spread of SARS–CoV–2. Residents, clients, and staff typically may gather together closely for social, leisure, and recreational activities, shared dining, and/or use of shared equipment, such as kitchen appliances, laundry facilities, vestibules, stairwells, and elevators. Residents in some congregate living facilities may also receive care from day habilitation facilities such as adult day health centers. Some congregate living residents require close assistance and support from facility staff, which further reduces their ability to maintain physical distance. On March 2, 2021, CDC issued *Interim Considerations for Phased Implementation of COVID–19 Vaccination and Sub-Prioritization Among Recommended Populations,* which notes that increased rates of transmission have been observed in these settings, and that jurisdictions may choose to prioritize vaccination of persons living in congregate settings based on local, state, tribal, or territorial epidemiology. CDC further notes that congregate living facilities may choose to vaccinate residents and clients at the same time as staff, because of shared increased risk of disease.[4]

This rule establishes requirements for LTC facilities and ICFs–IID; however, we recognize that individuals in all congregate living settings may have had similar experiences and outcomes during the PHE as individuals living or staying in institutional settings. We acknowledge that many congregate living facilities may not fall into any single category or may be classified differently depending on the state in which they are located. We further note that some other congregate living settings, such as dormitories, prisons, and shelters for people experiencing homelessness, have also faced higher risks of disease transmission, and these settings are not within our scope of authority. CMS is seeking public comment on the feasibility of implementing vaccination policies for other Medicare/Medicaid participating shared residences in which one or more people reside such as but not limited to the following: Psychiatric residential treatment facilities (PRTFs), psychiatric hospitals, forensic hospitals, adult foster care homes (AFC homes), group homes, assisted living facilities (ALFs), supervised apartments, and inpatient hospice facilities.

We considered extending the requirements included in this rule to other congregate living settings for which we have regulatory authority, including inpatient psychiatric hospitals (which are subject to the majority of Hospital Conditions of Participation, including § 482.42, ''Infection Control'') and PRTFs, but have not included such requirements in this interim final rule because we believe it would not be feasible at this time. Individuals in psychiatric hospitals, for example, may only be in-patients for short periods, making appropriate provision of a two-dose vaccine series challenging, although a one dose vaccine product is also now authorized. Because we are not able to guarantee sufficient availability of single dose COVID–19 vaccines at this time, or in the near future, to meet the potential demands of facilities with relatively short stays, we are focusing on facilities that have longer term relationships with patients and are thus also able to administer all doses of and track multi-dose vaccines. PRTFs only serve children and youth under the age of 21 years, and there is not yet a COVID–19 vaccine authorized or licensed for people younger than the age of 16 years in the United States. We are seeking public comment on the feasibility of adding appropriate COVID–19 vaccination requirements for residents, clients, and staff of all congregate living facilities where CMS has regulatory authority and pays for some portion of the care and services provided. Specifically, we are interested in comments on potential barriers facilities may face in meeting the requirements, such as staffing issues or characteristics of the resident or client population, and potential unintended consequences. We welcome suggestions on how the regulations should be revised to ensure that congregate living within our regulatory authority are able to reduce the spread of SARS–CoV–2 infections.

While congregate living settings are also often part of a state's and home and community-based services (HCBS) infrastructure. HCBS is an umbrella term for long term services and supports that are provided to people in their own homes or communities rather than institutions or other isolated settings. These programs serve a diverse population, including people with intellectual or developmental disabilities, physical disabilities, mental illness, and HIV/AIDS. Shared living arrangements within, and the sharing of staff across these and other settings can lead to increased risk of COVID–19 outbreaks. In addition, individuals living in these settings often have multiple chronic conditions that can increase the risk of severe disease and complicate treatment of, and recovery from, COVID–19. This makes the vaccination of clients and staff in these congregate living settings a critical component of a jurisdiction's vaccine implementation plan.

In an effort to facilitate a comprehensive vaccine administration strategy, we encourage providers who manage Medicare and/or Medicaid participating congregate living settings (such as psychiatric hospitals or PRTFs) or settings in which Medicaid-funded HCBSs are provided (ALFs, group homes, shared living/host home settings, supported living settings, and others) to voluntarily engage in the provision of the culturally and linguistically appropriate and accessible education and vaccine-offering activities described in this IFC. Vaccine availability may vary based on location, and vaccination and medical staff authorized to administer the vaccination may not be readily available onsite at many congregate living or residential care settings. Therefore, facilities should consult state Medicaid agencies and state and local health departments to understand the range of options for how vaccine provision can be made available to residents, clients, and staff. In addition, we encourage state Medicaid agencies, in partnership with public health agencies, to collaborate with congregate living settings to ensure their involvement in vaccine distribution strategies, and to facilitate vaccination of beneficiaries and staff as efficiently as possible. Lastly, we request public comment on challenges congregate living settings might encounter in complying with these IFC provisions, including in reporting vaccine information to CDC's National Healthcare Safety Network (NHSN).

We acknowledge the diversity and complexity of the needs of congregate living facilities. We understand that factors such as coordination of care with day habilitation sites, adult day health providers, hospice providers, and other entities, and also high rates of staff turnover may impede the implementation of a COVID–19

not count as nursing home deaths persons infected in nursing homes but transferred to hospitals and recorded as hospital deaths.

[4] *https://www.cdc.gov/vaccines/covid-19/phased-implementation.html#congregate-living-settings.*

vaccination program. To enhance our future efforts to support reasonable and effective COVID–19 vaccination programs in congregate living facilities, we seek public comment on a number of issues, including the following:

- Are there state or local vaccine policies, for COVID–19 vaccines or otherwise, already in place for congregate living facilities and related agencies, such as adult day health programs, either in the licensing or certification requirements or elsewhere? How have they been helpful to your facility or program?
- Does your program or facility have vaccine policies? How are they structured and what challenges have you faced with regard to implementation? Do policies include residents, clients and staff?
- If a vaccine policy applied to both shared living and day programs for adult day health or day habilitation, for example, who or what entity should have the responsibility for ensuring that all residents and staff have access to COVID–19 vaccination? Is there existing or capacity for case management for individuals engaging with both residential care and programs that occur outside the residential setting?
- What barriers exist to the implementation of a COVID–19 vaccination policy for residents and staff of congregate living facilities?
- How can equitable access to COVID–19 vaccine be ensured for residents and clients of congregate living facilities and related agencies?
- Are congregate living facilities currently facing challenges in tracking staff vaccination status? If so, explain.
- Has your State or county included residential and adult day health or day habilitation staff on the vaccine-eligible list as health care providers? What other impediments do staff face in getting access to vaccines?

Where such data are available, we are requesting respondents include data indicating:

- The rate of admission to congregate living facilities.
- The average length of stay for residents of congregate living facilities.
- The variety and prevalence of comorbidities in individuals served that may increase their risk of severe illness from COVID–19.
- The rate of employee sharing between congregate living facilities and the rate of employee turnover.

We acknowledge the lengths that congregate living and HCBS providers have gone to keep their residents, clients, and staff as safe as possible during the COVID–19 PHE, and request their input on ways that CMS and HHS can further support safety and reduce the risk of infection moving forward. This interim final rule with comment is one step in the broad effort to support those individuals at higher risk, in part because of living or working arrangements. Comments from congregate living providers, advocacy groups, professional organizations, HCBS providers (including day habilitation and adult day health providers), residents, clients, staff, family members, paid and unpaid caregivers, and other stakeholders will help inform future CMS actions.

*B. ICFs–IID and COVID–19*

ICFs–IID, residential facilities that provide services for people with disabilities, vary in size. In such settings, several factors may facilitate the introduction and spread of SARS–CoV–2, the virus that causes COVID–19. Staff working in these facilities often work across facility types (that is, nursing home, group home, different congregate settings within the employer's purview), and for different providers, which may contribute to disease transmission. Other factors impacting virus transmission in these settings might include: Clients who are employed outside the congregate living setting; clients who require close contact with staff or direct service providers; clients who have difficulty understanding information or practicing preventive measures; and clients in close contact with each other in shared living or working spaces. ICF–IID clients with certain underlying medical or psychiatric conditions may be at increased risk of serious illness from COVID–19.[5]

There are currently 5,768 Medicare- and/or Medicaid-certified ICFs–IID, and all 50 States have at least one ICF–IID. As of April 2021, 4,661 of the 5,770 are small (1 to 8 beds) in size, but there are 1,107 that are larger (14 or more beds) facilities. These facilities serve over 64,812 individuals with intellectual disabilities and other related conditions. ICFs–IIDs were originally conceived as large institutions, but caregivers and policymakers quickly recognized the potential benefits of greater community integration, spawning the growth in the early 1980s of community ICFs–IID with between four and 15 beds.[6] The number of individuals residing in large public ICFs–IID has decreased steadily over time (from 55,000 total residents in 1997 to approximately 16,000 as of April 2021). Many states have either closed a significant number of these facilities completely or downsized them through ''rebalancing'' efforts,[7] and the impetus of the Supreme Court's *Olmstead* decision.[8] Many ICF–IID clients have multiple chronic conditions and psychiatric conditions in addition to their intellectual disability, which can impact a client's understanding or acceptance of the need for vaccination. All must financially qualify for Medicaid assistance. While national data about ICF–IID clients is limited, we take an example from Florida, almost one quarter (23 percent) require 24-hour nursing services and a medical care plan in addition to their services plans.[9] Data from a single state is not nationally representative and thus we are unable to generalize, but it is illustrative and consistent with other states' trends. These co-occurring conditions may increase the risks of infectious diseases for clients of ICFs–IID above the risk levels experienced by the general population. Clients and residents often live in close quarters. Some may not understand the dangers of the virus, or be able to independently comply with mitigation measures. Those who need help with activities of daily living cannot maintain their distance from staff and caregivers. During the PHE, some facilities have struggled to retain staff and, as noted above, some staff working in these facilities may also have more than one job that puts them at higher risk.[10] Currently, the Conditions of Participation: ''Health Care Services'' at § 483.460(a)(3), require ICFs–IID to provide or obtain preventive and general medical care as well as annual physical examinations of each client that at a minimum include the following: Evaluation of vision and hearing; immunizations; routine screening laboratory examinations as determined necessary by the physician, special studies when needed; and tuberculosis control, appropriate to the facility's population. While the existing requirements should ensure that ICFs–IID provide clients with a COVID–19 vaccine, we note that it does not address vaccine education. Further, we believe that the unprecedented risks associated with the COVID–19 PHE warrant direct attention. ICFs–IID have not historically been required to participate in national reporting programs to the extent that

[5] *https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/index.html.*

[6] *https://aspe.hhs.gov/system/files/pdf/76956/MFIS.pdf.*

[7] *https://www.medicaid.gov/sites/default/files/2019-12/mfp-rtc.pdf.*

[8] *https://www.ada.gov/olmstead/S.*

[9] *http://www.floridaarf.org/assets/Files/ICF-IID%20Info%20Center/ICFHandoutonwebsite2-14.pdf.*

[10] *https://www.medicaid.gov/medicaid/long-term-services-supports/workforce-initiative/index.html.*

other health care facilities have. Despite the limited data available regarding COVID–19 cases or outbreak in ICFs–IID, we recognize the unique concerns for these facilities and their clients and staff. We note that CDC has established COVID–19 infection, prevention, and control guidance specific to group homes for individuals with disabilities, as noted earlier, recently released an updated guidance on vaccination and sub-prioritization that discusses this group.[11]

CMS and other Federal agencies took many actions and exercised regulatory flexibilities to help health care providers contain the spread of SARS–CoV–2. When the President declares a national emergency under the National Emergencies Act or an emergency or disaster under the Stafford Act, CMS is empowered to take proactive steps by waiving certain CMS regulations, as authorized under section 1135 of the Social Security Act (''1135 waivers''). CMS may also waive requirements set out under section 1812(f) of the Social Security Act (the Act) applicable to skilled nursing facilities (SNFs) under Medicare (''1812(f) waivers''). The 1135 waivers and 1812(f) waivers allowed us to rapidly expand efforts to help control the spread of SARS–CoV–2.

Currently, CMS has waived the following regulations for ICF–IIDs, with a retroactive effective date of March 1, 2020, and continuing through the end of the public health emergency declaration and any extensions, unless they are terminated earlier. CMS has waived the requirements at § 483.430(c)(4), which requires the facility to provide sufficient Direct Support Staff (DSS) so that Direct Care Staff (DCS) are not required to perform support services that interfere with direct client care. We also waived the requirements at § 483.420(a)(11) which requires clients have the opportunity to participate in social, religious, and community group activities. Finally, we also waived, in part, the requirements at § 483.430(e)(1) related to routine staff training programs unrelated to the public health emergency. CMS has not waived § 483.430(e)(2) through (4), which requires focusing on the clients' developmental, behavioral, and health needs and being able to demonstrate skills related to interventions for challenging behaviors and implementing individual plans.

CMS recognizes that during the public health emergency ''active treatment'' may need to be modified. The requirements at § 483.440(a)(1) require that each client receive a continuous active treatment program, which includes consistent implementation of a program of specialized and generic training, treatment, health services and related services. CMS is currently waiving those components of beneficiaries' active treatment programs and training that would violate current state and local requirements for social distancing, staying at home, and traveling for essential services only.

*C. LTC Facilities and COVID–19*

Long-term care facilities, a category that includes Medicare SNFs and Medicaid nursing facilities (NFs), must meet the consolidated Medicare and Medicaid requirements for participation (requirements) for LTC facilities (42 CFR part 483, subpart B) that were first published in the **Federal Register** on February 2, 1989 (54 FR 5316). These regulations have been revised and added to since that time, principally as a result of legislation or a need to address specific issues. The requirements were comprehensively reviewed and updated in October 2016 (81 FR 68688), including a comprehensive update to the requirements for infection prevention and control.

Since the onset of the PHE, we have revised the requirements for LTC facilities through two interim final rules with comment periods (IFCs) to establish reporting and testing requirements specific to the mitigation of the current pandemic. The first IFC was the ''Medicare and Medicaid Programs, Basic Health Program, and Exchanges; Additional Policy and Regulatory Revisions in Response to the COVID–19 Public Health Emergency and Delay of Certain Reporting Requirements for the Skilled Nursing Facility Quality Reporting Program'' interim final rule with comment, which appeared in the May 8, 2020 **Federal Register** (85 FR 27550) with an effective date of May 8, 2020 (hereafter referred to as the ''May 8th COVID–19 IFC'').[12] The May 8th COVID–19 IFC established requirements for LTC facilities to report information related to COVID–19 cases among facility residents and staff. We received 299 public comments in response to the May 8th COVID–19 IFC. About 161, or over one-half of those comments, addressed the requirement for COVID–19 reporting for LTC facilities set forth at § 483.80(g). The second IFC was the ''Medicare and Medicaid Programs, Clinical Laboratory Improvement Amendments (CLIA), and Patient Protection and Affordable Care Act; Additional Policy and Regulatory Revisions in Response to the COVID–19 Public Health Emergency'' interim final rule with comment, which appeared in the September 2, 2020 **Federal Register** (85 FR 54820) with an effective date of September 2, 2020 (hereafter referred to as the ''September 2nd COVID–19 IFC'').[13] The September 2nd COVID–19 IFC strengthened CMS' ability to enforce compliance with LTC reporting requirements and established a new requirement for LTC facilities to test facility residents and staff for COVID–19. We received 171 public comments in response to the September 2nd COVID–19 IFC, of which 113 addressed the requirement for COVID–19 testing of LTC facility residents and staff set forth at § 483.80(h).

Health care inequities faced by the general population, discussed further in Section I.D. of this rule, are also seen within LTC facilities. Despite the increased use of nursing homes by minority residents, nursing home care remains highly segregated. Compared to Whites, racial/ethnic minorities tend to be cared for in facilities with limited clinical and financial resources, low nurse staffing levels, and a relatively high number of care deficiency citations.[14] Nursing homes with relatively high shares of Black or Hispanic residents were more likely to report at least one COVID–19 death than nursing homes with lower shares of Black or Hispanic residents.[15]

*D. Current COVID–19 Vaccination Activities in LTC Facilities and ICFs–IID*

Because of the expedient development of COVID–19 vaccines and their authorization for emergency use by the U.S. Food and Drug Administration (FDA), the requirements for LTC facilities and Conditions of Participation (CoPs) for ICFs–IID do not currently address issues of resident and staff vaccination education, or reporting COVID–19 vaccinations or therapeutic treatments to CDC. Nonetheless, many facilities across the country are educating staff, residents, and resident representatives; participating in vaccine distribution programs; and voluntarily reporting vaccine administration. However, participation in these efforts is not universal and we are concerned that many groups at higher risk of infection, specifically residents and clients of LTC facilities and ICFs–IID,

[11] *https://www.cdc.gov/coronavirus/2019-ncov/community/group-homes.html.*

[12] *https://www.federalregister.gov/documents/search?conditions%5Bterm%5D=85FR27550#.*

[13] *https://www.federalregister.gov/documents/search?conditions%5Bterm%5D=85FR54820#.*

[14] *https://www.healthaffairs.org/doi/full/10.1377/hlthaff.2015.0094.*

[15] *https://www.kff.org/070b9a9/.*

are not able to access COVID–19 vaccination. While all nursing homes across the U.S. (whether or not certified as a Medicare or Medicaid provider) were invited to participate in the COVID–19 vaccination Pharmacy Partnerships (discussed further in section II.A.1. of this rule), internal CDC data show that approximately 2,500 Medicare or Medicaid-certified LTC facilities (approximately 16 percent) did not participate in the Pharmacy Partnership program.

Given the congregate living models of LTC facilities and ICFs–IID, and the higher risk nature of their residents and clients due to age, comorbidities, and disabilities, people living and working in these facilities are at high risk of COVID–19 outbreaks, with residents and clients seeing higher rates of incidence, morbidity, and mortality than the general population. Data submitted to CDC's NHSN and posted on *data.cms.gov* for the week ending April 11, 2021 shows cumulative totals of 647,754 LTC resident COVID–19 confirmed cases and 131,926 LTC resident COVID–19 confirmed deaths. Also, there have been at least 569,502 total LTC staff COVID–19 confirmed cases and 1,888 total LTC staff COVID–19 confirmed deaths, on a cumulative basis. While we do not currently have data regarding the incidence of COVID–19 cases in ICFs–IID, we believe that these facilities may have also experienced significant rates of infection and that these data are likely an underestimate. A FAIR Health study examined the relationship between preexisting comorbidities of COVID–19 and mortality in privately insured individuals as reported in a white paper, Risk Factors for COVID–19 Mortality among Privately Insured Patients: A Claims Data Analysis.[16] The paper states that there are several possible reasons for the high COVID–19 mortality risk in people with developmental disorders and intellectual disabilities. These include greater prevalence of comorbid chronic conditions. We seek information from the public regarding the epidemiologic burden of COVID–19 on ICFs–IIDs, reporting COVID–19 data by ICFs–IID, existing barriers to reporting, and ways to enhance and encourage voluntary reporting of COVID–19-related data to CDC's NHSN reporting module.

We also request comment on inequities in COVID–19 preventive care that may have been experienced by LTC facility residents and ICF–IID clients. This IFC aims to ensure that all LTC facility residents, ICF–IID clients, and the staff who care for them, are provided with ongoing access to vaccination against COVID–19. The accountable entities responsible for the care of residents and clients of LTC facilities and ICFs–IID must proactively pursue access to COVID–19 vaccination due to a unique set of challenges that generally prevent these residents and clients from independently accessing the vaccine. These challenges create potential disparities in vaccine access for those residing in LTC facilities and ICFs–IID. CDC has recommended states place LTC facility residents and health care personnel into Phase 1a.[17] Despite their inclusion in most states' tier 1 vaccine priority category, it is CMS's understanding that very few individuals who are residents of LTC facilities are likely able to independently schedule or travel to public offsite vaccination opportunities. People reside in LTC facilities and ICFs–IID because they need ongoing support for medical, cognitive, behavioral, and/or functional reasons. Because of these issues, they may be less capable of self-care, including arranging for preventive health care. Independent scheduling and traveling off-site may be especially challenging for people with low health literacy, intellectual and developmental disabilities, dementia including Alzheimer's disease, visual or hearing impairments, or severe physical disability. This situation is particularly concerning because people with intellectual or developmental disabilities are at a disproportionate risk of contracting COVID–19.[18]

Similarly, there are large subpopulations of Americans who experience inequities on a regular basis in accessing quality health care beyond COVID–19 vaccination. Certain groups experience health and health care inequity, such as racial and ethnic minorities; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; people with disabilities; people living in rural areas; and others.

The COVID–19 pandemic has exacerbated these health care inequities as the country faces a convergence of economic, health, and climate crises.[19] Historical patterns of inequity in health care may persist despite the emphasis of public health officials on the need for equitable access to and utilization of preventive measures. Inequities have persisted through the COVID–19 PHE, with racial and ethnic minorities continuing to have higher rates of infection and mortality.[20] Ensuring that all residents, clients, and staff of LTC facilities and ICFs–IID have access to COVID–19 vaccinations seeks to address some of those inequities and provide timely protection for these individuals.

Ensuring that all LTC facility residents, ICF–IID clients, and the staff who care for them are provided with ongoing opportunities to receive vaccination against COVID–19 is critical to ensuring that populations at higher risk of infection continue to be prioritized, and receive timely preventive care during the COVID–19 PHE. This rule establishes penalties for non-compliance, in order to require facilities to educate about and offer vaccination to residents and staff.

Based on the current rate of incidence of COVID–19 disease and deaths among LTC residents, we believe more action can be taken to help staff and residents avoid contracting SARS–CoV–2. LTC facility staff are also at risk of transmitting SARS–CoV–2 to residents, experiencing illness or death as a result of COVID–19 themselves, and transmitting it to their families, friends, unpaid caregivers and the general public. Asymptomatic people with SARS–CoV–2 may move in and out of the LTC facility and the community, putting residents and staff at risk of infection. Routine testing of LTC residents and staff, along with visitation restrictions, personal protective equipment (PPE) usage, social distancing, and vaccination for residents and staff are all part of CDC's Interim Infection Prevention and Control Recommendations to Prevent SARS–CoV–2 Spread in Nursing Homes.[21] COVID–19 vaccines are a crucial tool for slowing the spread of disease and death among both residents, staff, and the general public. Based on the Food and Drug Administration's (FDA) review, evaluation of the data, and their decision to authorize three vaccines for emergency use, we recognize that these vaccines meet FDA's standards for an emergency use authorization (EUA) for safety and effectiveness to prevent

[16] *https://s3.amazonaws.com/media2.fairhealth.org/whitepaper/asset/Risk%20Factors%20for%20COVID-19%20Mortality%20among%20Privately%20Insured%20Patients%20-%20A%20Claims%20Data%20Analysis%20-%20A%20FAIR%20Health%20White%20Paper.pdf.*

[17] *https://www.cdc.gov/coronavirus/2019-ncov/vaccines/recommendations.html.*

[18] *https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-developmental-disabilities.html.*

[19] *https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/.*

[20] *https://tcf.org/content/commentary/even-nursing-homes-covid-19-racial-disparities-persist/?agreed=1.*

[21] *https://www.cdc.gov/coronavirus/2019-ncov/hcp/long-term-care.html.*

COVID–19 disease and related serious outcomes, including hospitalization and death. The combination of vaccination, universal source control (wearing masks), social distancing, and hand-washing offers further protection from COVID–19.[22]

Similar to LTC facilities, due to the recent development and authorization of COVID–19 vaccines, the conditions of participation for ICF–IIDs do not currently address issues of client and staff vaccine education. Many CMS-certified ICFs–IID across the country are educating staff, clients, and client representatives, and attempting to participate in vaccination programs. However, participation in these efforts is not universal, and we are concerned that many individuals are not receiving these important preventive care services.

*E. COVID–19 PHE and Vaccine Development*

Ensuring that LTC residents, ICF–IID clients, and staff have the opportunity to receive COVID–19 vaccinations will help save lives and prevent serious illness and death. On December 1, 2020, the Advisory Committee in Immunization Practices (ACIP) met and provided recommendations; CDC adopted ACIP's recommendation: That health care personnel and long-term care facility residents be offered COVID–19 vaccination first (Phase 1a).[23]

All COVID–19 vaccines currently authorized for use in the United States were tested in clinical trials involving tens of thousands of people and met FDA's standards for safety, effectiveness, and manufacturing quality needed to support emergency use authorization. The clinical trials included participants of different races, ethnicities, and ages, including adults over the age of 65.[24] The most common side effects following vaccination are dependent on the specific vaccine that an individual receives, but the most common may include pain at the injection site, tiredness, headache, muscle pain, nausea, vomiting, fever, and chills.[25] After a review of all available information, ACIP and CDC have determined the lifesaving benefits of COVID–19 vaccination outweigh the risks or possible side effects.[26]

The COVID–19 vaccines currently authorized for use in the United States require either a single dose or a series of two doses given three to four weeks apart. Every person who receives a COVID–19 vaccine receives a vaccination record card noting which vaccine and the dose received. Vaccine materials specific to each vaccine are located on CDC and FDA websites. CDC has posted a LTC facility toolkit ''Preparing for COVID–19 Vaccination at your Facility'' at *https://www.cdc.gov/vaccines/covid-19/toolkits/long-term-care/.* This toolkit provides LTC administrators and clinical leadership with information and resources to help build vaccine confidence among residents, clients, and staff. CDC has also posted an ICF–IID toolkit ''Toolkit for people with Disabilities'' at *https://www.cdc.gov/coronavirus/2019-ncov/communication/toolkits/people-with-disabilities.html. This toolkit provides* guidance and tools to help people with disabilities and paid and unpaid caregivers make decisions, help protect their health, and communicate with their communities.

While we are not requiring participation, we encourage individual residents, clients, and staff who use smartphones to use CDC's new smartphone-based tool called v-safe After Vaccination Health Checker (v-safe) to self-report on one's health after receiving a COVID–19 vaccine. V-safe is a new program that differs from the Vaccine Adverse Event Reporting System (VAERS), which we discuss in the section I.F. of this rule. Individuals may report adverse reactions to a COVID–19 vaccine to either program. Enrollment in v-safe allows individuals to directly report to CDC any problems or adverse reactions after receiving the vaccine. When an individual receives the vaccine, they should also receive a v-safe information sheet telling them how to enroll in v-safe. Individuals who enroll will receive regular text messages directing them to surveys where they can report any problems or adverse reactions after receiving a COVID–19 vaccine, as well as receive reminders for a second dose if applicable.[27] We note again that participation in v-safe is not mandatory, and further that individual participation is not traced to or shared with specific health care providers.

*F. FDA & Emergency Use Authorization (EUA) of COVID–19 Vaccines*

The FDA provides scientific and regulatory advice to vaccine developers and undertakes a rigorous evaluation of the scientific information through all phases of clinical trials; such evaluation continues after a vaccine has been licensed by FDA or authorized for emergency use.

CMS recognizes the gravity of the current public health emergency and the importance of facilitating availability of vaccines to prevent COVID–19. An EUA (authorized under section 564 of the Federal Food, Drug, and Cosmetic Act) is a mechanism to facilitate the availability and use of medical countermeasures, including vaccines, during public health emergencies, such as the current COVID–19 pandemic. The FDA may authorize certain unapproved medical products or unapproved uses of approved medical products to be used in an emergency to diagnose, treat, or prevent serious or life-threatening diseases or conditions caused by threat agents when certain criteria are met, including there are no adequate, approved, and available alternatives.[28]

VAERS is a safety and monitoring system that can be used by anyone to report adverse events with vaccines. While the COVID–19 vaccines are being used under an EUA, vaccination providers, manufacturers, and EUA sponsors must, in accordance with the National Childhood Vaccine Injury Act (NCVIA) of 1986 (42 U.S.C. 300aa–1 to 300aa–34), report select adverse events to VAERS (that is, serious adverse events, cases of multisystem inflammatory syndrome (MIS), and COVID–19 cases that result in hospitalization or death).[29] Providers also must adhere to any revised safety reporting requirements. FDA's EUA website includes letters of authorization and fact sheets and these should be checked for any updates that may occur. Additional adverse events following vaccination may be reported to VAERS. Adverse events will also be monitored through electronic health record- and claims-based systems (that is, CDC's Vaccine Safety Datalink and Biologicals Effectiveness and Safety (BEST)). On December 11, 2020, the U.S. Food and Drug Administration issued the first

[22] *https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html.*

[23] *https://www.cdc.gov/mmwr/volumes/69/wr/mm6949e1.htm.*

[24] *https://www.kff.org/racial-equity-and-health-policy/issue-brief/racial-diversity-within-covid-19-vaccine-clinical-trials-key-questions-and-answers/.*

[25] *https://www.cdc.gov/coronavirus/2019-ncov/vaccines/expect/after.html.*

[26] See Centers for Disease Control and Prevention. Benefits of Getting a COVID–19 Vaccine. *https://www.cdc.gov/coronavirus/2019-ncov/vaccines/vaccine-benefits.html.* Updated January 5, 2021. Accessed January 14, 2021.

[27] *https://www.cdc.gov/coronavirus/2019-ncov/vaccines/faq.html.*

[28] *https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization.*

[29] Department of Health and Human Services. VAERS—Vaccine Adverse Event Reporting System. Accessed at *https://vaers.hhs.gov/.* Accessed on January 26, 2021.

EUA for a vaccine for the prevention of coronavirus disease 2019 (COVID–19) caused by severe acute respiratory syndrome coronavirus 2 (SARS–CoV–2) in individuals 16 years of age and older. The EUA allows the Pfizer-BioNTech COVID–19 vaccine to be distributed in the U.S. FDA has now issued EUAs for three vaccines for the prevention of COVID–19, to Pfizer (December 11, 2020) (16 years of age and older), Moderna (December 18, 2020) (18 years of age and older), and Johnson & Johnson's Janssen (February 27, 2021) (18 years of age and older). Fact sheets for healthcare providers administering vaccine are available for each vaccine product from theFDA.[30]

FDA is closely monitoring the safety of the COVID–19 vaccines authorized for emergency use. The vaccination provider is responsible for mandatory reporting to VAERS of certain adverse events as listed on the Health Care Provider Fact Sheet. The requirements for LTC facilities and ICFs–IID established by this IFC can be met by offering current and future COVID–19 vaccines authorized by FDA under EUA, or any COVID–19 vaccines licensed by FDA, as well as any COVID–19 vaccine boosters if authorized or licensed. We note that at this time, some LTC facility residents and ICF–IID clients may not be eligible to receive vaccination due to age (that is, they are younger than 16), but we anticipate that they may become eligible for vaccination if authorized use of COVID–19 vaccines is expanded in the future.

## II. Provisions of the Interim Final Rule

In order to help protect LTC residents and ICF–IID clients from COVID–19, each facility must have a vaccination program that meets the educational and information needs of each resident, resident representative, client, parent (if the client is a minor) or legal guardian, and staff member. The program should provide COVID–19 vaccines, when available, to all residents and staff who choose to receive them. Consistent vaccination reporting by LTC facilities via the NHSN will help to identify LTC facilities that have potential issues with vaccine confidence or slow uptake among either residents or staff or both. The NHSN is the Nation's most widely used health care-associated infection (HAI) tracking system. It furnishes states, facilities, regions, and the Government with data regarding problem areas and measures of progress. CDC and CMS use information from NHSN to support COVID–19 vaccination programs by focusing on groups or locations that would benefit from additional resources and strategies that promote vaccine uptake. CMS Federal surveyors and state agency surveyors will use the vaccination data in conjunction with the reported data that includes COVID–19 cases, resident deaths, staff shortages, PPE supplies and testing. This combination of reported data is used by surveyors to determine individual facilities that need to have focused infection control surveys. Facilities having difficulty with vaccine acceptance can be identified through examining trends in NHSN data; and the Quality Improvement Organizations (QIOs), groups of health quality experts, clinicians, and consumers organized to improve the quality of care delivered to people with Medicare, can provide assistance to increase vaccine acceptance. Specifically, QIOs may provide assistance to LTC facilities by targeting small, low performing, and rural nursing homes most in need of assistance, and those that have low COVID–19 vaccination rates; disseminating accurate information related to access to COVID–19 vaccines to facilities; educating residents and staff on the benefits of COVID–19 vaccination; understanding nursing home leadership perspectives and assist them in developing a plan to increase COVID–19 vaccination rates among residents and staff; and assisting providers with reporting vaccinations accurately.

As discussed in detail below, we are revising the LTC facility requirements to specify that facilities must educate all residents and staff about COVID–19 vaccines, offer vaccination to all residents and staff, and report certain data regarding vaccination and therapeutic treatments to CDC via NHSN. Likewise, we are revising the ICF–IID Conditions of Participation to require that facilities must educate all clients and staff about COVID–19 vaccines and offer vaccination to all clients and staff. Reporting is not required for the ICFs–IID, however we strongly encourage voluntary reporting.

Immunization education, delivery, and reporting for influenza and pneumococcal vaccines are already a routine part of LTC facilities' infection control and prevention plans. We also require LTC facilities to offer education on influenza and pneumococcal vaccines and to give the resident or the resident representative the opportunity to accept or refuse vaccine.[31] LTC facilities must document a resident's uptake or refusal of influenza and pneumococcal immunization in the resident's medical record and report through a different electronic submission system, the Minimum Data Set (MDS). In order to standardize COVID–19 infection control and prevention in LTC facilities, we are issuing these requirements for facilities to provide COVID–19 vaccine education, offer COVID–19 vaccination, and report COVID–19 vaccinations for LTC facility residents and staff.

We require ICFs–IID to provide or obtain health care services for clients, including immunization, using as a guide the recommendations of the CDC Advisory Committee on Immunization Practices or of the Committee on the Control of Infectious Diseases of the American Academy of Pediatrics.[32] While the ICF–IID CoPs do not currently address specific vaccinations, the unprecedented risk of COVID–19 illness demands specific attention to protect clients. As discussed in section B.3. of this IFC, we are not issuing COVID–19 vaccination reporting requirements for ICFs–IID at this time due to current low rates of participation in NHSN by ICFs–IID and the delays that would be incurred by equipment acquisition (in some facilities) and NHSN enrollment, verification, and training.

### *A. Long-Term Care Facilities*

#### 1. Offer and Provide Vaccine to LTC Residents and Staff

With this IFC, we are amending the requirements at § 483.80 to add a new paragraph (d)(3). We require at new § 483.80(d)(3)(i) that LTC facilities develop and implement policies and procedures to ensure that they offer residents and staff vaccination against COVID–19 when vaccine supplies are available. We note that we are permitting but not requiring LTC facilities to provide the vaccine directly. They may also provide it indirectly, such as through arrangement with a pharmacy partner or local health department. Implementation of COVID–19 vaccine education and vaccination programs in LTC facilities will protect residents and staff, allowing for an expedited return to more normal routines, including timely preventive health care; family, caregiver, and community visitation; and group and individual activities. While we require that all residents and staff must be educated about the vaccine, we note that in situations, for example, where an individual has already received a

[30] *https://www.fda.gov/media/144637/download, https://www.fda.gov/media/144413/download, https://www.fda.gov/media/146304/download.*

[31] § 483.80(d).

[32] *https://pediatrics.aappublications.org/content/145/3/e20193995.*

COVID–19 vaccine or has a known medical contraindication (that is, an allergy to vaccine ingredients or previous severe reaction to a vaccine), the facility is not required to offer vaccination to that person. CDC has posted ''Interim Clinical Considerations for Use of COVID–19 Vaccines Currently Authorized in the United States'' describing these clinical situations.[33] CDC advice and guidance documents are periodically updated to reflect the latest information, and we cite this as an example, not as a regulatory requirement. At § 483.70(i)(1), in accordance with accepted professional standards and practices, the LTC facility must maintain medical records on each resident that are complete and accurately documented. In order to maintain current information, refusal of a vaccine should be documented with the reason; if the resident received the vaccine(s) elsewhere that should also be documented.

CDC established the Pharmacy Partnership for Long-term Care Program (Pharmacy Partnership), a national distribution initiative that provides end-to-end management of the COVID–19 vaccination process, including cold chain management, on-site vaccinations, and fulfillment of certain reporting requirements, to facilitate safer vaccination of the LTC facility population (residents and staff), while reducing burden on LTC facilities and jurisdictional health departments.[34] Most LTC facility staff who had not received their COVID–19 vaccine elsewhere, or needed to complete a vaccine series, were also vaccinated as part of the program. At the time of publication, we do not have data on the Partnership accomplishments in vaccinating residents or staff, but as discussed in the Regulatory Impact Analysis (RIA) section of this rule, there is extensive turnover in both groups, establishing the need for ongoing vaccination policies and programs.

The Pharmacy Partnership is currently facilitating safe vaccination of some LTC facility residents and staff, while reducing the burden on LTC facilities. The facilities remain responsible for the care and services provided to their residents. CDC has expected pharmacy partners to provide program services on-site at participating facilities for approximately two months from the date of each facility's first vaccination clinic, concluding in all facilities by spring of 2021. Internal CDC data shows that 99 percent of participating SNFs had held their third (final) clinic as of March 15, 2021. As the Pharmacy Partnership for LTC program comes to an end, it is important to ensure facilities have policies and procedures to provide continued access to COVID–19 vaccine for new or unvaccinated residents and staff, groups that will each exceed in magnitude over the course of this year a number larger than those offered vaccination during the Partnership's tenure. The Federal Government has also launched the Federal Retail Pharmacy Program, a collaboration between the Federal Government, states, and territories, and 21 national pharmacy partners and independent pharmacy networks representing over 40,000 pharmacies nationwide, including LTC facility pharmacy locations. This collaboration is intended to enhance the opportunities for vaccine uptake in congregate living settings.

For residents and staff who opt to receive the vaccine, vaccination must be conducted in a safe and sanitary manner in accordance with § 483.80; and as required by the vaccine provider agreements, COVID–19 vaccination clinics must be conducted in a manner for safe delivery of vaccines during the COVID–19 pandemic.[35] All facilities must adhere to current CDC infection prevention and control (IPC) recommendations. Screening individuals for currently suspected or confirmed cases of COVID–19, previous allergic reactions, and administration of therapeutic treatments and services is important for determining whether these individuals are appropriate candidates for vaccination at any given time. According to current CDC guidelines, anyone infected with COVID–19 should wait until infection resolves and they have met the criteria for discontinuing isolation.[36] We note that indications and contraindications for COVID–19 vaccination are evolving, and LTC facility Medical Directors and Infection Preventionists (IPs) should be alert to any new or revised guidelines issued by CDC, FDA, vaccine manufacturers, or other expert stakeholders.

Staff at LTC facilities should follow the recommended IPC practices described on CDC's website for LTC facilities.[37] For example, the website currently has ''Long-Term Care Facility Toolkit: Preparing for COVID–19 in LTC facilities'' [38] and the ''Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 (COVID–19) Pandemic.'' [39] These recommendations, which emphasize close monitoring of residents of long-term care facilities for symptoms of COVID–19, universal source control, physical distancing, hand hygiene, and optimizing engineering controls, are intended to help protect staff and residents from exposure.

Administration of any vaccine includes appropriate monitoring of vaccine recipients for adverse reactions. CDC has information describing IPC considerations for residents of long-term care facilities with systemic signs and symptoms following COVID–19 vaccination. See ''Post-Vaccine Considerations for Residents,'' located at *https://www.cdc.gov/coronavirus/2019-ncov/hcp/post-vaccine-considerations-residents.html.* This information is also included on FDA fact sheets. Long-term care facilities must have strategies in place to appropriately evaluate and manage post-vaccination signs and symptoms of adverse events among their residents.

CDC advises that COVID–19 vaccination providers document vaccine administration in their medical records system within 24 hours of administration and report administration data as specified in their vaccine provider agreements and to applicable local vaccine tracking programs (that is, Immunization Information System) as soon as practicable and no later than 72 hours after administration. While LTC facility staff may not have personal medical records on file with the employing LTC facility, all staff COVID–19 vaccinations must be appropriately documented by the facility in a manner that enables the facility to report in accordance with this rule (that is, in a facility immunization record, personnel files, health information files, or other relevant document). Updates to CDC's COVID–19 Vaccination Program Provider Agreement Requirements can be located on CDC's website.[40]

[33] *https://www.cdc.gov/vaccines/covid-19/info-by-product/clinical-considerations.html*

[34] *https://www.cdc.gov/vaccines/covid-19/long-term-care/pharmacy-partnerships.html* and provide additional information on vaccination under this program: *https://covid.cdc.gov/covid-data-tracker/#vaccinations-ltc*

[35] *https://www.cdc.gov/vaccines/pandemic-guidance/index.html.*

[36] Interim Guidance on Duration of Isolation and Precautions for Adults with COVID–19 | CDC, *https://www.cdc.gov/coronavirus/2019-ncov/hcp/duration-isolation.html.*

[37] *https://www.cdc.gov/longtermcare/.*

[38] *https://www.cdc.gov/vaccines/covid-19/toolkits/long-term-care/.*

[39] *https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control-recommendations.html.*

[40] Centers for Disease Control and Prevention. CDC COVID–19 Vaccination Program Provider Requirements and Support. Accessed at *https://www.cdc.gov/vaccines/covid-19/vaccination-*

Continued

2. COVID–19 Disease and Vaccine Education

a. LTC Facility Staff

Given the new and emerging nature of COVID–19 disease, vaccines, and treatments, we recognize that education is critical. With this IFC, we are amending the requirements at § 483.80 to add new paragraph (d)(3)(ii) to require that LTC facility staff are educated about vaccination against COVID–19. LTC facility staff are integral to the function of LTC facilities and the health and well-being of residents. For the purposes of COVID–19 vaccine education, offering, and reporting, we consider LTC facility staff to be those individuals who work in the facility on a regular (that is, at least once a week) basis. We note that this includes those individuals who may not be physically in the LTC facility for a period of time due to illness, disability, or scheduled time off, but who are expected to return to work. We also note that this description of staff differs from that in § 483.80(h), established for the LTC facility COVID–19 testing requirements in the September 2nd, 2020 COVID–19 IFC. This rule's description of LTC facility staff is limited to individuals working in the facility on a regular (at least weekly) basis, while the definition set out at § 483.80(h) includes workers who come into the facility infrequently, such as a plumber who may come in only a few times per year. We considered applying the § 483.80(h) definition to the vaccination and reporting requirements in this rule, but public feedback tells us the definition in paragraph (h) was overbroad for these purposes. Stakeholders report that there are many LTC facility staff and individuals providing occasional services under arrangement, and that the requirements may be excessively burdensome for the facilities to apply the definition at paragraph (h) because it includes many individuals who have very limited, infrequent contact with facility staff and residents. Stakeholders also report that providing the required education and offering vaccination to these individuals who may only make unscheduled visits to the facility would be extremely burdensome. That said, the description in this rule—individuals who work in the facility on a regular (that is, at least once a week) basis—still includes many of the individuals included in paragraph (h). In addition to facility-employed personnel, many facilities have services provided on-site, on a regular basis by individuals under contract or arrangement, including hospice and dialysis staff, physical therapists, occupational therapists, mental health professionals, or volunteers. Any of these individuals who provide services on-site at least weekly would be included in ''staff'' who must be educated and offered the vaccine as it becomes available. As established by this rule at § 483.80(d)(3), LTC facilities are not required to educate and offer vaccination to individuals who provide services less frequently, but they may choose to extend such efforts to them. We strongly encourage facilities, when the opportunity exists and resources allow, to provide vaccination to all individuals who provide services less frequently.

There are also individuals who may enter the facility for specific purposes and for a limited amount of time, such as delivery and repair personnel, or volunteers who may enter the LTC facility infrequently (less than once a week). We believe it would be overly burdensome to mandate that each LTC facility educate and offer the COVID–19 vaccine to all individuals who enter the facility. However, while facilities are not required to educate and offer vaccination to these individuals, they may choose to extend their education and offering efforts beyond those persons that we consider to be staff for purposes of this rulemaking. We do not intend to prohibit such extensions and encourage facilities to educate and offer vaccination to these individuals as reasonably feasible.

We recognize that facilities may choose to use a broader definition of ''staff.'' We note that CDC defines ''staff'' in the NHSN as: Ancillary service employees, nurse employees, aide, assistant and technician employees, therapist employees, physician and licensed independent practitioner employees and other health care providers. Categories are further broken down into environmental, laundry, maintenance, and dietary services; registered nurses and licensed practical/vocational nurses; certified nursing assistants, nurse aides, medication aides, and medication assistants; therapists (such as respiratory, occupational, physical, speech, and music therapist) and therapy assistants; physicians, residents, fellows, advanced practice nurses, and physician assistants; and persons not included in the employee categories listed, regardless of clinical responsibility or patient contact, including contract staff, students, and other non-employees.[41]

We are requiring that LTC facility staff (that is, individuals who work in the facility on a regular basis) be educated about the benefits and risks and potential side effects of the COVID–19 vaccine. Educating staff further about the development of the vaccine, how the vaccine works, and the particulars of the multi-dose vaccine series is encouraged but not required. Broader understanding of the vaccine will support the national effort to vaccinate against COVID–19. Staff should be instructed about the importance of vaccination for residents, their personal health, and community health. Better understanding the value of vaccination may allow staff to appropriately educate residents and residents' family members and unpaid caregivers about the benefits of accepting the vaccine. While most residents in LTC facilities are isolated from the broader community during the PHE, staff travel to and from the facility and the community, presenting risks of transmitting the virus to or from residents, family members, other caregivers, and the public.

We note that for LTC facilities that participated in the Federal Pharmacy Partnership for Long-Term Care Program, pharmacies worked directly with LTC facilities to ensure staff who received the vaccine also received an EUA fact sheet before vaccination. The EUA fact sheet explains the risks and possible side effects and benefits of the COVID–19 vaccine they are receiving and what to expect.

Staff education must cover the benefits of vaccination, which typically include reduced risk of COVID–19 illness and related serious COVID–19 outcomes, including hospitalization and death, the bolstered protection offered by completing a full series of multi-dose vaccines if used, and other benefits identified as research continues. Early data also suggests that vaccination offers reduced risk of inadvertently transmitting the virus to patients and other contacts.[42] Staff education must also address risks associated with vaccination, which should include potential side-effects of the vaccine, including common reactions such as aches or fever, and rare reactions such as anaphylaxis.[43] The low likelihood of severe side effects should be included in this education. If other benefits or risks or possible side-effects are identified in

*provider-support.html.* Accessed on January 26, 2021.

[41] *https://www.cdc.gov/nhsn/ltc/weekly-covid-vac/index.html.*

[42] *https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated.html.*

[43] *https://www.cdc.gov/coronavirus/2019-ncov/vaccines/expect/after.html.*

the future, whether through research, or authorization or licensing of new COVID–19 vaccines, those facts should be incorporated into education efforts. Staff should also be informed about ongoing opportunities for vaccination, if they miss a Pharmacy Partnership clinic, for example, or initially declined vaccination but later decide to accept the vaccine. In addition to ongoing education and informational updates for all staff members, we expect that new staff will receive appropriate education on COVID–19 vaccines.

CDC and FDA have developed a variety of clinical educational and training resources for health care professionals related to COVID–19 vaccines, and CMS recommends that nurses and other clinicians work with their LTC facility's Medical Director and, and use CDC and FDA resources as sources of information for their vaccination education initiatives. The LTC Facility Toolkit: Preparing for COVID–19 Vaccination at Your Facility has information and resources to build confidence among staff and residents.[44] The FDA provides materials for industry and other stakeholder specific to the EUA process and the vaccines.[45] Examples of educational and training topics include engaging residents in effective COVID–19 vaccine conversations, answering questions about consent for vaccine, common side effects, educating residents and staff about what to expect after vaccination, and the importance of maintaining infection prevention and control practices after vaccination. Each vaccine manufacturer is also developing educational and training resources for its individual vaccine. Building vaccine understanding broadly among staff, residents, and resident representatives, as well as dispelling vaccine misinformation and spreading information about successes in the program are critical to improving vaccine uptake rates, with potential for reducing vaccine hesitancy and the spread of misinformation.

The facility's vaccination policies and procedures must be part of the IPC program. Facilities can determine where they keep the documentation that demonstrates educational efforts and offering the vaccine to staff. Some examples of evidence of compliance may include sign in sheets, descriptions of materials used to educate, summary notes from all-staff question and answer sessions. There may be posters and flyers announcing appointments for vaccine clinic days or other opportunities to be vaccinated.

b. LTC Facility Residents and Resident Representatives

With this IFC, we are amending the requirements at § 483.80 to add a new paragraph (d)(3)(iii) to require that LTC facility residents or resident representatives are educated about vaccination against COVID–19. Explaining the risks and possible side effects and benefits of any treatments to a resident or their representative in a way that they can understand is the standard of care, and a patient right as specified at § 483.10(c)(5). In LTC facilities, consent or assent for vaccination should be obtained from residents and/or their representatives as appropriate and documented in the resident's medical record. The residents or their representatives have the right to decline the vaccine, based on the resident's rights requirement at § 483.10(c)(5) (regarding the resident's right to be informed of risks and benefits of proposed care). It is important to talk to residents and representatives to learn why they may be declining vaccination on their own behalf, or on behalf of the resident, and tailor any educational messages accordingly. Residents may not be forced or required to be vaccinated if the person or their representative declines.

Resident representatives must be included as a component of the LTC facility's vaccine education plan, as the resident representatives may be called upon for consent and/or may be asked to assist in promoting vaccine uptake of the resident, as appropriate. We note that for LTC facilities participating in the Federal Pharmacy Partnership for Long-term Care Program, pharmacies will work directly with LTC facilities to ensure residents who receive the vaccine also receive an EUA fact sheet before vaccination. The EUA fact sheet explains the risks or potential side effects and benefits of the COVID–19 vaccine they are receiving and what to expect.

In addition to the topics addressed above for education of LTC facility staff, education of residents and resident representatives should cover that, at this time while the U.S. Government is purchasing all COVID–19 vaccine in the United States for administration through the CDC COVID–19 Vaccination Program, all LTC facility residents are able to receive the vaccine without any copays or out-of-pocket costs. The provider agreements for the CDC COVID–19 Vaccination Program specifically prohibit charging out-of-pocket fees to the vaccine recipient. Medicare pays for the administration of the COVID–19 vaccine to beneficiaries, and other public and private insurance providers are required to cover it as well. To ensure broad access to a vaccine for America's Medicare beneficiaries, CMS published an Interim Final Rule with Comment Period (IFC) on November 6, 2020, that implemented section 3713 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act which required Medicare Part B to cover and pay for a COVID–19 vaccine and its administration without any cost-sharing (85 FR 71142, November 6, 2020). Any vaccine that receives Food and Drug Administration (FDA) authorization, through an EUA, or is licensed under a Biologics License Application (BLA), will be covered under Medicare as a preventive vaccine at no cost to beneficiaries. The November 6th IFC also implemented section 3203 of the CARES Act that ensure swift coverage of a COVID–19 vaccine by most private health insurance plans without cost sharing from both in and out-of-network providers during the course of the PHE.[46] The Provider Relief Fund Uninsured Program will also reimburse for administration of COVID–19 vaccine to individuals who are uninsured.[47]

Education for residents and representatives must also provide the opportunity for follow-up questions and be conducted in a manner that is reasonably understood by the resident and the representatives.

3. LTC Facility Reporting

With this IFC, we are amending the requirements at § 483.80(g) to require that LTC facilities report to NHSN, on a weekly basis, the COVID–19 vaccination status and related data elements of all residents and staff. The data to be reported each week will be cumulative, that is, data on all residents and staff, including total numbers and those who have received the vaccine, as well as additional data elements. In this way, the vaccination status of every LTC facility will be known on a weekly basis. Data on vaccine uptake will be important to understanding the impact of vaccination on SARS–CoV–2 infections and transmission in nursing

[44] *https://www.cdc.gov/vaccines/covid-19/toolkits/long-term-care/.*

[45] *https://www.fda.gov/emergency-preparedness-and-response/counterterrorism-and-emerging-threats/coronavirus-disease-2019-covid-19.*

[46] Medicare and Medicaid Programs, Clinical Laboratory Improvement Amendments (CLIA), and Patient Protection and Affordable Care Act; Additional Policy and Regulatory Revisions in Response to the COVID–19 Public Health Emergency (85 FR 54820).

[47] *https://www.hhs.gov/coronavirus/cares-act-provider-relief-fund/index.html.*

homes.[48] This understanding, in turn, will help CDC make changes to guidance to better protect residents and staff in LTC facilities. In addition, LTC facilities must also report any COVID–19 therapeutics administered to residents. CDC has currently defined ''therapeutics'' for the purposes of the NHSN as a ''treatment, therapy, or drug'' and stated that monoclonal antibodies are examples of anti-SARS–CoV–2 antibody-based therapeutics used to help the immune system recognize and respond more effectively to the SARS-CoV–2 virus.

LTC administrators and clinical leadership are encouraged to track vaccination coverage in their facilities and adjust communication with residents and staff accordingly. Facilities reporting vaccinations to the NHSN Long-Term Care Facility Component [49] or Healthcare Personnel Safety Component are encouraged to use the COVID–19 Vaccination module to track aggregate vaccination coverage in their facility, which can help target education efforts, plan resource needs, and update visitation and cohorting policies (that is, grouping residents within the facility while waiting for COVID–19 test results or showing signs of illness) as indicated by evolving public health guidelines. NHSN data will allow CDC to determine the number and percentage of staff and residents in each facility who have received the COVID–19 vaccine.[50]

Our intent in mandating reporting of COVID–19 vaccines and therapeutics to NHSN is in part to monitor broader community vaccine uptake, but also to allow CDC to identify and alert CMS to facilities that may need additional support in regards to vaccine education and administration. These specific data collections replace and refine the current requirement, set out at § 483.80(g)(1)(viii), based on the opportunities presented by the development and authorization of COVID–19 vaccines and therapeutic treatments. If we identify a need to collect other specific data related to COVID–19, we will do this through appropriate rulemaking. The information reported to CDC in accordance with § 483.80(g) will be shared with CMS and we will retain and publicly report this information to support protecting the health and safety of residents, staff, and the general public, in accordance with sections 1819(d)(3)(B) and 1919(d)(3) of the Act.

Aggregate COVID–19 vaccination data collected as a result of this rulemaking will be made available to the public in the future. We note that until that time, individuals may request data per the Freedom of Information Act (FOIA) (5 U.S.C. 552), which provides that, upon request from any person, a Federal agency must release any agency record unless that record falls within one of the nine statutory exemptions and three exclusions (see *https://www.foia.gov/faq.html* for detailed information). Further, FOIA requires that agencies make available for public inspection copies of records, which because of the nature of their subject matter, have become or are likely to become the subject of subsequent requests for substantially the same information. We have received, and expect to continue to receive, COVID–19-related FOIA requests. Facility influenza vaccine data are available through CMS's Care Compare tool because these data are collected directly through the MDS, which feeds into the Care Compare tool. Data submitted through NHSN concerning COVID–19 testing and cases in LTC facilities is publicly posted on *data.cms.gov.*[51]

We are aware that COVID–19 vaccine information may be reported to local and state health departments, as well as by various pharmacy partners, and we believe direct submission of data by LTC facilities through NHSN will show actions and trends that can be addressed more efficiently on a national level. All state health departments and many local health departments already have direct access through NHSN to LTC facilities' COVID–19 data and are using the data for their own local response efforts. Thus, reporting in NHSN will, in many cases, serve the needs of state and local health departments. We request public comment on whether states are collecting COVID–19 vaccination data already, through other mechanisms.

National reporting through NHSN, which is limited to enrolled health care providers, will allow CDC to examine vaccination coverage compared with community infection rates, to determine visitation and other COVID–19 infection prevention and control guidelines, including cohorting. Currently, low rates of voluntary use of NHSN for vaccination reporting precludes accurate estimates of vaccine coverage. Regular and required reporting into the NHSN and familiarity with the NHSN process will also increase the future capacity of facilities to report if new pandemics or other threats arise in the future.

Pharmacy partners reported vaccination clinics they held in LTC facilities, and they have shared these data with CDC. Internal CDC data shows that 99 percent of participating SNFs had held their 3rd (final) clinic as of March 15, 2021. However, they have not continued to collect or report these data after their clinics concluded. Additionally, the pharmacy partners only collected numerator data (the number of residents and staff vaccinated), and not denominator data (the total number of residents and staff). Therefore, CDC cannot calculate the percentages of residents and staff vaccinated in each facility via the Federal Pharmacy Partnership data.

NHSN provides the long-term means to collect these data now that the Pharmacy Partnership has finished and will allow for calculation of percentages of residents and staff vaccinated in every facility. We anticipate that the additional reporting burden to LTC facilities will be minimal. All LTC facilities are already required, at § 483.80(g), to report certain COVID–19 case and outcomes data to NHSN every week, and the new vaccination reporting is in the same NHSN reporting system they currently use. Finally, health departments for states, the District of Columbia, and territories all have access to NHSN data for their jurisdictions and can use these data to inform their own response efforts. Facilities can determine where they keep the documentation that should be collected so that they can comply with the NHSN COVID–19 vaccination reporting requirements for staff.

Therapeutic treatments for COVID–19 administered to LTC residents, such as those in the form of monoclonal antibodies delivered intravenously, must now also be reported through NHSN in accordance with new § 483.80(g)(1)(ix) so that CDC can appropriately monitor their use. This reporting of therapeutics requirement is similar to the requirement that hospitals must report information about therapeutics (85 FR 85866). Data on the use of therapeutics will be critical to help support allocation efforts to ensure that nursing homes have access to supplies and services to meet their needs. This requirement and burden will be submitted to OMB under OMB control number 0938–1363.

[48] *https://www.cdc.gov/nhsn/pdfs/covid19/ltcf/57.158-toi-508.pdf.*

[49] Centers for Disease Control and Prevention—National Healthcare Safety Network. Surveillance for Weekly HCP & Resident COVID–19 Vaccination. Accessed at *https://www.cdc.gov/nhsn/ltc/weekly-covid-vac/index.html.* Accessed on January 26, 2021.

[50] *https://www.cdc.gov/nhsn/ltc/weekly-covid-vac/index.html.*

[51] *https://www.medicare.gov/care-compare/.*

*B. Intermediate Care Facilities for Individuals With Intellectual Disabilities*

1. Offer and Provision of Vaccine to ICF–IID Clients and Staff

With this IFC, we are redesignating the current § 483.460(a)(4) to § 483.460(a)(5) and adding a requirement at new § 483.460(a)(4)(i) to require that ICFs–IID offer clients and staff vaccination against COVID–19 when vaccine supplies are available. The vaccine may be offered and provided directly by the ICF–IID or indirectly, such as through a local health department, pharmacy, or doctor's office. Vaccines may be administered onsite or at other appropriate locations. Implementation of COVID–19 education and vaccination programs in ICFs–IID will help protect clients and staff, allowing an eventual return to more normal routines, including timely preventive health care; family, caregiver and community visitors; and group and individual activities. While we require that all clients and staff must be educated about the vaccine, we note that in situations where an individual has already received the vaccine or has a known medical contraindication (that is, an allergy to vaccine ingredients or previous severe reaction to a vaccine), the facility is not required to offer vaccination to that person.[52]

The client, parent (if the client is a minor), or legal guardian (collectively, ''representative'') has the right to refuse treatment based on the requirement at § 483.420(a)(2) that states the facility must ensure the rights of all clients. Therefore, the facility must inform each client and/or the representative regarding the client's medical condition, developmental and behavioral status, attendant risks of treatment, and the right to refuse treatment. Clients and their representatives (on behalf of the client) have the right to refuse vaccination.

For clients and staff who opt to receive the vaccine, vaccination must be conducted in a sanitary manner in accordance with CDC, FDA, § 483.410(b) of the ICF–IID CoPs, and manufacturer guidelines. As required by the provider agreements, COVID–19 vaccination clinics must be conducted in a manner for safe delivery of vaccines during the COVID–19 pandemic.[53] All facilities should adhere to current CDC IPC recommendations. Screening individuals for suspected or confirmed cases of COVID–19, previous allergic reactions, and administration of therapeutic treatments is important for determining whether they are appropriate candidates for vaccination at any given time. According to current CDC guidelines, anyone infected with COVID–19 should wait until infection resolves and they have met the criteria for discontinuing isolation.[54] We note that indications and contraindications for COVID–19 vaccination are evolving, and the director of nursing (DON) or nursing staff of the facility should be alert to any new or revised guidelines issued by CDC, FDA, vaccine manufacturers, and other expert stakeholders.

Staff at ICFs–IID should follow the recommended IPC practices described on CDC's website for ICFs–IID. For example, the website currently has documents entitled ''Guidance for Group Homes for Individuals with Disabilities'' and the ''Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 (COVID–19) Pandemic''.[55] [56] These recommendations, which emphasize close monitoring of clients of group homes for individuals with disabilities or ICFs–IID for symptoms of COVID–19, universal source control, physical distancing, use of masks, hand hygiene, and optimizing engineering controls, are intended to protect staff, residents, and visitors from exposure to SARS-CoV–2.

Administration of any vaccine includes appropriate monitoring of vaccine recipients for adverse reactions. For the COVID–19 vaccines, safety monitoring is also being conducted.[57] CDC has information describing IPC considerations for residents of ICF–IIDs with systemic signs and symptoms following COVID–19 vaccination. See ''Vaccine considerations for people with disabilities,'' located at *https://www.cdc.gov/coronavirus/2019-ncov/vaccines/recommendations/disabilities.html*. Post-vaccine considerations are listed out for consideration by ICFs–IID clinical staff. ICFs–IID must have strategies in place to appropriately evaluate and manage immediate post-vaccination adverse reactions among any individuals who are vaccinated on site, and risks and potential side effects of vaccination on clients.

CDC advises that COVID–19 vaccination providers should document vaccine administration in their medical records within 24 hours of administration and report administration data as specified in their vaccine provider agreements and to applicable local vaccine tracking programs (that is, Immunization Information System). While an ICF–IID is unlikely to be a COVID–19 vaccination provider, all vaccinations should be appropriately documented. While ICF–IID staff may not have personal medical records with the ICF–IID, ICFs–IID participating in voluntary NHSN reporting should appropriately document staff vaccinations in a manner that enables the facility to report in accordance with NHSN guidelines (that is, in a facility immunization record, personnel files, health information files, or other relevant documentation).

2. COVID–19 Disease and Vaccine Education

a. ICF–IID Staff

Given the new and emerging qualities of COVID–19 disease, vaccines, and treatments we recognize that education of clients and staff is critical. With this IFC, we are amending the conditions of participation at new § 483.460(a)(4)(ii) to require that ICF–IID staff are educated about vaccination against COVID–19. ICF–IID staff are integral to the function of the ICFs–IID and the health and well-being of clients. For the purposes of COVID–19 vaccine education and offering, we consider ICF–IID staff to be those individuals who work in the facility on a regular (that is, at least once a week) basis. We note that this includes those individuals who may not be physically in the ICF–IID for a period of time due to illness, disability, or scheduled time off, but who are expected to return to work. In addition to facility-employed personnel, many facilities have services provided on-site, on a regular basis by individuals under contract or arrangement, including hospice and dialysis staff, physical therapists, occupational therapists, behaviorists, mental health professionals, and volunteers. These individuals would be included in ''staff'' who must be educated and offered the vaccine as available.

There are also individuals who may enter the facility for specific purposes and for a limited amount of time, such as delivery and repair personnel, or volunteers who may enter the ICF–IID

[52] *https://www.cdc.gov/coronavirus/2019-ncov/vaccines/recommendations/specific-groups/allergies.html.*

[53] *https://www.cdc.gov/vaccines/pandemic-guidance/index.html.*

[54] Interim Guidance on Duration of Isolation and Precautions for Adults with COVID–19 | CDC, *https://www.cdc.gov/coronavirus/2019-ncov/hcp/duration-isolation.html.*

[55] *https://www.cdc.gov/coronavirus/2019-ncov/community/group-homes.html.*

[56] *https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control-recommendations.html.*

[57] *https://www.fda.gov/vaccines-blood-biologics/safety-availability-biologics/covid-19-vaccine-safety-surveillance.*

infrequently (meaning less than once weekly). We believe it would be overly burdensome to mandate that each ICF–IID educate and offer the COVID–19 vaccine to all individuals who enter the facility. However, while facilities are not required to educate and offer vaccination to these individuals, they may choose to extend their education and offering efforts beyond those persons that we consider to be ''staff'' for purposes of this rulemaking. We do not intend to prohibit such extensions and encourage facilities to educate and offer vaccination to these individuals as reasonably feasible.

We recognize that facilities may choose to use a broader definition of ''staff.'' We note that CDC categorizes staff in the NHSN as: Ancillary service employees, nurse employees, aides, assistant and technician employees, therapist employees, physician and licensed independent practitioner employees and other health care providers. Categories are further broken down into environmental, laundry, maintenance, and dietary services; registered nurses (RNs) and licensed practical/vocational nurses; certified nursing assistants, nurse aides, medication aides, and medication assistants; therapists (such as respiratory, occupational, physical, speech, and music therapists) and therapy assistants; physicians, residents, fellows, advanced practice nurses, and physician assistants; and persons not included in the employee categories listed, regardless of clinical responsibility or patient contact, including contract staff, students, and other non-employees.[58]

For purposes of the CMS requirements related to COVID–19 education and vaccination issued in this rule, we believe that the NHSN definition may be impractical. In addition to regularly employed personnel, many facilities have services provided directly to residents under contract, such as physical therapy, occupational therapy, behavior therapy, case management, and mental health services. There are also individuals who may enter the facility for specific purposes and for a limited amount of time, such as delivery personnel, plumbers, and other vendors. Even regular volunteers may enter the ICF–IID infrequently. We do not believe that mandating these requirements for every individual who enters the facility at any time is necessary to protect the clients and staff. In addition, we believe it would be overly burdensome for the ICF–IID to educate and offer the COVID–19 vaccine to all individuals who enter the facility. Staff and resources are limited in ICFs–IID, and therefore staff may not be available to educate and offer the vaccine to every individual that enters.

We are requiring that ICF–IID staff (that is, individuals who are eligible to work in the facility on a routine, or at least once weekly, basis) be educated about the benefits and risks and potential side effects of the COVID–19 vaccine. Educating staff further about the development of the vaccine, how the vaccine works, and the particulars of multi-dose vaccine series is encouraged but not required. Broader understanding of the vaccine will support the national effort to vaccinate against COVID–19. Staff should be educated to help them understand the importance of vaccination for helping to safeguard clients, personal health, and broader community health. Better understanding of the value and safety of the vaccines will allow staff to appropriately educate clients and representatives about the benefits of accepting the vaccine.

Staff education must cover the benefits and risks or possible side effects of vaccination, which typically include reduced risk of COVID–19 illness, and related serious COVID outcomes, including hospitalization and death, the bolstered protection offered by completing a full series of multi-dose vaccines (if used), and other benefits identified as research and immunization continues. Staff education must also address risks associated with vaccination, which should include potential side-effects of the vaccine, including common reactions such as aches or fever, and rare reactions such as anaphylaxis. The low likelihood of severe side effects should be included in this education. If other benefits, risks, or side-effects are identified in the future, whether through research, or authorization or licensing of new COVID–19 vaccine products, those facts should be incorporated into education efforts. Staff should also be informed about ongoing opportunities for vaccination. Staff should be provided education on culturally appropriate ways to educate and share information with clients to prevent misinformation, confusion, or loss of credibility. In addition to ongoing education and informational updates for all staff members, we expect that new staff will be screened to determine vaccination status, and potential need for appropriate education on COVID–19 vaccines during their onboarding or orientation. CDC and FDA have developed a variety of clinical educational and training resources for health care professionals related to COVID–19 vaccines, and CMS recommends that nurses and other clinicians work with their ICF–IID's Medical Director and use CDC resources as the source of information for their vaccination education initiatives. Each manufacturer is also developing educational and training resources for its individual vaccine candidate. Building vaccine understanding broadly among staff, clients, and parent (if the client is a minor), or legal guardian or representative, as well as dispelling vaccine misinformation, are critical to vaccine uptake rates.

The facility vaccination policies and procedures must be developed as part of the COVID–19 immunization requirements at § 483.460(a)(4). Facilities can determine where they keep the documentation that demonstrates educational efforts and offering the vaccine to staff. Some examples of evidence of compliance may include sign in sheets, descriptions of materials used to educate, and summary notes from all-staff question and answer sessions. There may be posters and flyers announcing appointments for vaccine clinic days or other vaccination opportunities.

b. ICF–IID Clients

New § 483.460(a)(4)(iii) requires that ICF–IID clients, or their representatives are educated about vaccination against COVID–19. Explaining the risks and benefits of any treatments to a client or representative in a way that they understand is the standard of care. In ICFs–IID, consent or assent for vaccination should be obtained from clients or representatives and documented in the client's medical record. It is important to talk to clients and representatives to learn why they may be declining vaccination and tailor educational messages accordingly, that is, by addressing specific questions or concerns.

Clients of ICFs–IID and their representatives must be offered education about vaccine immunization development, administration, and evaluation. Representatives must be included as a component of the ICF–IID's vaccine education plan as the representatives may be called upon for consent and/or may be asked to assist in encouraging vaccine uptake by the client.

In addition to the topics addressed above for education of ICF–IID staff, education of clients and representatives should cover the fact that, at this time while the U.S. Government is purchasing all COVID–19 vaccine in the

[58] *https://www.cdc.gov/nhsn/ltc/weekly-covid-vac/index.html.*

United States for administration through the CDC COVID–19 Vaccination Program, all ICF–IID clients are able to receive the vaccine without any copays or out-of-pocket costs. Currently Medicaid pays for the administration of the COVID–19 vaccine to beneficiaries, and other public and private insurance providers are required to cover it as well.

Education for clients and representatives must also provide the opportunity for follow up questions, and be conducted in a manner that is reasonably understood by the clients and representatives. Information should be made available in accessible formats as appropriate for a facility's population. That is, educational materials and delivery must meet relevant standards in Section 504 of the Rehabilitation Act, which may include making such material available in large print, Braille, and American Sign Language, and using close captioning, audio descriptions, and plain language for people with vision, hearing, cognitive, and learning disabilities.

3. ICF–IID Voluntary Reporting

While there would be great value in collecting more data about COVID–19 incidence and vaccinations in ICFs–IID, we are not mandating such data submission at this time. Currently there are only approximately 80 ICFs–IID participating in the NHSN or any other formal reporting program, although there are opportunities for ICFs–IID to enroll. Requiring all ICFs–IID to report to NHSN would create a new field of administrative burden for ICFs–IID, potentially requiring new equipment, administrative staff, and training. Further, reporting through NHSN would require time, likely several weeks to months, for the facilities not yet participating in NHSN to complete enrollment with CDC and appropriately train those staff who would be responsible for data submission, effectively making compliance within the effective date of this IFC nearly impossible. Based on the information we have received from stakeholders, we do not believe that ICFs–IID are administering therapeutics at this time. We encourage voluntary reporting as facilities are able to do so.

*C. Enforcement*

Enforcement of the provisions of this IFC for LTC facilities will be similar to those requirements addressing influenza and pneumococcal vaccinations. We will impose civil money penalties if we determine that the facility has failed to report vaccination data.[59] Education and vaccine administration must be reflected in facility policies and procedures, as well as in staff and resident records. In addition, NHSN reporting of vaccine and therapeutics must be reflected in facility policies and procedures, with evidence of data submission. For ICFs–IID, education and administration of the vaccine must be reflected in facility policies and procedures, as well as in staff and client records. Updated guidance and information on reporting and enforcement of these new requirements will be issued when this IFC is published.

We specify at §§ 483.80(d)(3)(i) and 483.460(a)(4)(i) that COVID–19 vaccines must be offered when available. If a facility does not have access to the vaccine, we expect the facility to provide, upon request, evidence that efforts have been made to make the vaccine available to its residents or clients, and staff. For example, documentation of communications with the facility medical director, the local health department, or listing of vaccination sites may be used to show efforts to make the vaccine available to residents, clients, and staff. Similar to influenza vaccines, if there is a manufacturing delay, we ask the facility to provide sufficient evidence of such. The infection prevention and control plan is designed to allow for documentation of vaccine efforts. While Pharmacy Partnership clinics are currently the most common avenue for delivering COVID–19 vaccines to LTC facilities, we expect all facilities to be prepared to participate in other distribution programs (possibly through local health departments or traditional pharmacies) as the vaccine continues to become more widely available at a multiplicity of sites.

If an individual resident, client, or staff member requests vaccination against COVID–19, but missed earlier opportunities for any reason (including recent residency or employment, changing health status, overcoming vaccine hesitancy, or any other reason), we expect facility records to show efforts made to acquire a vaccination opportunity for that individual. Although we are not establishing formal timeframes within which vaccination must be arranged for new residents, clients, or staff, we expect LTC facilities and ICFs–IID to support vaccination for these individuals as quickly as practicable. Further, we expect personnel records for facility staff and health records for residents and clients to reflect appropriate administration of any multi-dose vaccine series, including efforts to acquire subsequent doses as necessary.

[59] Social Security Act. Section 1819(h)(2)(B)(ii). Accessed at *https://www.ssa.gov/OP_Home/ssact/title18/1819.htm*; and Social Security Act. Section 1919(h)(2)(A)(ii). Accessed at *https://www.ssa.gov/OP_Home/ssact/title19/1919.htm.* Both accessed on April 28, 2021.

## III. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment on the proposed rule before the provisions of the rule are finalized, either as proposed or as amended in response to public comments, and take effect, in accordance with the Administrative Procedure Act (APA) (Pub. L. 79–404), 5 U.S.C. 553, and, where applicable, section 1871 of the Act. Specifically, 5 U.S.C. 553 requires the agency to publish a notice of the proposed rule in the **Federal Register** that includes a reference to the legal authority under which the rule is proposed, and the terms and substance of the proposed rule or a description of the subjects and issues involved. Further, 5 U.S.C. 553 requires the agency to give interested parties the opportunity to participate in the rulemaking through public comment before the provisions of the rule take effect. Similarly, section 1871(b)(1) of the Act requires the Secretary to provide for notice of the proposed rule in the **Federal Register** and a period of not less than 60 days for public comment for rulemaking carrying out the administration of the insurance programs under title XVIII of the Act. Section 1871(b)(2)(C) of the Act and 5 U.S.C. 553 authorize the agency to waive these procedures, however, if the agency for good cause finds that notice and comment procedures are impracticable, unnecessary, or contrary to the public interest and incorporates a statement of the finding and its reasons in the rule issued. Section 553(d) of title 5 of the U.S. Code ordinarily requires a 30-day delay in the effective date of a final rule from the date of its publication in the **Federal Register**. This 30-day delay in effective date can be waived, however, if an agency finds good cause to support an earlier effective date. Section 1871(e)(1)(B)(i) of the Act also prohibits a substantive rule from taking effect before the end of the 30-day period beginning on the date the rule is issued or published. However, section 1871(e)(1)(B)(ii) of the Act permits a substantive rule to take effect before 30 days if the Secretary finds that a waiver of the 30-day period is necessary to comply with statutory requirements or that the 30-day delay would be contrary to the public interest.

Furthermore, section 1871(e)(1)(A)(ii) of the Act permits a substantive change in regulations, manual instructions, interpretive rules, statements of policy, or guidelines of general applicability under Title XVIII of the Act to be applied retroactively to items and services furnished before the effective date of the change if the failure to apply the change retroactively would be contrary to the public interest. Finally, the Congressional Review Act (CRA) (Pub. L. 104–121, Title II) requires a 60-day delay in the effective date for major rules unless an agency finds good cause that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, in which case the rule shall take effect at such time as the agency determines. 5 U.S.C. 801(a)(3), 808(2).

*A. COVID–19 and Populations at Higher Risk*

On January 30, 2020, the International Health Regulations Emergency Committee of the World Health Organization (WHO) declared the outbreak a ''Public Health Emergency of international concern.'' On January 31, 2020, pursuant to section 319 of the PHSA, the Secretary determined that a PHE exists for the United States to aid the nation's health care community in responding to COVID–19. On March 11, 2020, the WHO publicly declared COVID–19 a pandemic. On March 13, 2020, the President declared the COVID–19 pandemic a national emergency.

Over 569,000 individuals have lost their lives to COVID–19 in the United States as of April 27, 2021,[60] including more than 131,000 LTC facility residents, or close to one tenth of the average national LTC facility resident census of 1.4 million.[61] In recognition of the susceptibility of their residents, clients, and staff, LTC facilities and other congregate settings, including ICFs–IID, have been prioritized for vaccination. The data show that COVID–19 cases are declining in LTC facilities concurrently with increasing vaccination among residents and staff, but as noted below, we are concerned that the rate of vaccination in LTC facilities may slow in the absence of regulation and the conclusion of the Pharmacy Partnership program, especially in light of consistent, frequent resident and staff turnover in these facilities and the cold storage chain challenges that exist with two of the three currently available vaccines that make obtaining and providing the vaccine more challenging for small facilities that do not have the necessary storage equipment. Ensuring the health and safety of all Americans, including Medicare and Medicaid beneficiaries, and health care workers is of primary importance. This IFC directly supports that goal by requiring education about and offer of COVID–19 vaccination for LTC facility and ICF–IID residents, clients, and staff. This IFC also requires reporting of COVID–19 vaccination status and use of COVID–19 therapeutics of LTC facility residents and staff, which will provide vital data that CMS, CDC, and other public health entities can use to target our outreach and resources in support of vaccination.

*B. Supporting Vaccine Distribution and Uptake*

In response to the COVID–19 pandemic, pharmaceutical developers around the world began development of vaccine that would prevent severe illness and death and they have produced several vaccines authorized for use in the United States. Because the first cohort of authorized vaccines require specialized handling, and LTC facility residents have been at higher risk of severe illness from COVID–19, CDC established the Pharmacy Partnership for Long-Term Care (LTC) Program, which has facilitated on-site vaccination of residents and staff at more than 63,000 enrolled nursing homes and assisted living facilities while reducing the burden on facility administrators, clinical leadership, and health departments. At no cost to facilities, the program has provided end-to-end management of the COVID–19 vaccination process, including cold chain management, on-site vaccinations, and fulfillment of reporting requirements.

While the Pharmacy Partnerships have had much success in ensuring timely vaccine access to many LTC facility residents and staff, we note that not all such individuals were able to receive vaccine under the program. Internal CDC data show that approximately 2,500 or about 16 percent of CMS-certified SNFs (a subset of LTC facilities enrolled as Medicare providers) that are enrolled in NHSN did not participate in the Pharmacy Partnership program. LTC facility residents are unable to live independently, and generally are unable to access the vaccine without significant assistance from the facility in which they reside or from family members or caregivers. As we currently do not require LTC facilities to report vaccination status within their facility, we have no comprehensive way of knowing whether residents or staff of those facilities have acquired the vaccine through avenues outside the Partnerships. Ensuring that individuals residing in LTC facilities that did not participate in the Pharmacy Partnerships have access to vaccination against COVID–19 is critical so as to expeditiously ensure that residents are protected.

Most LTC facilities participated in the Pharmacy Partnerships but the Partnerships concluded in March 2021. The Pharmacy Partnership program was designed as time-limited effort designed to quickly vaccinate thousands of facility residents per week.

Ending the program without appropriate requirements to ensure facilities continue to seek vaccination opportunities for their residents and staff puts future incoming LTC facility residents and staff at risk. Turnover of both LTC facility residents (admissions and discharges) and staff can be significant. It is difficult to estimate the number of admissions and discharges in LTC facilities as 20 to 25 percent of beds are often reserved for shorter term (weeks to months) rehabilitation stays, while other individuals reside in the facility for years. That said, resident turnover within a year may be significant, possibly up to 40 percent based on internal CMS estimates. Staff turnover is more easily considered, with some estimates as high as 100 percent for certain facilities within a year,[62] and if a facility finds itself with a large portion of its community being unvaccinated, all residents and staff may again face a higher risk of infection, similar to the risk levels during the early months of the pandemic. For example, if final Partnership vaccination rates reach even 90 percent (an illustrative example as we do not have final or complete data) of the residents present in the first 3 months of 2021, turnover during the rest of the year may be such that by year-end as few as two-thirds of LTC residents present at some point during the year would have been vaccinated absent a continuing and effective effort.

Turnover rates demonstrate there will be an ongoing need for new resident or staff vaccinations. For example, when the Pharmacy Partnership completes its time commitment, it is likely that it will have seen only about half of the persons who will reside or work in these facilities in 2021. Even if two-thirds of

[60] *https://covid.cdc.gov/covid-data-tracker/#datatracker-home.*

[61] LTC Facility deaths are from COVID–19 Nursing Home Data, CMS, Week Ending 3/28/2021, at *https://data.cms.gov/stories/s/COVID-19-Nursing-Home-Data/bkwz-xpvg/.*

[62] *https://www.healthaffairs.org/doi/full/10.1377/hlthaff.2020.00957.*

all newly hired staff and newly admitted residents have been vaccinated when they start employment or begin residency, turnover is so high that we estimate an excess of two million persons may still need vaccination in the first year after this rule takes effect. It is critically important that facilities are required to continue to offer vaccination to their residents and staff on an ongoing basis.

Also, we note that some individuals declined the vaccine when it was first offered; approximately 22 percent of LTC facility residents and 62 percent of LTC staff [63] initially declined the vaccine, but provisional CDC data suggest that uptake increased over time as the safety and effectiveness of the vaccines has become better understood, and approaches that ameliorate vaccine hesitancy have been identified. For residents and staff who overcome vaccine hesitancy, it is critical to their health and well-being that they are able to get the vaccine when they are ready to receive it.

All of the concerns that warrant immediate COVID–19 vaccination rulemaking for LTC facilities are also applicable to ICFs–IID. ICF–IID clients continue to be at high risk of serious illness from COVID–19 due to their participation in congregate living and must have ongoing access to the vaccine. While there are no data regarding client and staff turnover rates in ICFs–IID, it is reasonable to assume that staff turnover rates may be as high as those in LTC facilities (see the RIA section of this preamble).

*C. Data for COVID–19 Vaccine Reporting: Targeting Resources*

Our knowledge of the effects of COVID–19 vaccination in LTC facilities comes from several sources, including reporting by Partnership pharmacies and voluntary reporting by some facilities through NHSN. Direct voluntary vaccination reporting to NHSN by LTC facilities has been very low, with less than 20 percent of facilities reporting on vaccinations through NHSN. Unfortunately, we are unable to examine the effects of accepting or declining participation in the Pharmacy Partnerships because the data are incomplete for LTC facilities and ICFs–IID. Requiring LTC facilities to report on resident and staff vaccination status, in conjunction with the existing COVID–19 testing data, would provide the data necessary to identify the outcomes of Pharmacy Partnership participation and determine vaccine uptake targets. It would also ensure we can identify and address barriers to completing a vaccination series, such as missed or declined second doses.

If this lack of data continues, CDC will have insufficient information upon which to provide support to or revise COVID–19 infection, prevention, and control measures for LTC facilities. While recommendations for routine staff testing could be linked to vaccination rates in each LTC facility (and thus reduce burden on facilities with adequate rates of vaccine coverage), CDC will not have enough data to assess a change in recommendation without full national participation in COVID–19 vaccination reporting by CMS-certified LTC facilities.

Declining infection rates in LTC facilities in early 2021 suggest that vaccination, along with implementation of the full complement of non-pharmaceutical interventions, including engineering and administrative controls, has reduced the risk of illness and death from COVID–19 for LTC facility residents. Without the reporting mandate, CMS will have no timely way of monitoring whether LTC facilities are complying with the requirement to offer vaccination. Further, such mandatory reporting allows health care agencies and regulators to better evaluate the impact and importance of vaccination. Without a reporting requirement, we will have no way to identify those nursing homes with low vaccination rates so that they can be supported by educational outreach and their residents and staff protected by vaccination.

Unfortunately, we have significant data gaps about the effects of COVID–19 and vaccination rates among ICF–IID clients, with fewer than 80 ICFs–IID voluntarily reporting vaccination data through NHSN. While we recognize that it is impractical to require ICFs–IID to report COVID–19 information to NHSN immediately, we believe that encouraging voluntary reporting is a critical first step in gaining data to help us understand the effects of the pandemic on clients and staff, supporting uptake of COVID–19 vaccine in this community.

*D. Moving Forward*

For the reasons discussed above, it is critically important that we implement the policies in this IFC as quickly as possible. As the nation continues to address the health impacts of COVID–19, we find good cause to waive notice and comment rulemaking as we believe it would be impracticable and contrary to the public interest for us to undertake normal notice and comment rulemaking procedures. For the same reasons, because we cannot afford sizable delay in effectuating this IFC, we find good cause to waive the 30-day delay in the effective date and, moreover, to make this IFC effective 10 calendar days after this rule is filed for public inspection in the **Federal Register**.

In this IFC, we follow on policy issued in the September 2, 2020, COVID–19 IFC, which revised regulations to strengthen CMS' ability to enforce compliance with Medicare and Medicaid LTC facility requirements for reporting information related COVID–19 and established a new requirement for LTC facilities for COVID–19 testing of facility residents and staff. Since the publication of the September IFC, the FDA has issued EUAs for multiple vaccines developed to prevent the spread of SARS-CoV–2.

We anticipate evaluating public input and evolving science before finalizing any requirements.

For this IFC, we believe it would be impractical and contrary to the public interest for us to undertake normal notice and comment procedures and to thereby delay the effective date of this IFC. We find good cause to waive notice of proposed rulemaking under the APA, 5 U.S.C. 553(b)(B), and section 1871(b)(2)(C) of the Act. For those same reasons, we find it is impracticable and contrary to the public interest not to waive the delay in effective date of this IFC under the APA, 5 U.S.C. 553(d), section 1871(e)(1)(B)(i) of the Act, and the CRA, 5 U.S.C. 801(a)(3). Therefore, we find there is good cause to waive the delay in effective date pursuant to the APA, 5 U.S.C. 553(d)(3), section 1871(e)(1)(B)(ii) of the Act, and the CRA, 5 U.S.C. 808(2).

We are providing a 60-day public comment period.

## IV. Collection of Information (COI) Requirements

Under the Paperwork Reduction Act of 1995, we are required to provide 30-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (PRA) requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.

[63] *https://www.cdc.gov/mmwr/volumes/70/wr/mm7005e2.htm.*

- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

We are soliciting public comments on each of these issues for the following sections of this document that contain information collection requirements (ICRs):

For the estimated costs contained in the analysis below, we used data from the United States Bureau of Labor Statistics to determine the mean hourly wage for the positions used in this analysis. For the total hourly cost, we doubled the mean hourly wage for a 100 percent increase to cover overhead and fringe benefits, according to standard HHS estimating procedures. If the total cost after doubling resulted in .50 or more, the cost was rounded up to the next dollar. If it was .49 or below, the total cost was rounded down to the next dollar. The total costs used in this analysis are indicated in the chart below.

TABLE 1—TOTAL HOURLY COSTS BY POSITION

| Position | Mean hourly wage | Total cost |
|---|---|---|
| LTC and ICF–IID: RN/IP | [64] $33.53 | $67 |
| LTC: Director of Nursing & ICF–IID: Administrator | [65] 46.78 | 94 |
| LTC: Medical Director | [66] 84.57 | 169 |
| LTC: Financial Clerk | [67] 20.40 | 41 |

*A. Long-Term Care Facilities*

1. ICRs Regarding the Development of Policies and Procedures for § 483.80(d)(3)

At § 483.80(d)(3), we require that LTC facilities develop policies and procedures to ensure that each resident and staff member is educated about the COVID–19 vaccine. Specifically, before offering the COVID–19 vaccine, all staff members and residents or resident representatives must be provided with education regarding the benefits and risks and potential side effects associated with the vaccine. When the vaccine is available to the facility, each resident and staff member is offered COVID–19 vaccine unless the immunization is medically contraindicated or the resident or staff member has already been immunized. If an additional dose of the COVID–19 vaccine that was administered, a booster, or any other vaccine needs to be administered, the resident, resident representative, and staff member must be provided with the current information regarding the benefits and risks and potential side effects for that vaccine, before the LTC facility requests consent for administration of that dose. The resident, resident representative, and staff member must be provided the opportunity to refuse the vaccine and change their decision if they decide to take the vaccine. Finally, the resident's medical record includes documentation that indicates, at a minimum, that the resident or resident representative was provided education regarding the benefits and potential risk associated with the COVID–19 vaccine, and that the resident either received the complete COVID–19 vaccine (series or single dose) or did not receive the vaccine due to medical contraindications or refusal. The estimates that follow are largely based on upon our experience with LTC facilities. However, given the uncertainty and rapidly changing nature of the pandemic, we acknowledge that there will likely need to be significant revisions over time as LTC facilities gain experience with these requirements. As previously discussed, we do not have current reporting data on facility compliance with COVID–19 vaccination best practices of the kinds established in this rule. We welcome comments that might improve these estimates.

Based upon our experience with LTC facilities, we believe that some of these facilities have already developed the required policies and procedures. However, since we do not have any reliable method to make an estimate of how many or what percentage of LTC facilities have done so, we will base our estimate for this ICR on all 15,600 LTC facilities needing to develop new policies and procedures in order to comply with this requirement. These facilities also need to review the policies and procedures to ensure they are up-to-date and make any necessary changes. We believe these activities would be performed by the infection preventionist (IP), director of nursing (DON), and medical director in the first year and the IP in subsequent years as analyzed below.

In the first year, the IP would need to develop the policies and procedures by conducting research and obtaining the necessary information and materials to draft the policies and procedures. The IP would need to work with the medical director and DON to develop and finalize the policies and procedures. For the IP, we estimate that this would require 10 hours initially to develop the policies and procedures, and one hour a month thereafter to review and make changes or updates as needed, for a total of 21 hours (10 hours initially and 1 hour for the 11 months thereafter). According to Table 1 above, the IP's total hourly cost is $67. Thus, for each LTC facility the burden for the IP would be 21 hours at a cost of $1,407 (21 hours × $67). For the IPs in all 15,600 LTC facilities, the burden would be 327,600 hours (21 hours × 15,600 facilities) at an estimated cost of $21,949,200 ($1,407 × 15,600). For subsequent years, the IP would need to review the policies and procedures and make any updates or changes to them. Hence, we estimate that the IP would need 12 hours annually (1 hour × 12 months) at a cost of $804 (12 hours × $67). For all LTC facilities, the annual burden would be 187,200 hours (12 × 15,600) at a cost of $12,542,400 (15,600 × $804).

As discussed above, the development and approval of these policies and procedures would also require activities by the medical director and the DON. Both the medical director and the DON would need to have meetings with the

[64] Bureau of Labor Statistics. Occupational Employment and Wages, May 2019. 29–1141 Registered Nurses. Accessed at *https://www.bls.gov/oes/current/oes291141.htm.* Accessed on March 18, 2021.

[65] Bureau of Labor Statistics. Occupational Employment and Wages, May 2019. 11–9111 Medical and Health Services Managers. Nursing Care Facilities (Skilled Nursing Facilities). Accessed at *https://www.bls.gov/oes/current/oes119111.htm.* Accessed on February 17, 2021.

[66] Bureau of Labor Statistics. Occupational Employment and Wages, May 2019. 29–1228 Physicians, All Other; and Ophthalmologists, Except Pediatric. General Medical and Surgical Hospitals. Accessed at *https://www.bls.gov/oes/current/oes291228.htm#(5).* Accessed on February 17, 2021.

[67] Bureau of Labor Statistics. Occupational Employment and Wages, May 2019. 43–3099 Financial Clerks, All Others. Accessed at *https://www.bls.gov/oes/current/oes433099.htm.* Accessed on March 23, 2021.

IP to discuss the development, evaluation, and approval of the policies and procedures. We estimate that this would require 4 hours for both the medical director and DON. According to Table 1 above, the total hourly cost for a medical director is $169. For each LTC facility, this would require 4 hours for the medical director during the first year at an estimated cost of $676 (4 hours × $169). For the first year, the burden would be 62,400 (4 × 15,600) at an estimated cost of $10,545,600 ($676 × 15,600). For subsequent years, the medical director might need to spend time reviewing or attending meetings to discuss any updates or changes to the policies and procedures; however, that would be a usual and customary business practice. Therefore, these activities for the medical director associated with updating or changing the policies and procedures are exempt from the PRA in accordance with 5 CFR 1320.3(b)(2).

For the DON, we have estimated that the development of policies and procedures would also require 4 hours. According to the chart above, the total hourly cost for the DON is $94. The burden in the first year for the DON in each LTC facility would be 4 hours at an estimated cost of $376 (4 hours × $94). The first year burden would be 62,400 hours (4 × 15,600) at an estimated cost of $5,865,600 ($376 × 15,600). For subsequent years, the DON would likely need to spend time reviewing or attending meetings to discuss any updates or changes to the policies and procedures; however, that would be a usual and customary business practice. Therefore, these activities for the DON associated with updating or changing the policies and procedures are exempt from the PRA in accordance with 5 CFR 1320.3(b)(2).

Therefore, for all 15,600 LTC facilities in the first year, the estimated burden for this ICR would be 452,400 hours (327,600 + 62,400 + 62,400) at a cost of $38,360,400 ($21,949,200 + $10,545,600 + $5,865,600).

In subsequent years, all 15,600 LTC facilities would have the same burden. The burden for each LTC facility would be 12 hours at an estimated cost of $804 (12 hours × $67) for the IP. Hence, for all 15,600 LTC facilities, the burden would be 187,200 (12 × 15,600) at an estimated cost of $12,542,400 ($804 × 15,600). The requirements and burden will be submitted to OMB under OMB control number 0938–1363 (Expiration Date 06/30/2022).

2. ICRs Regarding LTC Facilities Offering the COVID–19 Vaccine and Obtaining and Documenting Consent for § 483.80(d)(3)(ii) Through (iv)

At § 483.80(d)(3)(i), we require that the facility offer the COVID–19 vaccine to each staff member and resident, when the vaccination is available to the facility, unless the vaccine is medically contraindicated, the resident has already been vaccinated, or the resident or the resident representative has already refused the vaccine. We believe that the LTC facility will offer the vaccine to the staff or resident at the same time the facility provides the education required by § 483.80(d)(3)(ii) and (iii). We note that for LTC facilities contracted with the Pharmacy Partnership, the education and offering of the vaccine are being done by the participating pharmacy. We assume that this cost is about the same as the preceding estimates, so that the first year costs would be about the same whether performed entirely in-house by facility staff or by pharmacy staff who visit the facility.

We note that the LTC facility or the pharmacy would also have to offer the vaccine to the staff member or resident and have that staff member, resident, or resident representative, complete screening for any contraindication or precautions, and for the resident to consent to the vaccination or indicate refusal. These costs are not paperwork burden and are covered in the RIA that follows.

As indicated in the next section, the facility must also ensure that the provision of the education and the resident's decision must be documented in the resident's medical record. If there is a contraindication to the resident having the vaccination, the appropriate documentation must be made in the resident's chart. Documentation regarding a resident's medical care is a usual and customary business practice for a health care provider. Therefore, this activity is exempt from the PRA in accordance with 5 CFR 1320.3(b)(2).

3. ICRs Regarding Staff Education Requirements in § 483.80(d)(3)(ii) Through (iv)

At § 483.80(d)(3)(ii), we require that the LTC facility provide all of its staff with education regarding the benefits and potential risks of the COVID–19 vaccine. This would require that the LTC facility develop or choose educational materials for this staff training. We expect that most if not all LTC facilities will use resources developed by other entities as there is a considerable amount of free information on COVID–19 and vaccines available online. The CMS Nursing Home COVID–19 training program has five modules designed for the frontline clinical staff and ten modules for nursing home management staff (building maintenance staff and other support staff would not take these particular courses). The training is online, at *http://QSEP.cms.gov,* and is summarized in a CMS press release that can be found at *https://www.cms.gov/newsroom/press-releases/cms-releases-nursing-home-covid-19-training-data-urgent-call-action.* In addition, both CDC and FDA provide information on the COVID–19 vaccines online.[68] [69] Finally, we expect that trade publications and other public sources would provide training materials that might complement or substitute for the CMS materials. We believe this educational material would likely be selected by the IP. The IP would need to review the information available on the vaccines, determine what information needs to be presented to staff, and gather that information as appropriate for their facility's staff. We estimate that it would take an average of 4 hours for the IP to accomplish these tasks. Thus, for each LTC facility to meet this requirement would require 4 burden hours at an estimated cost of $268 (4 × $67). For all 15,600 LTC facilities, the burden would be 62,400 burden hours (4 × 15,600) at an estimated cost of $4,180,800 (4 × $67 × 15,600 facilities).

At § 483.80(d)(3)(iii), we require that LTC facilities provide their residents or resident representatives with education regarding the benefits and risks and potential side effects associated with the COVID–19 vaccine. We believe that the education provided to staff and residents or resident representatives will be identical or virtually the same. Hence, we believe that it will not require any additional time or burden to develop the educational materials for the residents and resident representatives. According to § 483.10(g)(3), the facility must ensure that information is provided to each resident in a form and manner the resident can access and understand, including in an alternative format or in a language that the resident can

[68] CDC. Communication Resources for COVID–19 Vaccines. Access at *https://www.cdc.gov/coronavirus/2019-ncov/vaccines/resource-center.html.* Updated March 16, 2021. Accessed on March 23, 2021.

[69] FDA. COVID–19 Vaccines. Access at *https://www.fda.gov/emergency-preparedness-and-response/coronavirus-disease-2019-covid-19/covid-19-vaccines.* Updated March 18, 2021. Accessed on March 23, 2021.

understand. Thus, we expect that this required education would be in a language that the resident or the resident representative understands. Language translations for residents may be available in many facilities from staff, and are virtually always available on demand through services, such as Language Line. LTC facilities are already required to provide information in an alternative format or language the resident or resident representative understands. Any additional costs are minor and are discussed in more detail in the RIA below. At § 483.80(d)(3)(iv), we require that the LTC facility must provide to the staff, resident, or the resident representative, in situation where the vaccination process requires one or more doses of vaccine, up-to-date information regarding the vaccine, including any changes in the benefits or risks and potential side effects associated with the COVID–19 vaccine, before requesting consent for administration of each additional vaccinations. This would require that the IP remains up-to-date on information regarding COVID–19 vaccines and ensures the information provided to the resident and the resident representative before requesting consent for the administration of each additional dose of vaccine includes current information on the benefits and potential risks associated with the vaccine. We believe that this activity would require that the IP routinely review CDC and FDA websites for updates and make any necessary changes to the education materials used by the LTC facility. We estimate that this would require 6 hours of an IP's time annually. Thus, for each LTC facility to meet this requirement would require 6 burden hours at an estimated cost of $402 (6 × $67). For all LTC facilities, the annual burden would be 93,600 (6 hours × 15,600) hours at an estimated cost of $6,271,200 ($402 × 15,600). We estimate that the burden to the LTC facilities will be similar in subsequent years due to the large turnover in these facilities. The requirements and burden will be submitted to OMB under OMB control number 0938–1363 (Expiration Date 6/30/2022).

4. ICRs Regarding the Documentation Requirements in § 483.80(d)(3)(vi) and (vii)

At § 483.80(d)(3)(vi), we require that the facility ensure that the resident's medical record is documented with, at a minimum, that the resident or resident representative was provided education regarding the benefits and potential risks associated with the COVID–19 vaccine and that the resident either received the COVID–19 vaccine, did not receive the vaccine due to medical contraindications, or refused the vaccine. This would require that a health care provider, probably a licensed nurse, would retrieve the resident's medical record and document that the education was provided and whether the resident or resident representative had consented or refused the vaccine or whether the vaccine was contraindicated. We estimate that this would require only a few seconds per resident, but estimate no costs as maintaining a medical record is a usual and customary business practice. Therefore, this activity is exempt from the PRA in accordance with 5 CFR 1320.3(b)(2).

As discussed above in section II.A. of this rule, the LTC facility would also be required to document that the required education was provided to its staff that must include the benefits and potential risks associated with of the COVID–19 vaccine as set forth in § 483.80(d)(3)(ii). Section 483.80(d)(3)(vii) sets forth that the LTC facility must maintain documentation on its staff regarding the education provided; that the staff person was offered the COVID–19 vaccine or information on obtaining the vaccine, and his or her vaccine status and related information indicated by the NSHN. This would require that a staff person document the required information in the staff person's record. We estimate that this would require one half-hour per month per facility. According to Table 1 above, the total hourly cost of a financial clerk is $41. For each LTC facility, we estimate that the burden for this activity would be 6 hours at an estimated cost of $246 ($41 × 12 × .5). For all LTC facilities, this would require 93,600 (12 × .5 × 15,600) burden hours at an estimated cost of $3,837,600 ($41 × 12 × .5 × 15,600). We estimate that the burden to the LTC facilities will be similar in subsequent years due to the large turnover in these facilities. The requirements and burden will be submitted to OMB under OMB control number 0938–1363.

5. ICRs Regarding the Reporting Requirements to CMS and CDC (NSHN) § 483.80(g)(1)(viii) and (ix)

Section 483.80(g)(1)(viii) requires LTC facilities to electronically report information about COVID–19 in a standardized format to the NHSN about the COVID–19 vaccine status of residents and staff, including total numbers of residents and staff, numbers of residents and staff vaccinated, numbers of each dose of COVID–19 vaccine received, COVID–19 vaccination adverse events. The LTC facility must also report the therapeutics administered to residents for treatment of COVID–19.

We believe the IP would do this weekly reporting to the NHSN, because this reporting would require information on the therapeutics that were administered to resident for treatment of COVID–19. We believe this additional reporting would require about 30 minutes or .5 hour each week for the IP. Thus, for each LTC facility, this burden would be 26 hours (.5 × 52 weeks) at an estimated cost of $1,742 ($67 × 26) annually. For all LTC facilities, the burden would be 405,600 hours (26 × 15,600) at an estimated cost of $27,175,200 ($1,742 × 15,600) annually.

Thus, the total annual burden for all LTC facilities to comply with the requirements in this IFC in the first year is 1,107,600 (452,400 + 62,400 + 93,600 + 93,600 + 405,600) hours at an estimated cost of $79,825,200 ($38,360,400 + $4,180,800 + $6,271,200 + $3,837,600 + $27,175,200). In subsequent years, the burden would be 780,000 hours (187,200 + 93,600 + 93,600 + 405,600) at an estimated cost of $49,826,400 ($12,542,400 + $6,271,200 + $3,837,600 + $27,175,200). See Table 2 below. The requirements and burden will be submitted to OMB under OMB control number 0938–1363.

TABLE 2—TOTAL COST FOR COI REQUIREMENTS FOR ALL LTC FACILITIES

| COI requirements | First year | | Subsequent years | |
|---|---|---|---|---|
| | Burden hours | Costs | Burden hours | Costs |
| § 483.80(d)(3) Developing Policies and Procedures | 452,400 | $38,360,400 | 187,200 | $12,542,400 |
| § 483.80(d)(3)(ii) & (iii) Developing education materials for staff members and residents and residents' Representatives | 62,400 | 4,180,800 | N/A | N/A |

TABLE 2—TOTAL COST FOR COI REQUIREMENTS FOR ALL LTC FACILITIES—Continued

| COI requirements | First year | | Subsequent years | |
|---|---|---|---|---|
| | Burden hours | Costs | Burden hours | Costs |
| § 483.80(d)(3)(iv) Keeping vaccine information up-to-date and Making necessary changes | 93,600 | 6,271,200 | 93,600 | 6,271,200 |
| § 483.80(d)(3)(vi) and (vii) Documentation requirements | 93,600 | 3,837,600 | 93,600 | 3,837,600 |
| § 483.83(d)(3)(viii) and (ix) NHSN Reporting | 405,600 | 27,175,200 | 405,600 | 27,175,200 |
| Totals | 1,107,600 | 79,825,200 | 780,000 | 49,826,400 |

*B. Intermediate Care Facilities for Individuals With Intellectual Disabilities (ICF–IIDs)*

1. ICRs Regarding the Development of Policies and Procedures for § 483.460(a)(4)

At new § 483.460(a)(4), we require that ICFs–IID develop policies and procedures to ensure that each client or client's representative and staff member is educated about the COVID–19 vaccine. Specifically, before offering the COVID–19 vaccine, all staff members and clients or client representatives must be provided with education regarding the benefits and risks and potential side effects associated with the vaccine. When the vaccine is available to the facility, each client and staff member is offered COVID–19 vaccine unless the immunization is medically contraindicated or the client or staff member has already been immunized. If an additional dose of the COVID–19 vaccine that was administered, a booster, or any other vaccine needs to be administered, the client, client representative, and staff member must be provided with the current information regarding the benefits and risks and potential side effects for that vaccine, before the ICF–IID requests consent for administration of that dose. The client, client's representative, and staff member must be provided the opportunity to refuse the vaccine and change their decision if they decide to take the vaccine. Finally, the client's medical record must include documentation that indicates, at a minimum, that the client or client's representative was provided education regarding the benefits and risks and potential side effects of the COVID–19 vaccine and each does of the COVID–19 vaccine administered to the client or if the client did not receive a dose due to medical contraindications or refusal.

We believe that developing these policies and procedures would require a RN to gather the necessary information and materials and draft the policies and procedures. The facility must also ensure that these materials are in an accessible format for the client and his or her representative. It must be in a language that they understand and in a format that is accessible to them, such as Braille or large print for a person who is visually-impaired or in American Sign Language for a person who is hearing-impaired. The RN would need to work with an ICF–IID administrator who would likely provide input and guidance in developing the policies and procedures and would need to approve them before they go before the governing body for approval. For the RN, we estimate that this would require 5 hours initially, and 30 minutes or .5 hour a month thereafter to review for updated information to determine if any changes need to be made to the policies or procedures and then make any necessary changes. According to Table 1 above, the total hourly cost for an RN is $67. We estimate that for each ICF–IID, the burden would be 10.5 hours (5 hours initially + 5.5 (11 × .5)) for the RN during the first year at an estimated cost of $704 ($67 × 10.5 hours). Assuming 5,772 ICFs–IID, for the first year the burden for all facilities would be 60,606 burden hours (10.5 × 5,772 facilities) at an estimated cost of $4,060,602 (10.5 × $67 × 5,772). In subsequent years, the burden for this activity for each facility would be 6 hours (.5 hour × 12 months) at an estimated cost of $402 (6 × $67). In subsequent years the burden for all facilities would be 34,632 (6 × 5,772) burden hours at an estimated cost of $2,320,344 (6 × $67 × 5,772).

For the ICF–IID administrator, we believe it would require 3 hours to work with the RN in developing the policies and procedures and give final approval before taking the policies and procedures to the governing body for approval. We believe that the administrator would likely make a salary similar to that of a manager in the LTC setting, like that for the DON salary as discussed above. Therefore, we estimate that an ICF–IID administrator's hourly mean salary is about $94. Thus, for each ICF–IID, the burden hours for the administrator would be 3 hours at an estimated cost of $282 (3 × $94). For all 5,772 ICFs–IID, the total burden for the administrator would be 17,316 hours (3 × 5,772 facilities) at an estimated cost of $1,627,704 ($282 × 5,772 facilities).

As discussed above, the ICF–IID administrator would need to obtain approval from the ICF–IID's governing board for the policies and procedures. Since the review and approval of policies and procedures should be encompassed within the governing board's responsibilities, this activity would be usual and customary and exempt from the information collection estimate. In addition, in subsequent years the ICF–IID administrator might need to spend time reviewing or attending a meeting to discuss any updates to the policies and procedures; however, that would also be a usual and customary business practice. Therefore, this activity is exempt from the PRA in accordance to 5 CFR 1320.3(b)(2).

Therefore, for all ICFs–IID, the total annual burden in the first year for the required policies and procedures would be 77,922 burden hours (60,606 + 17,316) at an estimated cost of $5,688,306 ($4,060,602 + $1,627,704). In subsequent years, the burden would only be for the RN and it would be 34,632 burden hours at an estimated cost of $2,320,344. The requirements and burden will be submitted to OMB under OMB control number 0938-New.

2. ICRs Regarding the ICFs–IID Offering the Vaccine and Obtaining and Documenting Consent in § 483.460(a)(4)(i)

At new § 483.460(a)(4)(i), we require that the ICF–IID offer the COVID–19 vaccine to each staff member and client, when the vaccination is available to the facility, unless the vaccine is medically contraindicated, the client has already been vaccinated, or the client or the client representative has already refused the vaccine. We believe that the ICF–IID will offer the vaccine to the client or the client representative at the same time the facility provides the education required by new § 483.460(a)(4)(ii). This activity would require that the ICF–IID offer the vaccine to the staff member or

resident and have that staff member, client, or client representative complete screening for any contraindication or precautions, and for the client or client representative consent to the vaccination or indicated refusal. This is not a paperwork burden and are covered in the RIA that follows.

3. ICRs Regarding the Education Requirements in § 483.460(a)(4)(ii), (iii), and (iv)

At new § 483.460(a)(4)(ii), we require that the ICF–IID provide all of its staff with education regarding the benefits and potential risks associated with of the COVID–19 vaccine. New § 483.460(a)(4)(iii) requires that the ICF–IIF to provide each client or the client's representative education regarding the benefits and risks and potential side effects associated with the vaccine. In addition, new § 483.460(a)(4)(iv) requires that the ICF–IID, in situations where there is an additional dose of the COVID–19 vaccine that was administered, a booster, or any other vaccine needs to be administered, must provide the client, client's representative, and staff member with the current information regarding the benefits and risks and potential side effects for that vaccine, before the facility requests consent for administration of that dose. We believe that all of the education provided by the ICF–IID to the client, client's representative and the staff would be virtually identical.

For the initial education, the ICF–IID would be required to develop educational materials by reviewing available resources on COVID–19 vaccines. We expect that most if not all ICFs–IID will use resources developed by other entities as there is a considerable amount of free information on COVID–19 and its vaccines available online. For example, CDC and FDA provide information on the COVID–19 vaccines online.[70] [71] Finally, we expect that trade publications and other public sources would provide training materials. We believe this educational material would likely be selected by the RN. The RN would need to review the information available on the vaccines, determine what information needs to be presented to the client, client's representative and staff members, and gather that information as appropriate. An ICF–IID administrator would likely work with the RN and need to approve the final educational material. We estimate that it would initially require 7 hours and thereafter 6 hours annually to review for updates and make those changes to the educational materials for a total of 13 hours for the RN to accomplish these tasks in the first year. Thus, for each ICF–IID, the burden for the RN would require 13 burden hours at an estimated cost of $871 (13 × $67). For all 5,772 ICFs–IID so the burden for all facilities would be 75,036 burden hours (13 hours × 5,772 facilities) at an estimated cost of $5,027,412 (5,772 hours × $871).

For the education required in subsequent years, the RN would need to ensure that the information regarding COVID–19 vaccines that is provided to the staff, client and the client's representative before requesting consent for each additional dose of the vaccine is current. We believe that this activity would require the RN to routinely review CDC and FDA websites for updates and make any necessary changes to the education materials used by the ICF–IID. We estimate that this would require 6 hours of an IP's time annually. Thus, for each ICF–IID to meet this requirement would require 6 burden hours at an estimated cost of $402 ($67 × 6 hours). For all ICFs–IID, meeting this requirement would require 34,632 burden hours (6 hours × 5,772 facilities) at an estimated cost of $2,320,344 (5,772 × $402). The requirements and burden will be submitted to OMB under OMB control number 0938-New.

4. ICRs Regarding the Documentation Requirements in § 483.460(a)(4)(vi) and (f)

At new § 483.460(a)(4)(vi), the ICF–IID must ensure that the client's medical record is documented with, at a minimum, that the client or client's representative was provided education regarding the benefits and potential risks associated with the COVID–19 vaccine and that the resident either received the COVID–19 vaccine or did not receive the vaccine due to medical contraindications, or refused the vaccine. This would require that the RN to retrieve the client's medical record and document the required information. We estimate that this would require only a few seconds per client but estimate no costs as maintaining a medical record is a usual and customary business practice. Therefore, this activity is exempt from the PRA in accordance with 5 CFR 1320.3(b)(2).

At new § 483.460(f), the ICF–IID is required to, at a minimum, document that their staff were provided education regarding the benefits and potential risks associated with the COVID–19 vaccine and that each staff member was offered the vaccine or was provided information on how to obtain it. This would require that a staff person document that these tasks were accomplished. We estimate that this would require one quarter or 0.25 hour per month per facility and that this task would be performed by administrative staff, probably a financial clerk. According to Table 1 above, the total hourly cost for a financial clerk of $41. For each ICF–IID it would require 3 hours annually (0.25 × 12) at an estimated cost of $123 ($41 × 3 hours). For all ICFs–IID, the documentation requirements in this IFC this would require 17,316 burden hours (3 hours × 5,772 facilities) at an estimated cost of $709,956 annually (17,316 hours × $123).

In total, we estimate that information collection burden for all ICFs–IID would be about 170,274 hours and $11,425,674 in the first year and 86,580 hours and $5,350,644 in subsequent years.

TABLE 3—TOTAL BURDEN FOR COI REQUIREMENTS FOR ALL ICFS–IID

| COI requirement | First year | | Subsequent years | |
|---|---|---|---|---|
| | Burden hours | Costs | Burden hours | Costs |
| § 483.460(a)(4) Developing the policies and procedures | 77,922 | $5,688,306 | 34,632 | $2,320,344 |
| § 483.460(a)(4)(ii), (iii), and (iv) Education requirements | 75,036 | 5,027,412 | 34,632 | 2,320,344 |
| § 483.460(a)(4)(v) and (f) Documentation requirements | 17,316 | 709,956 | 17,316 | 709,956 |
| Totals | 170,274 | 11,425,674 | 86,580 | 5,350,644 |

[70] See FN#71.

[71] See FN#72.

The total burden estimate for the information collection burden in both LTC facilities and ICFs–IID in the first year is 1,277,874 hours (1,107,600 + 170,274) at an estimated cost of $91,250,874 ($79,825,200 + $11,425,674) and in subsequent years the burden is estimated at 866,580 hours (780,000 + 86,580) at a cost of $55,177,044 ($49,826,400 + $5,350,644). The requirements and burden will be submitted to OMB under OMB control number 0938–1363 for the LTC facilities and 0938-New for the ICFs–IID.

TABLE 4—TOTAL COI BURDEN FOR LTC FACILITIES AND ICFS–IID IN THIS IFC

| Type of facility | First year | | Subsequent years | |
|---|---|---|---|---|
| | Burden hours | Costs | Burden hours | Costs |
| LTC Facility | 1,107,600 | $79,825,200 | 780,000 | $49,826,400 |
| ICFs–IID | 170,274 | 11,425,674 | 86,580 | 5,350,644 |
| Totals | 1,277,874 | 91,250,874 | 866,580 | 55,177,044 |

If you comment on this information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements, please submit your comments electronically as specified in the **ADDRESSES** section of this interim final rule.

Comments must be received on/by June 14, 2021.

## V. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

## VII. Regulatory Impact Analysis

### *A. Statement of Need*

The COVID–19 pandemic has precipitated the greatest economic crisis since the Great Depression, and one of the greatest health crises since the 1918 Influenza pandemic. Of the approximately 540,000 Americans estimated to have died from COVID–19 through March 2021,[72] over one-third are estimated to have died during or after a nursing home stay.[73] The development and large-scale utilization of vaccines to prevent COVID–19 cases and have the potential to end future COVID–19-related nursing home deaths. But this huge achievement depends critically on success in vaccination of nursing home residents and staff. This interim final rule will close a gap in current regulations, which are silent on the subject of vaccination to prevent COVID–19.

### *B. Overall Impact*

We have examined the impacts of this rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999) and the Congressional Review Act (5 U.S.C. 804(2)).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule: (1) Having an annual effect on the economy of $100 million or more in any 1 year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities (also referred to as ''economically significant''); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive order.

A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). We estimate that this rulemaking is ''economically significant'' as measured by the $100 million threshold, and hence also a major rule under the Congressional Review Act. Accordingly, we have prepared an RIA that, taken together with COI section and other sections of the preamble, presents to the best of our ability the costs and benefits of the rulemaking.

This RIA focuses on the overall costs and benefits of the rule, taking into account vaccination progress to date or anticipated over the next year that is not due to this rule, and estimating the likely additional effects of this rule. We analyze both the costs of the required actions and the payment of those costs. As intended under these requirements, this RIA's estimates cover only those costs and benefits that are likely to be the effects of this rule. In the case of the COVID–19 PHE, there is rapid and massive improvement through vaccination, social distancing, treatment, and other efforts already underway, and this rule would have relatively small effects compared to these other efforts, past, present, and future. There are also a number of unknowns that may affect current progress or this rule or both. There are many unknowns (for example, whether vaccine protection lasts only one year rather than 3 years or more, and the possibility of variants that reduce the effectiveness of currently approved vaccines) and we cannot estimate the effects of each of the possible interactions among them, but throughout the analysis we point out some of the most important assumptions we have made and the possible effects of alternatives to those assumptions.

[72] *https://covid.cdc.gov/covid-data-tracker/#datatracker-home.*

[73] For updated data, see CDC daily updates of total deaths at *https://www.cdc.gov/nchs/nvss/vsrr/COVID19/index.htm,* and the Kaiser Family Foundation weekly updates on nursing home deaths at *https://www.kff.org/coronavirus-covid-19/issue-brief/state-covid-19-data-and-policy-actions/,* among other sources.

This rule presents additional difficulties in estimating both costs and benefits due primarily to the fact that an unknown but significant fraction of current LTC staff and residents have already received an explanation of the benefits of vaccination to persons who are elderly or high risk from specific health conditions or both, and the rarely serious risks associated with vaccination (for example, the statistically negligible risk of severe allergic reactions to the vaccine). For a statistically average LTC resident, the average pre-COVID life expectancy if death occurs while in the facility is likely to be on the order of 3 years or fewer but taking into account those who recover and leave the facility and those enrolled for skilled nursing services we estimate overall life expectancies to be about 5 years.[74] We also estimate that vaccination reduces the chance of infection by about 95 percent, and the risk of death from the virus to a fraction of 1 percent.[75] (In Israel, of the first 2.9 million people vaccinated with two doses there were only about 50 infections involving severe conditions resulting from the virus after the 14th day and of these so few deaths that they were not reported in statistical summaries. These data also show that vaccine effectiveness rates are very high for both older and younger recipients. Of those receiving the second vaccine dose, after the 14th day 46 people over the age of 60 became infected and had a severe case, compared to 6 people under the age of 60. Two million nine hundred thousand (2.9 million) people received a second dose; therefore both rates are near zero.)[76]

### *C. Anticipated Costs of the Interim Final Rule*

The previously calculated information collection costs of this rule are one of three major categories of cost. The second large cluster of costs are for the required resident, client, and staff education. In addition, we are requiring facilities to offer COVID–19 vaccines to residents, clients, and staff.

As documented subsequently in this analysis and in a research report on this issue, about 1.5 million individuals work in nursing facilities at any one time.[77] These individuals are at high risk both to become infected with COVID–19 and to transmit the SARS–CoV–2 virus to residents or visitors. Far more than most occupations, nursing home care requires sustained close contact with multiple persons on a daily basis.

In Table 5, we present estimates of total numbers of individuals in the categories regulated under this rule, distinguishing among long-term and shorter-term nursing facility residents, residents and staff, and numbers at the beginning of a year and at any one time during the year, versus the much higher numbers when turnover is taken into account. In this table we assume that the number departing each year is the same as the number entering each year, which is a reasonable approximation to changes in just a few years, but do not take account of the aging of the population over time.

These figures are approximations, because none of the data that is routinely collected and published on resident populations or staff counts focus on numbers of individuals residing or working in the facility during the course of a year or over time. Depending on the average length of stay (that is, turnover) in different facilities, an average population at any one time of, for example, 100 persons would be consistent with radically different numbers of individuals, such as 112 individuals in one facility if one person left each month and was replaced by another person, compared to 365 if one person left each day and was replaced that same day by another person.

In Table 5, we assume it is likely that about 80 or 90 percent of LTC facility residents at the beginning of the year, and 60 or 70 percent of the LTC facility staff at the beginning of the year, were vaccinated by the end of March, due mainly to the efforts of the Partnership. But there are many new persons in each category during the first three months (one fourth of the annual number shown in the second column) and likely fewer of these will have been vaccinated elsewhere. Hence, we assume that the percent of persons who were vaccinated by the end of March is only 70 percent of long-term care residents, 40 percent of skilled nursing care residents, and 60 percent of the LTC facility staff serving both types of residents. The estimated numbers for ICFs–IID are lower because few residents or staff were eligible for vaccination from any source other than the Partnership in the first three months of the year. The estimated numbers of ICF–IID residents and staff, and turnover rates, are particularly rough estimates since there are no published sources that we have found that contain such estimates. We assume that staff turnover is about as high as in LTC facilities, but that resident turnover is considerably lower since resident mortality is not a major factor.

The estimate that 53 percent of these LTC facility and ICF–IID populations as of the end of March were actually vaccinated is simply a weighted average of these numbers. The second and third sections of Table 5 show how these numbers are split between residents and staff, and LTC facilities and ICFs–IID, respectively. This table estimates that during the first year after the issuance of this regulation, as many people will be candidates for vaccination in these facilities as during the first three months of calendar year 2021 (see last column).

TABLE 5—ESTIMATES OF NUMBER AND VACCINATION STATUS OF RESIDENTS AND STAFF

[Thousands]

| | Beginning of year 2021* | New during 2021 | Total for 2021 | Percent vaccinated by March 31 | Number vaccinated by March 31 | Remaining vaccination candidates 2021 | New candidates 1st quarter 2022 | Total first year candidates** |
|---|---|---|---|---|---|---|---|---|
| Long-Term Care Residents | 1,200 | 400 | 1,600 | 70 | 1,120 | 480 | 100 | 580 |
| Skilled Nursing Care Residents | 200 | 2,100 | 2,300 | 40 | 920 | 1,380 | 525 | 1,905 |

[74] At age 80, the average life expectancy of a male is about 8 years and of females about 10 years, or an overall average of about 9 years. Long-term care nursing home residents, however, have shorter life expectancies because they have severe health problems or would not have been admitted to a facility. For those who die while in a facility the average life expectancy is about two years. But some recover and leave so we have used five years as a reference point. See discussion at David B. Reuben, ''Medical Care for the Final Years of Life: ''When you're 83, It's not going to be 20 years,'' '' JAMA, Dec. 23, 2009, 2686–2694.

[75] For patients in skilled nursing facilities, average length of stay is less than a month. Hence, turnover is far higher.

[76] See Dvir Aran, Estimating real-world COVID–19 vaccine effectiveness in Israel using aggregated counts, medRxiv, February 28, 2021, at *https://www.medrxiv.org/content/10.1101/2021.02.05.21251139v3.full.pdf* and Noa Dagan et al., ''BNT162b2 mRNA Covid–19 Vaccine in a Nationwide Mass Vaccination Setting,'' The New England Journal of Medicine, 2/24/2021, at *https://www.nejm.org/doi/full/10.1056/NEJMoa2101765.*

[77] Kaiser Family Foundation, COVID–19 and Workers at Risk: Examining the Long-Term Care Workforce, April 23, 2020, at *https://www.kff.org/coronavirus-covid-19/issue-brief/covid-19-and-workers-at-risk-examining-the-long-term-care-workforce/.*

TABLE 5—ESTIMATES OF NUMBER AND VACCINATION STATUS OF RESIDENTS AND STAFF—Continued
[Thousands]

| | Beginning of year 2021* | New during 2021 | Total for 2021 | Percent vaccinated by March 31 | Number vaccinated by March 31 | Remaining vaccination candidates 2021 | New candidates 1st quarter 2022 | Total first year candidates** |
|---|---|---|---|---|---|---|---|---|
| LTC Facility Staff | 950 | 760 | 1,710 | 60 | 1,026 | 684 | 190 | 874 |
| ICF–IID Residents | 100 | 20 | 120 | 20 | 24 | 96 | 5 | 101 |
| ICF–IID Staff | 75 | 60 | 135 | 20 | 27 | 108 | 15 | 123 |
| Total Persons | 2,525 | 3,340 | 5,865 | 53 | 3,117 | 2,748 | 835 | 3,583 |
| Residents Total | 1,500 | 2,520 | 4,020 | 51 | 2,064 | 1,956 | 630 | 2,586 |
| Staff Total | 1,025 | 820 | 1,845 | 57 | 1,053 | 792 | 205 | 997 |
| Total Persons | 2,525 | 3,340 | 5,865 | 53 | 3,117 | 2,748 | 835 | 3,583 |
| LTC Facility Total | 2,350 | 3,260 | 5,610 | 55 | 3,066 | 2,544 | 815 | 3,359 |
| ICF–IID Total | 175 | 80 | 255 | 20 | 51 | 204 | 20 | 224 |
| Total Persons | 2,525 | 3,340 | 5,865 | 53 | 3,117 | 2,748 | 835 | 3,583 |

*Beginning of Year is roughly identical to average for year when population is stable.
**Estimated number potentially needing vaccination in the first full year after March 31st.

As presented in the third numeric column of Table 5, the total number of individuals either residing or working in all of these different facilities over the course of a year is about 5.9 million persons, which is more than twice the annual average number of residents or staff shown in the first numeric column. A new study, using data from detailed payroll records, found that median turnover rates for all nurse staff are approximately 90 percent a year.[78] Due to these high turnover rates, LTC facilities will require significantly more resident or staff vaccines compared to the total number of residents and staff in the facility at the beginning of the year. For example, when the Pharmacy Partnership completed its time commitment in LTC facilities, it probably had seen only about half of the persons who will reside or work in these facilities in 2021. Of course, most of these persons will have been vaccinated through other means when they enter the facilities during the remainder of 2021. That said, it is likely that there will be over one million residents and staff during the first year after this rule is published who will need vaccination. Much of the immediate need for LTC resident and staff education has already been accomplished through the Pharmacy Partnership for Long-Term Care Program. Even after the end of this program, remaining unvaccinated residents and staff will benefit from additional education, especially as additional information about vaccine safety and effectiveness is available. Some resident education can take place in group settings and some education will take place on a one-to-one level. What works best will depend on the circumstance of the resident and the best method for conveying the information and answering questions. Staff can use opportunities during normal day-to-day activities to educate the residents and their representatives (if they are present) on the immunization opportunities through the facility or its partners. Staff education, using CDC or FDA materials, can also take place in various formats and ways. Individualized counseling, resident meetings, staff meetings, posters, bulletin boards, and e-newsletters are all approaches that can be used to provide education. Informal education may also occur as staff go about their daily duties, and some who have been vaccinated may promote vaccination to others. Facilities may find that reward techniques, among other strategies, may help. In particular, the value of immunization as a crucial component of keeping residents healthy and well is already conveyed to staff in regard to influenza and pneumococcal vaccines. The COVID–19 vaccine education will build upon that knowledge.

The techniques for education and shared decision-making, where appropriate, are so numerous and varied that there is no simple way to estimate likely costs. Staff and resident hesitancy may and likely will change over time as the benefits of vaccination become clear to increasing numbers of participants in congregate settings. For purposes of estimation, we assume that, on average, 30 minutes of staff time will be devoted to education of each unvaccinated resident, resident representative, or staff person, at the same average hourly cost of $67.06 estimated for RNs in the Information Collection analysis. As for the recipients of such education, we assume that about three-fourths of them are residents, and one-fourth staff. We have little data on resident income but know that for most, Social Security or Supplemental Security Income are their principal sources of income.[79] For estimating purposes, we assume that their time is worth about $10.02 an hour (median income of older adults without earnings is $20,440 annually.[80] Since residents are rarely in the labor market while in the facility, this base income has not been adjusted for fringe benefits or employer expenses. For staff, we estimate hourly costs of $27.38 based on BLS data for healthcare support occupations (median of $13.69, doubled to account for fringe benefits and overhead).

We note that very little of this cost is likely to involve translation of documents, simply because very few documents are involved, and electronic and other assistance methods are so widespread. The vaccine information Fact Sheet required by FDA to be made available is already translated by FDA into the eight most common non-English languages in use in the United States and is downloadable online. (For the Moderna vaccine, for example, see *https://www.modernatx.com/covid19vaccine-eua/providers/language-resources.*) LanguageLine or similar services are always available on call if needed for an oral explanation of

[78] Ashvin Gandhi et al., ''High Nursing Staff Turnover In Nursing Homes Offers Important Quality Information,'' Health Affairs, March 2021, pages 384–391.

[79] Only about 13% have private sources of payment. See Jose Ness et al., ''Demographics and Payment Characteristics of Nursing Home Residents in the United States: A 23-Year Trend,'' Journal of Gerontology: MEDICAL SCIENCES, 2004, Vol. 59A, No. 11, pp. 1213–1217.

[80] Average income from Federal Reserve of St. Louis at *https://fred.stlouisfed.org/series/MEPAINUSA672N.*

a written document to someone who does not speak English. Many computer and phone applications (''Apps'') providing oral translations are available to assist those with language or vision problems, and hearing problems create no document translation requirements if a document in the reading language of that resident is available.[81]

If we assume that 20 percent of residents and clients in LTC facilities and ICFs–IID decline vaccination, taking account of both those offered and declining the vaccine before this rule takes effect and those offered it again in the first year, 930,000 additional vaccination counseling and education efforts would be made to residents (4,020,000 including 630,000 in the first quarter of 2022 for a total of 4,655,000 total individual residents × .2). This figure implicitly assumes that a much higher take-up rate was achieved during the first three months of 2021, likely about 80 to 90 percent of all those residents reached by Pharmacy Partners and other early vaccination efforts, and that there will be more and more varied effort needed for the remainder, most of whom presumably declined the initial offer. It also assumes that only about half of year-end residents will have been vaccinated when this rule is issued even though most residents at the beginning of the year will have been vaccinated. Hence, there will be about 517,000 residents needing vaccine education and offers needed to be made in the first full year (20 percent of rightmost Residents Total column of Table 5).

For education of staff, we make similar assumptions, except that early and anecdotal evidence suggests that a third or more are declining vaccination.[82] This means that about an additional 332,000 (one-third of 997,000) vaccination counseling and education efforts will need to be made to staff, including new hires, in the remainder of 2021 and the first quarter of 2022.

Taken together, these estimates for both residents and staff suggest that total counseling and education efforts would be made for perhaps 849,000 persons after the rule is issued, two-thirds residents and one-third staff. Some of those offers would be accepted and some declined (these figures do not include offers made to persons already vaccinated but do include those newly admitted to or hired by these facilities). Total cost of the educational efforts themselves would be approximately $28,442,000 (849,000 persons × .5 hours × $67 hourly cost). Cost of resident time to participate would be an additional $2,449,000 (849,000 persons × .667 × .5 hours × $8.65 hourly cost) and of staff time to participate an additional $1,631,000 (849,000 persons × .333 × .5 hours × $27.38 hourly costs). Second- and third-year totals would be lower, perhaps about three-fourths as much, taking into account both fewer remaining unvaccinated needing these efforts, and a sensible reduction in efforts aimed at persons who refuse to consider vaccination. Hence, total cost of these educational efforts to both educators and recipients would be a total of $35,220,000 in the first year and $26,415,000 in the second and third years.

The third major cost component is the vaccination, including both administration and the vaccine itself. We estimate that the average cost of a vaccination is what the Government pays under Medicare: $20 × 2 = $40 for two doses of a vaccine, and $20 × 2 for vaccine administration of two doses, for a total of $80 per resident. This estimate is made for simplicity, ignoring newer and one-dose vaccines, since the great majority of recipients are Medicare beneficiaries and we have no data yet on likely use of newer vaccines.[83] Assuming that the efforts to educate residents, clients, and staff succeed in raising the vaccinated percentage by 5 percent points over the course of the first year, calculated from the 70 percent (staff) to 80 percent (residents and clients) baseline likely to be achieved before this rule takes effect, total vaccination costs across these target groups resulting from this rule would be $23,460,000 ($80 × .05 × 5,865,000).

Finally, there is a cost category related to expenses not estimated as information collection costs because they meet an exception in the PRA for requirements that would be handled through ''usual and customary'' business practices. These exceptions are all discussed briefly in the ICR section of this preamble. Most of their costs are related mainly to recording in patient or personnel records for each resident and staff person that vaccine education, vaccine decision, and vaccinations for those accepting vaccination have all taken place. While there are large numbers of such record notations to be made, we estimate that they take only a few seconds per record. We have estimated that the added cost of these record-keeping functions as likely to be about 5 percent of all Information Collection costs.

All these aggregate costs can be converted to per person numbers since it is individual persons who are vaccinated. Dividing the estimated first year costs by an estimated 5.380 million people (4.02 million residents and 1.36 million workers) gives an average per resident or employee cost of $27.12 in the first year (159,056,000 divided by 5,865,000).

Another way to summarize these numbers is in terms of average cost per person newly vaccinated. Making the same assumption that about 5 percent of total persons (and 10 percent of those unvaccinated) would be newly vaccinated as a result of this rule, cost per person would be $542 ($27.12 divided by .05). Table 6 summarizes the overall cost estimates.

TABLE 6—ESTIMATE OF TOTAL COSTS

| Cost category | Costs in first year | Costs in succeeding years |
|---|---|---|
| Developing NF Policies & Procedures | $38,360,000 | $12,542,000 |
| Developing Education Materials for Residents and Staff | 4,181,000 | NA |
| Keeping Vaccine Information Up-to-Date | 6,271,000 | 6,271,000 |
| Documentation Requirements | 3,838,000 | 3,838,000 |

[81] Examples of translation Apps include Google Translate, iTranslate Voice 3, SayHi, TextGrabber, BrailleTranslater, and many more.

[82] The Kaiser Family Foundation estimates as of February 22 that to date 37 percent of all health care workers (not specific to LTC workers) have declined vaccination or decided to wait and see. See *https://www.kff.org/coronavirus-covid-19/dashboard/kff-covid-19-vaccine-monitor/*.

[83] Vaccine and vaccination costs are generally paid by the Federal Government. What the Government pays varies from vaccine to vaccine, by when purchased and in what quantities, and varies by payer or provider. $40 per dose is a rough estimate based on experience to date. As is the case for all drugs, cost estimates also vary depending on research and development costs as well as manufacturing cost. These estimates do not reflect use of the new Johnson & Johnson/Jannsen one-dose vaccine. See the Healthline article at *https://www.healthline.com/health-news/how-much-will-it-cost-to-get-a-covid-19-vaccine*.

TABLE 6—ESTIMATE OF TOTAL COSTS—Continued

| Cost category | Costs in first year | Costs in succeeding years |
|---|---|---|
| NHSN Reporting to CDC and CMS | 27,175,000 | 27,175,000 |
| Subtotal, NF Information Collection | 79,825,000 | 49,826,000 |
| ICF–IID Information Collection | 11,426,000 | 5,351,000 |
| Subtotal Information Collection | 91,251,000 | 55,177,000 |
| Educating Residents & Staff * | 35,220,000 | 26,415,000 |
| Providing Vaccine to Residents and Staff ** | 23,460,000 | 17,595,000 |
| Keeping Records of the Above Activities | 9,125,000 | 5,518,000 |
| Total Costs | 159,056,000 | 104,705,000 |

* These costs assume only unvaccinated are educated about vaccination.
** These costs assume about 5 percent of total persons accept the vaccine offer (over half already vaccinated).

While these estimates give the appearance of precision since they present costs to the nearest thousand dollars, this is simply the result of calculations based on numerical assumptions. There are major uncertainties in these estimates. One obvious example is whether vaccine efficacy will last more than the six months proven to date.[84] Presumably, re-vaccination each year could maintain a high level of protection if vaccine protection wore off in a year. Re-vaccination or use of new and improved vaccines would likely maintain the effectiveness of vaccination for residents and staff. But the estimated costs of this rule would change in the table column for succeeding years to a level roughly equal to the first year estimate even if re-vaccinations were to be necessary. For purposes of displaying the known second (and succeeding) year effects assuming no major changes in vaccine effectiveness, we have included in Table 5 (and the tables covering information collection costs) the predictable changes in second year cost estimates.

*D. Anticipated Benefits of the Interim Final Rule*

There will be over 5 million residents, clients, and staff each year in the LTC facilities and ICFs–IID covered by this rule. In our analysis of first-year benefits of this rule we focus on prevention of death among residents of LTC facilities and ICFs–IID, as well as on progress in reducing disease severity. We also focus only on benefits to the candidates for vaccination covered by this rule, not on possible benefits to family members, caregivers, or other persons who they might subsequently infect if not vaccinated.[85] Reductions in resident, client, and staff mortality are benefits for which techniques exist (though with some uncertainty) to express estimates in dollar terms. One of the major benefits of vaccination is that it lowers the cost of treating the disease among those who would otherwise be infected and have serious morbidity consequences. The largest part of those costs is for hospitalization and they are very substantial. As discussed later in the analysis we do have data on the average costs of hospitalization of these patients (it is, however, unclear as to how that cost is changing over time with better treatment options). A lesser but still very substantial amount of these morbidity costs is for care of gravely ill patients within the nursing home, but reducing those costs is another benefit we are unable to estimate at this time.

There is a potential offset to benefits that we have not estimated. As long as vaccine supplies do not meet all demands for vaccination, giving priority to some persons over others necessarily means that some persons will become infected who would not have been infected had the priorities been reversed. In this case, however, the priority for elderly persons (virtually all of whom have risk factors) who comprise the vast majority of LTC facility residents, is prioritizing those at higher risk of mortality and severe disease over those whose risk of death is multiple orders of magnitude lower.[86] As a result, there are some assumptions we make that could overstate benefits should the assumptions be overtaken by adverse events.

The HHS ''Guidelines for Regulatory Impact Analysis'' explain in some detail the concept of Quality Adjusted Life Years (QALYs).[87] QALYs, when multiplied by a monetary estimate such as the Value of a Statistical Life Year (VSLY), are estimates of the value that people are willing to pay for life-prolonging and life-improving health care interventions of any kind (see sections 3.2 and 3.3 of the HHS Guidelines for a detailed explanation). The QALY and VSLY amounts used in any estimate of overall benefits are not meant to be precise, but instead are rough statistical measures that allow an overall estimate of benefits expressed in dollars.

Under a common approach to benefit calculation, we can use a Value of a Statistical Life (VSL) to estimate the dollar value of the life-saving benefits of a policy intervention, such as this rule. We adopt the VSL of approximately $10.6 million in 2020 as described in the HHS Guidelines, adjusted for changes in real income and inflated to 2019 dollars using the Consumer Price Index. Assuming that the average rate of death from COVID–19 (following SARS–CoV–2 infection) at nursing home resident ages and conditions is 5 percent, and the average rate of death after vaccination is essentially zero, the expected value of each resident receiving the full course of two vaccines who would otherwise be infected with SARS–CoV–2 is about $530,000 ($10,600,000 × .05).

Under a second approach to benefit calculation, we can estimate the monetized value of extending the life of nursing home residents, which is based on expectations of life expectancy and the value per life-year. As explained in the HHS Guidelines, the average

[84] For a discussion of this issue, see Sumathi Reddy, ''How Long To Covid–19 Vaccines Protect You?'', The Wall Street Journal, April 13, 2021, at *https://www.wsj.com/articles/how-long-do-covid-19-vaccines-provide-immunity-11618258094.*

[85] We note that as of this writing there remains a major unanswered question as to whether and if so to what extent vaccinated persons transmit COVID–19.

[86] The risk of death from infection from an unvaccinated 75 to 84 year old person is 320 times more likely than the risk for an 18- to 29-years old person. CDC, ''Risk for COVID–19 Infection, Hospitalization, and Death by Age Group'', at *https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-age.html.*

[87] *https://aspe.hhs.gov/pdf-report/guidelines-regulatory-impact-analysis.*

individual in studies underlying the VSL estimates is approximately 40 years of age, allowing us to calculate a value per life-year of approximately $540,000 and $900,000 for 3 and 7 percent discount rates respectively. This estimate of a value per life-year corresponds to 1 year at perfect health. (These amounts might reasonably be halved for average nursing home residents, since non-institutionalized U.S. adults aged 80–89 years report average health-related quality of life (HRQL) scores of 0.753, and this figure is likely to be lower for nursing home residents.)[88] Assuming that the average life expectancy of long-term care residents is five years, the monetized benefits of saving one statistical life would be about $2.5 million ($540,000 × annually for 5 years) at a 3 percent discount rate and about $3.7 million ($900,000 × annually for 5 years) at a 7 percent discount rate. Assuming that the average rate of death from COVID–19 (SARS-CoV–2 infection) at nursing home resident ages and conditions is 5 percent, and the average rate of death after vaccination is essentially zero, the expected life-extending value of each resident receiving the full course of two vaccines who would otherwise be infected is $125 thousand at a 3 percent discount rate and $185 thousand at a 7 percent discount rate. A similar calculation can be made for staff, who will gain many more years of life but whose risk of death is far smaller since their age distribution is so much younger. Yet another calculation for clients of ICFs–IID would also result in many more years of life but far smaller risks of death since their age distribution is typically far younger than that of LTC residents. It is difficult to ascertain the number of ICF–IID clients that would be infected without vaccination. Deaths from COVID–19 in unvaccinated LTC residents to date are about 130,000, or close to one tenth of the average LTC resident census of 1.4 million, a huge contrast to the handful of deaths in the vaccination results from Israel.[89] We do not have sufficient data so as to accurately estimate annual resident inflows and outflows over time, but it is clear that several hundred thousand new individuals each year make the total number served during the year far higher than point in time or average counts (see Table 5).

We do know that large numbers of residents or staff were vaccinated through the Pharmacy Partnership, which for nursing home residents relied most heavily on the CVS and Walgreens drug store chains. In its latest report, the Partnership reported that to date it had vaccinated about 2.2 million residents in long-term care facilities, although fewer than two thirds of these had received two doses.[90] We do know that significant fractions of staff, perhaps one-third or more, have to date declined vaccination when offered.[91] Progress has been very substantial, but many remain unvaccinated among both residents and staff. This interim final rule has significant potential to support further vaccinations as vaccination opportunities from other sources expand.

The preceding calculations address residential long-term care. Long-term residents are a major group within nursing homes and are generally in the nursing home because their needs are more substantial and they need assistance with the activities of daily living, such as cooking, bathing, and dressing. These long-term stays are primarily funded by the Medicaid program (also, through long-term care insurance or self-financed), and the residential care services these residents receive are not normally covered by Medicare or any other health insurance. A second major group within the same facilities receives short-term skilled nursing care services. These services are rehabilitative and generally last only days, weeks, or months. They usually follow a hospital stay and are primarily funded by the Medicare program or other health insurance. The importance of these distinctions is that the numbers of residents in each category are different. The average number of persons in facilities for long-term care over the course of a year is about 1.2 million residents (as is the point-in-time number), and the total number of persons over the course of a year is about 1.6 million. The average number in skilled nursing care over a year is about 200,000 million persons, but the average length of stay is weeks rather than years.[92] The annual turnover in this group is such that about 2.3 million residents are served each year. There is some overlap between these two populations and the same person may be admitted on more than one occasion. For purposes of this analysis (although we have no documented basis for estimating those numbers), we assume that the expected longevity for each group is identical on average, and that a total of 3.9 million persons are served each year. We further assume that 20 percent of these are new residents each year who must be offered vaccination (most are already vaccinated, as discussed later in the analysis).

These nursing facilities have about 950,000 full-time equivalent employees. For these persons, the average age is about 50, which creates two offsetting effects: They have more years of life expectancy than residents, but their risk of from COVID–19 death is far lower. For purposes of this analysis, we assume that the vaccination is effective for at least one year, and use a one-year period as our primary framework for calculation of potential benefits, not as a specific prediction but as a likely scenario that avoids forecasting major and unexpected changes that are either strongly adverse or strongly beneficial. If we were adding up totals for benefits we would assume that the risk of death after COVID–19 infection is likely only one-half of one percent (one tenth of the resident rate) or less for the unvaccinated members of this group, reflecting the far lower mortality rates for persons who are mostly in the 30 to 65 year old age ranges compared to the far older residents.[93] We assume that the total number of individual employees is 50 percent higher than the full-time equivalent but that only half that number are primarily employed at only one nursing facility, two offsetting assumptions about the number of employees working at each facility (many employees are part-time consultants or the equivalent who serve multiple nursing facilities on a part-time basis). We further assume that employee turnover is 80 percent a year, lower than the results for nurses previously cited. Accordingly, we estimate that 80

[88] Hanmer, J. W.F. Lawrence, J.P. Anderson, R.M. Kaplan, D.G. Fryback. 2006. ''Report of Nationally Representative Values for the Noninstitutionalized US Adult Population for 7 Health-Related Quality-of-Life Scores.'' *Medical Decision Making.* 26(4): 391–400.

[89] Deaths are from COVID–19 Nursing Home Data, CMS, Week Ending 2/21/2021, at *https://data.cms.gov/stories/s/COVID-19-Nursing-Home-Data/bkwz-xpvg/.*

[90] See *https://www.cdc.gov/vaccines/covid-19/planning/index.html.*

[91] See the discussion and data in the CDC report ''Early COVID–19 First-Dose Vaccination Coverage Among Residents and Staff Members of Skilled Nursing Facilities Participating in the Pharmacy Partnership for Long-Term Care Program—United States, December 2020–January 2021,'' at *https://www.cdc.gov/mmwr/volumes/70/wr/mm7005e2.htm?s_cid=mm7005e2_x.*

[92] In fact, the average length of stay for skilled nursing care is about 25 days. See MEDPAC, Report to the Congress: Medicare Payment Policy, March 2019, ''Skilled nursing facility services,'' page 200.

[93] See the previously cited CDC report on risks by age group. In the age intervals used by CDC, the 40–49 year old group is in the middle of typical employment age ranges. The risk of death in this age group is one tenth that of those aged 65–74. We emphasize with round numbers that nothing about these data are fixed and unlikely to change (*e.g.,* as better future treatments are used to treat severe cases).

percent of 950,000, or 760,000, are new employees each year and must be offered vaccination (again, most are already vaccinated), for a total of 1,710,000 eligible employees over the course of a year.

As for ICFs–IID, there are about 6,000 facilities, serving about 100,000 people at any one time, an average of about 15 people per facility.[94] The age profile of these clients is similar to that of the adult population at large. Turnover rates are unknown, but likely to be substantial because these clients have many alternatives. We estimate 80 percent a year for turnover, the same as for nursing facilities. The costs and benefits of COVID–19 vaccination services for this group are roughly comparable to those of nursing home staff. There do not appear to be data on number of staff at these facilities, but based on the nature of the services provided it appears likely that the staff to client ratio is similar to that in other congregate settings (group homes, assisted living facilities), and likely to be about three-fourths of the client population, or about 75,000 full-time equivalent staff, with similar turnover patterns as well. Adding 80 percent to allow for staff turnover, gives a total of 135,000 staff candidates for vaccination.

We have some data on the costs of treating serious illness among the unvaccinated who become infected, are hospitalized, and survive. Among those age 65 years or above, or with severe risk factors, as many as 40 percent of those known to be infected required hospitalization in the first month of the pandemic. Among adults age 21 years to 64 years, about 10 percent of those infected required hospitalization.[95] For our estimates, we assume a 20 percent hospitalization rate among people aged 65 years or older in nursing homes, reflecting both that their conditions are significantly worse than those of similarly aged adults living independently, and that pre-hospitalization treatments have improved. Of the LTC facility and ICF–IID candidates for vaccination in the first year covered by this rule, about three-fourths are age 65 years or above. Hence, the age-weighted hospitalization rate that we project is about 16 percent. Among those hospitalized at any age, the average cost is about $20,000.[96]

To put these cost, benefit, and volume numbers in perspective, vaccinating one hundred previously unvaccinated LTC residents who would otherwise become infected with SARS–CoV–2 and have a COVID–19 illness would cost approximately $54,200 ($542 × 100) in paperwork, education, and vaccination costs. Using the VSL approach to estimation would produce life-saving benefits of about $2,650,000 for these 100 people ($530,000 × 100 × .05), again assuming the death rate for those ill from COVID–19 of this age and condition is one in twenty. Reductions in health care costs from hospitalization would produce another $320,000 ($20,000 × 100 × .16) in benefits for this group assuming that 16% would otherwise be hospitalized. However, this comparison is should be taken as necessarily hypothetical and contingent due to the analytic, data, and uncertainty challenges discussed throughout this regulatory impact assessment. As the discussion of other patient groups covered by this rule demonstrates, they present similar if not identical magnitudes of both costs and benefits for affected individuals (benefits from staff vaccinations, however, are far lower). Consequently, the primary medium- to long-run benefit-cost issue is not the general magnitude of likely effects on those who get vaccinated as a result of the rule, but the difficult questions of estimating (1) likely numbers of individuals in both client and staff categories who are likely to be unvaccinated when the rule goes into effect and (2) to be willing to accept vaccination in the coming months and years.[97]

Of particular importance is that the vaccination rates and raw numbers of people vaccinated take into account that in total only about half of those who will be residents and clients in these facilities at some time during the year have already been residents or clients during the months served by the Pharmacy Partnership effort. For example, our estimated vaccination rate as of March 31, 2021, for LTC residents assumes that about 90 percent of the residents in January through March will have been vaccinated. But given the turnover expected during the rest of the year, only about 70 percent of the annual total will have been vaccinated by the end of 2021, or by the end of the first year including the first quarter of 2022. As a result, about 3.6 million persons will be vaccination candidates subject to this rule over the first year. Some of these persons may have been vaccinated elsewhere, but the facilities regulated under this rule will need to query each incoming resident and it is likely that as many as a third of these will be candidates for COVID–19 vaccination. A major caution about these estimates: None of the sources of enrollment information for these programs regularly collect and publish information on client or staff turnover during the course of a year. The estimates here are based on inferences from scattered data on average length of stay, mortality, job vacancies, news accounts, and other sources that by happenstance are available for one type of facility or type of resident or another. Nor do we have data on the number of persons in these settings who will be vaccinated through other means during the remainder of the year.

There are also dimensions of positive and negative benefits in the medium- to long-run that we have not been able to estimate. For example, there is insufficient evidence as to whether the current or reasonably foreseeable vaccines will maintain their protective efficacy for more than six months.

Until very recently, demand for COVID–19 vaccination has exceeded supply throughout the U.S.[98] Especially in previous months, vaccination distribution policies giving priority to various groups (for example, aged, health care workers, and other essential services workers) has meant that those given priority have benefited to some extent at the expense of those in lower priorities. Regardless of priorities, we know that younger persons are much less likely to experience hospitalization or death after infection. For example, the risk of death among infected persons age 65 to 74 years is ten times greater

[94] By far the largest source of data related to ICF and other IID services is ''In-Home and Residential Long-Term Supports and Services for Persons with Intellectual or Developmental Disabilities: Status and Trends 2017'', at *https://ici-s.umn.edu/files/aCHyYaFjMi/risp_2017*.

[95] There are few data sources for this statistic and, thus, it may be out of date. See MMWR, ''Preliminary Estimates of the Prevalence of Selected Underlying Health Conditions Among Patients with Coronavirus Disease 2019—United States, February 12–March 28, 2020'', April 3, 2020, at *https://www.cdc.gov/mmwr/volumes/69/wr/mm6913e2.htm#T2_down*.

[96] This is not a robust estimate, but is supported by several sources. See for example Jiangzhuo Chen et al., ''Medical costs of keeping the US economy open during COVID–19,'' Scientific Reports, *Nature.com*, July 19 2020, at *https://pubmed.ncbi.nlm.nih.gov/32743613/,* and Michel Kohli et al., ''The potential public health and economic value of a hypothetical COVID–19 vaccine in the United States: Use of cost-effectiveness modeling to inform vaccination prioritization,'' Science Direct, February 12, 2021, at *https://pubmed.ncbi.nlm.nih.gov/33483216/*.

[97] For a survey of the evidence on this issue, see Gillian K. Steelfisher et al., ''An Uncertain Public—Encouraging Acceptance of Covid-19 Vaccines,'' The New England Journal of Medicine, March 3, 2021.

[98] The shortage issue has now largely been addressed, as is well illustrated in the recent removal of age restrictions designed to give highest priority in using limited vaccine supplies to the elderly and health care workers. See, for example, news stories: *https://www.abc27.com/news/health/coronavirus/official-biden-moving-vaccine-eligibility-date-to-april-19/*.

than the risk of death among infected persons age 40 to 49 years. Yet the average years of remaining life among younger persons at these ages is far greater than among older persons at higher ages. Age, however, is not anywhere near a perfect indicator of risk since, for example, health care workers and those with immune system disorders face elevated risks from exposure. Sorting out all these factors to reach either a qualitative or quantitative estimate of net benefits from any particular policy is extremely complex and is one reason why vaccination priorities have differed among the states and over time.

All these data and estimation limitations apply to even the short-term impacts of this rule, and major uncertainties remain as to the future course of the pandemic, including but not limited to vaccine effectiveness in preventing disease transmission from those vaccinated, and the long-term effectiveness of vaccination.

*E. Other Effects*

1. Sources of Payment

We anticipate that virtually all of the costs of this rule will be reimbursed from funds already appropriated under the CARES Act and the American Rescue Plan Act of 2021. For example, the amounts provided in the Provider Relief Fund is $7.4 billion, many times more than the relatively small costs of this rule. As previously discussed, if there are treatment cost savings to hospitals and other care providers as a result of the vaccinations that will be made due to this rule, the treatment cost savings would in turn result in savings to payers. It is likely that half or more of these savings would primarily accrue to Medicare given the elderly or disability status of most clients and Medicare's role as primary payer, but there would also be substantial savings to Medicaid, private insurance paid by employers and employees, and private out-of-pocket payers including residents.

2. Regulatory Flexibility Act

The RFA requires agencies to analyze options for regulatory relief of small entities, if a rule has a significant impact on a substantial number of small entities. Under the RFA, ''small entities'' include small businesses, nonprofit organizations, and small governmental jurisdictions. Individuals and states are not included in the definition of a small entity. For purposes of the RFA, we estimate that many LTC facilities and most ICFs–IID are small entities as that term is used in the RFA because they are either nonprofit organizations or meet the SBA definition of a small business (having revenues of less than $8.0 million to $41.5 million in any 1 year). HHS uses an increase in costs or decrease in revenues of more than 3 to 5 percent as its measure of ''significant economic impact.'' The HHS standard for ''substantial number'' is 5 percent or more of those that will be significantly impacted, but never fewer than 20.

The average annual cost of a nursing home stay is about $271.98 per day or about $100,000 per year.[99] As estimated previously, the average annual cost of this rule is about $24.70 per resident or staff person in the first year. This cost does not approach the 3 percent threshold. For ICFs–IID, one estimate of average annual costs per client is $140,000, also a level at which this rule does not approach the 3 percent threshold.[100] Moreover, since most or all of these costs will be reimbursed through the CARES Act or other COVID–19 funding sources, the financial strain on these facilities should be negligible and the likely net effect positive. Considering the cost savings from treating seriously ill residents, the financial impact is likely to be positive. Therefore, the Department has determined that this interim final rule will not have a significant economic impact on a substantial number of small entities and that a final RIA is not required. Finally, this IFC was not preceded by a general notice of proposed rulemaking and the RFA requirement for a final regulatory flexibility analysis does not apply to final rules not preceded by a proposed rule.

3. Small Rural Hospitals

Section 1102(b) of the Social Security Act requires us to prepare a RIA if a proposed rule may have a significant impact on the operations of a substantial number of small rural hospitals. For purposes of this requirement, we define a small rural hospital as a hospital that is located outside of a metropolitan statistical area and has fewer than 100 beds. Because this rule has no direct effects on any hospitals, the Department has determined that this interim final rule will not have a significant impact on the operations of a substantial number of small rural hospitals. This interim final rule is also exempt because that provision of law only applies to final rules for which a proposed rule was published.

4. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates will impose spending costs on state, local, or tribal governments, or by the private sector, require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2021, that threshold is approximately $158 million. This rule does contain mandates on private sector entities, and we estimate the resulting amount to be about the same as this threshold in the first year. This IFC was not preceded by a notice of proposed rulemaking, and therefore the requirements of UMRA do not apply. The information in this RIA and the preamble as a whole would, however, meet the requirements of UMRA.

5. Federalism

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on state and local governments, preempts state law, or otherwise has federalism implications. Nothing in this rule will have a substantial direct effect on state or local governments, preempt state laws, or otherwise have federalism implications.

*F. Alternatives Considered*

As discussed earlier in the preamble, a major substantive alternative that we considered was to require vaccination activities (education and offering) for all persons who may provide paid or unpaid services, such as visiting specialists or volunteers, who are not on the regular payroll on a weekly or more frequent basis. That is, individuals who work in the facility infrequently. We also considered including visitors, such as family members. All these categories present major problems for compliance, enforcement, and record-keeping, as well as a multitude of complexities related to visit frequency, resident exposure, and vaccination management. Furthermore, the efficacy of such a policy would be difficult to establish. For example, vaccinating a one-time visitor on the day of their visit would not improve resident safety because the vaccine is not instantly effective upon administration. There are also ethical

[99] See Marcum Accountants & Advisors, A Five Year Nursing Home Statistical Analysis (2014 to 2018), at *https://www.marcumllp.com/wp-content/uploads/marcum-five-year-nursing-home-statistical-analysis-2014-2018.pdf.*

[100] See In-Home and Residential Long-Term Supports and Services for Persons with Intellectual or Developmental Disabilities: Status and Trends 2017, op cit, page 77.

issues related to potential discouragement of visiting volunteers or family members. Instead, we believe that such decisions are best left to each facility, in consideration of CMS and CDC guidance. Our expectation is that vaccination of regular visitors in any of these categories will be encouraged, whether or not the vaccinations are offered by the facility itself.

*G. Accounting Statement and Table*

The Accounting Table summarizes the quantified impact of this rule. It covers only one year because there will likely be many developments regarding treatments and vaccinations and their effects in future years and we have no way of knowing which will most likely occur. A longer period would be even more speculative than the current estimates.

As explained in various places within the RIA and the preamble as a whole, there are major uncertainties as to the effects of COVID–19 on nursing and other congregate living facilities as well as the nation at large. For example, the duration of vaccine effectiveness in preventing infection, reducing disease severity, reducing the risk of death, and preventing disease transmission by those vaccinated are all currently unknown. These uncertainties also impinge on benefits estimates. For those reasons we have not quantified into annual totals either the life-extending or medical cost-reducing benefits of this rule, and have used only a one-year projection for the cost estimates in our Accounting Statement (our estimates are for the last nine months of 2021 and the first three months of 2022). We welcome comments on all of our assumptions and welcome any additional information that would narrow the ranges of uncertainty.

TABLE 7—ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED COSTS AND SAVINGS

[$ Millions]

| Category | Primary estimate | Lower bound | Upper bound | Units | | |
|---|---|---|---|---|---|---|
| | | | | Year dollars | Discount rate (%) | Period covered |
| Benefits: Lives Extended (not annualized or monetized). | ..... | ..... | ..... | 2020 | 7 | First year. |
| Reduced Medical Expenditures (not annualized or monetized). | ..... | ..... | ..... | 2020 | 3 | First year. |
| Costs: Annualized Monetized ($ million/year). | 159 | 119 | 199 | 2020 | 7 | First year. |
| | 159 | 119 | 199 | 2020 | 3 | First year. |
| Cost Notes: Administrative costs from increased efforts to vaccinate residents and staff. | | | | | | |
| Transfers ..... | None. | | | | | |

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

I, Elizabeth Richter, Acting Administrator of the Centers for Medicare & Medicaid Services, approved this document on April 22, 2021.

**List of Subjects in 42 CFR Part 483**

Grant programs-health, Health facilities, Health professions, Health records, Medicaid, Medicare, Nursing homes, Nutrition, Reporting and recordkeeping requirements, Safety.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR part 483 as set forth below:

## PART 483—REQUIREMENTS FOR STATES AND LONG TERM CARE FACILITIES

■ 1. The authority citation for part 483 continues to read as follows:

**Authority:** 42 U.S.C. 1302, 1320a–7, 1395i, 1395hh and 1396r.

■ 2. Section 483.80 is amended by—

■ a. Revising the heading for paragraph (d);

■ b. Adding paragraph (d)(3);

■ c. Removing the word ''and'' at the end of paragraph (g)(1)(vii);

■ d. Revising paragraph (g)(1)(viii); and

■ e. Adding paragraph (g)(1)(ix).

The revisions and additions read as follows:

**§ 483.80 Infection control.**

* * * * *

(d) *Influenza, pneumococcal, and COVID–19 immunizations*— * * *

(3) *COVID–19 immunizations.* The LTC facility must develop and implement policies and procedures to ensure all the following:

(i) When COVID–19 vaccine is available to the facility, each resident and staff member is offered the COVID–19 vaccine unless the immunization is medically contraindicated or the resident or staff member has already been immunized;

(ii) Before offering COVID–19 vaccine, all staff members are provided with education regarding the benefits and risks and potential side effects associated with the vaccine;

(iii) Before offering COVID–19 vaccine, each resident or the resident representative receives education regarding the benefits and risks and potential side effects associated with the COVID–19 vaccine;

(iv) In situations where COVID–19 vaccination requires multiple doses, the resident, resident representative, or staff member is provided with current information regarding those additional doses, including any changes in the benefits or risks and potential side effects associated with the COVID–19 vaccine, before requesting consent for administration of any additional doses;

(v) The resident, resident representative, or staff member has the opportunity to accept or refuse a COVID–19 vaccine, and change their decision;

(vi) The resident's medical record includes documentation that indicates, at a minimum, the following:

(A) That the resident or resident representative was provided education regarding the benefits and potential risks associated with COVID–19 vaccine; and

(B) Each dose of COVID–19 vaccine administered to the resident; or

(C) If the resident did not receive the COVID–19 vaccine due to medical contraindications or refusal; and

(vii) The facility maintains documentation related to staff COVID–19 vaccination that includes at a minimum, the following:

(A) That staff were provided education regarding the benefits and potential risks associated with COVID–19 vaccine;

(B) Staff were offered the COVID–19 vaccine or information on obtaining COVID–19 vaccine; and

(C) The COVID–19 vaccine status of staff and related information as indicated by the Centers for Disease Control and Prevention's National Healthcare Safety Network (NHSN).

* * * * *

(g) * * *

(1) * * *

(viii) The COVID–19 vaccine status of residents and staff, including total numbers of residents and staff, numbers of residents and staff vaccinated, numbers of each dose of COVID–19 vaccine received, and COVID–19 vaccination adverse events; and

(ix) Therapeutics administered to residents for treatment of COVID–19.

* * * * *

■ 3. Section 483.430 is amended by adding paragraph (f) to read as follows:

**§ 483.430 Condition of participation: Facility staffing.**

* * * * *

(f) *Standard: COVID–19 vaccines.* The facility maintains documentation related to staff that includes at a minimum, all of the following:

(1) Staff were provided education regarding the benefits and risks and potential side effects associated with the COVID–19 vaccine.

(2) Staff were offered COVID–19 vaccine or information on obtaining the COVID–19 vaccine.

■ 4. Section 483.460 is amended by redesignating paragraph (a)(4) as paragraph (a)(5) and adding new paragraph (a)(4) to read as follows:

**§ 483.460 Conditions of participation: Health care services.**

(a) * * *

(4) The intermediate care facility for individuals with intellectual disabilities (ICF/IID) must develop and implement policies and procedures to ensure all of the following:

(i) When COVID–19 vaccine is available to the facility, each client and staff member is offered the COVID–19 vaccine unless the immunization is medically contraindicated or the client or staff member has already been immunized.

(ii) Before offering COVID–19 vaccine, all staff members are provided with education regarding the benefits and risks and potential side effects associated with the vaccine.

(iii) Before offering COVID–19 vaccine, each client or the client's representative receives education regarding the benefits and risks and potential side effects associated with the COVID–19 vaccine.

(iv) In situations where COVID–19 vaccination requires multiple doses, the client, client's representative, or staff member is provided with current information regarding each additional dose, including any changes in the benefits or risks and potential side effects associated with the COVID–19 vaccine, before requesting consent for administration of each additional doses.

(v) The client, client's representative, or staff member has the opportunity to accept or refuse COVID–19 vaccine, and change their decision.

(vi) The client's medical record includes documentation that indicates, at a minimum, the following:

(A) That the client or client's representative was provided education regarding the benefits and risks and potential side effects of COVID–19 vaccine; and

(B) Each dose of COVID–19 vaccine administered to the client; or

(C) If the client did not receive the COVID–19 vaccine due to medical contraindications or refusal.

* * * * *

Dated: May 10, 2021.

**Xavier Becerra,**

*Secretary, Department of Health and Human Services.*

[FR Doc. 2021–10122 Filed 5–11–21; 11:15 am]

**BILLING CODE 4120–01–P**

# FEDERAL REGISTER

Vol. 86 Thursday,
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Part IV

## The President

Notice of May 11, 2021—Continuation of the National Emergency With Respect to Securing the Information and Communications Technology and Services Supply Chain
Notice of May 11, 2021—Continuation of the National Emergency With Respect to Yemen

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# Presidential Documents

**Title 3—**

**The President**

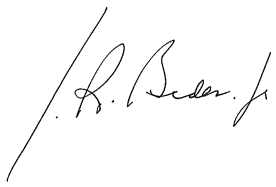
**Notice of May 11, 2021**

## Continuation of the National Emergency With Respect to Securing the Information and Communications Technology and Services Supply Chain

On May 15, 2019, by Executive Order 13873, the President declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the unrestricted acquisition and use of certain information and communications technology and services transactions.

The unrestricted acquisition or use in the United States of information and communications technology or services designed, developed, manufactured, or supplied by persons owned by, controlled by, or subject to the jurisdiction or direction of foreign adversaries augments the ability of these foreign adversaries to create and exploit vulnerabilities in information and communications technology or services, with potentially catastrophic effects. This threat continues to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For this reason, the national emergency declared on May 15, 2019, must continue in effect beyond May 15, 2021. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13873 with respect to securing the information and communications technology and services supply chain.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
*May 11, 2021.*

[FR Doc. 2021–10282
Filed 5–12–21; 11:15 am]
Billing code 3295–F1–P

# Presidential Documents

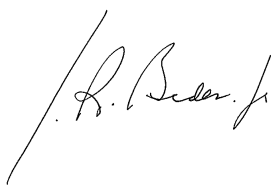
**Notice of May 11, 2021**

## Continuation of the National Emergency With Respect to Yemen

On May 16, 2012, by Executive Order 13611, the President declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions and policies of certain members of the Government of Yemen and others that threatened Yemen's peace, security, and stability. These actions include obstructing the political process in Yemen and blocking implementation of the agreement of November 23, 2011, between the Government of Yemen and those in opposition to it, which provide for a peaceful transition of power that meets the legitimate demands and aspirations of the Yemeni people.

The actions and policies of certain former members of the Government of Yemen and others in threatening Yemen's peace, security, and stability continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, the national emergency declared on May 16, 2012, to deal with that threat must continue in effect beyond May 16, 2021. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13611 with respect to Yemen.

This notice shall be published in the *Federal Register* and transmitted to Congress.



THE WHITE HOUSE,

*May 11, 2021.*

[FR Doc. 2021–10284

Filed 5–12–21; 11:15 am]

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# FEDERAL REGISTER

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Part V

## The President

Proclamation 10208—Peace Officers Memorial Day and Police Week, 2021

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# Presidential Documents

**Title 3—**

**The President**

**Proclamation 10208 of May 7, 2021**

## Peace Officers Memorial Day and Police Week, 2021

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

**A Proclamation**

Every day, we ask a great deal of the men and women of our Nation's law enforcement agencies; from ensuring public safety, to serving as front-line workers, to responding to incidents involving domestic violence, substance use disorders, mental health challenges, and homelessness, often with limited resources. Every morning, our Nation's law enforcement officers pin on a badge and go to work, not knowing what the day will bring, and hoping to come home safely. This year, even as the COVID–19 pandemic took a physical, mental, and emotional toll, our officers, deputies, and troopers demonstrated courage and dedication in continuing to support our communities. As we recognize Peace Officers Memorial Day and Police Week, we honor those who lost their lives in the line of duty, and thank them on behalf of this grateful Nation for their service.

The economic toll of the COVID–19 pandemic has strained State, local, and Tribal budgets—forcing many communities to stretch their funding, consider layoffs, and reduce public services. My Administration will support our Nation's law enforcement agencies and officers and work to ensure they have the resources and research tools they need to do their jobs successfully and the funding necessary to enhance officer safety and wellness, including improving access to mental health services. We will also continue to bolster initiatives that protect our law enforcement officers' physical safety—including those that provide for bulletproof vests and active shooter training.

This year, we also recognize that in many of our communities, especially Black and brown communities, there is a deep sense of distrust towards law enforcement; a distrust that has been exacerbated by the recent deaths of several Black and brown people at the hands of law enforcement. These deaths have resulted in a profound fear, trauma, pain, and exhaustion for many Black and brown Americans, and the resulting breakdown in trust between law enforcement and the communities they have sworn to protect and serve ultimately makes officers' jobs harder and more dangerous as well. In order to rebuild that trust, our State, local, and Federal Government and law enforcement agencies must protect constitutional rights, ensure accountability for misconduct, and embrace policing that reflects community values and ensures community safety. These approaches benefit those who wear the badge and those who count on their protection.

We must also stop tasking law enforcement with problems that are far beyond their jurisdictions. From providing emergency health care to resolving school discipline issues, our communities rely on the police to perform services that often should be the duty of other institutions. We then accuse the police of failure when responsibility lies with public policy choices they did not make. Supporting our law enforcement officers requires that we invest in underfunded public systems that provide health care, counseling, housing, education, and other social services.

There are many ways we can demonstrate appreciation for our law enforcement heroes. We recognize acts of bravery through the Public Safety Officer Medal of Valor and the Law Enforcement Congressional Badge of Bravery.

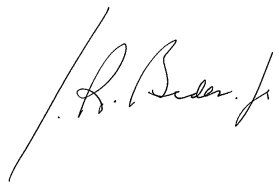
We must also acknowledge the challenge and value of their service through the Law Enforcement Mental Health and Wellness Act of 2017 and the Supporting and Treating Officers in Crisis Act of 2019. Should tragedy strike, Public Safety Officers' benefits must be available for the families of officers who lose their lives or are catastrophically injured in the line of duty.

This country asks much of our Federal, State, Tribal, and local police officers and deputies, and it is our solemn responsibility to ensure that those who protect and serve have the training, resources, and support they need to do their jobs well. My Administration will do everything we can to support the men and women who so courageously protect us.

By a joint resolution approved October 1, 1962, as amended (76 Stat. 676), and by Public Law 103–322, as amended (36 U.S.C. 136–137), the President has been authorized and requested to designate May 15 of each year as ''Peace Officers Memorial Day'' and the week in which it falls as ''Police Week.''

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, do hereby proclaim May 15, 2021, as Peace Officers Memorial Day and May 9 through May 15, 2021, as Police Week. I call upon all Americans to observe these events with appropriate ceremonies and activities. I further encourage all Americans to display the flag from their homes and businesses on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of May, in the year of our Lord two thousand twenty-one, and of the Independence of the United States of America the two hundred and forty-fifth.



[FR Doc. 2021–10306
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**Federal Register**

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