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

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE-2013-BT-TP-0050]

RIN 1904-AD88

Energy Conservation Program: Energy Conservation Standards and Test Procedures for Ceiling Fans

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule; technical amendments.

SUMMARY: The U.S. Department of Energy ("DOE") is publishing this final rule to amend the current regulations for large-diameter ceiling fans. The contents of these technical amendments correspond with provisions enacted by Congress through the Energy Act of 2020. This final rule also implements conforming amendments to the ceiling fan test procedure to ensure consistency with the Energy Act of 2020.

DATES: The effective date of this rule is May 27, 2021. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register on May 27, 2021. The incorporation by reference of a certain other publication listed in this rulemaking was approved by the Director of the Federal Register on August 24, 2016.

FOR FURTHER INFORMATION CONTACT:

Mr. Jeremy Domm, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE-2J, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-9870. Email: ApplianceStandardsQuestions@ee.doe.gov.

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Telephone: (202) 586-2588. Email: amelia.whiting@hq.doe.gov.

SUPPLEMENTARY INFORMATION: DOE maintains a previously approved incorporation by reference and incorporates by reference the following industry standard into 10 CFR part 430: Air Movement and Control Association International, Inc. ("AMCA") ANSI/AMCA Standard 208-18, ("AMCA 208-18"), "Calculation of the Fan Energy Index," ANSI approved January 24, 2018.

Copies of AMCA 208-18 may be purchased from AMCA International at 30 W University Drive, Arlington Heights, IL 60004, or by going to www.amca.org.

See section V.M of this document for further discussion of this standard.

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I. Authority and Background

The Energy Policy and Conservation Act, as amended ("EPCA"),¹ authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291-6317) Title III, Part B² of EPCA established the Energy Conservation Program for Consumer Products Other

Than Automobiles, which sets forth a variety of provisions designed to improve energy efficiency. These products include ceiling fans, the subject of this document. (42 U.S.C. 6291(49), 42 U.S.C. 6293(b)(16)(A)(i) and (B), and 42 U.S.C. 6295(ff))

On January 19, 2017, DOE published a final rule amending the energy conservation standards for ceiling fans. 82 FR 6826 ("January 2017 Final Rule"). Compliance with the amended standards was required beginning January 21, 2020.³ The current energy conservation standards for ceiling fans are located in title 10 of the Code of Federal Regulations ("CFR") section 430.32(s), and specify the statutorily-prescribed design standards (see 42 U.S.C. 6295(ff)(1)(A)) and the minimum efficiency standards established in the January 2017 Final Rule. The minimum efficiency standards established in the CFR are prescribed in terms of cubic feet per minute ("CFM") per watt ("CFM/W"). 10 CFR 430.32(s)(2). The currently-applicable DOE test procedures for ceiling fans are established at 10 CFR part 430, subpart B, appendix U, Uniform Test Method for Measuring the Energy Consumption of Ceiling Fans ("Appendix U").

Section 1008 of the Energy Act of 2020 (the "Act") amended section 325(ff)(6) of EPCA to specify that large-diameter ceiling fans manufactured on or after January 21, 2020, are not required to meet minimum ceiling fan efficiency requirements in terms of the total airflow to the total power consumption, CFM/W, as established in the January 2017 Final Rule, but instead meet minimum efficiency requirements based on the Ceiling Fan Energy Index ("CFEI") metric. (42 U.S.C. 6295(ff)(6)(C)(i)(I), as codified) The Act requires large-diameter ceiling fans to have a CFEI greater than or equal to 1.00 at high speed and 1.31 at 40 percent speed or the nearest speed that is not less than 40 percent speed. (42 U.S.C. 6295(ff)(6)(C)(i)(II), as codified) Further, the Act specifies that CFEI is to be calculated in accordance with American National Standards Institute ANSI/Air Movement and Control Association

¹ All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116-260 (Dec. 27, 2020).

² For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

³ DOE published a confirmation of rulemaking notice announcing the completion of a review of the final rule amending energy conservation standards for ceiling fans published on January 19, 2017 and confirming that compliance date of that final rule remained January 21, 2020. 82 FR 23723 (May 24, 2017).

International, Inc., AMCA Standard 208–18, “Calculation of Fan Energy Index,” with the following modifications: (I) Using an Airflow Constant (Q_0) of 26,500 cubic feet per minute; (II) Using a Pressure Constant (P_0) of 0.0027 inches water gauge; and (III) Using a Fan Efficiency Constant (η_0) of 42 percent. (42 U.S.C. 6295(ff)(6)(C)(ii), as codified) Finally, section 1008(b) of the Act states that for the purposes of the periodic review requirements in section 325(m) of EPCA, the standard established in the Act shall be treated as if such standard was issued on January 19, 2017. This final rule codifies those provisions of the Act related to large-diameter ceiling fans.

II. Amendments To Codify the Act in the CFR

In this final rule, DOE is amending 10 CFR 430.3, 10 CFR 430.32, and Appendix U to codify the Act. Section 430.3 lists the procedures and documents that are incorporated by reference for use in DOE standards and test procedures. DOE is amending this section by adding a reference to ANSI/AMCA 208–18.

Section 430.32(s)(2) specifies the minimum efficiency requirements for ceiling fans, including large-diameter ceiling fans. DOE is amending this section by removing the minimum efficiency requirements (in terms of CFM/W) for large-diameter ceiling fans in § 430.32(s)(2)(i). DOE is further amending this section by redesignating § 430.32(s)(2)(ii) as § 430.32(s)(2)(iii) and adding a new § 430.32(s)(2)(ii) that specifies the new CFEI energy conservation standard for large-diameter ceiling fans as prescribed by the Act.

Appendix U provides the uniform test method for measuring the energy consumption of ceiling fans. DOE is amending Appendix U by adding a new section 5 entitled “Calculation of Ceiling Fan Energy Index (CFEI) From the Test Results for Large-Diameter Ceiling Fans,” which specifies the method for calculating CFEI as prescribed by the Act, *i.e.*, according to AMCA 208–18, with the assumed values for airflow constant, pressure constant, and fan efficiency constant.

III. Conforming Amendments to the Ceiling Fan Test Procedure

Consistent with the codification of the ceiling fan provisions of the Act, DOE is also implementing conforming amendments in Appendix U to remove obsolete and conflicting provisions and to revise potentially confusing language. For large-diameter ceiling fans, Appendix U continues to reference

ANSI/AMCA Standard 230–15 (“AMCA 230–15”), “Laboratory Methods of Testing Air Circulating Fans for Rating and Certification,” (incorporated by reference in § 430.3(b)(3)) to determine airflow (in CFM) and power consumption (in Watts), which are inputs to the CFEI metric described in AMCA 208–18.

However, because of the Act, Appendix U no longer needs to include provisions to calculate a ceiling fan efficiency (CFM/W) of large-diameter ceiling fans and provisions related to testing large-diameter ceiling fans at speeds other than high speed and 40 percent speed (or the nearest speed that is not less than 40 percent speed). Accordingly, these conforming amendments: (1) Remove the definitions of “20% speed,” “60% speed,” and “80% speed” from section 1 (Definitions); (2) amend section 3.5(1) to refer to testing large-diameter ceiling fans only at high speed and at 40 percent speed (or the nearest speed that is not less than 40 percent speed) and remove Table 2 (Speeds To Be Tested for Large-Diameter Ceiling Fans) from that section; (3) amend section 3.5(2) to remove any requirements for speeds besides 40 percent speed and update the example to reference average measured RPM with respect to 40 percent speed; (4) amend the title for section 4 (Calculation of Ceiling Fan Efficiency From the Test Results) to specify that the section only applies to high-speed small diameter and low-speed small diameter ceiling fans; (5) remove the reference to large-diameter ceiling fans in section 4(3); and (6) remove the operating hours corresponding to large-diameter ceiling fans in Table 3 (Daily Operating Hours for Calculating Ceiling Fan Efficiency), as well as the corresponding table note.

IV. Final Action

DOE has determined, pursuant to 5 U.S.C. 553(b)(B), that prior notice and an opportunity for public comment on this final rule are unnecessary. Given the applicable statutory requirement enacted by Congress to require large-diameter ceiling fans to comply with energy conservation standards based on CFEI (rather than CFM/W), and the absence of any benefit in providing comment given that the rule incorporates the specific requirements established by the Energy Act of 2020 and conforming amendments, DOE finds that good cause exists to waive prior notice and an opportunity for public comment on the actions presented in this document to implement the provisions of the Energy Act of 2020 relevant to large-diameter

ceiling fans. For the same reasons, DOE finds good cause pursuant to 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date for this rule.

V. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

This final rule is not a “significant regulatory action” under any of the criteria set out in section 3(f) of Executive Order 12866, “Regulatory Planning and Review.” 58 FR 51735 (October 4, 1993). Accordingly, this action was not subject to review by the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB).

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of a final regulatory flexibility analysis (FRFA) for any final rule where the agency was first required by law to publish a proposed rule for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, “Proper Consideration of Small Entities in Agency Rulemaking,” 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003 to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel’s website: <https://energy.gov/gc/office-general-counsel>. DOE is revising the Code of Federal Regulations to incorporate, revised requirements for large-diameter ceiling fans prescribed by Public Law 116–260, and conforming amendments. Because this is a technical amendment for which a general notice of proposed rulemaking is not required, the analytical requirements of the Regulatory Flexibility Act do not apply to this rulemaking.

C. Review Under the Paperwork Reduction Act of 1995

Manufacturers of ceiling fans must certify to DOE that their products comply with any applicable energy conservation standards. To certify compliance, manufacturers must first obtain test data for their products according to the DOE test procedures, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping

requirements for all covered consumer products and commercial equipment, including ceiling fans. (See generally 10 CFR part 429.) The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 35 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act (“NEPA”) of 1969, DOE has analyzed this proposed action in accordance with NEPA and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE has determined that this rule qualifies for categorical exclusion under 10 CFR part 1021, subpart D, Appendix A5 because it is an interpretive rulemaking that does not change the environmental effect of the rule and meets the requirements for application of a categorical exclusion. See 10 CFR 1021.410. Therefore, DOE has determined that promulgation of this rule is not a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA, and does not require an environmental assessment or environmental impact statement.

E. Review Under Executive Order 13132

Executive Order 13132, “Federalism,” 64 FR 43255 (August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that

have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE examined this final rule and determined that it 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. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this final rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, “Civil Justice Reform,” 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (“UMRA”) requires

each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action resulting in a rule that may cause 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 (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed “significant intergovernmental mandate,” and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at <https://energy.gov/gc/office-general-counsel>. DOE examined this final rule according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of \$100 million or more in any year, so these requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This final rule will not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, “Governmental Actions and Interference with Constitutionally Protected Property Rights” 53 FR 8859 (March 18, 1988), that this regulation will not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M-19-15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at <https://www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf>. DOE has reviewed this final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use," 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB, a Statement of Energy Effects for any significant energy action. A "significant energy action" is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use if the regulation is implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This regulatory action is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95-91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; "FEAA") Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission ("FTC") concerning the impact of the commercial or industry standards on competition.

In this final rule, DOE is codifying the statutory reference to ANSI/AMCA Standard 208-18 as the test method for determining CFEL for large-diameter fans. Because this is a technical amendment for which a general notice of proposed rulemaking is not required and because DOE did not propose the incorporation by reference, section 32 do not apply to this rulemaking.

M. Description of Materials Incorporated by Reference

In this final rule, DOE incorporates by reference the test procedure published by AMCA International, titled "Calculation of the Fan Energy Index." Specifically, the test procedure codified by this final rule references ANSI/AMCA Standard 208-18, ("AMCA 208-18"), "Calculation of the Fan Energy Index," approved 2018. The procedure defines the fan energy index ("FEI"), outlines the calculations necessary to obtain it, and discusses the test conditions and configurations it applies to. Copies of ANSI/AMCA 208-18 may be purchased from the AMCA International at 30 W University Drive, Arlington Heights, IL 60004, or by going to webstore.ansi.org.

ANSI/AMCA 230-15 was previously approved for IBR in appendix U and the reference continues unchanged.

N. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule prior to its effective date. The report will state that it has been determined that the rule is not a "major rule" as defined by 5 U.S.C. 804(2).

Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final rule.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, and Small businesses.

Signing Authority

This document of the Department of Energy was signed on May 18, 2021, by Kelly Speakes-Backman, Principal Deputy Assistant Secretary and Acting Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 19, 2021.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

For the reasons stated in the preamble, DOE amends part 430 of chapter II of title 10, Code of Federal Regulations as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291-6309; 28 U.S.C. 2461 note.

■ 2. Section 430.3 is amended by:

- a. Revising paragraph (a);
- b. Redesignating paragraphs (b)(2) and (3) as (b)(3) and (4), respectively; and
- c. Adding new paragraph (b)(2).

The revision and addition read as follows:

§ 430.3 Materials incorporated by reference.

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, DOE must publish a document in the **Federal Register** and

the material must be available to the public. All approved material is available for inspection at the U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, Sixth Floor, 950 L'Enfant Plaza SW, Washington, DC 20024, (202) 586-2945, <https://www.energy.gov/eere/buildings/appliance-and-equipment-standards-program>, and may be obtained from the other sources in this section. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: fedreg.legal@nara.gov, or go to: www.archives.gov/federal-register/cfr/ibr-locations.html.

(b) * * *

(2) ANSI/AMCA Standard 208-18, ("AMCA 208-18"), Calculation of the Fan Energy Index, ANSI approved January 24, 2018, IBR approved for appendix U to this subpart.

* * * * *

■ 3. Appendix U to subpart B of part 430 is amended by:

- a. Removing sections 1.1, 1.3, and 1.4;
- b. Redesignating section 1.2 as 1.1;
- c. Redesignating sections 1.5 through 1.23 as 1.2 through 1.20, respectively;
- d. Revising section 3.5;
- e. Revising the heading for section 4;
- f. Removing the parenthetical "(for all tested settings for large-diameter ceiling fans)" in section 4.(3);
- g. Revising section 4.(4); and
- h. Adding section 5.

The revisions and addition read as follows:

Appendix U to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Ceiling Fans

* * * * *

3.5 Active mode test measurement for large-diameter ceiling fans:

(1) Test large-diameter ceiling fans in accordance with ANSI/AMCA Standard 208-18 in all phases simultaneously at:

(a) High speed, and

(b) 40 percent speed or the nearest speed that is not less than 40 percent speed.

(2) When testing at 40 percent speed for large-diameter ceiling fans that can operate over an infinite number of speeds (e.g., ceiling fans with VFDs), ensure the average measured RPM is within the greater of 1% of the average RPM at high speed or 1 RPM. For example, if the average measured RPM at high speed is 50 RPM, for testing at 40% speed, the average measured RPM should be between 19 RPM and 21 RPM. If the average measured RPM falls outside of this tolerance, adjust the

ceiling fan speed and repeat the test. Calculate the airflow and measure the active (real) power consumption in all phases simultaneously in accordance with the test requirements specified in sections 8 and 9, AMCA 230-15 (incorporated by reference, see § 430.3), with the following modifications:

* * * * *

4. Calculation of Ceiling Fan Efficiency From the Test Results for LSSD and HSSD ceiling fans:

* * * * *

(4) Table 3 of this appendix specifies the daily hours of operation to be used in calculating ceiling fan efficiency:

TABLE 3 TO APPENDIX U TO SUBPART B OF PART 430: DAILY OPERATING HOURS FOR CALCULATING CEILING FAN EFFICIENCY

	No standby	With standby
Daily Operating Hours for LSSD Ceiling Fans		
High Speed	3.4	3.4
Low Speed	3.0	3.0
Standby Mode	0.0	17.6
Off Mode	17.6	0.0

Daily Operating Hours for HSSD Ceiling Fans		
High Speed	12.0	12.0
Standby Mode	0.0	12.0
Off Mode	12.0	0.0

* * * * *

5. Calculation of Ceiling Fan Energy Index (CFEI) From the Test Results for Large-Diameter Ceiling Fans:

Calculate CFEI, which is the FEI for large-diameter ceiling fans, at the speeds specified in section 3.5 of this appendix according to ANSI/AMCA 208-18, (incorporated by reference, see § 430.3), with the following modifications:

- (1) Using an Airflow Constant (Q_0) of 26,500 cubic feet per minute;
- (2) Using a Pressure Constant (P_0) of 0.0027 inches water gauge; and
- (3) Using a Fan Efficiency Constant (η_0) of 42 percent.

■ 4. Section 430.32 is amended by:

- a. Revising paragraph (s)(2)(i);
- b. Redesignating (s)(2)(ii) as (s)(2)(iii); and
- c. Adding new paragraph (s)(2)(ii).

The revision and addition read as follows:

§ 430.32 Energy and water conservation standards and their compliance dates.

* * * * *

(s) * * *

(2)(i) Ceiling fans manufactured on or after January 21, 2020, shall meet the requirements shown in the table:

Product class as defined in Appendix U	Minimum efficiency (CFM/W) ¹
Very small-diameter (VSD)	D ≤ 12 in.: 21. D > 12 in.: 3.16 D-17.04.
Standard	0.65 D + 38.03.
Hugger	0.29 D + 34.46.
High-speed small-diameter (HSSD).	4.16 D + 0.02.

¹ D is the ceiling fan's blade span, in inches, as determined in Appendix U of this part.

(ii) Large-diameter ceiling fans manufactured on or after January 21, 2020, shall have a CFEI greater than or equal to—

- (A) 1.00 at high speed; and
- (B) 1.31 at 40 percent speed or the nearest speed that is not less than 40 percent speed.

* * * * *

[FR Doc. 2021-10882 Filed 5-26-21; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2006-26107; Project Identifier 2004-SW-30-AD; Amendment 39-21549; AD 2021-10-16]

RIN 2120-AA64

Airworthiness Directives; Carson Helicopters, Inc.; Croman Corporation; Sikorsky Aircraft Corporation; and Siller Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Carson Helicopters, Inc., Model S-61L and SH-3H helicopters; Croman Corporation Model SH-3H helicopters; Sikorsky Aircraft Corporation Model S-61A, S-61D, S-61E, and S-61V helicopters; and Siller Helicopters Model CH-3E and SH-3A helicopters. This AD was prompted by an accident. This AD requires tracking hours time-in-service (TIS) and external lift cycles (lift cycles) for certain main gearbox left and right input freewheel unit (IFWU) assemblies. This AD also requires determining the type of IFWU assembly installed and depending on the results, calculating the moving average, repetitive inspections, recording certain information, replacing parts, and marking parts. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 1, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 1, 2021.

ADDRESSES: For service information identified in this final rule, contact your local Sikorsky Field Representative or Sikorsky's Service Engineering Group at Sikorsky Aircraft Corporation, 124 Quarry Road, Trumbull, CT 06611; telephone 1-800-Winged-S; email wcs_cust_service_eng.gr-sik@lmco.com. Operators may also log on to the Sikorsky 360 website at <https://www.sikorsky360.com>. You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N-321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222-5110. It is also available at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2006-26107.

Examining the AD Docket

You may examine the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2006-26107; 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:

Isabel Saltzman, Aviation Safety Engineer, Boston ACO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; telephone 781-238-7649; email Isabel.L.Saltzman@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Sikorsky Aircraft Corporation Model S-61 A, D, E, and V helicopters; Croman Corporation Model SH-3H helicopters; Carson Helicopters, Inc. Model S-61L helicopters; and Siller Helicopters Model CH-3E and SH-3A helicopters. The NPRM published in the *Federal Register* on October 30, 2006 (71 FR 63272). The NPRM was prompted by an accident in which the left and right IFWU assembly on a helicopter slipped or disengaged resulting in both engines overspeeding,

engine shutdowns, and loss of engine power to the transmissions. In the NPRM, the FAA proposed to require creating a component history card or equivalent record and recording the hours TIS and the lift cycles for each affected main gearbox left and right IFWU assembly. The NPRM also proposed to require determining if the IFWU assembly is a repetitive external lift (REL) or non-REL IFWU assembly. The determination includes calculating a moving average of lift cycles per hour TIS at specified intervals on each IFWU assembly. For REL IFWU assemblies, the NPRM proposed to require repetitive inspections, which include visual and dimensional inspections, of the IFWU assembly for wear, surface distress, and endplay, recording certain information, and replacing affected parts with an airworthy part. In addition, the NPRM proposed to require permanently marking the REL IFWU camshafts and gear housings with the letters "REL" on the surface of these parts.

The FAA issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Carson Helicopters, Inc., Model S-61L and SH-3H helicopters; Croman Corporation Model SH-3H helicopters; Sikorsky Aircraft Corporation Model S-61A, S-61D, S-61E, and S-61V helicopters; and Siller Helicopters Model CH-3E and SH-3A helicopters. The SNPRM published in the *Federal Register* on March 15, 2021 (86 FR 14285). The SNPRM was prompted by a determination that additional camshaft and gear housing part numbers need to be marked and the applicability and certain compliance times need clarification. The SNPRM proposed to require the same actions specified in the NPRM. The SNPRM also proposed to mark additional camshaft and gear housing part numbers. Additionally, the SNPRM clarified the applicability and certain compliance times. The FAA is issuing this AD to address the unsafe condition on these products.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from one commenter. The commenter was Croman Corp. The commenter supported the SNPRM without change.

Conclusion

The FAA reviewed the relevant data, considered the comments received, and determined that air safety requires adopting the AD as proposed.

Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, this AD is adopted as proposed in the SNPRM.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Sikorsky Aircraft Corporation Alert Service Bulletin 61B35-67B, Revision B, dated August 11, 2003. This service information specifies, among other actions, procedures for inspections, which includes visual and dimensional inspections, of the IFWU assembly for wear, surface distress, and endplay, and for recording certain information. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Other Related Service Information

The FAA also reviewed Sikorsky Aircraft Corporation All Operators Letter (AOL) CCS-61-AOL-04-0005, dated May 18, 2004. This service information provides an example and additional information about tracking cycles and the moving average procedure.

The FAA also reviewed Sikorsky Aircraft S-61L/N Overhaul Manual, SA4045-83, Revision 20, dated August 15, 2003, as revised by Temporary Revisions 65-193, -194, -195, and -196, which contains the overhaul procedures for the IFWU assembly.

Differences Between This AD and the Service Information

The effectivity of Sikorsky Aircraft Corporation Alert Service Bulletin 61B35-67B, Revision B, dated August 11, 2003, includes Model S-61 L, N, NM, and R helicopters. However, for those helicopters, the unsafe condition is addressed in AD 2007-01-05, Amendment 39-14876 (72 FR 1139, January 10, 2007). Therefore, those helicopters are not included in the applicability of this AD.

Sikorsky Aircraft Corporation Alert Service Bulletin 61B35-67B, Revision B, dated August 11, 2003, specifies contacting Sikorsky and providing information to Sikorsky. This AD does not require you to contact Sikorsky or provide information to Sikorsky.

Costs of Compliance

The FAA estimates that this AD affects 55 helicopters of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Creating history card; determining type of IFWU assembly; inspecting IFWU assemblies; recording information; replacing parts; and marking certain parts.	Up to 8 work-hours × \$85 per hour = \$680.	Up to \$1,975 ..	Up to \$2,655 ..	Up to \$146,025.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–10–16 Carson Helicopters, Inc.; Croman Corporation; Sikorsky Aircraft Corporation; and Siller Helicopters: Amendment 39–21549; Docket No. FAA–2006–26107; Project Identifier 2004–SW–30–AD.

(a) Effective Date

This airworthiness directive (AD) is effective July 1, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all helicopters identified in paragraphs (c)(1) through (6) of this AD, certificated in any category including restricted.

- (1) Carson Helicopters, Inc., Model S–61L helicopters.
- (2) Carson Helicopters, Inc., Model SH–3H helicopters.
- (3) Croman Corporation Model SH–3H helicopters.
- (4) Sikorsky Aircraft Corporation Model S–61A, S–61D, S–61E, and S–61V helicopters.
- (5) Siller Helicopters Model CH–3E helicopters.
- (6) Siller Helicopters Model SH–3A helicopters.

(d) Subject

Joint Aircraft System Component (JASC) Code 6310, Engine/Transmission Coupling.

(e) Unsafe Condition

This AD was prompted by an accident in which the left and right input freewheel unit (IFWU) assembly on a helicopter slipped or disengaged, resulting in both engines overspeeding, engine shutdowns, and loss of engine power to the transmissions. The FAA is issuing this AD to address slipping of the main gearbox IFWU assembly, loss of engine power, and subsequent loss of control of the helicopter.

(f) Compliance

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

(g) Creation of History Card or Equivalent and Daily Actions

Within 10 hours time-in-service (TIS) after the effective date of this AD, do the actions specified in paragraphs (g)(1) and (2) of this AD.

(1) Create an external lift component history card or equivalent record for each IFWU assembly, part number (P/N) 61074–35000–041 through 61074–35000–063 inclusive.

(2) Count and, at the end of each day's operations, record the number of external lift cycles (lift cycles) performed and the hours TIS for each IFWU assembly, P/N 61074–35000–041 through 61074–35000–063 inclusive. A "lift cycle" is defined as the lifting of an external load and subsequent release of the load. Record the lift cycles and hours TIS on the external lift component history card or equivalent record.

(h) Determination of IFWU Assembly Type and Calculations

(1) Upon reaching 250 hours TIS after the effective date of this AD on each IFWU assembly, P/N 61074–35000–041 through 61074–35000–063 inclusive, determine whether the IFWU assembly is a repetitive external lift (REL) or non-REL IFWU assembly by using a 250-hour TIS moving average. To perform the calculation, divide the total number of lift cycles performed during the first 250 hours TIS by 250. The result will be the first moving average calculation of lift cycles per hour TIS.

(i) If the calculation specified in paragraph (h)(1) of this AD results in more than 6 lift cycles per hour TIS, the IFWU assembly is an REL IFWU assembly.

(ii) If the calculation specified in paragraph (h)(1) of this AD results in 6 or less lift cycles per hour TIS, the IFWU assembly is a Non-REL IFWU assembly.

(2) For each IFWU assembly determined to be a Non-REL IFWU assembly based on the first calculation of the 250-hour TIS moving average for lift cycles specified in paragraph (h)(1) of this AD: Within 50 hours TIS after the determination, and thereafter at intervals of 50 hours TIS, recalculate the average lift cycles per hour TIS to determine whether the IFWU assembly is an REL or non-REL IFWU assembly. To perform the calculation, subtract the total number of lift cycles performed during the first 50-hour TIS interval used in the previous moving average calculation from the total number of lift cycles performed on the IFWU assembly during the previous 300 hours TIS. Divide this result by 250. The result will be the next or subsequent moving average calculation of lift cycles per hour TIS.

(i) If any calculation specified in paragraph (h)(2) of this AD results in more than 6 lift

cycles per hour TIS, the IFWU assembly is an REL IFWU assembly.

(ii) If any calculation specified in paragraph (h)(2) of this AD results in 6 or less lift cycles per hour TIS, the IFWU assembly is a Non-REL IFWU assembly.

Note 1 to paragraph (h)(2): Sikorsky Aircraft Corporation All Operators Letter (AOL) CCS-61-AOL-04-0005, dated May 18, 2004, provides an example and additional information about tracking cycles and the moving average procedure.

Note 2 to paragraph (h)(2): The following is a sample calculation for subsequent 50 hour TIS intervals. Assume the total number of lift cycles for the first 50 hour TIS interval used in the previous moving average calculation = 450 lift cycles and the total number of lift cycles for the previous 300 hours TIS = 2,700 lift cycles. The subsequent moving average of lift cycles per hour TIS = $(2,700 - 450) \div 250 = 9$ lift cycles per hour TIS.

(3) Once an IFWU assembly is determined to be an REL IFWU assembly, it remains an REL IFWU assembly for the rest of its service life and is subject to the inspection for REL IFWU assemblies required by paragraph (i) of this AD.

(4) Once an IFWU assembly is determined to be an REL IFWU assembly, you no longer need to perform the 250-hour TIS moving average calculation required by paragraph (h)(2) of this AD, but you must continue to count and record the lift cycles as required by paragraph (g)(2) of this AD.

(i) Repetitive Inspections of REL IFWU Assemblies and Replacement

For each REL IFWU assembly, as determined by paragraph (h)(1) or (2) of this AD:

(1) Within 500 hours TIS or 7,500 lift cycles, whichever occurs first since the assembly was determined to be a REL IFWU assembly, and thereafter at intervals not to exceed 500 hours TIS or 7,500 lift cycles, whichever occurs first, inspect for wear, surface distress, and endplay by following paragraphs B.(1) through B.(6) of the Accomplishment Instructions of Sikorsky Aircraft Corporation Alert Service Bulletin 61B35-67B, Revision B, dated August 11, 2003. Record all the information specified in Figures 1 through 3 of the Sikorsky Aircraft Corporation Alert Service Bulletin 61B35-67B, Revision B, dated August 11, 2003. You may record this information on any suitable maintenance record, or you may use the Sikorsky evaluation forms provided in Sikorsky Aircraft Corporation Alert Service Bulletin 61B35-67B, Revision B, dated August 11, 2003. This AD does not require you to contact Sikorsky or provide information to Sikorsky.

(2) If during any inspection required by paragraph (i)(1) of this AD, any IFWU assembly part is found whose average wear, wear marks, surface distress, or endplay exceeds the limits specified in paragraphs B.(1) through B.(6) of the Accomplishment Instructions of Sikorsky Aircraft Corporation Alert Service Bulletin 61B35-67B, Revision B, dated August 11, 2003, before further flight, replace the affected part with an airworthy IFWU assembly part.

Note 3 to paragraph (i)(2): Sikorsky Aircraft S-61L/N Overhaul Manual, SA4045-83, Revision 20, dated August 15, 2003, as revised by Temporary Revisions 65-193, -194, -195, and -196, contains the overhaul procedures for the IFWU assembly.

(j) Part Marking

For each REL IFWU assembly, as determined by paragraph (h)(1) or (2) of this AD: Before further flight after the assembly was determined to be an REL IFWU assembly, permanently mark IFWU camshafts, P/N 61350-24052, 61350-24072, S6135-20611, S6135-20614 and S6137-23075, and IFWU gear housings, P/N 61350-24051, 61350-24068, S6135-20695, and S6137-23057, with the letters "REL". Mark the camshafts by applying etching ink on the surface of the part that is 0.5-inch square with the depth of the letters not to exceed 0.001 inch. Before further flight and after etching, neutralize the etched surface and oil to prevent corrosion.

(k) Alternative Methods of Compliance (AMOCs)

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

(l) Related Information

(1) For more information about this AD, contact Isabel Saltzman, Aviation Safety Engineer, Boston ACO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; telephone 781-238-7649; email Isabel.L.Saltzman@faa.gov.

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

(m) Material Incorporated by Reference

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

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

(i) Sikorsky Aircraft Corporation Alert Service Bulletin 61B35-67B, Revision B, dated August 11, 2003.

(ii) [Reserved]

(3) For service information identified in this AD, contact your local Sikorsky Field Representative or Sikorsky's Service Engineering Group at Sikorsky Aircraft Corporation, 124 Quarry Road, Trumbull, CT

06611; telephone 1-800-Winged-S; email wcs_cust_service_eng.gr-sik@lmco.com. Operators may also log on to the Sikorsky 360 website at <https://www.sikorsky360.com>.

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

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

Issued on May 4, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021-11081 Filed 5-26-21; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2020-1171; Product Identifier 2017-SW-124-AD; Amendment 39-21548; AD 2021-10-15]

RIN 2120-AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus Helicopters Deutschland GmbH Model MBB-BK 117 C-2 and Model MBB-BK 117 D-2 helicopters. This AD was prompted by a determination that a life limit for the adapter forward (FWD) of the outboard load system, repetitive inspections of other components of that system, and for certain helicopters, a modification of the outboard load system, are necessary to address the unsafe condition. This AD requires a modification of the outboard load system for certain helicopters, repetitive inspections of the outboard load system and its components for any defect (including cracking, damage, corrosion, and incorrect installation) and applicable corrective actions, and implementation of a new life limit for the FWD adapter, as specified in a European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD, which is

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

DATES: This AD is effective July 1, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 1, 2021.

ADDRESSES: For material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; internet www.easa.europa.eu. You may find this material on the EASA website at <https://ad.easa.europa.eu>. You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N-321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817-222-5110. It is also available in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-1171.

Examining the AD Docket

You may examine the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-1171; 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: Kathleen Arrigotti, Program Manager, Large Aircraft Section, International Validation Branch, Compliance & Airworthiness Division, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206-231-3218; email kathleen.arrigotti@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2017-0177, dated September 14, 2017 (EASA AD 2017-0177) (also referred to

as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all Airbus Helicopters Deutschland GmbH Model MBB-BK 117 C-2 helicopters, except the Model C-2e variant, and all Model MBB-BK 117 D-2 helicopters.

EASA's Model MBB-BK 117 C-2e variant helicopters are not a unique model on the U.S. type certificate but are considered a configuration of the Model MBB-BK117 C-2. The U.S. type certificate data sheet explains that the FAA determined that the type design changes involved did not rise to the level that required an FAA amended type certificate. However, the FAA does recognize that helicopters with these type design changes exist, therefore the designation Model MBB-BK117 C-2(e) is used, starting from Serial Number 9601. The Model MBB-BK117 C-2(e) is a visual flight rules only configuration of the Model MBB-BK117 C-2 utilizing a Garmin 500H flight display system.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus Helicopters Deutschland GmbH Model MBB-BK 117 C-2 and Model MBB-BK 117 D-2 helicopters, except the Model MBB-BK117 C-2(e) configuration. The NPRM published in the **Federal Register** on March 11, 2021 (86 FR 13830). The NPRM was prompted by a determination that a life limit for the adapter FWD of the outboard load system, repetitive inspections of other components of that system, and for certain helicopters, a modification of the outboard load system, are necessary to address the unsafe condition. The NPRM proposed to require a modification of the outboard load system for certain helicopters, repetitive inspections of the outboard load system and its components for any defect (including cracking, damage, corrosion, and incorrect installation) and applicable corrective actions, and implementation of a new life limit for the FWD adapter, as specified in an EASA AD.

The FAA is issuing this AD to address detachment of an external load or person from the helicopter hoist, resulting in personal injury, or injury to persons on the ground. See the MCAI for additional background information.

Discussion of Final Airworthiness Directive

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.

Costs of Compliance Update

The NPRM had specified no definitive data was available for the costs of the modification and certain parts. The FAA has received data on the costs of the modification and parts and has updated the costs of compliance accordingly.

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 and a change to paragraph (i)(1) of this AD. The FAA has determined that these minor changes:

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

Related Service Information Under 1 CFR Part 51

EASA AD 2017-0177 describes procedures for modification of the outboard load system for certain Model MBB-BK 117 C-2 helicopters, repetitive inspections of the outboard load system and its components for any defect (including cracking, damage, corrosion, and incorrect installation) and corrective actions, and implementation of a new life limit for the FWD adapter (*i.e.*, repetitive replacements). The corrective actions include replacement of any defective component with a serviceable part.

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

Costs of Compliance

The FAA estimates that this AD affects 175 helicopters of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
4 work-hours × \$85 per hour = \$340	\$2,276	\$2,616	\$457,800

The FAA estimates the following costs to do any necessary on-condition actions that would be required based on

the results of any required actions. The FAA has no way of determining the

number of helicopters that might need these on-condition actions:

ESTIMATED COSTS OF ON-CONDITION ACTION

Labor cost	Parts cost	Cost per product
2 work-hours × \$85 per hour = \$170	Up to \$970	Up to \$1,140.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–10–15 Airbus Helicopters

Deutschland GmbH: Amendment 39–21548; Docket No. FAA–2020–1171; Product Identifier 2017–SW–124–AD.

(a) Effective Date

This airworthiness directive (AD) is effective July 1, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Helicopters Deutschland GmbH Model MBB–BK 117 C–2 and Model MBB–BK 117 D–2 helicopters, certificated in any category, all manufacturer serial numbers, except the Model MBB–BK117 C–2(e) configuration.

Note 1 to paragraph (c): Model MBB–BK117 C–2 helicopters utilizing a Garmin 500H flight display system are designated by EASA as Model MBB–BK117 C–2e variants of the Model BK 117 C–2 helicopters, and by the FAA as a Model MBB–BK117 C–2(e) configuration.

(d) Subject

Joint Aircraft System Component (JASC) Code 2500, Cabin Equipment/Furnishings.

(e) Reason

This AD was prompted by a determination that a life limit for the adapter forward of the outboard load system, repetitive inspections of other components of that system, and for certain helicopters, a modification of the outboard load system, are necessary to

address the unsafe condition. The FAA is issuing this AD to address detachment of an external load or person from the helicopter hoist, which could result in personal injury, or injury to persons on the ground.

(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 Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD 2017–0177, dated September 14, 2017 (EASA AD 2017–0177).

(h) Exceptions to EASA AD 2017–0177

(1) Where EASA AD 2017–0177 refers to its effective date, this AD requires using the effective date of this AD.

(2) The "Remarks" section of EASA AD 2017–0177 does not apply to this AD.

(3) Where the service information referenced in EASA AD 2017–0177 specifies contacting the applicable manufacturer of the dedicated equipment for a definition of a cycle and recalculation to hoist cycles, this AD does not require contacting the manufacturer for a definition of a cycle and recalculation to hoist cycles.

(4) Where paragraph (3) of EASA AD 2017–0177 specifies to do "applicable corrective actions," for this AD, if there are any defective components, replace all defective components with serviceable components in accordance with FAA-approved procedures. For the purposes of this AD, a defect may be indicated by cracking, damage, corrosion, or incorrect installation.

(5) Although the service information referenced in EASA AD 2017–0177 specifies to discard certain parts, this AD requires removing those parts from service instead.

(6) Where the service information referenced in EASA AD 2017–0177 refers to flight hours (FH), this AD requires using hours time-in-service.

(7) Paragraph (9) of EASA AD 2017–0177 does not apply to this AD.

(i) 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 (j) 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.

(j) Related Information

For more information about this AD, contact Kathleen Arrigotti, Program Manager, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206-231-3218; email: kathleen.arrigotti@faa.gov.

(k) Material Incorporated by Reference

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

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

(i) European Aviation Safety Agency (EASA) AD 2017-0177, dated September 14, 2017.

(ii) [Reserved]

(3) For EASA AD 2017-0177, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADS@easa.europa.eu; internet www.easa.europa.eu. You may find this EASA AD on the EASA website at <https://ad.easa.europa.eu>.

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N-321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817-222-5110. This material may be found in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-1171.

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

Issued on May 3, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021-11080 Filed 5-26-21; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2021-0018; Project Identifier MCAI-2020-01214-T; Amendment 39-21546; AD 2021-10-13]

RIN 2120-AA64

Airworthiness Directives; De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.) Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2015-17-08, which applied to certain Bombardier, Inc. Model DHC-8-400 series airplanes. AD 2015-17-08 required installing new cable assemblies with a pull-down resistor. This AD requires modifications to the nose wheel steering (NWS) system. This AD was prompted by a report indicating that several failure modes of the NWS system may cause the loss of feedback from both rotary variable differential transformers to the steering control unit. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 1, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 1, 2021.

ADDRESSES: For service information identified in this final rule, contact De Havilland Aircraft of Canada Limited, Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416-375-4000; fax 416-375-4539; email thd@dehavilland.com; internet <https://dehavilland.com>. You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0018.

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-2021-0018; 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:

Siddeeq Bacchus, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7362; fax 516-794-5531; email 9-avs-nyaco-cos@faa.gov.

SUPPLEMENTARY INFORMATION:

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued TCCA AD CF-2020-28, dated August 14, 2020 (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain De Havilland Aircraft of Canada Limited Model DHC-8-401 and -402 airplanes. You may examine the MCAI in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0018.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2015-17-08, Amendment 39-18241 (80 FR 51459, August 25, 2015) (AD 2015-17-08). AD 2015-17-08 applied to certain Bombardier, Inc. Model DHC-8-400 series airplanes. The NPRM published in the **Federal Register** on February 24, 2021 (86 FR 11175). The NPRM was prompted by a report indicating that several failure modes of the NWS system may cause the loss of feedback from both rotary variable differential transformers to the steering control unit. The NPRM proposed to require modifications to the NWS system. The FAA is issuing this AD to address failure modes of the NWS system, which could lead to NWS runaway, loss of directional control of the airplane, and possible consequent runway excursion. See the MCAI for additional background information.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The FAA has considered the comment received. The Air Line Pilots Association, International (ALPA) indicated its support for the NPRM.

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

De Havilland Aircraft of Canada Limited has issued Service Bulletin 84-32-162, Revision B, dated November 13, 2019, including UTC Aerospace Systems Service Bulletin 406300-32-142, dated June 24, 2019; and UTC Aerospace Systems Service Bulletin 406330-32-143, dated June 24, 2019. This service information describes procedures for modifying the NWS system (terminating wiring, reworking

the left-hand console frame, and installing an NWS electronic control unit and NWS hand control). This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 54 airplanes of U.S. registry.

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

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modification	13 work-hours × \$85 per hour = \$1,105	Up to \$122	Up to \$1,227 ..	Up to \$66,258.

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 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:
 - a. Removing Airworthiness Directive (AD) 2015-17-08, Amendment 39-18241 (80 FR 51459, August 25, 2015); and
 - b. Adding the following new AD:

2021-10-13 De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.): Amendment 39-21546; Docket No. FAA-2021-0018; Project Identifier MCAI-2020-01214-T.

(a) Effective Date

This airworthiness directive (AD) is effective July 1, 2021.

(b) Affected ADs

This AD replaces AD 2015-17-08, Amendment 39-18241 (80 FR 51459, August 25, 2015) (AD 2015-17-08).

(c) Applicability

This AD applies to De Havilland Aircraft of Canada Limited Model DHC-8-401 and -402 airplanes, certificated in any category, serial numbers 4001, and 4003 through 4608 inclusive.

(d) Subject

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

(e) Reason

This AD was prompted by a report indicating that several failure modes of the nose wheel steering (NWS) system may cause the loss of feedback from both rotary variable differential transformers to the steering control unit. The FAA is issuing this AD to address failure modes of the NWS system, which could lead to NWS runaway, loss of directional control of the airplane, and possible consequent runway excursion.

(f) Compliance

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

(g) New Requirement of This AD

Within 4,000 flight hours or 18 months, whichever occurs first after the effective date of this AD: Perform modifications to the NWS system, in accordance with paragraph 3.B of the Accomplishment Instructions of De Havilland Aircraft of Canada Limited Service Bulletin 84-32-162, Revision B, dated November 13, 2019, including UTC Aerospace Systems Service Bulletin 406300-32-142, dated June 24, 2019; and UTC Aerospace Systems Service Bulletin 406330-32-143, dated June 24, 2019.

(h) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using De Havilland Aircraft of Canada Limited Service Bulletin 84-32-162, dated August 26, 2019, including UTC Aerospace Systems Service Bulletin 406300-32-142, dated June 24, 2019, and UTC Aerospace Systems Service Bulletin 406330-32-143, dated June 24, 2019; or De Havilland Aircraft of Canada Limited Service Bulletin 84-32-162, Revision A, dated October 18, 2019, including UTC Aerospace Systems Service Bulletin 406300-32-142, dated June 24, 2019, and UTC Aerospace Systems

Service Bulletin 406330–32–143, dated June 24, 2019.

(i) Other FAA AD Provisions

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) TCCA AD CF–2020–28, dated August 14, 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–2021–0018.

(2) For more information about this AD, contact Siddeeq Bacchus, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7362; fax 516–794–5531; email 9-avs-nyaco-cos@faa.gov.

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

(k) Material Incorporated by Reference

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

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

(i) De Havilland Aircraft of Canada Limited Service Bulletin 84–32–162, Revision B, dated November 13, 2019, including UTC Aerospace Systems Service Bulletin 406300–32–142, dated June 24, 2019; and UTC Aerospace Systems Service Bulletin 406330–32–143, dated June 24, 2019.

(ii) [Reserved]

(3) For service information identified in this AD, contact De Havilland Aircraft of Canada Limited, Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto,

Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email thd@dehavilland.com; internet <https://dehavilland.com>.

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

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

Issued on April 30, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–11088 Filed 5–26–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–1184; Project Identifier MCAI–2020–01425–T; Amendment 39–21532; AD 2021–09–18]

RIN 2120–AA64

Airworthiness Directives; ATR–GIE Avions de Transport Régional Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain ATR–GIE Avions de Transport Régional Model ATR72–212A airplanes. This AD was prompted by a report of an engine electrical control #1 fault during flight caused by chafing damage on an electrical harness bundle. This AD requires modifying the electrical harness routes and de-icing pipe coupling installations, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 1, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 1, 2021.

ADDRESSES: For material incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221

8999 000; email ADs@easa.europa.eu; internet www.easa.europa.eu. You may find this IBR material on the EASA website at <https://ad.easa.europa.eu>. You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2020–1184.

Examining the AD Docket

You may examine the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2020–1184; 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:

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:

Background

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0227, dated October 19, 2020 (EASA AD 2020–0227) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain ATR–GIE Avions de Transport Régional Model ATR72–212A airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain ATR–GIE Avions de Transport Régional Model ATR72–212A airplanes. The NPRM published in the **Federal Register** on February 22, 2021 (86 FR 10491). The NPRM was prompted by a report of an engine electrical control #1 fault during flight caused by chafing damage on an electrical harness bundle. The NPRM proposed to require modifying the electrical harness routes and de-icing pipe coupling installations, as specified in EASA AD 2020–0227.

The FAA is issuing this AD to address chafing damage on an electrical harness bundle, which could result in wire failure and a short circuit, an uncontrolled fire, and consequent loss of multiple systems, possibly resulting in reduced controllability of the airplane. See the MCAI for additional background information.

Comments

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

Conclusion

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

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

Related Service Information Under 14 CFR Part 51

EASA AD 2020-0227 describes procedures for modifying the

installation of the electrical harness routes 1M and 1S-1V, and rotating the de-icing pipe coupling installation. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

Costs of Compliance

The FAA estimates that this AD affects 3 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
1 work-hour × \$85 per hour = \$85	\$20	\$105	\$315

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

List of Subjects in 14 CFR Part 39

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

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:

2021-09-18 ATR-GIE Avions de Transport Régional: Amendment 39-21532; Docket No. FAA-2020-1184; Project Identifier MCAI-2020-01425-T.

(a) Effective Date

This airworthiness directive (AD) is effective July 1, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to ATR-GIE Avions de Transport Régional Model ATR72-212A airplanes, certificated in any category, as

identified in European Union Aviation Safety Agency (EASA) AD 2020-0227, dated October 19, 2020 (EASA AD 2020-0227).

(d) Subject

Air Transport Association (ATA) of America Code 92, Electrical Routing.

(e) Reason

This AD was prompted by a report of an engine electrical control #1 fault during flight caused by chafing damage on an electrical harness bundle. The FAA is issuing this AD to address such damage, which could result in wire failure and a short circuit, an uncontrolled fire, and consequent loss of multiple systems, possibly resulting in reduced controllability of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2020-0227.

(h) Exceptions to EASA AD 2020-0227

(1) Where EASA AD 2020-0227 refers to its effective date, this AD requires using the effective date of this AD.

(2) The "Remarks" section of EASA AD 2020-0227 does not apply to this AD.

(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) 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

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.

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2020-0227, dated October 19, 2020.

(ii) [Reserved]

(3) For EASA AD 2020-0227, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; internet www.easa.europa.eu. You may find this EASA AD on the EASA website at <https://ad.easa.europa.eu>.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. This material may be found in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-1184.

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

Issued on April 23, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021-11089 Filed 5-26-21; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2019-0862; Project Identifier 2019-NM-121-AD; Amendment 39-21552; AD 2021-10-19]

RIN 2120-AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain The Boeing Company Model 767-200, -300, -300F, and -400ER series airplanes. This AD was prompted by a determination that new or more restrictive airworthiness limitations (AWLs) are necessary. This AD requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 1, 2021.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 1, 2021.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110-SK57, Seal Beach, CA 90740-5600; telephone 562-797-1717; internet <https://www.myboeingfleet.com>. You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2019-0862.

Examining the AD Docket

You may examine the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2019-0862; 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:

Wayne Lockett, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206-231-3524; email: wayne.lockett@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 767-200, -300, -300F, and -400ER series airplanes. The NPRM published in the **Federal Register** on November 7, 2019 (84 FR 60007). The NPRM was prompted by a determination that new or more restrictive AWLs are necessary. In the NPRM, the FAA proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive AWLs.

The FAA issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 767-200, -300, -300F, and -400ER series airplanes. The SNPRM published in the **Federal Register** on February 24, 2021 (86 FR 11158). The SNPRM was prompted by a determination that new or more restrictive AWLs are necessary. The SNPRM proposed to add airplanes to the applicability, and to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive AWLs. The FAA is issuing this AD to address inadequate AWL and damage tolerance rating (DTR) values in the maintenance or inspection program that reduce the probability of detection for foreseeable fatigue cracking of structurally significant items (SSIs). This condition, if not addressed, could result in the loss of limit load capability of an SSI as well as loss of continued safe flight and landing of the airplane.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from Boeing, FedEx Express, and United Airlines, who stated support for the SNPRM without change.

Conclusion

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

adopting this AD as proposed. Except for minor editorial changes, this AD is adopted as proposed in the SNPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

The FAA reviewed the following service information, which specifies AWLs for structural inspections and structural safe life limits, among other limitations. These documents are distinct since they apply to different airplane configurations.

- Boeing 767–200/300/300F/400ER Airworthiness Limitations (AWLs), D622T001–9–01, dated July 2020.
- Boeing 767–200/300/300F/400ER Airworthiness Limitations—Line

Number Specific, D622T001–9–02, dated August 2020.

The FAA also reviewed Boeing 767–200/300/300F/400ER Damage Tolerance Rating (DTR) Check Form Document, D622T001–DTR, dated February 2020. This service information includes the DTR check forms and the procedure for their use.

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

Costs of Compliance

The FAA estimates that this AD affects 542 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Action	Labor cost	Parts cost	Cost per product
Reporting	1 work-hour × \$85 per hour = \$85	\$0	\$85

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 a 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 currently valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to take approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden 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

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

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

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–10–19 The Boeing Company:

Amendment 39–21552; Docket No. FAA–2019–0862; Project Identifier 2019–NM–121–AD.

(a) Effective Date

This airworthiness directive (AD) is effective July 1, 2021.

(b) Affected ADs

This AD affects AD 2014–14–04, Amendment 39–17899 (79 FR 44672, August 1, 2014) (AD 2014–14–04).

(c) Applicability

(1) This AD applies to The Boeing Company Model 767–200, –300, –300F, and –400ER series airplanes, certificated in any category, line numbers 1 through 1218 inclusive.

(2) Installation of Supplemental Type Certificate (STC) ST01920SE affects the ability to accomplish some of the actions required by this AD. Therefore, for airplanes on which STC ST01920SE is installed, a “change in product” alternative method of compliance (AMOC) approval may be necessary to comply with the requirements of 14 CFR 39.17.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight Controls; 52, Doors; 53, Fuselage; 54, Nacelles/pylons; 55, Stabilizers; 57, Wings.

(e) Unsafe Condition

This AD was prompted by a determination that new or more restrictive airworthiness limitations (AWLs) are necessary. The FAA is issuing this AD to address inadequate AWL and damage tolerance rating (DTR) values in the maintenance or inspection program that reduce the probability of detection for foreseeable fatigue cracking of structurally significant items (SSIs). This condition, if not addressed, could result in the loss of limit load capability of an SSI as well as loss of continued safe flight and landing of the airplane.

(f) Compliance

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

(g) Maintenance or Inspection Program Revision

Within 24 months after the effective date of this AD, revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in Boeing 767–200/300/300F/400ER Airworthiness Limitations (AWLs), D622T001–9–01, dated July 2020; and Boeing 767–200/300/300F/400ER Damage Tolerance Rating (DTR) Check Form Document, D622T001–DTR, dated February 2020. Except as specified in paragraph (h) of this AD, the initial compliance time for doing the tasks is at the time specified in Boeing 767–200/300/300F/400ER Airworthiness Limitations (AWLs), D622T001–9–01, dated July 2020; and Boeing 767–200/300/300F/400ER Damage Tolerance Rating (DTR) Check Form Document, D622T001–DTR, dated February 2020; or within 24 months after the effective date of this AD; whichever occurs later.

(h) Exceptions

(1) Where Boeing 767–200/300/300F/400ER Airworthiness Limitations (AWLs), D622T001–9–01, dated July 2020, specifies compliance times (“thresholds”) for wing tank sealant removal and ensuring sealant location limits are met, these actions must be accomplished within the compliance times specified in Boeing 767–200/300/300F/400ER Airworthiness Limitations (AWLs), D622T001–9–01, dated July 2020; or at or before the next accomplishment of the specific Maintenance Planning Document (MPD) task, but no later than 6 years after the effective date of this AD; whichever occurs later.

(2) For any horizontal stabilizer pivot fitting lug (SSI 55–10–I13A) on which a lug

bore oversize repair has been accomplished: Within 24 months after the effective date of this AD, re-evaluate the repair and obtain revised inspection intervals, as applicable, in accordance with the procedures specified in paragraph (l) of this AD.

(3) Where Boeing 767–200/300/300F/400ER Airworthiness Limitations (AWLs), D622T001–9–01, dated July 2020; and Boeing 767–200/300/300F/400ER Damage Tolerance Rating (DTR) Check Form Document, D622T001–DTR, dated February 2020; specify to submit reports within 10 days, those reports may be submitted within 10 days after the airplane is returned to service.

(4) For airplanes having line numbers identified in Boeing 767–200/300/300F/400ER Airworthiness Limitations—Line Number Specific, D622T001–9–02, dated August 2020: Revising the existing maintenance or inspection program, as applicable, to incorporate the information specified in Boeing 767–200/300/300F/400ER Airworthiness Limitations—Line Number Specific, D622T001–9–02, dated August 2020, is an acceptable method of compliance with paragraph (g) of this AD for the tasks specified in Boeing 767–200/300/300F/400ER Airworthiness Limitations—Line Number Specific, D622T001–9–02, dated August 2020, only. The initial compliance time for doing the tasks is at the time specified in Boeing 767–200/300/300F/400ER Airworthiness Limitations—Line Number Specific, D622T001–9–02, dated August 2020; or within 24 months after the effective date of this AD; whichever occurs later. For all other tasks specified in the service information identified in paragraph (g) of this AD, the requirements of paragraph (g) of this AD remain fully applicable and must be complied with.

(i) No Alternative Actions or Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (e.g., inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (l) of this AD.

(j) Terminating Action for AD 2014–14–04

Accomplishing the actions required by this AD terminates all requirements of AD 2014–14–04.

(k) Paperwork Reduction Act Burden Statement

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a 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 OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection

of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

(l) Alternative Methods of Compliance (AMOCs)

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

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

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

(4) AMOCs for repairs and alterations approved previously for AD 2003–18–10, Amendment 39–13301 (68 FR 53503, September 11, 2003) (AD 2003–18–10), and AD 2014–14–04 are approved as AMOCs for the corresponding actions specified in this AD. All other AMOCs for AD 2003–18–10 and AD 2014–14–04 are not approved as AMOCs for this AD.

(5) Repairs done before the effective date of this AD that meet the conditions specified in paragraphs (l)(5)(i) through (iii) of this AD are acceptable methods of compliance for the repaired area where the inspections of the baseline structure cannot be accomplished.

(i) The repair was approved under both 14 CFR 25.571 and 14 CFR 26.43(d) by The Boeing Company ODA that has been authorized by the Manager, Seattle ACO Branch, FAA, to make those findings.

(ii) The repair approval provides an inspection program (inspection threshold, method, and repetitive interval).

(iii) Operators revised their existing maintenance or inspection program, as applicable, to include the inspection program (inspection threshold, method, and repetitive interval) for the repair.

(m) Related Information

For more information about this AD, contact Wayne Lockett, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3524; email: wayne.lockett@faa.gov.

(n) Material Incorporated by Reference

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

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

(i) Boeing 767–200/300/300F/400ER Airworthiness Limitations (AWLs), D622T001–9–01, dated July 2020.

(ii) Boeing 767–200/300/300F/400ER Airworthiness Limitations—Line Number Specific, D622T001–9–02, dated August 2020.

(iii) Boeing 767–200/300/300F/400ER Damage Tolerance Rating (DTR) Check Form Document, D622T001–DTR, dated February 2020.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet <https://www.myboeingfleet.com>.

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

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

Issued on May 5, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–11065 Filed 5–26–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA–2021–0041; Airspace Docket No. 20–ANM–60]

RIN 2120–AA66

Amendment and Establishment of Class E Airspace; Baker City, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies the Class E airspace, designated as a surface area for Baker City Municipal Airport. This action also proposes to establish Class E airspace, designated as an extension to a Class D or Class E surface area. Additionally, this action modifies the

Class E airspace extending upward from 700 feet above the surface. This action also removes the Baker City VORTAC from the Class E2 and the VOR/DME from the Class E5 text headers and airspace descriptions. Lastly, this action implements several administrative corrections to the airspaces' legal descriptions.

DATES: Effective 0901 UTC, August 12, 2021. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

FOR FURTHER INFORMATION CONTACT: Elizabeth Healy, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198; telephone (206) 231–2227.

SUPPLEMENTARY INFORMATION:**Authority for This Rulemaking**

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies Class E airspace at Baker City Municipal Airport, Baker City, OR, to ensure the safety and management of IFR operations at the airport.

History

The FAA published a notice of proposed rulemaking in the **Federal**

Register (86 FR 13244; March 8, 2021) for Docket No. FAA–2021–0041 to modify the Class E airspace at Baker City Municipal Airport, Baker City, OR. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. One non-substantive comment was received suggesting it would be helpful if a graphic was included with the proposed notice showing how the sectional chart will change.

Class E2, E4, and E5 airspace designations are published in paragraph 6002, 6004, and 6005 of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

This amendment to 14 CFR part 71 modifies the Class E airspace designated as a surface area, at Baker City Municipal Airport. This area is designed to contain arriving IFR aircraft descending below 1,000 feet above the surface, and IFR departures until reaching 700 feet above the surface. This area is described as follows: That airspace extending upward from the surface within a 4.2-mile radius of the airport, and within 1.8 miles north and 3.1 miles south of the 097° bearing from the airport, extending from the 4.2-mile radius to 5.3 miles east of the airport, and within 1.8 miles southwest and 1.9 miles northeast of the 142° bearing from the airport, extending from the 4.2-mile radius to 9.4 miles southeast of the airport.

This action also modifies the Class E airspace by establishing an area that is designated as an extension to a Class D or Class E surface area. This area is designed to properly contain IFR aircraft descending below 1,000 feet above the surface. This area is described as follows: That airspace extending upward from the surface within 3.2 miles each side of the 332° bearing from the airport, extending from the 4.2-mile

radius to 7.3 miles northwest of the airport.

This action also modifies the Class E airspace extending upward from 700 feet above the surface. This area is designed to properly contain IFR departures to 1,200 feet above the surface and IFR arrivals descending below 1,500 feet above the surface. This area is described as follows: That airspace extending upward from 700 feet above the surface within a 4.2-mile radius of the airport, and within 1.8 miles north and 4.5 miles south of the 097° bearing from the airport, extending from the 4.2-mile radius to 7.1 miles east of the airport, and within 1.8 miles southwest and 1.9 miles northeast of the 142° bearing from the airport, extending from the 4.2-mile radius to 11.7 miles east of the airport, and within 1.1 miles either side of the 283° bearing from the airport, extending from the 4.2 mile radius to 5.3 miles west of the airport, and within 1.8 miles northeast and 1.9 miles southwest of the 315° bearing from the airport, extending from the 4.2 mile radius to 6.9 miles northwest of the airport, and within 1.8 miles southwest and 3.3 miles northeast of the 322° bearing from the airport, extending from the 4.2 mile radius to 7.2 miles northwest of the airport, and within 1.8 miles east and 1.9 miles west of the 360° bearing from the airport, extending from the 4.2 mile radius to 8.8 miles north of the airport.

This action also removes the Baker VORTAC from the Class E2 text header and airspace description, and the Baker City VOR/DME from the Class E5 text header and airspace descriptions. The Navigational Aids (NAVAID) are not needed to describe the airspace areas. Removal of the NAVAIDs from the legal description allows the airspace to be described from a single point, which simplifies the airspaces' descriptions.

This action also removes the Class E airspace extending upward from 1,200 feet above the surface. This area is wholly contained within the Rome en route airspace area and duplication is not necessary.

Lastly, this action implements several administrative amendments to the airspaces' legal descriptions. The first line of the Class E2 header is not correct. To match the FAA database, the first line should be updated to "Baker City". The airport's geographic coordinates in the Class E2, and Class E5 text header are incorrect. To match the FAA database, the geographic coordinates should be updated to lat. 44°50'14" N, long. 117°48'33" W.

FAA Order 7400.11, Airspace Designations and Reporting Points, is

published yearly and effective on September 15.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant the preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

- 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

Paragraph 6002 Class E Airspace Areas Designated as Surface Areas.

* * * * *

ANM OR E2 Baker City, OR [Amended]

Baker City Municipal Airport, OR
(Lat. 44°50'14" N, long. 117°48'33")

That airspace extending upward from the surface within a 4.2-mile radius of the airport, and within 1.8 miles north and 3.1 miles south of the 097° bearing from the airport, extending from the 4.2-mile radius to 5.3 miles east of the airport, and within 1.8 miles southwest and 1.9 miles northeast of the 142° bearing from the airport, extending from the 4.2-mile radius to 9.4 miles southeast of the airport.

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.

* * * * *

ANM OR E4 Baker City, OR [New]

Baker City Municipal Airport, OR
(Lat. 44°50'14" N, long. 117°48'33")

That airspace extending upward from the surface within 3.2 miles each side of the 332° bearing from the airport, extending from the 4.2-mile radius to 7.3 miles northwest of the airport.

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ANM OR E5 Baker City, OR [Amended]

Baker City Municipal Airport, OR
(Lat. 44°50'14" N, long. 117°48'33")

That airspace extending upward from 700 feet above the surface within a 4.2-mile radius of the airport, and within 1.8 miles north and 4.5 miles south of the 097° bearing from the airport, extending from the 4.2-mile radius to 7.1 miles east of the airport, and within 1.8 miles southwest and 1.9 miles northeast of the 142° bearing from the airport, extending from the 4.2-mile radius to 11.7 miles east of the airport, and within 1.1 miles either side of the 283° bearing from the airport, extending from the 4.2 mile radius to 5.3 miles west of the airport, and within 1.8 miles northeast and 1.9 miles southwest of the 315° bearing from the airport, extending from the 4.2 mile radius to 6.9 miles northwest of the airport, and within 1.8 miles southwest and 3.3 miles northeast of the 322° bearing from the airport, extending from the 4.2 mile radius to 7.2 miles northwest of the airport, and within 1.8 miles east and 1.9 miles west of the 360° bearing from the airport, extending from the 4.2 mile radius to 8.8 miles north of the airport.

Issued in Des Moines, Washington, on May 20, 2021.

B.G. Chew,

Acting Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2021–11142 Filed 5–26–21; 8:45 am]

BILLING CODE 4910–13–P

TENNESSEE VALLEY AUTHORITY**18 CFR Part 1301**

RIN 3316-AA23

“Promoting the Rule of Law Through Improved Agency Guidance” Regulations; Rescission**AGENCY:** Tennessee Valley Authority.**ACTION:** Final rule; rescission of regulations.

SUMMARY: In accordance with the Executive order entitled, “Promoting the Rule of Law Through Improved Agency Guidance,” the Tennessee Valley Authority (TVA) is rescinding associated regulations.

DATES: This rule is effective on May 27, 2021.

FOR FURTHER INFORMATION CONTACT:

Robin M. Daugherty, 423-751-3207, Email: rmdaugherty@tva.gov, Mail address: Tennessee Valley Authority, 400 West Summit Hill Drive, WT 6 Knoxville, TN 37902.

SUPPLEMENTARY INFORMATION: TVA rescinds 18 CFR 1301.70 through 1301.80 (part 1301, subpart F), which implemented the requirements of Executive Order 13891, “Promoting the Rule of Law Through Improved Agency Guidance Documents.” 84 FR 55235 (October 9, 2019) (E.O. 13891). TVA rescinds this regulation in accordance with E.O. 13992, “Revocation of Certain Executive Orders Concerning Federal Regulation.” 86 FR 7049 (January 25, 2021) (E.O. 13992). E.O. 13992 revoked certain executive orders, including E.O. 13891. E.O. 13992 additionally directed heads of agencies to “promptly take steps to rescind any orders, rules, regulations, guidelines, or policies, or portions thereof,” that were issued to implement E.O. 13891. TVA issued regulations to implement E.O. 13891 on September 24, 2020, at subpart F in part 1301 of title 18 of the Code of Federal Regulations (*Promoting the Rule of Law Through Improved Agency Guidance Documents*, 85 FR 60063–60068 (Sept. 24, 2020) (*codified at* 18 CFR part 1301, subpart F). This rescission complies with the purpose and intent of E.O. 13992.

Legal Authority

This rescission is promulgated under the authority of the TVA Act, as amended, 16 U.S.C. 831–831ee, and the Administrative Procedures Act, 5 U.S.C. 551–559.

Background

TVA is a multi-purpose corporate agency of the United States that

provides electricity for business customers and local power companies serving 10 million people in parts of seven southeastern states. TVA provides flood control, navigation and land management for the Tennessee River system and assists local power companies and state and local governments with economic development and job creation.

Statutory and Executive Orders Reviews

A. *Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review*—This action is exempt from review by the Office of Management and Budget (OMB) because it is a rule of agency procedure and practice and is limited to agency management.

B. *Paperwork Reduction Act (PRA)*—This action does not contain any information collection activities and therefore does not impose an information collection burden under the PRA.

C. *Regulatory Flexibility Act (RFA)*—This action is not subject to the RFA. The RFA applies only to rules subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA), 5 U.S.C. 553, or any other statute. This rule pertains to agency management or personnel, which the APA expressly exempts from notice and comment rulemaking requirements under 5 U.S.C. 553(a)(2).

D. *Unfunded Mandates Reform Act (UMRA)*—This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

E. *Executive Order 13132: Federalism*—This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. *Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*—This action does not have tribal implications as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

G. *Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks*—TVA interprets E.O. 13045 as applying only to those regulatory actions that concern environmental health or safety risks that

TVA has reason to believe may disproportionately affect children. Per the definition of “covered regulatory action” in E.O. 13891, and because this action does not concern an environmental health risk or safety risk, it is not subject to E.O. 13045.

H. *Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use*—This action is not subject to E.O. 13211 because it is not a significant regulatory action under E.O. 12866.

I. *National Technology Transfer and Advancement Act (NTTAA)*—This rulemaking does not involve technical standards.

J. *Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*—TVA believes that this action is not subject to E.O. 12898 because it does not establish an environmental health or safety standard. This regulatory action is a procedural rule and does not have any impact on human health or the environment.

K. *Congressional Review Act*—This rule is exempt from the CRA because it is a rule of agency organization, procedure or practice that does not substantially affect the rights or obligations of non-agency parties.

L. *Executive Order 13992: Revocation of Certain Executive Orders Concerning Federal Regulation*—TVA believes that E.O. 13992 squarely applies in this context, as a clear and direct requirement to rescind TVA’s applicable regulations promulgated in accordance with E.O. 13891.

Signing Authority

This document of the Tennessee Valley Authority was signed on _____, by David B. Fountain, Executive Vice President and General Counsel, pursuant to delegated authority from the Chief Executive Officer.

Signed in Knoxville, TN, on May 5, 2021.

David B. Fountain,

Executive Vice President and General Counsel, Tennessee Valley Authority.

For reasons stated in the preamble, the TVA amends 18 CFR part 1301 as follows:

PART 1301—PROCEDURES

■ 1. The authority citation for part 1301 continues to read as follows:

Authority: 5 U.S.C. 552 and 552a; 16 U.S.C. 831–831dd.

Subpart F—[Removed]

■ 2. Subpart F, consisting of §§ 1301.70 through 1301.80, is removed.

[FR Doc. 2021–10059 Filed 5–26–21; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF HOMELAND SECURITY**Coast Guard****33 CFR Part 165**

[Docket Number USCG–2021–0260]

RIN 1625–AA00

Safety Zone; Lake of the Ozarks, Mile Marker 1 Approximately 500 Feet of the Bagnell Dam, Lake of the Ozarks, MO

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters of the Lake of the Ozarks at mile marker 1 approximately 500 feet southwest of the Bagnell Dam. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by a fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Upper Mississippi River or a designated representative.

DATES: This rule is effective from May 29, 2021 at 8:45 p.m. through 8:30 p.m. on September 4, 2021. This rule will be enforced on May 29, 2021 at 8:45 p.m. through 9:15 p.m., June 4, 2021 at 8:45 p.m. through 9:15 p.m., June 19, 2021 at 8:45 p.m. through 9:15 p.m., July 4, 2021 at 9:15 p.m. through 9:45 p.m., July 17, 2021 at 9 p.m. through 9:30 p.m., July 24, 2021 at 9:15 p.m. through 9:45 p.m., July 31, 2021 at 9:15 p.m. to 9:45 p.m., August 7, 2021 at 9:15 p.m. through 9:45 p.m., August 14, 2021 at 9:15 p.m. through 9:45 p.m., August 25, 2021 at 9:15 p.m. through 9:45 p.m., and September 4, 2021 at 8 p.m. through 8:30 p.m.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2021–0260 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander Stephanie Moore, Sector Upper Mississippi River

Waterways Management Division, U.S. Coast Guard; telephone 314–269–2560, email Stephanie.R.Moore@uscg.mil.

SUPPLEMENTARY INFORMATION:**I. Table of Abbreviations**

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. We must establish this safety zone by May 29, 2021 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

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

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector Upper Mississippi River (COTP) has determined that potential hazards associated with a fireworks display on May 29, 2021 will be a safety concern for anyone on the Lake of the Ozarks between Mile Marker (MM) .75 to 1. This rule resulted from a marine event notification stating that there will be a fireworks display to celebrate summertime on the Lake of the Ozarks. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone before, during, and after the fireworks display.

IV. Discussion of the Rule

This rule establishes a safety zone on May 29, 2021 at 8:45 p.m. through 9:15 p.m., June 4, 2021 at 8:45 p.m. through 9:15 p.m., June 19, 2021 at 8:45 p.m. through 9:15 p.m., July 4, 2021 at 9:15 p.m. through 9:45 p.m., July 17, 2021 at 9 p.m. through 9:30 p.m., July 24, 2021 at 9:15 p.m. through 9:45 p.m., July 31, 2021 at 9:15 p.m. through 9:45 p.m., August 7, 2021 at 9:15 p.m. through 9:45 p.m., August 14, 2021 at 9:15 p.m. through 9:45 p.m., August 25, 2021 at 9:15 p.m. through 9:45 p.m., and September 4, 2021 at 8:00 p.m. through 8:30 p.m. The safety zone will cover all navigable waters of the Lake of the Ozarks at mile marker 1 approximately 500 feet southwest of the Bagnell Dam. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters before, during, and after a fireworks display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Upper Mississippi River. The COTP or a designated representative will inform the public of the enforcement date and times for this safety zone, as well as any emergent safety concerns that may delay the enforcement of the zone.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, and duration of the temporary safety zone. This action involves a fireworks display that impacts a one half mile stretch of the Lake of the Ozarks on May 29, 2021 at 8:45 p.m. through 9:15 p.m., June 4,

2021 at 8:45 p.m. through 9:15 p.m., June 19, 2021 at 8:45 p.m. through 9:15 p.m., July 4, 2021 at 9:15 p.m. through 9:45 p.m., July 17, 2021 at 9 p.m. through 9:30 p.m., July 24, 2021 at 9:15 p.m. through 9:45 p.m., July 31, 2021 at 9:15 p.m. through 9:45 p.m., August 7, 2021 at 9:15 p.m. to 9:45 p.m., August 14, 2021 at 9:15 p.m. to 9:45 p.m., August 25, 2021 at 9:15 p.m. to 9:45 p.m., and September 4, 2021 at 8 p.m. through 8:30 p.m. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the safety zone, mariners may seek permission to enter the zone.

B. Impact on Small Entities

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

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

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

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

complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting thirty minutes that will prohibit entry on the Lake of the Ozarks between MM .75 and MM 1, extending

500 feet from the right descending bank. It is categorically excluded from further review under paragraph L60, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

- 2. Add § 165.T08–0707 to read as follows:

§ 165.T08–0707 Safety Zone; Lake of the Ozarks, Mile Markers .5 to 1, Lake of the Ozarks, MO

(a) *Location.* The following area is a safety zone: All navigable waters of the Lake of the Ozarks at mile marker 1 approximately 500 feet southwest of the Bagnell Dam.

(b) *Period of enforcement.* May 29, 2021 at 8:45 p.m. through 9:15 p.m., June 4, 2021 at 8:45 p.m. through 9:15 p.m., June 19, 2021 at 8:45 p.m. to 9:15 p.m., July 4, 2021 at 9:15 p.m. through 9:45 p.m., July 17, 2021 at 9 p.m. through 9:30 p.m., July 24, 2021 at 9:15 p.m. to 9:45 p.m., July 31, 2021 at 9:15 p.m. through 9:45 p.m., August 7, 2021 at 9:15 p.m. to 9:45 p.m., August 14, 2021 at 9:15 p.m. to 9:45 p.m., August 25, 2021 at 9:15 p.m. through 9:45 p.m., and September 4, 2021 at 8:00 p.m. through 8:30 p.m.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, persons and vessels are prohibited from entering the safety zone unless

authorized by the Captain of the Port Sector Upper Mississippi River (COTP) or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Upper Mississippi River.

(2) Persons or vessels desiring to enter into or pass through the zone must request permission from the COTP or a designated representative. They may be contacted on VHF radio Channel 16 or by telephone at 314-269-2332.

(3) If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative while navigating in the regulated area.

(d) *Informational broadcasts.* The COTP or a designated representative will inform the public of the enforcement date and times for this safety zone, as well as any emergent safety concerns that may delay the enforcement of the zone through Broadcast Notice to Mariners (BNM) and or Local Notices to Mariners (LNMs).

R.M. Scott

Captain, U.S. Coast Guard, Captain of the Port Sector Upper Mississippi River.

[FR Doc. 2021-11242 Filed 5-26-21; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2021-0316]

RIN 1625-AA00

Safety Zone; Toledo Country Club Fireworks, Maumee River, Toledo, OH

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters near the Toledo Country Club in Toledo, OH. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards associated with fireworks displays created by the Toledo Country Club Fireworks event on the Maumee River. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Detroit, or his designated representative. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with fireworks displays.

DATES: This rule is effective from 9 p.m. until 9:45 p.m. on June 6, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2021-0316 in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST2 Jacob Haan, Waterways Department, Marine Safety Unit Toledo, Coast Guard; telephone (419) 418-6040, email Jacob.A.Haan@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the event sponsor notified the Coast Guard with insufficient time to accommodate the comment period. Thus, delaying the effective date of this rule to wait for the comment period to run would be impracticable and contrary to the public interest because it would prevent the Captain of the Port Detroit from keeping the public safe from the hazards associated with a maritime fireworks displays.

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

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The

Captain of the Port Detroit (COTP) has determined that potential hazards associated with fireworks displays will be a safety concern for anyone within a 250 foot radius of the launch site. The likely combination of recreational vessels, darkness punctuated by bright flashes of light, and fireworks debris falling into the water presents risks of collisions which could result in serious injuries or fatalities. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone during the fireworks display.

IV. Discussion of the Rule

This rule establishes a safety zone that will be enforced from 9 p.m. until 9:45 p.m. on June 6, 2021. The safety zone will encompass all U.S. navigable waters of the Maumee River within a 250 foot radius of the fireworks launch site located at position 41°35′38″ N 083°35′48.6″ W. All geographic coordinates are North American Datum of 1983 (NAD 83).

The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters during the fireworks display. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port, Sector Detroit or his designated representative. The Captain of the Port, Sector Detroit or his designated representative may be contacted via VHF Channel 16.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, and duration of the safety zone. Vessel traffic will be able to safely transit around this safety zone which would impact a small designated area of the Maumee River for a period of 45

minutes during the evening when vessel traffic is normally low. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting only 45 minutes that will prohibit entry within 250 foot radius of where the fireworks display will be conducted. It is categorically excluded from further review under paragraph L[60(a)] of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket,

see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0316 to read as follows:

§ 165.T09–0316 Safety Zone; Toledo Country Club Fireworks, Maumee River, Toledo, OH.

(a) *Location.* The following area is a temporary safety zone: All U.S. navigable waters of the Maumee River within a 250 foot radius of the fireworks launch site located at position 41°35′38″ N 083°35′48.6″ W. All geographic coordinates are North American Datum of 1983 (NAD 83).

(b) *Enforcement period.* This regulation will be enforced from 9 p.m. until 9:45 p.m. on June 6, 2021. The Captain of the Port Detroit, or a designated representative may suspend enforcement of the safety zone at any time.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Detroit, or his designated representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Detroit or his designated representative.

(3) The “designated representative” of the Captain of the Port Detroit is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port Detroit to act

on his behalf. The designated representative of the Captain of the Port Detroit will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port Detroit or his designated representative may be contacted via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Detroit or his designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Detroit or his designated representative.

Dated: May 20, 2021.

Brad W. Kelly,

Captain, U.S. Coast Guard, Captain of the Port Detroit.

[FR Doc. 2021-11274 Filed 5-26-21; 8:45 am]

BILLING CODE 9110-04-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2021-0056; FRL-10024-14-Region 8]

Approval and Promulgation of Implementation Plans; Utah; Source Category Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve the State of Utah's Source Category Exemptions Revisions as submitted on November 5, 2019. The EPA is taking this action pursuant to section 110 of the Clean Air Act (CAA).

DATES: This rule is effective on June 28, 2021.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-R08-2021-0056. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT:

Kevin Leone, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD-IO, 1595 Wynkoop Street, Denver, Colorado, 80202-1129, (303) 312-6227, leone.kevin@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document "we," "us," and "our" means the EPA.

I. Background

The background for this action is discussed in detail in our March 15, 2021 proposed rule (48 FR 14297). In that document we proposed to approve the addition of R307-401-10(6), which adds gasoline dispensing facilities as exempt from going through the approval order process, as outlined in R307-401, unless they are otherwise major sources, by adding the following language to the State of Utah's permitting program in R307-401-10(6):

"A gasoline dispensing facility as defined in 40 CFR 63.11132 that is not a major source as defined in R307-101-2. These sources shall comply with the applicable requirements of R307-328 (Gasoline Transfer and Storage) and 40 CFR part 63, subpart CCCCC: National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities."

We invited comments on all aspects of our proposed rulemaking and provided a 30-day comment period. The comment period ended on April 15, 2021.

II. Response to Comments

We received no comments during the public comment period.

III. Final Action

For reasons outlined in our March 15, 2021 proposed rulemaking, we are taking final action to approve the addition of R307-401-10(6) as submitted by Utah on November 5, 2019.

IV. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the State of Utah's State Implementation Plan as described in sections I and III of this preamble. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in

the State implementation plan, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹

V. Statutory and Executive Order Reviews

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using

¹ 62 FR 27968 (May 22, 1997).

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 26, 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, Greenhouse gases, Incorporation by reference, Intergovernmental relations,

Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 20, 2021.

Debra H. Thomas,

Acting Regional Administrator, Region 8.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart TT—Utah

- 2. In § 52.2320, amend the table in paragraph (c) by revising the entry “R307–401–10” under the heading entitled “R307–401. Permit: New and Modified Sources” to read as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

Rule No.	Rule title	State effective date	Final rule citation, date	Comments
*	*	*	*	*
R307–401 Permit: New and Modified Sources				
*	*	*	*	*
R307–401–10 ...	Source Category Exemptions	08/02/2018	[insert Federal Register citation], 5/27/2021.	*
*	*	*	*	*

* * * * *

[FR Doc. 2021–11189 Filed 5–26–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2020–0713; FRL–10024–03–Region 6]

Air Plan Approval; Texas; Revisions to the Texas Diesel Emissions Reduction Incentive Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is approving a revision to the Texas

State Implementation Plan (SIP) that pertains to the Texas Diesel Emissions Reduction Incentive Program, submitted on August 13, 2020.

DATES: This rule is effective on June 28, 2021.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2020–0713. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet. Publicly available docket materials are available electronically through <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Carl Young, EPA Region 6 Office,

Infrastructure and Ozone Section, 214–665–6645, young.carl@epa.gov. Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office will be closed to the public to reduce the risk of transmitting COVID–19. Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.

SUPPLEMENTARY INFORMATION:

Throughout this document “we,” “us,” and “our” means the EPA.

I. Background

The background for this action is discussed in detail in our March 16, 2021 proposal (86 FR 14396). In that document, we proposed to approve a revision to the Texas SIP that pertains to the Texas Diesel Emissions Reduction Incentive Program. Specifically, we proposed to approve revisions to 30

TAC 114.622 and 114.629 adopted on June 10, 2020 and submitted on August 13, 2020. The revisions: (1) Lowered the required minimum usage for grant-funded vehicles and equipment in the eligible area from 75% to 55% and (2) removed Victoria County from the list of counties eligible for program grants.

We received a comment on the proposal. The original comment is in the docket to this rulemaking action. Our response to the comment is discussed below.

II. Response to Comments

Comment: A comment was received that supports the market based economic incentive strategy to reduce diesel emissions as a step in the right direction, towards transitioning to clean, renewable energy, and ultimately mitigating climate change. The commenter also asked what would incentivize the people of Victoria County to continue reducing their diesel emissions if they are not eligible for grants under the State program, even though the County is meeting current emission standards.

Response: We appreciate the support for the Diesel Emissions Reduction Incentive Program (DERIP) that is administered by the State of Texas. As we noted in our proposal, DERIP is a voluntary incentive program. It is not a requirement of the CAA. Its inclusion in the SIP is discretionary and revisions can be made as long as they do not contribute to nonattainment or interfere with maintenance of the NAAQS. We also note that Victoria County is in attainment of all the ozone NAAQS and the State may elect which counties participate in this voluntary program. Similar to the Texas program, the EPA administers the Diesel Emission Reduction Act (DERA) Program. This national program offers funding for projects that reduce diesel emissions from existing engines. The people of Victoria County are eligible for grants from this program. More information on the DERA program is available at: <https://www.epa.gov/dera>.

III. Final Action

We are approving the revisions to 30 TAC 114.622 and 114.629 adopted on June 10, 2020 and submitted on August 13, 2020.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the revisions to the Texas regulations as

described in the Final Action section above. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.

V. Statutory and Executive Order Reviews

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National

Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 26, 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 this action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: May 20, 2021.

David Gray,

Acting Regional Administrator, Region 6.

For the reasons stated in the preamble, the Environmental Protection Agency amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart SS—Texas

- 2. In § 52.2270(c), amend the table titled “EPA Approved Regulations in the Texas SIP” by revising the entries for “Section 114.622” and “Section 114.629” to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/subject	State approval/ submission date	EPA approval date	Explanation
* * *	* * *	* * *	* * *	* * *
Chapter 114 (Reg 4)—Control of Air Pollution From Motor Vehicles				
* * *	* * *	* * *	* * *	* * *
Subchapter K—Mobile Source Incentive Programs				
Section 114.622	Incentive Program Requirements ..	6/10/2020	5/27/2021, [Insert Federal Reg- ister citation].	
* * *	* * *	* * *	* * *	* * *
Section 114.629	Affected Counties and Implemen- tation Schedule.	6/10/2020	5/27/2021, [Insert Federal Reg- ister citation].	
* * *	* * *	* * *	* * *	* * *

* * * * *

[FR Doc. 2021-11182 Filed 5-26-21; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2020-0320; FRL-10023-70-Region 3]

Air Plan Approval; Pennsylvania; 1997 8-Hour Ozone National Ambient Air Quality Standard Second Maintenance Plan for the Youngstown-Warren-Sharon Area

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 Commonwealth of Pennsylvania. This revision pertains to the Commonwealth’s plan, submitted by the Pennsylvania Department of Environmental Protection (PADEP), for maintaining the 1997 8-hour ozone national ambient air quality standard (NAAQS) (referred to as the “1997 ozone NAAQS”) for the Youngstown-

Warren-Sharon Area (Youngstown Area) of Pennsylvania. EPA is approving these revisions to the Pennsylvania SIP in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on June 28, 2021.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2020-0320. 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: Keila M. Pagán-Incle, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania

19103. The telephone number is (215) 814-2926. Ms. Pagán-Incle can also be reached via electronic mail at pagan-incle.keila@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On October 30, 2020 (85 FR 68826), EPA published a notice of proposed rulemaking (NPRM) for the Commonwealth of Pennsylvania, which was later reopened to public comment on March 1, 2021 (86 FR 11915). In the NPRM, EPA proposed approval of Pennsylvania’s plan for maintaining the 1997 ozone NAAQS in the Youngstown Area through November 19, 2027, in accordance with CAA section 175A. The formal SIP revision was submitted by PADEP on March 10, 2020.

II. Summary of SIP Revision and EPA Analysis

On October 19, 2007 (72 FR 59213, effective November 19, 2007), EPA approved a redesignation request (and maintenance plan) from PADEP for the Youngstown Area. Per CAA section 175A(b), at the end of the eighth year after the effective date of the redesignation, the state must also submit a second maintenance plan to ensure ongoing maintenance of the

standard for an additional 10 years, and in *South Coast Air Quality Management District v. EPA*,¹ the D.C. Circuit held that this requirement cannot be waived for areas, like the Youngstown Area, that had been redesignated to attainment for the 1997 ozone NAAQS prior to revocation and that were designated attainment for the 2008 ozone NAAQS. CAA section 175A sets forth the criteria for adequate maintenance plans. In addition, EPA has published longstanding guidance that provides further insight on the content of an approvable maintenance plan, explaining that a maintenance plan should address five elements: (1) An attainment emissions inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan.² PADEP's March 10, 2020 SIP submittal fulfills Pennsylvania's obligation to submit a second maintenance plan and addresses each of the five necessary elements.

As discussed in the October 30, 2020, NPRM, consistent with longstanding EPA's guidance,³ areas that meet certain criteria may be eligible to submit a limited maintenance plan (LMP) to satisfy one of the requirements of CAA section 175A. Specifically, states may meet CAA section 175A's requirements to "provide for maintenance" by demonstrating that an area's design values⁴ are well below the NAAQS and that it has had historical stability attaining the NAAQS. EPA evaluated Pennsylvania's March 10, 2020 submittal for consistency with all applicable EPA guidance and CAA requirements. EPA found that the submittal met CAA section 175A and all CAA requirements, and proposed approval of the LMP for the Youngstown Area as a revision to the Pennsylvania SIP. The effect of this action makes certain commitments

related to the maintenance of the 1997 ozone NAAQS federally enforceable as part of the Pennsylvania SIP. Other specific requirements of PADEP's March 10, 2020 submittal and the rationale for EPA's proposed action are explained in the NPRM and will not be restated here.

III. EPA's Response to Comments Received

EPA received two comments on the October 30, 2020 NPRM, which were not related to air quality issues, and one relevant comment on the March 1, 2021 reopened NPRM. All comments received are in the docket for this rulemaking action.

Comment

The commenter asserts that the LMP should not be approved because "Pennsylvania identifies no actual contingency measures." According to the commenter, a "contingency measure is supposed to be a known measure that can be quickly implemented by a state in order to prevent the violation of the NAAQS." The comment asserts that current contingency measures are defective because they allegedly will not be evaluated and determined until after an exceedance of the NAAQS has occurred, and that a "contingency measure must be clearly identified and not an abstract promise of determining, at a later date, whether measures are needed and what measures would be proposed."

The comment claims that EPA is aware Pennsylvania has a history of not meeting its CAA requirements on time, and that it can take Pennsylvania more than two years to implement a regulation, which would be too long to prevent a violation of the NAAQS. Further, the commenter asserts that the EPA should disapprove "a state's contingency plan that merely promises to later review conditions, determine whether measures are necessary and what they should be, and then implement them."

Response

The commenter asserts that Pennsylvania identifies no actual contingency measures because the measures are not yet "evaluated" and "determined" and cannot be implemented before a violation of the NAAQS occurs. Because Pennsylvania identifies two regulatory and six non-regulatory contingency measures in general terms, EPA understands the comment's use of the term "evaluated" and "determined" must mean something like the specific measures identified by PADEP have not been fully promulgated and are not in effect at this

time. If EPA's understanding is correct, EPA agrees with this fact, but does not agree that this has any bearing on the approvability of the contingency measures or of the overall LMP.

PADEP identifies six non-regulatory measures and two regulatory measures. The two regulatory measures are "additional controls" on consumer products and portable fuel containers. The six non-regulatory measures are: Voluntary diesel engine "chip reflash;" diesel retrofit for public or private local onroad or offroad fleets; idling reduction technology for Class 2 yard locomotives; idling technologies or strategies for truck stops, warehouses, and other freight-handling facilities; accelerated turnover of lawn and garden equipment; additional promotion of alternative fuel for home heating and agriculture use. As stated in the Calcagni memo, EPA's long-standing interpretation is that contingency measures for maintenance of the NAAQS are not required to be fully adopted in order to be approved. The commenter refers to a recent court case vacating, among other things, the contingency measure provisions in EPA's rule for implementing the 2015 ozone NAAQS, *Sierra Club v. EPA*, No. 15-1465 (D.C. Cir. January 29, 2021). It is possible that the commenter has conflated the contingency measure provisions at issue in that case, which pertained to attainment plans, and those at issue in this LMP, which pertain to maintenance plans. The contingency measure provisions for maintenance and attainment are found in two different sections of the CAA, with substantially different wording and requirements. The attainment plan contingency measures provisions in CAA Section 172(c)(9) require that the attainment plan have "specific measures" that can "take effect in any such case without further action by the State or the Administrator" if the area fails to make reasonable further progress or attain the NAAQS. 42 U.S.C. 7502(c)(9). Section 175A of the CAA sets forth the contingency measure requirements for maintenance areas. Section 175A(d) requires that the maintenance plan contain "such contingency provisions as the Administrator deems necessary to assure that the State will promptly correct any violation of the standard which occurs after the redesignation of the area as an attainment area." 42 U.S.C. 7505a(d). Unlike Section 172(c)(9) there is no requirement under section 175A that the contingency measures be set forth with specificity or that they be able to take effect without further action by EPA or the State.

¹ 882 F.3d 1138 (D.C. Cir. 2018).

² "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (Calcagni Memo).

³ See "Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas" from Sally L. Shaver, Office of Air Quality Planning and Standards (OAQPS), dated November 16, 1994; "Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas" from Joseph Paisie, OAQPS, dated October 6, 1995; and "Limited Maintenance Plan Option for Moderate PM₁₀ Nonattainment Areas" from Lydia Wegman, OAQPS, dated August 9, 2001.

⁴ The ozone design value for a monitoring site is the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations. The design value for an ozone nonattainment area is the highest design value of any monitoring site in the area.

With this statutory background in mind, EPA does not agree that the plan should be disapproved due to PADEP's ability to promulgate a contingency measure in sufficient time to avert a violation of the NAAQS. As noted previously, CAA section 175A(d) mandates that a maintenance plan must contain "such contingency provisions as the Administrator deems necessary to assure that the State will promptly *correct any violation* of the standard which occurs after the redesignation of the area as an attainment area." (emphasis added). The statute therefore does not include any requirement that a maintenance plan's contingency measures *prevent* a violation of the NAAQS, but rather only that those selected measures be available to address a violation of the NAAQS after it already occurs. Pennsylvania also elected to adopt a "warning level response," which states that PADEP will consider adopting contingency measures if, for two consecutive years, the fourth highest eight-hour ozone concentrations at any monitor in the area are above 84 parts per billion (ppb). But this warning level response is not required under the CAA, and therefore we do not agree with the commenter that the plan should be disapproved based on the commenter's concern over the timeliness of the warning level response implementation.

Moreover, as a general matter, we do not agree that the schedules for implementation of contingency provisions in the LMP are insufficient. As noted, the CAA provides some degree of flexibility in assessing a maintenance plan's contingency measures—requiring that the plan contain such contingency provisions "as the Administrator deems necessary" to assure that any violations of the NAAQS will be "promptly" corrected. EPA's longstanding guidance for redesignations, the Calcagni Memo, also does not provide precise parameters for what strictly constitutes "prompt" implementation of contingency measures, noting that, for purposes of CAA section 175A, "a state is not required to have fully adopted contingency measures that will take effect without further action by the state in order for the maintenance plan to be approved." Calcagni memo at 12. However, the guidance does state that the plan should ensure that the measures are adopted "expediently" once they are triggered, and should provide "a schedule and procedure for adoption and implementation, and a specific time limit for action by the state." *Id.* We think the State's plan,

which provides specific lists of regulatory and non-regulatory measures (not a "promise" to determine measures at a later date) that the state would consider after evaluating and assessing what it believed to be the cause of increased ozone concentrations, and the specific timeframes it would use to expediently implement the various measures, meets the requirements of CAA section 175A.

IV. Final Action

EPA is approving the 1997 ozone NAAQS limited maintenance plan for the Youngstown Area as a revision to the Pennsylvania SIP.

V. 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 26, 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 Pennsylvania's limited maintenance plan for the Youngstown Area may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52 May 27, 2021 June 28, 2021 July 26, 2021

Environmental protection, Air pollution control, Incorporation by

reference, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: May 19, 2021.

Diana Esher,

Acting Regional Administrator, Region III.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (e)(1) is amended by adding the entry

for “1997 8-Hour Ozone National Ambient Air Quality Standard Second Maintenance Plan for the Youngstown-Warren-Sharon Area” at the end of the table to read as follows:

§ 52.2020 Identification of plan.

*	*	*	*	*
(e)	*	*	*	*
(1)	*	*	*	*

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
1997 8-Hour Ozone National Ambient Air Quality Standard Second Maintenance Plan for the Youngstown-Warren-Sharon Area.	Youngstown-Warren-Sharon Area.	3/10/20	5/27/21, [insert Federal Register citation].	The Youngstown-Warren-Sharon area consists of Youngstown borough in Westmoreland County, Warren County, and Sharon, a city in Mercer County.

* * * * *

[FR Doc. 2021-11166 Filed 5-26-21; 8:45 am]

BILLING CODE 6560-50-P

GENERAL SERVICES ADMINISTRATION

[GSAR Case 2020-G525; Docket No. 2021-0012; Sequence No. 1]

RIN 3090-AK26

General Services Administration Acquisition Regulation; Personal Identity Verification Requirements Clarification

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Direct final rule.

SUMMARY: The General Services Administration (GSA) is amending the General Services Administration Acquisition Regulation (GSAR) to clarify the requirements for Personal Identity Verification (PIV). This direct final rule revises a GSAR clause to provide a more specific reference to the location of the GSA credentialing handbook. GSA is also moving language addressing internal operating procedures around option exercise from the GSAR to the non-regulatory General Services Administration Acquisition Manual (GSAM).

DATES: This direct final rule is effective on July 26, 2021 without further notice unless adverse comments are received. Interested parties should submit written comments to the Regulatory Secretariat as noted below on or before June 28, 2021 to be considered in the formation of the final rule. If GSA receives adverse

comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit comments in response to GSAR Case 2020-G525 to: Regulations.gov; <https://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching for “GSAR Case 2020-G525”. Select the link “Comment Now” that corresponds with GSAR Case 2020-G525. Follow the instructions provided at the “Comment Now” screen. Please include your name, company name (if any), and “GSAR Case 2020-G525” on your attached document. If your comment cannot be submitted using <https://www.regulations.gov>, call or email the points of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Instructions: Please submit comments only and cite GSAR Case 2020-G525, in all correspondence related to this case. Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check <https://www.regulations.gov>, approximately two to three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Ms. Vernita Misidor, Procurement Analyst, at 202-357-9681 or email at gsarpolicy@gsa.gov, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202-501-4755. Please cite GSAR Case 2020-G525.

SUPPLEMENTARY INFORMATION:

I. Background

Following internal procurement management reviews, GSA identified the need to improve certain credentialing administration processes for contractors. GSA is amending the GSAR to clarify the personal identity verification requirements in GSAR Clause 552.204-9. The clause currently references a very broad credentialing website, which does not clearly identify the requirements for contractors to follow.

II. Authority for This Rulemaking

Title 40 of the United States Code (U.S.C.) Section 121 authorizes GSA to issue regulations, including the GSAR, to control the relationship between GSA and contractors.

III. Discussion of the Rule

GSA is amending the GSAR to specifically reference the Office of Mission Assurance CIO P 2181.1 GSA HSPD-12 Personal Identity Verification and Credentialing Handbook rather than just the general website for credentialing. The change to reference the Handbook will allow for contractor personnel to easily find the information needed related to PIV cards and will eliminate issues that could arise in the event that the website link becomes broken. GSA is also moving text dealing with the exercise of options from the GSAR to the non-regulatory GSAM. This move is being made because the language only addresses responsibilities of Contracting Officers in preparing documentation. As such, it is not regulatory material.

IV. Executive Order 12866 and 13563

Executive Orders (E.O.s) 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). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been reviewed and determined by OMB not to be a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

V. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a “major 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. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule has been reviewed and determined by OMB not to be a “major rule” under 5 U.S.C. 804(2).

VI. Regulatory Flexibility Act

GSA does not expect this direct final rule to have a significant economic

impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*

VII. Paperwork Reduction Act

The direct final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 517 and 552

Government procurement.

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Governmentwide Policy, General Services Administration.

Therefore, GSA amends 48 CFR parts 517 and 552 as set forth below:

■ 1. The authority citation for 48 CFR parts 517 and 552 continues to read as follows:

Authority: 40 U.S.C. 121(c).

PART 517—SPECIAL CONTRACTING METHODS

■ 2. Revise section 517.207 to read as follows:

517.207 Exercise of options.

In addition to the requirements of FAR 17.207, the contracting officer must also:

(a) Document the contract file with the rationale for an extended contractual relationship if the contractor’s performance rating under the contract is less than satisfactory.

(b) Determine that the option price is fair and reasonable.

(c) The consideration of other factors as prescribed by FAR 17.207(c)(3) should also include consideration of any tiered solutions (see subpart 507.71) or mandated solutions that were otherwise not available at the time of award.

(d) Conduct a Personal Identity Verification card review to determine the need for continued access, see 504.1370(c). This function may be delegated to the COR.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Amend section 552.204–9 by revising the date of the clause and paragraph (a) to read as follows:

552.204–9 Personal Identity Verification Requirements.

* * * * *

Personal Identity Verification Requirements (Jun, 2021)

(a) The contractor shall comply with GSA personal identity verification requirements, identified in the CIO P 2181.1 GSA HSPD–12 Personal Identity Verification and Credentialing Handbook, if contractor employees require access to GSA controlled facilities or information systems to perform contract requirements. The contractor can find the CIO policy and additional information at <http://www.gsa.gov/hspd12>.

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[FR Doc. 2021–11109 Filed 5–26–21; 8:45 am]

BILLING CODE 6820–61–P

Proposed Rules

Federal Register

Vol. 86, No. 101

Thursday, May 27, 2021

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2021-0382; Project Identifier MCAI-2021-00382-T]

RIN 2120-AA64

Airworthiness Directives; MHI RJ Aviation ULC (Type Certificate Previously Held by Bombardier, Inc.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain MHI RJ Aviation ULC Model CL-600-2C10 (Regional Jet Series 700, 701 & 702), CL-600-2C11 (Regional Jet Series 550), CL-600-2D15 (Regional Jet Series 705), CL-600-2D24 (Regional Jet Series 900), and CL-600-2E25 (Regional Jet Series 1000) airplanes. This proposed AD was prompted by a determination that new airworthiness limitations for structural inspections and safe life components are necessary. This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new airworthiness limitations. 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 July 12, 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 service information identified in this NPRM, contact MHI RJ Aviation ULC, 12655 Henri-Fabre Blvd., Mirabel, Québec J7N 1E1 Canada; Widebody Customer Response Center North America toll-free telephone +1-844-272-2720 or direct-dial telephone +1-514-855-8500; fax +1-514-855-8501; email thd.crj@mhirj.com; internet <https://mhirj.com>. You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195.

Examining the AD Docket

You may examine the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0382; 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:

Antariksh Shetty, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7300; fax 516-794-5531; email 9-avs-nyaco-cos@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-2021-0382; Project Identifier MCAI-2021-00382-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 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 Antariksh Shetty, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7300; fax 516-794-5531; email 9-avs-nyaco-cos@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

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued TCCA AD CF-2020-53, dated December 7, 2020 (also referred to after this as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain MHI RJ Aviation ULC Model CL-600-2C10 (Regional Jet Series 700, 701 & 702), CL-600-2C11 (Regional Jet Series 550), CL-600-2D15 (Regional Jet Series 705), CL-600-2D24 (Regional Jet Series 900), and CL-600-2E25 (Regional Jet Series 1000) airplanes. You may examine the MCAI in the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0382.

This proposed AD was prompted by a determination that new airworthiness

limitations for structural inspections and safe life components are necessary. The FAA is proposing this AD to address reduced structural integrity and reduced controllability of the airplane. See the MCAI for additional background information.

Related Service Information Under 1 CFR Part 51

MHI RJ Aviation ULC has issued MHI RJ Service Bulletin 670BA-05-001, dated August 27, 2020. This service information describes new airworthiness limitations for structural inspections and safe life components.

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

FAA's Determination

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 and service information referenced above. The FAA is proposing this AD because the FAA evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require revising the existing maintenance or inspection program, as applicable, to incorporate new airworthiness limitations.

This proposed AD would require revisions to certain operator maintenance documents to include new actions (e.g., inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (i)(1) of this proposed AD.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 554 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

The FAA has determined that revising the maintenance or inspection program takes an average of 90 work-hours per operator, although the FAA recognizes that this number may vary from operator to operator. In the past, the FAA has estimated that this action takes 1 work-hour per airplane. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, the FAA estimates the total cost per operator to be \$7,650 (90 work-hours × \$85 per work-hour).

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

MHI RJ Aviation ULC (Type Certificate Previously Held by Bombardier, Inc.):
Docket No. FAA-2021-0382; Project Identifier MCAI-2021-00382-T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by July 12, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to MHI RJ Aviation ULC airplanes identified in paragraphs (c)(1) through (3) of this AD, certificated in any category.

(1) Model CL-600-2C10 (Regional Jet Series 700, 701 & 702) and CL-600-2C11 (Regional Jet Series 550) airplanes, serial numbers 10002 and subsequent.

(2) Model CL-600-2D15 (Regional Jet Series 705) and CL-600-2D24 (Regional Jet Series 900) airplanes, serial numbers 15001 and subsequent.

(3) Model CL-600-2E25 (Regional Jet Series 1000) airplanes, serial numbers 19001 and subsequent.

(d) Subject

Air Transport Association (ATA) of America Code 05, Periodic Inspections.

(e) Unsafe Condition

This AD was prompted by a determination that new airworthiness limitations for structural inspections and safe life components are necessary. The FAA is issuing this AD to address reduced structural integrity and reduced controllability of the airplane.

(f) Compliance

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

(g) Maintenance or Inspection Program Revision

Within 180 days after the effective date of this AD, revise the existing maintenance or inspection program, as applicable, to incorporate the airworthiness limitations for structural inspections and safe life components specified in paragraphs (g)(1) and (2) of this AD.

(1) The task number, model effectivity, threshold, repeat cut-in, repeat, and task type

for the Section 2 structural inspections specified in paragraph 2.B.(2)(a) of the Accomplishment Instructions of MHI RJ Service Bulletin 670BA-05-001, dated August 27, 2020.

(2) The task number, part number, model effectivity, and discard time for the Section 3 safe life components specified in paragraph 2.B.(3)(a) of the Accomplishment Instructions of MHI RJ Service Bulletin 670BA-05-001, dated August 27, 2020.

(h) No Alternative Actions and Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (e.g., inspections) or intervals may be used unless the actions and intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (i)(1) of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7300; fax 516-794-5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) TCCA AD CF-2020-53, dated December 7, 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-2021-0382.

(2) For more information about this AD, contact Antariksh Shetty, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7300; fax 516-794-5531; email 9-avs-nyaco-cos@faa.gov.

(3) For service information identified in this AD, contact MHI RJ Aviation ULC, 12655 Henri-Fabre Blvd., Mirabel, Québec J7N 1E1 Canada; Widebody Customer Response Center North America toll-free telephone +1-844-272-2720 or direct-dial telephone +1-

514-855-8500; fax +1-514-855-8501; email thd.crj@mhirj.com; internet <https://mhirj.com>. You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195.

Issued on May 21, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021-11137 Filed 5-26-21; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF STATE

22 CFR Part 120

[Public Notice: 11406]

RIN 1400-AF17

International Traffic in Arms Regulations: Regular Employee

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The Department of State proposes to amend the International Traffic in Arms Regulations (ITAR) to update the definition of regular employee to allow subject persons to work remotely, and to clarify the contractual relationships that meet the definition of regular employee.

DATES: Send comments on or before July 26, 2021.

ADDRESSES: Interested parties may submit comments by one of the following methods:

- *Email:* DDTCCustomerComments@state.gov, with the subject line "ITAR Amendment: Regular Employee"
- *Internet:* At www.regulations.gov, search for this document using Docket DOS-2021-0009.

Comments received after the acceptance date may be considered if feasible. Those submitting comments should not include any personally identifying information they do not desire to be made public or information for which a claim of confidentiality is asserted. Comments and/or transmittal emails will be made available for public inspection and copying after the close of the comment period via the Directorate of Defense Trade Controls website at www.pmddtc.state.gov. Parties who wish to comment anonymously may submit comments via www.regulations.gov, leaving identifying fields blank.

FOR FURTHER INFORMATION CONTACT: Ms. Engda Wubneh, Foreign Affairs Officer, Office of Defense Trade Controls Policy,

U.S. Department of State, telephone (202) 663-1809; email DDTCCustomerService@state.gov. ATTN: Regulatory Change, ITAR Section 120.39: Regular Employee.

SUPPLEMENTARY INFORMATION: In March 2020, the President declared a national emergency as a result of the COVID-19 pandemic. Subsequently, the Department announced a temporary suspension, modification, and exception through July 31, 2020, of the requirement that a regular employee, for purposes of ITAR § 120.39(a)(2), work at a company's facilities. The temporary measure allowed individuals to work remotely provided they are not located in Russia or a country listed in ITAR § 126.1 (85 FR 25287, May 1, 2020), and still be considered regular employees under the ITAR. The Department requested and received comments regarding the efficacy and duration of this temporary measure (85 FR 35376, June 10, 2020). Many commenters, one industry association, and several individual entities endorsed the telework provisions and requested that this measure be effective until the end of the year, if not extended indefinitely. Additionally, many commenters mentioned that this temporary measure allowed industry to continue their business activities despite COVID-19 as many employees could work remotely. In response, this temporary measure was extended until December 31, 2020 (85 FR 45513, July 29, 2020).

The Department is proposing to amend ITAR § 120.39 permanently to allow certain individuals to work remotely, and further proposes to clarify the contractual relationships that meet the definition of regular employee. The Department recognizes that the workplace environment is evolving, therefore, the current "regular employee" criterion that an individual must work at a company's facilities will be removed in the revised definition to allow for remote work. The Department also proposes to set forth clear criteria that will allow regulated entities to treat certain contractual staff as regular employees for the purposes of the ITAR, provided those individuals are sufficiently subject to the employer's control such that the Department can hold the regulated employer responsible for the individual's actions.

Further, the Department proposes to codify the meaning of a "long term contractual relationship" in ITAR § 120.39(a)(2) by clarifying in the regulations that individuals must be providing services to an entity under a contract for a term of one year or more (ITAR § 120.39(a)(2)(i)). The goal of this

provision is to minimize the risk of diversion of U.S. defense articles. The delineation of a contract for one year or more was selected in part based on the Department's expectation that a long-term contractor will receive superior orientation and training from a regulated entity upon onboarding, and the ability to absorb and apply training materials and adhere to compliance policies and procedures (e.g., ITAR-related training) is more likely to occur with at least a year of experience on the job. For those individuals not in a "long term contractual relationship" with a regulated entity (i.e., where the contract is less than one year), the Department will allow such individuals to be treated as regular employees provided that, in addition to the control and non-disclosure considerations described in ITAR § 120.39(a)(3), the individual also maintains an active security clearance approved by the United States or by the government of the entity to which the individual's services are provided. Lastly, although employment type is not explicitly referenced in the definition, individuals providing services pursuant to a contractual relationship can include independent contractors, seconded employees, individuals provided by a staffing agency, or contractors provided by a contracting agency.

Regulatory Analysis and Notices

Administrative Procedure Act

The Department of State is of the opinion that controlling the import and export of defense articles and services is a foreign affairs function of the United States Government and that rules implementing this function are exempt from sections 553 (rulemaking) and 554 (adjudications) of the Administrative Procedure Act (APA), pursuant to 5 U.S.C. 553(a)(1). Since the Department is of the opinion that this rule is exempt from 5 U.S.C 553, it is the view of the Department that the provisions of Section 553(d) do not apply to this rulemaking.

Regulatory Flexibility Act

Since this rule is exempt from the notice-and-comment provisions of 5 U.S.C. 553(b), it does not require analysis under the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

This rulemaking does not involve a 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 year and it will not significantly or uniquely affect small governments.

Therefore, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Executive Orders 12372 and 13132

This rulemaking 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. Therefore, in accordance with Executive Order 13132, it is determined that this proposed amendment does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this rulemaking.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributed impacts, and equity). This rule's scope does not impose additional regulatory requirements or obligations; therefore, the Department believes costs associated with this rule will be minimal. Although the Department cannot determine based on available data how many fewer licenses will be submitted as a result of this rule, the amendment to the definition will inherently relieve the licensing burden for any exporter utilizing it in a qualifying scenario. Executive Order 13563 emphasizes the importance of qualifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action" by the Office and Information and Regulatory Affairs under Executive Order 12866.

Executive Order 12988

The Department of State has reviewed this rulemaking in light of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13175

The Department of State has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance

costs on Indian tribal governments, and will not preempt tribal law. Accordingly, Executive Order 13175 does not apply to this rulemaking.

Paperwork Reduction Act

This rulemaking does not impose or revise any information collections subject to 44 U.S.C. chapter 35.

List of Subjects in 22 CFR Part 120

Arms and munitions, Classified information, Exports.

For the reasons set forth above, title 22, chapter I, subchapter M, part 120 of the Code of Federal Regulations is proposed to be amended as follows:

PART 120—PURPOSE AND DEFINITIONS

■ 1. The authority citation for part 120 continues to read as follows:

Authority: Secs. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); 22 U.S.C. 2794; 22 U.S.C. 2651a; Pub. L. 105–261, 112 Stat. 1920; Pub. L. 111–266; Section 1261, Pub. L. 112–239; E.O. 13637, 78 FR 16129.

■ 2. Section 120.39 is revised to read as follows:

§ 120.39 Regular employee.

- (a) *Regular employee* means:
- (1) An individual permanently and directly employed by an entity; or
 - (2) An individual providing services to an entity:
 - (i) Under a contract with a term of one year or more;
 - (ii) Who works under the entity's direction and control;
 - (iii) Who works full time for the entity;
 - (iv) Who is subject to the entity's compliance policies and procedures; and
 - (v) Who executes a nondisclosure agreement with the entity that provides assurances that the individual will not transfer any defense articles to persons or entities unless specifically authorized by the entity; or
 - (3) An individual providing services to an entity:
 - (i) Under a contract with a term of less than one year;
 - (ii) Who maintains an active security clearance approved by the United States or by the government of the entity to which the individual is providing services;
 - (iii) Who works under the entity's direction and control;
 - (iv) Who works full time for the entity;
 - (v) Who is subject to the entity's compliance policies and procedures; and

(vi) Who executes a nondisclosure agreement with the entity that provides assurances that the individual will not transfer any defense articles to persons or entities unless specifically authorized by the entity.

(4) A secondment from one entity to another meets the definitions described in paragraphs (a)(2) and (3) of this section.

(b) Nothing in this section shall be construed to provide authorization for the export, retransfer, or reexport of defense articles or defense services.

Choo S. Kang,

Acting Assistant Secretary, Bureau of International Security and Nonproliferation, Department of State.

[FR Doc. 2021-11053 Filed 5-26-21; 8:45 am]

BILLING CODE 4710-05-P

DEPARTMENT OF LABOR

Office of Labor-Management Standards

29 CFR Parts 403 and 408

RIN 1245-AA12

Rescission of Labor Organization Annual Financial Report for Trusts in Which a Labor Organization Is Interested, Form T-1

AGENCY: Office of Labor-Management Standards, Department of Labor.

ACTION: Notice of proposed rulemaking; request for comments.

SUMMARY: This document proposes to withdraw the final rule published in the *Federal Register* on March 6, 2020, 85 FR 13414 (Mar. 6, 2020) (2020 Form T-1 rule), which established the Form T-1, Trust Annual Report, required to be filed by labor organizations about certain trusts in which they are interested pursuant to the Labor-Management Reporting and Disclosure Act (LMRDA). Upon further review of the 2020 Form T-1 rule, including the pertinent facts and legally relevant policy considerations surrounding that rulemaking, the Department of Labor (Department) proposes to withdraw the rule implementing the Form T-1, because it believes that the trust reporting required under the rule is overly broad and is not necessary to prevent the circumvention and evasion of the Title II reporting requirements. Moreover, upon further consideration, the Department is concerned that the 2020 rulemaking record was insufficient to justify the separate trust reporting requirements as set forth in the 2020 Form T-1 rule.

DATES: The Department will consider all written comments submitted on or before July 26, 2021.

ADDRESSES: You may submit comments, identified by RIN 1245-AA12, only by the following method: Internet—Federal eRulemaking Portal. Electronic comments may be submitted through <http://www.regulations.gov>. To locate the proposed rule, use RIN 1245-AA12 or key words such as “T-1,” “Labor-Management Standards” or “Trust Annual Reports” to search documents accepting comments. Follow the instructions for submitting comments. Please be advised that comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT:

Andrew Davis, Chief of the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue NW, Room N-5609, Washington, DC 20210, (202) 693-0123 (this is not a toll-free number), (800) 877-8339 (TTY/TDD), OLMS-Public@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Statutory Authority

The Department’s statutory authority is set forth in section 208 of the LMRDA, 29 U.S.C. 438. Section 208 of the LMRDA provides that the Secretary of Labor “shall have authority to issue, amend, and rescind rules and regulations prescribing the form and publication of reports required to be filed under [the Act] and such other reasonable rules and regulations . . . as he may find necessary to prevent the circumvention or evasion of such reporting requirements.”

The Secretary has delegated his authority under the LMRDA to the Director of the Office of Labor-Management Standards (OLMS) and permitted re-delegation of such authority. *See* Secretary’s Order 03-2012 (Oct. 19, 2012), published at 77 FR 69375 (Nov. 16, 2012).

II. Background

A. Introduction

In enacting the LMRDA in 1959, Congress sought to protect the rights and interests of employees, labor organizations and the public generally as they relate to the activities of labor organizations, employers, labor relations consultants, and their officers, employees, and representatives. The LMRDA’s various reporting provisions are designed to empower labor organization members by providing them the means to maintain democratic

control over their labor organizations and ensure a proper accounting of labor organization funds. Labor organization members are better able to monitor their labor organization’s financial affairs and to make informed choices about the leadership of their labor organization and its direction when labor organizations disclose financial information as required by the LMRDA.

By reviewing a labor organization’s financial reports, a member may ascertain the labor organization’s priorities and whether they are in accord with the member’s own priorities and those of fellow members. At the same time, this transparency promotes both the labor organization’s own interests as a democratic institution and the interests of the public and the government. Furthermore, the LMRDA’s reporting and disclosure provisions, together with the fiduciary duty provision, 29 U.S.C. 501, which directly regulates the primary conduct of labor organization officials, operate to safeguard a labor organization’s funds from depletion by improper or illegal means. Timely and complete reporting also helps deter labor organization officers or employees from embezzling or otherwise making improper use of such funds.

B. The LMRDA’s Reporting and Other Requirements

When it enacted the LMRDA in 1959, a bipartisan Congress made the legislative finding that in the labor and management fields “there have been a number of instances of breach of trust, corruption, disregard of the rights of individual employees, and other failures to observe high standards of responsibility and ethical conduct which require further and supplementary legislation that will afford necessary protection of the rights and interests of employees and the public generally as they relate to the activities of labor organizations, employers, labor relations consultants, and their officers and representatives.” 29 U.S.C. 401(b). The statute was designed to remedy these various ills through a set of integrated provisions aimed at labor organization governance and management. These include a “bill of rights” for labor organization members, which provides for equal voting rights, freedom of speech and assembly, and other basic safeguards for labor organization democracy, *see* 29 U.S.C. 411–415; financial reporting and disclosure requirements for labor organizations, their officers and employees, employers, labor relations consultants, and surety companies, *see* 29 U.S.C. 431–436, 441; detailed

procedural, substantive, and reporting requirements relating to labor organization trusteeships, *see* 29 U.S.C. 461–466; detailed procedural requirements for the conduct of elections of labor organization officers, *see* 29 U.S.C. 481–483; safeguards for labor organizations, including bonding requirements, the establishment of fiduciary responsibilities for labor organization officials and other representatives, criminal penalties for embezzlement from a labor organization, a prohibition on certain loans by a labor organization to its officers or employees, prohibitions on employment by a labor organization of certain convicted felons, and prohibitions on payments to employees, labor organizations, and labor organization officers and employees for prohibited purposes by an employer or labor relations consultant, *see* 29 U.S.C. 501–505; and prohibitions against extortionate picketing, retaliation for exercising protected rights, and deprivation of LMRDA rights by violence, *see* 29 U.S.C. 522, 529, 530.

The LMRDA was the direct outgrowth of a Congressional investigation conducted by the Select Committee on Improper Activities in the Labor or Management Field, commonly known as the McClellan Committee, chaired by Senator John McClellan of Arkansas. In 1957, the committee began a highly publicized investigation of labor organization racketeering and corruption; and its findings of financial abuse, mismanagement of labor organization funds, and unethical conduct provided much of the impetus for enactment of the LMRDA's remedial provisions. *See generally* Benjamin Aaron, *The Labor-Management Reporting and Disclosure Act of 1959*, 73 Harv. L. Rev. 851, 851–55 (1960). During the investigation, the committee uncovered a host of improper financial arrangements between officials of several international and local labor organizations and employers (and labor consultants aligned with the employers) whose employees were represented by the labor organizations in question or might be organized by them. Similar arrangements were also found to exist between labor organization officials and the companies that handled matters relating to the administration of labor organization benefit funds. *See generally* *Interim Report of the Select Committee on Improper Activities in the Labor or Management Field*, S. Report No. 85–1417 (1957); *see also* William J. Isaacson, *Employee Welfare and Benefit Plans: Regulation and Protection of*

Employee Rights, 59 Colum. L. Rev. 96 (1959).

Financial reporting and disclosure from labor organizations were conceived as partial remedies for these improper practices. As noted in a key Senate Report on the legislation, disclosure would discourage questionable practices (“The searchlight of publicity is a strong deterrent.”), aid labor organization governance (labor organizations will be able “to better regulate their own affairs” because “members may vote out of office any individual whose personal financial interests conflict with his duties to members”), facilitate legal action by members against “officers who violate their duty of loyalty to the members”, and create a record (“the reports will furnish a sound factual basis for further action in the event that other legislation is required”). S. Rep. No. 187 (1959) 16 reprinted in 1 NLRB Legislative History of the Labor-Management Reporting and Disclosure Act of 1959, 412.

The Department has developed several forms for implementing the LMRDA's financial reporting requirements. The annual reports required by section 201(b) of the Act, 29 U.S.C. 431(b) (Form LM–2, Form LM–3, and Form LM–4), contain information about a labor organization's assets; liabilities; receipts; disbursements; loans to officers, employees, and business enterprises; payments to each officer; and payments to each employee of the labor organization paid more than \$10,000 during the fiscal year. The reporting detail required of labor organizations, as the Secretary has established by rule, varies depending on the amount of the labor organization's annual receipts. 29 CFR 403.4.

The labor organization's president and treasurer (or its corresponding officers) are personally responsible for filing the reports and for any statement in the reports known by them to be false. 29 CFR 403.6. These officers are also responsible for maintaining records in sufficient detail to verify, explain, or clarify the accuracy and completeness of the reports for not less than five years after the filing of the forms. 29 CFR 403.7. A labor organization “shall make available to all its members the information required to be contained in such reports” and “shall . . . permit such member[s] for just cause to examine any books, records, and accounts necessary to verify such report[s].” 29 CFR 403.8(a).

The reports are public information. 29 U.S.C. 435(a). The Secretary is charged with providing for the inspection and examination of the financial reports, 29 U.S.C. 435(b). For this purpose, OLMS

maintains: (1) A public disclosure room where copies of such reports filed with OLMS may be reviewed and; (2) an online public disclosure site, where copies of such reports filed since the year 2000 are available for the public's review.

In addition to prescribing the form and publication of the LMRDA reports, the Secretary is authorized to issue regulations that prevent labor unions and others from avoiding their reporting responsibilities. Section 208 authorizes the Secretary of Labor to issue, amend, and rescind rules and regulations to implement the LMRDA's reporting provisions, including “prescribing reports concerning trusts in which a labor organization is interested” as she may “find necessary to prevent the circumvention or evasion of [the LMRDA's] reporting requirements.” 29 U.S.C. 438. In other words, the Secretary may require separate trust reporting only if: (1) The union has an interest in a trust *and* (2) reporting is determined to be necessary to prevent the circumvention or evasion of LMRDA reporting requirements. 29 U.S.C. 438.

III. Proposal To Rescind the March 6, 2020 Final Rule Establishing the Form T–1

A. History of the Form T–1

The Form T–1 report was first proposed on December 27, 2002, as one part of a proposal to extensively change the Form LM–2. 67 FR 79280 (Dec. 27, 2002). The rule was proposed under the authority of Section 208, which permits the Secretary to issue such rules “prescribing reports concerning trusts in which a labor organization is interested” as he may “find necessary to prevent the circumvention or evasion of [the LMRDA's] reporting requirements.” 29 U.S.C. 438. Following consideration of public comments, on October 9, 2003, the Department published a final rule enacting extensive changes to the Form LM–2 and establishing a Form T–1. 68 FR 58374 (Oct. 9, 2003) (2003 Form T–1 rule). The 2003 Form T–1 rule eliminated the requirement that unions report on subsidiary organizations on the Form LM–2, but it mandated that each labor organization filing a Form LM–2 report also file a separate report to “disclose assets, liabilities, receipts, and of a significant trust in which the labor organization is interested,” increasing labor organizations' reporting requirements generally and expanding the types of trusts for which reporting would be required. 68 FR at 58477. The reporting labor organization would make this disclosure by filing a separate

Form T-1 for each significant trust in which it was interested. *Id.* at 58524.

To support the assertion that trust reporting was “necessary to prevent the circumvention or evasion of [the LMRDA’s] reporting requirements,” the 2003 Form T-1 rule developed the “significant trust in which the labor organization is interested” test. It used the section 3(l) statutory definition of “a trust in which a labor organization is interested” coupled with an administrative determination of when a trust is deemed “significant.” 68 FR at 58477–78. The LMRDA defines a “trust in which a labor organization is interested” as:

A trust or other fund or organization (1) which was created or established by a labor organization, or one or more of the trustees or one or more members of the governing body of which is selected or appointed by a labor organization, and (2) a primary purpose of which is to provide benefits for the members of such labor organization or their beneficiaries. *Id.* (quoting 29 U.S.C. 402(l)).

The 2003 Form T-1 rule set forth an administrative determination that stated that a “trust will be considered significant” and therefore subject to the Form T-1 reporting requirement under the following conditions:

(1) The labor organization had annual receipts of \$250,000 or more during its most recent fiscal year, and (2) the labor organization’s financial contribution to the trust or the contribution made on the labor organization’s behalf, or as a result of a negotiated agreement to which the labor organization is a party, is \$10,000 or more annually. *Id.* at 58478.

The portions of the 2003 rule relating to the Form T-1 were vacated by the D.C. Circuit in *AFL-CIO v. Chao*, 409 F.3d 377, 389–391 (D.C. Cir. 2005). The court held that the form “reaches information unrelated to union reporting requirements and mandates reporting on trusts even where there is no appearance that the union’s contribution of funds to an independent organization could circumvent or evade union reporting requirements by, for example, permitting the union to maintain control of the funds.” *Id.* at 389. The court also vacated the Form T-1 portions of the 2003 rule because its significance test failed to establish reporting based on domination or managerial control of assets subject to LMRDA Title II jurisdiction.

The court reasoned that the Department failed to explain how the test—*i.e.*, selection of one member of a board and a \$10,000 contribution to a trust with \$250,000 in receipts—could give rise to circumvention or evasion of Title II reporting requirements. *Id.* at 390. In so holding, the court

emphasized that Section 208 authority is the only basis for LMRDA trust reporting, that this authority is limited to preventing circumvention or evasion of Title II reporting, and that “the statute doesn’t provide general authority to require trusts to demonstrate that they operate in a manner beneficial to union members.” *Id.* at 390.

However, the court recognized that reports on trusts that reflect a labor organization’s financial condition and operations are within the Department’s rulemaking authority, including trusts “established by one or more unions or through collective bargaining agreements calling for employer contributions, [where] the union has retained a controlling management role in the organization,” and also those “established by one or more unions with union members’ funds because such establishment is a reasonable indicium of union control of that trust.” *Id.* The court acknowledged that the Department’s findings in support of its rule were based on particular situations where reporting about trusts would be necessary to prevent evasion of the related labor organizations’ own reporting obligations. *Id.* at 387–88. One example included a situation where “trusts [are] funded by union members’ funds from one or more unions and employers, and although the unions retain a controlling management role, no individual union wholly owns or dominates the trust, and therefore the use of the funds is not reported by the related union.” *Id.* at 389 (emphasis added). In citing these examples, the court explained that “absent circumstances involving dominant control over the trust’s use of union members’ funds or union members’ funds constituting the trust’s predominant revenues, a report on the trust’s financial condition and operations would not reflect on the related union’s financial condition and operations.” *Id.* at 390. For this reason, while acknowledging that there are circumstances under which the Secretary may require a report, the court disapproved of a broader application of the rule to require reports by any labor organization simply because the labor organization satisfied a reporting threshold (a labor organization with annual receipts of at least \$250,000 that contributes at least \$10,000 to a section 3(l) trust with annual receipts of at least \$250,000). *Id.*

In light of the decision by the D.C. Circuit and guided by its opinion, the Department issued a revised Form T-1 final rule on September 29, 2006. 71 FR 57716 (Sept. 29, 2006) (2006 Form T-1 rule). The U.S. District Court for the

District of Columbia vacated this rule due to a failure to provide a new notice and comment period. *AFL-CIO v. Chao*, 496 F. Supp. 2d 76 (D.D.C. 2007). The district court did not engage in a substantive review of the 2006 rule, but the court noted that the AFL-CIO demonstrated that “the absence of a fresh comment period. . . constituted prejudicial error” and that the AFL-CIO objected with “reasonable specificity” to warrant relief vacating the rule. *Id.* at 90–92.

The Department issued a proposed rule for a revised Form T-1 on March 4, 2008. 73 FR 11754 (Mar. 4, 2008). After notice and comment, the 2008 Form T-1 final rule was issued on October 2, 2008. 73 FR 57412. The 2008 Form T-1 rule took effect on January 1, 2009. Under that rule, Form T-1 reports would have been filed no earlier than March 31, 2010, for fiscal years that began no earlier than January 1, 2009.

Pursuant to *AFL-CIO v. Chao*, the 2008 Form T-1 rule stated that labor organizations with total annual receipts of \$250,000 or more must file a Form T-1 for those section 3(l) trusts in which the labor organization, either alone or in combination with other labor organizations, had management control or financial dominance. 73 FR at 57412. For purposes of the rule, a labor organization had management control if the labor organization alone, or in combination with other labor organizations, selected or appointed the majority of the members of the trust’s governing board. Further, for purposes of the rule, a labor organization had financial dominance if the labor organization alone, or in combination with other labor organizations, contributed more than 50 percent of the trust’s receipts during the annual reporting period. Significantly, the rule treated contributions made to a trust by an employer pursuant to CBA as constituting contributions by the labor organization that was party to the agreement.

Additionally, the 2008 Form T-1 rule provided exemptions to the Form T-1 filing requirements. No Form T-1 was required for a trust: (1) Established as a political action committee (PAC) fund if publicly available reports on the PAC fund were filed with Federal or state agencies; (2) established as a political organization for which reports were filed with the IRS under section 527 of the IRS code; (3) required to file a Form 5500 under ERISA; or (4) constituting a federal employee health benefit plan that was subject to the provisions of the Federal Employees Health Benefits Act (FEHBA), 5 U.S.C. 8901 *et seq.* Similarly, the rule clarified that no

Form T-1 was required for any trust that met the statutory definition of a labor organization, 29 U.S.C. 402(i), and filed a Form LM-2, Form LM-3, or Form LM-4 or was an entity that the LMRDA exempts from reporting. *Id.*

In the Spring 2009 and Fall 2009 Regulatory Agendas, the Department notified the public of its intent to initiate rulemaking proposing to rescind the Form T-1 and to require reporting of wholly owned, wholly controlled, and wholly financed (“subsidiary”) organizations on their Form LM-2 or LM-3 reports. See <http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=200904&RIN=1215-AB75> and <http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=200904&RIN=1215-AB75>.

Due to the proposed rescission, on December 3, 2009, the Department issued a notice of proposed extension of filing due date to delay for one calendar year the filing due dates for Form T-1 reports required to be filed during calendar year 2010. 74 FR 63335. On December 30, 2009, following comment, the Department published a rule extending for one year the filing due date of all Form T-1 reports required to be filed during calendar year 2010. 74 FR 69023.

Subsequently, on February 2, 2010, the Department published a Notice of Proposed Rulemaking (NPRM) proposing to rescind the Form T-1. 75 FR 5456. After notice and comment, the Department published the final rule on December 1, 2010. In its rescission, the Department stated that it considered the reporting required under the rule to be overly broad and not necessary to prevent circumvention or evasion of Title II reporting requirements. The Department concluded that the scope of the 2008 Form T-1 rule was overbroad because it covered many trusts, such as those funded by employer contributions, without an adequate showing that reporting for such trusts is necessary to prevent the circumvention or evasion of the Title II reporting requirements. See 75 FR 74936.

In the Spring and Fall Regulatory Agendas for 2017 and 2018, the Department notified the public of its intent to initiate rulemaking reinstating the Form T-1 Trust Annual Report. See <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201704&RIN=1245-AA09>, <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201710&RIN=1245-AA09>, <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201804&RIN=1245-AA09>, and

<https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201810&RIN=1245-AA09>. On May 30, 2019 the Department proposed to establish a Form T-1 Trust Annual Report to capture financial information pertinent to “trusts in which a labor organization is interested” (“section 3(l) trusts”). See 84 FR 25130. After notice and comment, the Department published the final Rule on March 6, 2020. 85 FR 13414.

Under this rule, and similar to the 2008 rule, the Department requires a labor organization with total annual receipts of \$250,000 or more (and, which therefore is obligated to file a Form LM-2 Labor Organization Annual Report) to also file a Form T-1, under certain circumstances, for each trust of the type defined by section 3(l) of the LMRDA, 29 U.S.C. 402(l) (defining “trust in which a labor organization is interested”). 85 FR 13417. Such labor organizations must file where the labor organization during the reporting period, either alone or in combination with other labor organizations, (1) selects or appoints the majority of the members of the trust’s governing board or (2) contributes more than 50 percent of the trust’s receipts. *Id.* When applying this financial or managerial dominance test, contributions made pursuant to a collective bargaining agreement (CBA) shall be considered the labor organization’s contributions. *Id.* In its final rule, the Department stated that the rule helped bring the reporting requirements for labor organizations and section 3(l) trusts in line with contemporary expectations for the disclosure of financial information and prevent the circumvention or evasion of the LMRDA’s reporting requirements through funds over which labor organizations exercise domination. 85 FR 13415.

Like the 2008 rule, exemptions are provided for a trust that is a political action committee (“PAC”) or a political organization (the latter within the meaning of 26 U.S.C. 527). No T-1 form is required for federal employee health benefit plans subject to the provision of the Federal Employees Health Benefits Act (FEHBA), any for-profit commercial bank established or operating pursuant to the Bank Holding Act of 1956, 12 U.S.C. 1843, or credit unions. 85 FR 13418. Similar to the 2008 rule, but unlike the 2003 or 2006 rules, the 2020 T-1 rule includes an exemption for section 3(l) trusts that are part of employee benefit plans that file a Form 5500 Annual Return/Report under the Employee Retirement Income Security Act of 1974 (“ERISA”). *Id.* Additionally, a partial exemption is provided for a

trust for which an audit was conducted in accordance with prescribed standards and the audit is made publicly available. A labor organization choosing to use this option must complete and file the first page of the Form T-1 and a copy of the audit. *Id.*

Unlike the 2008 rule, the 2020 rule exempts unions from reporting on the Form T-1 their subsidiary organizations, retaining the requirement that unions must report their subsidiaries on the union’s Form LM-2 report. *Id.* Also unlike the 2008 rule, the 2020 rule permits the parent union (*i.e.*, the national/international or intermediate union) to file the Form T-1 report for covered trusts in which both the parent union and its affiliates meet the financial or managerial domination test. *Id.* The affiliates must continue to identify the trust in their Form LM-2 report, and also state in their Form LM-2 report that the parent union will file a Form T-1 report for the trust. *Id.* The 2020 rule also allows a single union to voluntarily file the Form T-1 on behalf of itself and the other unions that collectively contribute to a multiple-union trust, relieving the Form T-1 obligation on other unions. *Id.*

B. Reasons for the Proposal To Rescind the March 6, 2020 Form T-1 Final Rule

The Department is proposing to rescind the 2020 Form T-1 rule for two reasons. First, the Department believes that the trust reporting required under the rule is overly broad, as it includes exclusively employer-funded trusts. Employer-funded trusts are not funds of a labor organization, subject to the LMRDA’s Title II reporting requirements. Accordingly, required reporting of such employer-funded trusts is not necessary to prevent the circumvention and evasion of the Title II reporting requirements. Second, the Department has reviewed the 2020 rulemaking record and is concerned that the separate reporting requirements set forth in the 2020 Form T-1 rule are not justified in light of the burden they impose.

The 2020 Form T-1 Rule Is Overbroad

Under the Act, the Secretary has the authority to “issue, amend, and rescind rules and regulations prescribing the form and publication of reports required to be filed under this title and such other reasonable rules and regulations (including rules concerning trusts in which a labor organization is interested) as he may find necessary to prevent the circumvention or evasion of such reporting requirements.” 29 U.S.C. 438. The Secretary’s regulatory authority thus includes the reporting mandated by

the Act and discretionary authority to require reporting on trusts falling within the statutory definition of a trust “in which a labor organization is interested.” 29 U.S.C. 402(l). The Secretary’s discretion to require separate trust reporting applies to trusts if: (1) The union has an interest in a trust as defined by 29 U.S.C. 402(l) and (2) reporting is determined to be necessary to prevent the circumvention or evasion of Title II reporting requirements. 29 U.S.C. 438. As both the Department and the court recognized, this is a two part requirement. See *AFL–CIO v. Chao*, 409 F.3d 377, 386–87 (D.C. Cir. 2005) (discussion of two-part test).

A key feature of the Secretary’s discretionary authority to require trust reporting is the requirement that the Secretary conclude that such reporting is “necessary” to prevent circumvention or evasion of a labor organization’s requirement to report on its finances under the LMRDA. The Department now believes that the 2020 Form T–1 rule was overly broad, requiring financial reporting by many trusts, including trusts funded by employers pursuant to collective bargaining agreements, without an adequate showing that such a change is necessary to prevent circumvention or evasion of the reporting requirements.

In particular, the rule provided that, for purposes of evaluating whether payments to a trust indicate that the union is financially dominant over the trust, payments made by employers to set up trusts under Section 302(c) of the LMRA, 29 U.S.C. 186(c) (Taft-Hartley funds) should be treated as funds of the union. Taft-Hartley funds are created and maintained through employer contributions paid to a trust fund, pursuant to a collective bargaining agreement, and must have equal numbers of union and management trustees, who owe a duty of loyalty to the trust. Taft-Hartley funds are established for the “sole and exclusive benefit of the employees” and are exempt from the statutory prohibition against an employer paying money to employees, representatives, or labor organizations. See 29 U.S.C. 186(a) and (c)(5).

The Department recognizes that section 3(l) “trusts in which a union is interested” term is sufficiently broad to encompass Taft-Hartley plans funded by employer contributions. However, as explained above, this is only the first part of the section 208 analysis. The second part of the analysis requires that the Secretary determine that the reporting is necessary to prevent circumvention or evasion of the

reporting of union money subject to Title II.

As explained in the 2020 Form T–1 rule, section 201 of the LMRDA requires that unions “file annual, public reports with the Department, detailing the union’s cash flow during the reporting period, and identifying its assets and liabilities, receipts, salaries and other direct or indirect disbursements to each officer and all employees receiving \$10,000 or more in aggregate from the union, direct or indirect loans (in excess of \$250 aggregate) to any officer, employee, or member, any loans (of any amount) to any business enterprise, and other disbursements.” 85 FR at 13414 (citing 29 U.S.C. 431(b)). Further, section 201 requires that such information shall be filed “in such detail as may be necessary to disclose [a labor organization’s] financial condition and operations.” 85 FR at 13414 (citing *Id.*). Significantly, each financial transaction to be reported is one that reflects upon the union’s financial condition and operations, not the financial condition and operations of another entity.

Thus, under the Act, the Secretary may require trust reporting when he concludes it is necessary to prevent the circumvention or evasion of labor organization’s Title II reporting requirements. See 29 U.S.C. 208. The Title II reporting requirements for a labor organization require it “to disclose its financial condition and operations.” 29 U.S.C. 201(b)(emphasis added). Consequently, trust reporting is permissible to prevent a labor union from using a trust to circumvent reporting of the *labor union’s* finances.

Like the 2008 Form T–1 rule, the 2020 Form T–1 rule did not adequately address the “need” part of the two-part test when it presumed that employer contributions establish labor union financial domination of a trust. Indeed, after review, the Department proposes that the money contributed by the employer to a Taft-Hartley fund not be considered the property of the union, and thus its disclosure would not “disclose [the union’s] financial condition and operations.” 29 U.S.C. 201(b). Conversely, a union’s nondisclosure of such funds would not be an evasion of the union’s reporting requirement. The Department now proposes that such ordinary employer funds, not within the control of the union, would in no instance be reported by a union under the LMRDA reporting requirements. Such payments are generally paid by the employer to the Taft-Hartley trust for the sole and exclusive benefit of the employees, and it appears that the payment and use of

these moneys would not ordinarily relate to the condition and operations of the union. And in addition, by definition, Taft-Hartley funds may not have union managerial dominance because “employees and employers are equally represented in the administration of such fund[s], together with such neutral persons as the representatives of the employers and the representatives of employees may agree upon.” See 29 U.S.C. 186(c)(5)(B). Disclosure of such funds is thus unnecessary to ensure that unions comply with their own financial reporting requirements under the LMRDA. Consequently, the Department now proposes to rescind the 2020 Form T–1 rule as overly broad, as it applies to Taft-Hartley plans, by requiring reporting in instances where a union is not in a position to use a trust to circumvent or evade its reporting requirement.

In an apparent acknowledgement that the 2020 Form T–1 rule, as it relates to the Taft-Hartley plans, was premised upon policies in addition to preventing circumvention of Title II reporting, the final rule stated that, “[b]y establishing reporting for their trusts comparable to that for their own funds, the Form T–1 will prevent the unions from circumventing or evading their reporting requirements, ensuring financial transparency for all funds dominated by the unions.” 85 FR at 13419. By emphasizing that the 2020 Form T–1 would establish reporting for “trusts” comparable to the reporting for “union funds,” the rule appears to have provided for more general reporting than would be “necessary to prevent” the circumvention of LMRDA reporting requirements. Therefore, since the statute calls for trust reporting just to prevent the circumvention or evasion of the union’s reporting requirements, the financial transparency goal here exceeds what the statute demands.

The 2020 final rule states that the Form T–1 “will make it more difficult for a labor organization to avoid, simply by transferring money from the labor organization to a trust, the basic reporting obligation that applies if the funds had been retained by the labor organization.” 85 FR 13418. However, the rule provided no evidence that labor organizations were transferring their own funds to Taft-Hartley trusts, and, by definition, Taft-Hartley funds do not have union managerial dominance. Thus, it is not apparent how such funds would meet the Form T–1 dominance test. In an apparent acknowledgment of this dilemma, the Department argued in the 2020 Final Rule that “the money an employer contributes to such trusts

pursuant to a CBA might otherwise have been paid directly to a labor organization's members in the form of increased wages and benefits, the members on whose behalf the financial transaction was negotiated have an interest in knowing what funds were contributed, how the money was managed, and how it was spent." 85 FR 13418. Assuming this is so, these underlying wages and benefits would not have been reported on a Form LM-2. Therefore, it is not apparent that payment of these potential wages and benefits to a trust involves the circumvention or evasion of Title II reporting. Thus, with respect to these funds, it is not clear from the final rule how the Form T-1 will "close a reporting gap where *labor organization finances* related to LMRDA section 3(l) trusts were not disclosed to members, the public, or the Department." (emphasis added) 84 FR 25416.

In *AFL-CIO v. Chao*, the Court of Appeals for the D.C. Circuit held that the 2003 Form T-1 "reaches information unrelated to union reporting requirements and mandates reporting on trusts even where there is no appearance that the union's contribution of funds to an independent organization could circumvent or evade union reporting requirements." *AFL-CIO v. Chao*, 409 F.3d at 389. The Department proposes that the 2020 Form T-1 rule may be overly broad in the same manner, requiring many labor organizations to file the Form T-1 for independent Taft-Hartley trusts, even where there is no apparent means by which the union could use the trust as a means of circumventing or evading its Title II reporting requirements.

Furthermore, the Department rescinded the Form T-1 in 2010 for the same lack of statutory authority. See 75 FR 74938. While the 2020 rule acknowledged this issue, the rule did not adequately address this legal concern. Indeed, in an acknowledgment that employer contributions to a trust do not constitute the circumvention or evasion of *labor organization* funds, the 2020 rule argued that Form T-1 reporting for Taft-Hartley trusts could prevent the circumvention of employer or labor organization officer or employee reporting under LMRDA Sections 202 and 203. See 85 FR 13422. However, the 2020 rule provided no support for this conclusion. Moreover, the logical conclusion of such argument is that the employer should file the trust report, not the labor organization.

Rulemaking Record Does Not Support 2020 Form T-1 Rule in Light of Burden Imposed

The 2020 rule imposed significant burdens on Form LM-2 filing labor organizations. The Department estimated that there will be at least 810 Form LM-2 organizations filing a Form T-1 report. 85 FR 13437. In the first year of reporting Form T-1 filers would spend approximately 121.38 hours per report, which results in a total of 251,256.6 burden hours. 85 FR 13433. In subsequent years, Form T-1 filers would spend approximately 84.12 hours per report, which would result in 174,128.4 additional burden hours. *Id.* The total expected first-year costs of the Form T-1 are \$15,009,801, and in subsequent years the total cost would be \$10,385,820.¹ 85 FR 13437. These burdens add to existing Form LM-2 recordkeeping and reporting burdens, and the union members ultimately bear these costs. Despite the burden imposed by the 2020 rule, the Department did not engage in an in-depth study into whether the Form T-1 would provide needed or desired information to labor organization members or help detect or deter labor-management fraud. Upon review, the Department is concerned that the 2020 rule's record did not provide sufficient evidentiary support to justify the significant reporting burden imposed on labor organizations. The Department invites comment on this point.

First, in issuing the 2020 rule the Department did not undertake a study to determine whether the 2020 rule was necessary to prevent circumvention or evasion of Title II reporting obligations, whether the Form T-1 would detect or deter fraud, or whether the 2020 rule's rulemaking record established what members may want or need or even offer suggestions as to how members would use the information to self-govern their unions.² In terms of benefits to union members, they will continue to receive detailed information about their union's finances, including the identity and contact information of the union's trusts, through the annual Form LM-2 report available on the OLMS website. In particular, members will see whether the trust already files

a report with another agency. Indeed, the 2020 rule discusses primarily apprenticeship and training and similar Taft-Hartley funds. However, such trusts typically already file detailed disclosure reports, such as the Form 5500 with the Department's Employee Benefits Security Administration (EBSA) and Form 990 with the Internal Revenue Service (IRS), which provide comparable reporting to the Form T-1.³ Both IRS Form 990 and EBSA form 5500 require comprehensive reporting of financial information such as assets, liabilities, officer and director payments, leases, and other financial transactions.⁴ These forms provide the type of financial information that interested parties such as union members could use to monitor the use of trust funds in order to prevent circumvention or evasion of Title II reporting obligations and to detect and deter fraud. Thus, the Department now believes that the Form T-1 may have established a largely redundant reporting regime.

Further, the 2020 rule did not adequately explain why the Form T-1 exempted the EBSA Form 5500 and certain IRS filings, such as those filed by political organizations under 26 U.S.C. 527, but not trusts that file the Form 990 with the IRS. The 2020 rule focused on the unique nature of the union reporting required under the LMRDA, and the Department continues to hold that IRS Form 990 by labor organizations does not provide a substitute for Form LM-2, LM-3, and LM-4 reporting by labor organizations. However, trusts are not labor organizations, and the Department is, therefore, concerned that the 2020 rule did not provide a justification as to why such reporting—as well as the other types of reporting exemptions that the 2020 rule provided—is not a sufficient substitute for Form T-1 reporting. See 85 FR 13425–26.

Second, adding to the burden on the filing unions, the information necessary to complete the report is in the control of the trust, not the reporting union, notwithstanding that many if not most of the trusts on which they are required to report are operated jointly with employers. Furthermore, trusts are under no legal obligation to provide their records to the union for the sake of the union's reporting requirement. The 2020 rule offered no factual support suggesting that trusts, whose trustees may have a fiduciary obligation to the

¹ The 10-year annualized cost of the rule would be \$10,285,704 at a 3 percent discount rate and \$9,608,788 at a 7 percent discount rate. 85 FR 13438.

² See the Department's rescission of Form LM-2 changes, in 2009, based, in part, on the lack of a study into the potential benefits and burdens of earlier, 2003 Form LM-2 changes prior to promulgating even more expansive Form LM-2 reporting requirements in 2009. See 74 FR 52406–09.

³ See <https://www.irs.gov/charities-non-profits/annual-filing-and-forms>

⁴ See *id.*; see also <https://www.dol.gov/agencies/ebsa/employers-and-advisers/plan-administration-and-compliance/reporting-and-filing/form-5500>.

trust, would agree to provide their records to the union. Compiling such records and providing them to the union would constitute a significant annual expense and a significant amount of lost time that should be devoted to the administration of the trust. It is unclear how a union could compel a trust that refuses to provide records, and thus it is equally unclear why trustees would approve complying with union requests.

Additionally, upon further review, the Department now considers the Form T-1 reporting regime as almost unworkable from the perspective of the filing labor unions and the Department, since it may result in multiple unions filing for a single trust or determining which union would file for the others, thereby taking on the legal obligations associated with the form. The 2020 rule acknowledged this problem by including a provision allowing one union to file the Form T-1 report for the other unions, but the Department now considers this solution as unworkable. The Department invites comment on this point, as well as the points of the preceding paragraphs.

Third, in terms of detecting and deterring fraud or preventing the circumvention and evasion of Title II reporting obligations, the 2020 rule did not sufficiently demonstrate how the Form T-1 would further these goals. Initially, as explained above, because of the redundant nature of much of this reporting, it is not apparent that the Form T-1 would provide any additional information necessary for OLMS to track fraud. Existing reporting regimes already provide valuable information. Further, OLMS has a well-established history of effectively enforcing the LMRDA and combatting labor-management fraud. *See* the OLMS enforcement results: <https://www.dol.gov/agencies/olms/enforcement>. Indeed, in recent years and as discussed in the 2020 rule, the Department played a key role in securing over a dozen indictments and convictions in the UAW-Fiat Chrysler of America (FCA) National Training Center (NTC) scandal, without the Form T-1. *See* 85 FR 13421. While the 2020 rule relies heavily on these UAW-Fiat Chrysler of America convictions as grounds for adopting the Form T-1, after consideration, the Department now believes that those cases do not provide support for the 2020 rule and that, instead, the ability to obtain such results without the Form T-1 undercuts the “need” for imposing a new reporting burden. Working jointly with the Department of Justice and others, the Department of Labor secured convictions of management and union

officials associated with the NTC, pursuant to the Taft-Hartley Act, for unlawful employer payments to UAW officials. *See* 29 U.S.C. 186. Since the LMRDA Section 202 and 203 reporting requirements would require disclosure of these payments, and require the parties to file reports pursuant to the Department’s Form LM-30 Labor Organization Officer and Employee Report and Form LM-10 Employer Report, the Department already had investigatory authority and access to necessary financial information to effectively investigate this matter. *See* 29 U.S.C. 432–433 and 531. Additionally, the general public, including members of labor organizations, already has access to reports containing similar, if not identical, information that would be included on the Form T-1, and the Department already has the necessary investigatory authority to identify and eradicate the specific fraud that the Form T-1 is meant to combat. For example, the NTC filed a Form 990 that listed three of the six UAW officials who took unlawful payments from FCA under Part VII (Compensation of Officers, Directors, Trustees, Key Employees, Highest Compensated Individuals, and Independent Contractors), and the trust should have reported payments to two other UAW officials’ sham charities on Schedule I (Grants and Other Assistance to Organizations, Governments, and Individuals in the United States).⁵ Moreover, the 2020 rule also cited examples of fraud involving apprenticeship and training plans and other ERISA-covered entities, which EBSA uncovered with its existing enforcement authority pursuant to ERISA. *See* 85 FR 13419–20.

The 2020 rule provided other examples and hypothetical situations as purportedly demonstrating the need of the Form T-1 to detect and deter fraudulent activity. However, upon additional review, these examples do not seem to demonstrate a need for the Form T-1. For example, the 2020 rule offered a hypothetical example of a trust making a \$15,000 payment to a printing company owned by a union official. In such a situation, the ownership of the printing company would not actually appear on the Form T-1, but the 2020 rule postulated that members or the

⁵ *See* OLMS FY 18 Annual Report. While the Form 990s filed by the trust did not properly report these payments, the Department of Justice secured indictments covering conspiring to defraud the United States by preparing and filing false tax returns for the NTC that concealed millions of dollars in prohibited payments directed to UAW officials.

public would notice the connection. *See* 85 FR 13418–19. It is just as likely, however, that union members or the public may already recognize this financial connection more directly via the IRS Form 990, Schedule L (Transactions with Interested Persons).⁶ Thus, the Form 990 actually provides greater transparency in this regard than would the Form T-1, which undercuts this rationale as a basis for supporting a Form T-1 reporting requirement.

Additionally, the 2020 rule reviewed Form LM-2 reports from FY 17 and offered examples purportedly justifying the rule, but after careful consideration, the Department believes that such examples do not adequately support the rulemaking. *See* 85 FR 13419. For example, the 2020 rule cited a local union that made expenditures to a credit union. However, the 2020 rule exempted credit unions from the Form T-1 reporting requirements because existing law already provides detailed transparency and oversight. The 2020 rule also mentioned a local union making payments to a trust that constitutes an information technology (IT) service corporation established by the local union to provide it with IT services. But after further review, the local union reported on its Form LM-2 that the trust already files the IRS Form 1065. Another example discussed payments from a union to a labor college; but the labor college files a Form 990, which provides the necessary transparency the Form T-1 sought.

Further, the Department believes that full implementation and enforcement of the Form T-1 would actually deprive the Department of resources needed to administer and enforce effectively the LMRDA, since the Department would need to expend significant resources creating and maintaining an electronic Form T-1; provide compliance assistance to unions and trusts on such filing and related recordkeeping requirements; and pursue delinquent Form T-1 reports, particularly for unions unable to obtain timely (if at all) the necessary information from the trust. The Department invites comment on this point and the points of the preceding paragraphs.

Therefore, in light of the foregoing concerns, the Department proposes to rescind the rule implementing the Form T-1 because it believes that, as it concerns Taft-Hartley plans, the trust reporting required under the rule is overly broad and thus not necessary to prevent the circumvention and evasion of the Title II reporting requirements.

⁶ *See*: <https://www.irs.gov/forms-pubs/about-schedule-l-form-990>.

Further, the Department also proposes rescission, as it has reviewed the 2020 rulemaking record and no longer views the separate reporting requirements as set forth in the 2020 Form T-1 rule as justified in light of the burden they impose. The Department invites comments on its proposal to rescind the 2020 Form T-1 rule.

IV. Specific Proposed Changes to the Form LM-2 Instructions and the LMRDA Regulations

A. Changes to the Form LM-2

To implement the rescission of the Form T-1, the Department proposes to make the following changes to the Form LM-2 Labor Organization Annual Report:

1. Section IX—Labor Organizations In Trusteeship: The Department proposes to revise this section to remove any reference to the Form T-1.

2. Section XI—Completing Form LM-2: The Department proposes changes to the instructions to Item 10 (Trusts or Funds). The instructions for Item 10 would be changed to remove any reference to the Form T-1, although basic information about the trust would still be required, as would a cite to any report filed for the trust with another government agency, such as the Department's Employee Benefits Security Administration (EBSA) or the Internal Revenue Service (IRS).

The public can view the proposed Form LM-2 changes in the accompanying ICR, pursuant to the PRA. See Part V (Regulatory Procedures), PRA section.

B. Changes to the LMRDA Regulations

As described in the below regulatory procedures section, and in order to implement the rescission of the 2020 Form T-1 rule, the Department proposes to remove the references to the Form T-1 located in the Department's LMRDA regulations at 29 CFR part 403. Additionally, as described in the below regulatory procedures section, the Department proposes to require mandatory electronic filing for labor organizations that submit simplified annual reports pursuant to 29 CFR 403.4(b). The Department's experience with Form LM-2, LM-3, and LM-4 reporting demonstrates that labor organizations can submit such reports electronically with little difficulty and with burden reductions for the labor organization filers and the Department. Further, the public benefits from more timely disclosure on the OLMS website. The Department anticipates such benefits for electronic simplified annual reports, as well.

V. Regulatory Procedures

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Review)

Under Executive Order (E.O.) 12866, the Office of Management and Budget (OMB)'s Office of Information and Regulatory Affairs (OIRA) determines whether a regulatory action is significant and, therefore, subject to the requirements of E.O. 12866 and OMB review.⁷ 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 E.O. 12866. OMB has determined that this rule is significant under section 3(f) of E.O. 12866. Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), OIRA has designated this rule as not 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 discuss qualitatively values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts.

A. Costs of the Form T-1 for Labor Organizations

As described in the 2020 Form T-1 final rule, the Form T-1 is filed by Form LM-2 filing labor organizations with trusts that meet the dominance test, if those labor organizations are not otherwise exempted from filing. Cost savings discussed below concern the

costs incurred by labor organizations to file the Form T-1 reports in subsequent years (assuming that filers have already incurred many of the first year costs discussed in the 2020 Final Rule). If the Department rescinds the Form T-1, as proposed, the affected labor organizations would save these future costs. Using data from LM-2 filings, the Department estimated, in the 2020 Form T-1 final rule, that there are at least 810 total affected labor organizations (*i.e.*, LM-2 filers with trusts for which they must submit at least 1 Form T-1). The Department estimated in the 2020 final rule that each affected labor organization would be responsible for an average of 2.56 Form T-1 filings. Additionally, each affected labor organization would spend approximately 84.12 hours in each subsequent year to fill out the Form T-1.⁸ The average hourly wage for Form T-1 filers, as with Form LM-2 filers, includes: \$37.89 for an accountant, \$20.25 for a bookkeeper or clerk, \$25.15 for a Form LM-2 filing union secretary-treasurer or treasurer, and \$29.21 for the Form LM-2 filing president, respectively.⁹ The weighted average hourly wage is \$36.53.¹⁰ To account for fringe benefits and overhead costs, as well as any other unknown costs or increases in the wage average, the average hourly wage has been multiplied by 1.63, so the fully loaded hourly wage is \$59.54 ($\$36.53 \times 1.63 = \$59.54$).¹¹

Therefore, the cost for each Form T-1 filer in subsequent years would be \$12,822 ($2.56 \times 84.12 \times \$59.54 = \$12,822$), which would be eliminated if the Department rescinds the Form T-1, as proposed.

⁸ For more details, see the Paperwork Reduction Act section below.

⁹ Wage rates are derived from 2018 data; more specifically, the president and treasurer wage rates are determined from FY 19 Form LM-2 report filings, while the accountant and bookkeeper wage rates come from 2018 Bureau of Labor Statistics (BLS) data available at: https://www.bls.gov/oes/2018/may/oes_nat.htm.

¹⁰ The weighted average calculates the wage rate per hour weighted according to the percentage of time that the Form T-1's completion will demand of each official/employee: 90 percent of the Form T-1 burden hours will be completed by an accountant, 5 percent by the bookkeeper, 4 percent by the union's treasurer/secretary-treasurer, and 1 percent by the union president.

¹¹ The use of 1.63 accounts for 17 percent for overhead and 46 percent for fringe. In the case of the 46 percent for fringe, see the following link to BLS data showing that wages and salaries represent 68.6 percent (.686) of compensation (<https://www.bls.gov/news.release/eccec.t02.htm>). Dividing total compensation by the 68.6 percent represented by wages and salaries is equivalent to a 1.46 multiplier. Adding a 17 percent multiplier (.17) for overhead equals 1.63.

⁷ See 58 FR 51735 (September 30, 1993).

B. Summary of Costs

The proposed rule would save 810 Form LM–2 filers a total of \$10,385,820 annually. The 10-year annualized cost is expected to be \$10,285,704 at a 3 percent discount rate and \$9,608,788 at a 7 percent discount rate.

C. Benefits

As explained more fully in the preamble to this proposed rule, the Department proposes to rescind the Form T–1, as it proposes that the 2020 Form T–1 rule does not prevent the circumvention or evasion of the LMRDA reporting requirements, nor does it detect or deter labor-management fraud or corruption. Rather, the Department believes that existing reporting requirements adequately address these concerns. Further, rescission of the 2020 Form T–1 rule would provide labor organizations with additional resources to devote to existing reporting requirements.

D. Alternatives

As potential alternatives to rescinding the Form T–1, the Department could maintain the existing Form T–1 or propose a scaled back version. The retention of the Form T–1 would retain the burdens discussed in the 2020 Form T–1 rule, and the Department now considers that these burdens are not justified by the purported benefits. Rather, the Department now believes that existing reporting provides much if not all of the potential benefits of the Form T–1. Further, while a scaled back Form T–1 would reduce such burdens, the Department did not consider this approach, since the current Form T–1 already contains multiple exemptions and burden-reduction components.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.*, requires agencies to prepare regulatory flexibility analyses, and to develop alternatives wherever possible, in drafting regulations that will have a significant impact on a substantial number of small entities. The Department has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities, as the proposed rule contains no collection of information and relieves the additional burden imposed upon labor organizations through the rescission of the regulations published on March 6, 2020. Additionally, the 2020 Form T–1 rule's Final Regulatory Flexibility Analysis stated that subsequent year costs would place a significant impact on 8.94% of small unions, which is below the threshold to

constitute a “substantial” number of small entities. See 85 FR 13439. Therefore, a regulatory flexibility analysis under the Regulatory Flexibility Act is not required. The Secretary has certified this conclusion to the Chief Counsel for Advocacy of the Small Business Administration.

Unfunded Mandates Reform

This proposed rule does not include any Federal mandate that may result in increased expenditures by State, local, and tribal governments, in the aggregate, of \$100 million or more, or in increased expenditures by the private sector of \$100 million or more.

Paperwork Reduction Act

A. Summary of the Proposed Rule

The following is a summary of the need for and objectives of the proposed rule. A more complete discussion of various aspects of the proposal is found in the preamble.

The proposed rule would rescind the Form T–1 Trust Annual Report established by final rule on March 6, 2020.

The LMRDA was enacted to protect the rights and interests of employees, labor organizations and the public generally as they relate to the activities of labor organizations, employers, labor relations consultants, and labor organization officers, employees, and representatives. Provisions of the LMRDA include financial reporting and disclosure requirements for labor organizations and others as set forth in Title II of the Act. See 29 U.S.C. 431–36, 441. Under Section 201(b) of the Act, 29 U.S.C. 431(b), labor organizations are required to file for public disclosure annual financial reports, which are to contain information about a labor organization's assets, liabilities, receipts, and disbursements.

The Department has developed several forms to implement the union annual reporting requirements of the LMRDA. The reporting detail required of labor organizations, as the Secretary has established by rule, varies depending on the amount of the labor organization's annual receipts. The Form LM–2 Annual Report is the most detailed of the annual labor organization reports, and is required to be filed by labor organizations with \$250,000 or more in annual receipts. The Form LM–2 requires certain receipts and disbursements to be reported by functional categories, such as representational activities; political activities and lobbying; contributions, gifts, and grants; union administration;

and benefits. Further, the form requires labor organizations to allocate the time their officers and employees spend according to functional categories, as well as the payments that each of these officers and employees receive, and it requires the itemization of certain transactions totaling \$5,000 or more. It must include reporting of loans to officers, employees and business enterprises; existence of any trusts; payments to each officer; and payments to each employee of the labor organization paid more than \$10,000, in addition to other information. The Secretary also has prescribed simplified annual reports for smaller labor organizations. Form LM–3 may be filed by unions with \$10,000 or more, but less than \$250,000 in annual receipts, and Form LM–4 may be filed by unions with less than \$10,000 in annual receipts. A local union that has no assets, liabilities, receipts, or disbursements, and which is not in trusteeship, is not required to file an annual report if its parent union files a simplified annual report on its behalf. In order to be eligible for this simplified annual reporting, the local must be governed solely by a uniform constitution and bylaws filed with OLMS by its parent union and its members must be subject to uniform fees and dues applicable to all members of the local unions for which the parent union files simplified reports. The parent union must submit annually to OLMS certain basic information about the local, including the names of all officers, together with a certification signed by the president and treasurer of the parent union.

On March 6, 2020, the Department issued a final rule establishing the Form T–1 Trust Annual Report, which prescribes the form and content of annual reporting by unions concerning entities defined in Section 3(l) of the LMRDA as “trusts in which a labor organization is interested.” 85 FR 13414. The objective of this proposed rule is to rescind the Form T–1 Trust Annual Report, as the Department has determined that it is overbroad and not necessary to prevent the circumvention and evasion of the Title II requirements.

Further, the Department has reviewed the 2020 rulemaking record and no longer views the separate reporting requirements as set forth in the 2020 Form T–1 rule as justified in light of the burden they impose. The rescission of the Form T–1 would constitute a decrease in reporting burdens for those labor organizations associated with reportable trusts. As detailed in the 2020 Form T–1 rule, the Form T–1 represented a total burden, for the

estimated 810 Form LM-2 filers affected by the rule, of approximately 251,257 hours in the first year and 174,128 in the subsequent years. 85 FR at 13433. Additionally, the projected total cost on filers in the first year was approximately \$15 million in the first year and approximately \$10.4 million in subsequent years. 85 FR at 13437. The proposed rule eliminates these burdens and costs for future years. The proposed rule would also eliminate any first-year costs that unions have not yet incurred.

B. Overview of Trust Reporting on Form T-1

Every labor organization whose total annual receipts are \$250,000 or more and those organizations that are in trusteeship must currently file an annual financial report using the current Form LM-2, Labor Organization Annual Report, within 90 days after the end of the labor organization's fiscal year, to disclose their financial condition and operations for the preceding fiscal year. The current instructions state that receipts of an LMRDA section 3(l) trust in which the labor organization is interested (as described in Information Item 10) should not be included in the total annual receipts of the labor organization when determining which form to file, unless the 3(l) trust is a subsidiary organization of the union. See Form LM-2 Instructions, Part II: What Form to File.

The current Form LM-2 consists of 21 questions that identify the labor organization and provide basic information (in primarily a yes/no format); a statement of 11 financial items on different assets and liabilities (Statement A); a statement of receipts and disbursements (Statement B); and 20 supporting schedules (Schedules 1–10, Assets and Liabilities related schedules; Schedules 11–12 and 14–20, receipts and disbursements related schedules; and Schedule 13, which details general membership information).

The Form LM-2 requires such information as: Whether the labor organization has any trusts (Item 10); whether the labor organization has a political action committee (Item 11); whether the labor organization discovered any loss or shortage of funds (Item 13); the number of members (Item 20); rates of dues and fees (Item 21); the dollar amount for seven asset categories, such as accounts receivable, cash, and investments (Items 22–28); the dollar amount for four liability categories, such as accounts payable and mortgages payable (Items 30–33); the dollar amount for 13 categories of receipts such as dues and interest (Items 36–49);

and the dollar amount for 16 categories of disbursements such as payments to officers and repayment of loans obtained (Items 50–65).

Schedules 1–10 requires detailed information and itemization on assets and liabilities, such as loans receivable and payable and the sale and purchase of investments and fixed assets. There are also nine supporting schedules (Schedules 11–12, 14–20) for receipts and disbursements that provide members of labor organizations with more detailed information by general groupings or bookkeeping categories to identify their purpose. Labor organizations are required to track their receipts and disbursements in order to correctly group them into the categories on the current form.

The Form T-1 provides similar but not identical reporting and disclosure for section 3(l) trusts, currently including subsidiaries, of Form LM-2 filing labor organizations. The Form T-1 requires information such as: Losses or shortages of funds or other property (Item 16); acquisition or disposal of any goods or property in any manner other than by purchase or sale (Item 17); whether or not the trusts liquidated, reduced, or wrote-off any liabilities without full payment of principal and interest (Item 18); whether the trust extended any loan or credit during the reporting period to any officer or employee of the reporting labor organization at terms below market rates (Item 19); whether the trust liquidated, reduced, or wrote-off any loans receivable due from officers or employees of the reporting labor organization without full receipt of principal and interest (Item 20); and the aggregate totals of assets, liabilities, receipts, and disbursements (Items 21–24). Additionally, the union must report detailed itemization and other information regarding receipts in Schedule 1, disbursements in Schedule 2, and disbursements to officers and employees of the trust in Schedule 3.

Although the Form T-1 has a higher reporting threshold for receipts and disbursements than does the Form LM-2, it provides nearly identical information regarding receipts and disbursements as does the Form LM-2. For example, unions must itemize receipts of trusts with virtually identical detail on Form T-1, Schedule 1, as does the Form LM-2 on its Schedule 14. Further, the information required on Form T-1 Schedules 2 and 3 correspond almost directly to the information required on Form LM-2 Schedules 15–20 and 11–12, respectively, although the format does not directly correlate. However, as discussed earlier, Form T-

1 does not provide as much detail regarding assets and liabilities of trusts as the Form LM-2 requires. For example, although Form T-1 Items 16 and 17 correspond directly to Form LM-2 Items 13 and 15, and the information required in Form T-1 Items 18–20 is required in a different format in Form LM-2, Schedules 2 and 8–10, there is also significant information required on the Form LM-2 and not on the Form T-1. Chief of the material excluded on the Form T-1 is the detailed information regarding assets and liabilities required by Form LM-2, Schedules 1–10. In sum, under the proposed rule unions would need to report such information on the Form LM-2, while they would not need to do so under the existing Form T-1.

Additionally, the Department provided the public with separate burden analyses for the Form LM-2 and the Form T-1, in addition to the other forms required to be filed with the Department under the LMRDA. These analyses include the time for reviewing the respective set of instructions, searching existing data sources, gathering and maintaining data needed, creating needed accounting procedures, purchasing software, and completing and reviewing the collection of information. This proposed rule eliminates the need for a Form T-1 burden analysis, as it proposes to eliminate that form and its separate reporting regime. Thus, many of the areas analyzed in other LMRDA reporting and disclosure burden analyses are not relevant to this discussion, as the existence and basic structure and procedures of the present Form LM-2 reporting regime is not amended by this proposed rule.

C. Methodology for the Burden Estimates

Initially, as stated above, this document proposes a reduction of burden hours for respondents included within ICR 1245-0003, as a result of the proposed rescission of the Form T-1. The proposed rescission of the Form T-1 would result in a reduction of 174,128.4 hours in future years that an estimated 2,292 Form LM-2 filers would incur. 85 FR 13433. Additionally, the proposed rule would eliminate the total cost to filers of \$10,385,820 in subsequent years. See 85 FR at 13437.

The accompanying ICR discusses changes to the other LMRDA forms and instructions included within ICR 1245-0003, such as proposed mandatory electronic filing for Forms LM-15, 15A, 16, 30, and Form S-1 as well clarification concerning the OLMS use of email addresses for the signatories of each of the forms included within the

ICR. As explained in the ICR, the Department does not believe that such revisions will result in a change to the burden estimates, since electronic filing does not result in greater burden than paper filing and filers already provide email addresses as part of the electronic filing process.

D. Conclusion

As the proposed rule requires a revision to an existing information collection, the Department is submitting, contemporaneous with the publication of this document, an ICR to remove the Form T-1 and its associated burden from OMB Control Number 1245-0003. A copy of this ICR, with applicable supporting documentation, including among other items a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at <https://www.reginfo.gov/public/do/PRAOMBHistory?ombControlNumber=1245-0003> or from the Department by contacting Andrew Davis on 202-693-0123 (this is not a toll-free number)/email: OLMS-Public@dol.gov.

Agency: DOL—Office of Labor-Management Standards (OLMS).

Type of Review: Revision of a currently approved collection.

OMB Control Number: 1245-0003.

Title of Collection: Labor Organization and Auxiliary Reports.

Affected Public: Private Sector—businesses or other for-profits and not-for-profit institutions.

Estimated Number of Respondents: 33,021.

Estimated Number of Annual Responses: 35,297.

Frequency of Response: Varies.

Estimated Total Annual Burden

Hours: 4,644,849.

Estimated Total Annual Other Burden Cost: \$0.

The Department invites comments on all aspects of the PRA analysis. Written comments must be submitted on or before July 26, 2021. The Department 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;
- 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, and the agency's estimates evaluate associated with the annual burden cost incurred by

respondents and the government cost associated with this collection of information;

- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Comments submitted in response to this document will be considered, summarized and/or included in the ICR the Department will submit to OMB for approval; they will also become a matter of public record. Commenters are encouraged not to submit sensitive information (e.g., confidential business information or personally identifiable information such as a social security number).

Small Business Regulatory Enforcement Fairness Act of 1996

This proposed rule would not constitute a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This proposed rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects

29 CFR Part 403

Labor unions, Reporting and recordkeeping requirements, Trusts.

29 CFR Part 408

Labor unions, Reporting and recordkeeping requirements, Trusts and trustees.

Accordingly, the Department proposes to amend part 403 of 29 CFR Chapter IV as set forth below:

PART 403—LABOR ORGANIZATION ANNUAL FINANCIAL REPORTS

- 1. The authority citation for part 403 continues to read as follows:

Authority: Secs. 201, 207, 208, 301, 73 Stat. 524, 529, 530 (29 U.S.C. 431, 437, 438, 461); Secretary's Order No. 03-2012, 77 FR 69376, November 16, 2012.

§ 403.2 [Amended]

- 2. In § 403.2, remove paragraph (d).

- 3. Amend § 403.4 by revising paragraphs (b)(3) and (6) introductory text to read as follows:

§ 403.4 Simplified annual reports for smaller labor organizations.

* * * * *

(b) * * *

(3) The national organization with which it is affiliated assumes responsibility for the accuracy of a statement filed electronically, through the electronic filing system made available on the Office of Labor-Management Standards website, covering each local labor organization covered by § 403.4(b) and containing the following information with respect to each local organization:

(i) The name and designation number or other identifying information;

(ii) The file number which the Office of Labor-Management Standards has assigned to it;

(iii) The mailing address;

(iv) The beginning and ending date of the reporting period which must be the same as that of the report for the national organization;

(v) The names and titles of the president and treasurer or corresponding principal officers as of the end of the reporting period;

* * * * *

(6) The national organization with which it is affiliated assumes responsibility for the accuracy of, and submits with its simplified annual reports filed electronically pursuant to § 403.4(b)(3) for the affiliated local labor organizations, the following certification properly completed and signed by the president and treasurer of the national organization:

§ 403.5 [Amended]

- 4. In § 403.5, remove paragraph (d).

§ 403.8 [Amended]

- 5. In § 403.8, remove paragraph (b)(3).

PART 408—LABOR ORGANIZATION TRUSTEESHIP REPORTS

- 6. The authority citation for part 408 continues to read as follows:

Authority: Secs. 202, 207, 208, 73 Stat. 525, 529 (29 U.S.C. 432, 437, 438); Secretary's Order No. 03-2012, 77 FR 69376, November 16, 2012.

- 7. Revise § 408.5 to read as follows:

§ 408.5 Annual financial report.

During the continuance of a trusteeship, the labor organization which has assumed trusteeship over a subordinate labor organization, shall file with the Office of Labor-Management Standards on behalf of the subordinate labor organization the annual financial

report required by part 403 of this chapter, signed by the president and treasurer or corresponding principal officers of the labor organization which has assumed such trusteeship, and the trustees of the subordinate labor organization on Form LM-2.

Signed in Washington, DC, this 19th day of May 2021.

Jeffrey R. Freund,
Director, OLMS.

[FR Doc. 2021-10975 Filed 5-26-21; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2021-0292]

RIN 1625-AA08

Special Local Regulation; Back River, Baltimore County, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish temporary special local regulations for certain waters of Back River. This action is necessary to provide for the safety of life on these navigable waters located in Baltimore County, MD, during activities associated with an air show event from July 9, 2021, through July 11, 2021. This proposed rulemaking would prohibit persons and vessels from entering the regulated area unless authorized by the Captain of the Port Maryland-National Capital Region or the Coast Guard Event Patrol Commander. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before June 11, 2021.

ADDRESSES: You may submit comments identified by docket number USCG-2021-0292 using the Federal eRulemaking Portal at <https://www.regulations.gov>. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Mr. Ron Houck, U.S. Coast Guard Sector Maryland-National Capital Region; telephone 410-576-2674, email D05-DG-SectorMD-NCR-MarineEvents@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
PATCOM Patrol Commander
§ Section
U.S.C. United States Code

II. Background, Purpose, and Legal Basis

On April 21, 2021, Tiki Lee's Dock Bar of Sparrows Point, MD, and David Schultz Airshows LLC of Clearfield, PA, notified the Coast Guard that they will be conducting the 1st Annual Shootout on the River Airshow—Sparrows Point from 2 p.m. to 3 p.m. on July 10, 2021, and July 11, 2021. The event also includes a practice demonstration from 3 p.m. to 4 p.m. on July 9, 2021. High speed, low-flying civilian and military aircraft air show performers will operate within a designated, marked aerobatics box located on Back River, between Lynch Point to the south and Walnut Point to the north. The event is being held adjacent to Tiki Lee's Dock Bar, 4309 Shore Road, Sparrows Point, in Baltimore County, MD. Details of the event were provided to the Coast Guard by the sponsoring organization on May 5, 2021, changing the practice demonstration from 5 p.m. to 6 p.m. on July 9, 2021. Hazards from the air show include risks of injury or death resulting from aircraft accidents, dangerous projectiles, hazardous materials spills, falling debris, and near or actual contact among participants and spectator vessels or waterway users if normal vessel traffic were to interfere with the event. Additionally, such hazards include participants operating near a designated navigation channel, as well as operating adjacent to waterside residential communities. The Captain of the Port (COTP) Maryland-National Capital Region has determined that potential hazards associated with the air show would be a safety concern for anyone intending to operate within certain waters of Back River in Baltimore County, MD, operating in or near the event area.

The Coast Guard is requesting that interested parties provide comments within a shortened comment period of 15 days instead of the more typical 30 days for this notice of proposed rulemaking. The Coast Guard believes the 15-day comment period still provides for a reasonable amount of time for interested parties to review the proposal and provide informed comments on it while also ensuring that the Coast Guard has time to review and

respond to any significant comments and has final rule in effect in time for the scheduled event.

The purpose of this rulemaking is to protect event participants, non-participants, and transiting vessels before, during, and after the scheduled event. The Coast Guard proposes this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

III. Discussion of Proposed Rule

The COTP Maryland-National Capital Region is proposing to establish special local regulations from 4 p.m. on July 9, 2021 through 4 p.m. on July 11, 2021. There is no alternate date planned for this event. The regulated area would cover all navigable waters of Back River, within an area bounded by a line connecting the following points: from the shoreline at Lynch Point at latitude 39°14'46" N, longitude 076°26'23" W, thence northeast to Porter Point at latitude 39°15'13" N, longitude 076°26'11" W, thence north along the shoreline to Walnut Point at latitude 39°17'06" N, longitude 076°27'04" W, thence southwest to the shoreline at latitude 39°16'41" N, longitude 076°27'31" W, thence south along the shoreline to the point of origin, located in Baltimore County, MD. The regulated area is approximately 4,200 yards in length and 1,200 yards in width.

This proposed rule provides additional information about areas within the regulated area and their definitions. These areas include "Aerobatics Box" and "Spectator Area."

The proposed size of the regulated area is intended to ensure the safety of life on these navigable waters before, during, and after activities associated with the air show, scheduled from 5 p.m. to 6 p.m. on July 9, 2021, and from 2 p.m. to 3 p.m. both days on July 10, 2021, and July 11, 2021. The COTP and the Coast Guard Event Patrol Commander (PATCOM) would have authority to forbid and control the movement of all vessels and persons, including event participants, in the regulated area. When hailed or signaled by an official patrol, a vessel or person in the regulated area would be required to immediately comply with the directions given by the COTP or Event PATCOM. If a person or vessel fails to follow such directions, the Coast Guard may expel them from the area, issue them a citation for failure to comply, or both.

Except for 1st Annual Shootout on the River Airshow—Sparrows Point participants and vessels already at berth, a vessel or person would be required to get permission from the COTP or Event PATCOM before

entering the regulated area. Vessel operators would be able to request permission to enter and transit through the regulated area by contacting the Event PATCOM on VHF-FM channel 16. Vessel traffic would be able to safely transit the regulated area once the Event PATCOM deems it safe to do so. A vessel within the regulated area must operate at safe speed that minimizes wake. A person or vessel not registered with the event sponsor as a participant or assigned as official patrols would be considered a spectator. Official Patrols are any vessel assigned or approved by the Commander, Coast Guard Sector Maryland-National Capital Region with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign. Official Patrols enforcing this regulated area can be contacted on VHF-FM channel 16 and channel 22A.

If permission is granted by the COTP or Event PATCOM, a person or vessel would be allowed to enter the regulated area or pass directly through the regulated area as instructed. Vessels would be required to operate at a safe speed that minimizes wake while within the regulated area. A spectator vessel must not loiter within the navigable channel while within the regulated area. Official patrol vessels would direct spectators to the designated spectator area. Only participant vessels would be allowed to enter the aerobatics box. The Coast Guard would publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue a marine information broadcast on VHF-FM marine band radio announcing specific event dates and times.

The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the location, size and duration of the regulated area, which would impact a small designated area of Back River for 9 total enforcement hours. This waterway supports mainly recreational vessel traffic, which at its peak, occurs during the summer season. The Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the status of the regulated area. Moreover, the rule would allow vessels to seek permission to enter the regulated area, and vessel traffic would be able to safely transit the regulated area once the Event PATCOM deems it safe to do so.

B. Impact on Small Entities

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

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on

the human environment. This proposed rule involves implementation of regulations within 33 CFR part 100 applicable to organized marine events on the navigable waters of the United States that could negatively impact the safety of waterway users and shore side activities in the event area lasting for 9 total enforcement hours. Normally such actions are categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 1. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Documents mentioned in this NPRM as being available in the docket, and public comments, will be in our online docket at <https://www.regulations.gov> and can be viewed by following that website's instructions. We review all comments received, but we will only post comments that address the topic of

the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive. If you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05-1.

■ 2. Add § 100.501T05-0292 to read as follows:

§ 100.501T05-0292 1st Annual Shootout on the River Airshow—Sparrows Point, Back River, Baltimore County, MD.

(a) *Locations.* All coordinates are based on datum WGS 1984. (1) *Regulated area.* All navigable waters of Back River, within an area bounded by a line connecting the following points: from the shoreline at Lynch Point at latitude 39°14'46" N, longitude 076°26'23" W, thence northeast to Porter Point at latitude 39°15'13" N, longitude 076°26'11" W, thence north along the shoreline to Walnut Point at latitude 39°17'06" N, longitude 076°27'04" W, thence southwest to the shoreline at latitude 39°16'41" N, longitude 076°27'31" W, thence south along the shoreline to the point of origin, located in Baltimore County, MD. The aerobatics box and spectator area are within the regulated area.

(2) *Aerobatics Box.* The aerobatics box is a polygon in shape measuring approximately 5,000 feet in length by 1,000 feet in width. The area is bounded by a line commencing at position latitude 39°16'01.2" N, longitude 076°27'05.7" W, thence east to latitude 39°16'04.7" N, longitude 076°26'53.7" W, thence south to latitude 39°15'16.9" N, longitude 076°26'35.2" W, thence west to latitude 39°15'13.7" N, longitude 076°26'47.2" W, thence north to the point of origin.

(3) *Spectator Area.* The designated spectator area is a polygon in shape measuring approximately 1,000 yards in length by 500 feet in width. The area is bounded by a line commencing at position latitude 39°16'33.7" N, longitude 076°26'40.7" W, thence east to latitude 39°16'34.5" N, longitude

076°26'34.7" W, thence south to latitude 39°16'05.0" N, longitude 076°26'31.1" W, thence west to latitude 39°16'04.4" N, longitude 076°26'37.4" W, thence north to the point of origin.

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

Aerobatics Box is an area described by a line bound by coordinates provided in latitude and longitude that outlines the boundary of a aerobatics box within the regulated area defined by this section.

Captain of the Port (COTP) Maryland-National Capital Region means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region or any Coast Guard commissioned, warrant or petty officer who has been authorized by the COTP to act on his behalf.

Event Patrol Commander or Event PATCOM means a commissioned, warrant, or petty officer of the U.S. Coast Guard who has been designated by the Commander, Coast Guard Sector Maryland-National Capital Region.

Official Patrol means any vessel assigned or approved by Commander, Coast Guard Sector Maryland-National Capital Region with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

Participant means all persons and vessels registered with the event sponsor as participating in the "1st Annual Shootout on the River Airshow—Sparrows Point" event, or otherwise designated by the event sponsor as having a function tied to the event.

Spectator means a person or vessel not registered with the event sponsor as participants or assigned as official patrols.

Spectator Area is an area described by a line bound by coordinates provided in latitude and longitude that outlines the boundary of a spectator area within the regulated area defined by this part.

(c) *Special local regulations.* (1) The COTP Maryland-National Capital Region or Event PATCOM may forbid and control the movement of all vessels and persons, including event participants, in the regulated area. When hailed or signaled by an official patrol, a vessel or person in the regulated area shall immediately comply with the directions given by the patrol. Failure to do so may result in the Coast Guard expelling the person or vessel from the area, issuing a citation for failure to comply, or both. The COTP Maryland-National Capital Region or Event PATCOM may terminate the event, or a participant's operations at any time the COTP Maryland-National Capital Region or Event PATCOM believes it necessary to do so for the protection of life or property.

(2) Except for participants and vessels already at berth, a person or vessel within the regulated area at the start of enforcement of this section must immediately depart the regulated area.

(3) A spectator must contact the Event PATCOM to request permission to either enter or pass through the regulated area. The Event PATCOM, and official patrol vessels enforcing this regulated area, can be contacted on marine band radio VHF-FM channel 16 (156.8 MHz) and channel 22A (157.1 MHz). If permission is granted, the spectator must enter the designated Spectator Area or pass directly through the regulated area as instructed by Event PATCOM. A vessel within the regulated area must operate at safe speed that minimizes wake. A spectator vessel must not loiter within the navigable channel while within the regulated area.

(4) Only participant vessels are allowed to enter the aerobatics box.

(5) A person or vessel that desires to transit, moor, or anchor within the regulated area must obtain authorization from the COTP Maryland-National Capital Region or Event PATCOM. A person or vessel seeking such permission can contact the COTP Maryland-National Capital Region at telephone number 410-576-2693 or on Marine Band Radio, VHF-FM channel 16 (156.8 MHz) or the Event PATCOM on Marine Band Radio, VHF-FM channel 16 (156.8 MHz).

(6) The Coast Guard will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue a marine information broadcast on VHF-FM marine band radio announcing specific event dates and times.

(d) *Enforcement officials.* The Coast Guard may be assisted with marine event patrol and enforcement of the regulated area by other federal, state, and local agencies.

(e) *Enforcement period.* This section will be enforced from 4 p.m. to 7 p.m. on July 9, 2021, from 1 p.m. to 4 p.m. on July 10, 2021, and, from 1 p.m. to 4 p.m. on July 11, 2021.

Dated: May 21, 2021.

David E. O'Connell,

Captain, U.S. Coast Guard, Captain of the Port Maryland-National Capital Region.

[FR Doc. 2021-11214 Filed 5-26-21; 8:45 am]

BILLING CODE 9110-04-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2020-0676; FRL-10024-31-Region 4]

Air Plan Approval; SC; Updates to Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of South Carolina, through the South Carolina Department of Health and Environmental Control (SC DHEC or Department), on April 24, 2020. The SIP revision proposes a non-substantive formatting change and the removal of an outdated sentence regarding test methods for gaseous fluorides from South Carolina's ambient air quality standards regulation. EPA is proposing to approve these changes pursuant to the Clean Air Act (CAA or Act) and implementing federal regulations.

DATES: Comments must be received on or before June 28, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2020-0676 at www.regulations.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include a discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit www2.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT:

Tiereny Bell, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental

Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9088. Ms. Bell can also be reached via electronic mail at bell.tiereny@epa.gov.

SUPPLEMENTARY INFORMATION:

I. What is EPA proposing?

On April 24, 2020, SC DHEC submitted a SIP revision to EPA for approval that includes a non-substantive formatting change and the removal of a sentence describing test methods for gaseous fluorides from South Carolina Regulation Standard No. 2—*Ambient Air Quality Standards*.¹ EPA is proposing to approve these changes submitted by South Carolina on April 24, 2020 pursuant to the CAA.

II. Background

SC DHEC has requested approval of two changes to South Carolina Regulation 61-62.5, Standard No. 2—*Ambient Air Quality Standards*. First, SC DHEC proposes to update the formatting of references to the Code of Federal Regulations (CFR) by adding the word "Part" to CFR references in this regulation. This is a non-substantive, ministerial change. Second, SC DHEC proposes to remove a sentence referencing test methods for gaseous fluorides from this regulation. EPA previously approved removal of standards applicable to gaseous fluorides (as hydrogen fluoride) from South Carolina Regulation 61-62.5, Standard No. 2—*Ambient Air Quality Standards*, on June 29, 2017. *See* 82 FR 29414. EPA's June 29, 2017 action was premised on the fact that SC DHEC regulates hydrogen fluoride under South Carolina Regulation 61-62.5, Standard No. 8—*Toxic Air Pollutants*, which is not part of South Carolina's SIP.²

Although EPA's prior action approved SC DHEC's request to remove standards for gaseous fluorides (as hydrogen fluoride) from South Carolina Regulation 61-62.5, Standard No. 2—*Ambient Air Quality Standards*, this prior action did not remove the related language describing testing standards for gaseous fluorides that was contained in this same regulation. SC DHEC's

¹ On April 24, 2020, SC DHEC also submitted to EPA SIP revisions to Regulations: 61-62.1, Section I—*Definitions*; 61-62.1, Section II—*Permit Requirements*; 61-62.1, Section III—*Emission Inventory and Emissions Statement*; 61-62.1, Section IV—*Source Tests*; 61-62.1, Section V—*Credible Emissions*; 61-62.5, Standard 5.2—*Control of Oxides of Nitrogen (NO_x)*; 61-62.5, Standard 7—*Prevention of Significant Deterioration*; and 61-62.5, Standard 7.1—*Nonattainment New Source Review (NSR)*. EPA will address these SIP revisions in separate actions.

² Hydrogen fluoride is a hazardous air pollutant (HAP).

current proposal to remove the language from this regulation regarding test methods for gaseous fluorides would correct this inconsistency by removing this remaining language from South Carolina Regulation 61–62.5, Standard No. 2—*Ambient Air Quality Standards*.

III. Analysis of the State's Submittal

The analysis previously provided by EPA in its June 29, 2017 action approving removal of gaseous fluorides (as hydrogen fluoride) from South Carolina Regulation 61–62.5, Standard No. 2—*Ambient Air Quality Standards*, remains applicable today. Gaseous fluorides (as hydrogen fluoride) are not criteria pollutants. They are hazardous air pollutants, which SC DHEC regulates under South Carolina Regulation 61–62.5, Standard No. 8—*Toxic Air Pollutants*, a regulation that is outside of South Carolina's SIP. Approving the removal of this language from the South Carolina SIP is appropriate because there are no primary or secondary national ambient air quality standards related to this pollutant and because the testing standards for gaseous fluorides do not function in the SIP because EPA previously removed the standards for these pollutants from the SIP. The remaining changes to South Carolina Regulation 61–62.5, Standard No. 2—*Ambient Air Quality Standards* are non-substantive formatting changes. For these reasons, this SIP revision would not interfere with any applicable requirement concerning attainment and reasonable further progress or any other CAA requirement pursuant to CAA section 110(l).

IV. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference South Carolina Regulation 61–62.5, Standard No. 2—*Ambient Air Quality Standards*, state effective on April 24, 2020. EPA has made and will continue to make these materials generally available through www.regulations.gov and at the EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Proposed Action

EPA is proposing to approve SC DEHC's April 24, 2020 SIP submittal proposing revisions to South Carolina Regulation 61–62.5, Standard No. 2—*Ambient Air Quality Standards* and incorporate those revisions into the SIP. EPA has determined that these revisions

meet the applicable requirements of sections 110 of the CAA and applicable regulatory requirements at 40 CFR part 51.

VI. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
 - Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
 - Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
 - Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
 - Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
 - Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
 - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
 - Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the 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).
- Because this proposed rule merely approves state law as meeting Federal requirements and does not impose

additional requirements beyond those imposed by state law, this proposed rule for the State of South Carolina does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Therefore, this action will not impose substantial direct costs on Tribal governments or preempt Tribal law. The Catawba Indian Nation (CIN) Reservation is located within the boundary of York County, South Carolina. Pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27–16–120 (Settlement Act), “all state and local environmental laws and regulations apply to the [Catawba Indian Nation] and Reservation and are fully enforceable by all relevant state and local agencies and authorities.” The CIN also retains authority to impose regulations applying higher environmental standards to the Reservation than those imposed by state law or local governing bodies, in accordance with the Settlement Act.

List of Subjects in 40 CFR Part 52

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

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

Dated: May 20, 2021.

John Blevins,

Acting Regional Administrator, Region 4.

[FR Doc. 2021–11113 Filed 5–26–21; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 15, 25, 27, and 101

[WT Docket No. 20–443; GN Docket No. 17–183; DA 21–519; FR ID 27322]

Expanding Flexible Use of the 12.2–12.7 GHz Band

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denial of further extension of deadlines for filing comments and reply comments.

SUMMARY: In this document, the Commission denies the request of WorldVu Satellites Limited (ONEWEB), Kepler Communications, SpaceX Holdings, LLC, Intelsat License LLC, and SES S.A., for a further extension of the comment and reply comment deadlines for the proposed rule published in the **Federal Register**.

DATES: A further extension of the NPRM comment and reply comment deadlines,

filed on April 26, 2021, was denied on May 4, 2021. The deadlines for filing comments and reply comments in this proceeding continue to be May 7, 2021, and June 7, 2021, respectively, as published at 86 FR 20111, April 16, 2021.

ADDRESSES: Federal Communications Commission, 45 L Street NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Madelaine Maior of the Wireless Telecommunications Bureau, Broadband Division, at 202–418–1466 or *Madelaine.Maior@fcc.gov*; or Simon Banyai of the Wireless Telecommunications Bureau, Broadband Division, at 202–418–1443 or *Simon.Banyai@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, WT Docket No. 20–443; GN Docket No. 17–183; DA 21–519, adopted and released on May 4, 2021. The full text of this document is available at <https://docs.fcc.gov/public/attachments/DA-21-519A1.pdf>. For a full text of the *NPRM* document,¹ visit the FCC's Electronic Comment Filing System (ECFS) website at <http://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).

I. Background

1. On January 15, 2021, the Commission released a *NPRM* seeking input on the feasibility of allowing flexible-use services in the 12.2–12.7 GHz band (12 GHz band) while protecting incumbents from harmful interference.² In response to an unopposed motion filed by CCIA, et al. for an extension of time to file comments and replies to the *NPRM*,³ the

Wireless Telecommunication Bureau (Bureau) released an Order on March 29, 2021, allowing an additional 30 days to file comments and replies (*Extension Order*).⁴ The Bureau agreed with the parties that a 30-day extension was “warranted to provide commenters with additional time to prepare comments and reply comments that fully respond to the complex economic, engineering, and policy issues raised in the *NPRM*.”⁵ The Bureau, however, declined the 12 GHz Alliance's request to suspend the deadlines until RS Access, LLC (RS Access) provided certain technical analyses, noting that such action might be rendered moot by the grant of the Extension Request.⁶

2. On April 26, 2021, the 12 GHz Alliance filed a request for a further extension of the comment and reply comment deadlines (Further Extension Request)⁷ stating that, as previously explained, “the submission of the RS Sharing Studies is a gating criteria with respect to the ability of satellite stakeholders to prepare meaningful comments and that absent [that submission] a further extension of the comment cycle may be required.”⁸ The 12 GHz Alliance notes that in the *Extension Order*, the Bureau “hoped that this issue would ‘be rendered moot’ by the extension of the comment cycle.”⁹ The Further Extension Request

has received both opposition¹⁰ and support.¹¹

3. RS Access opposes the Further Extension Request, which it views as claiming that RS Access is somehow obliged to file comments before the deadline for initial comments. RS Access states that it “is preparing comments in anticipation of the May 7, 2021 deadline for initial comments, which will include a coexistence study demonstrating the feasibility of sharing between co-primary systems in the 12.2–12.7 GHz band.”¹² The 5G for 12GHz Coalition also opposes the Further Extension Request, arguing that it is inappropriate because the Bureau dismissed this same request in the *Extension Order*.¹³

4. The Commission denies the Further Extension Request. As set forth in § 1.46 of the Commission's rules,¹⁴ the Commission does not routinely grant extensions of time for filing comments

¹⁰ Letter from Trey Hanbury, Counsel to RS Access LLC (RS Access), to Marlene H. Dortch, Secretary, FCC, WT Docket No. 20–443, et al., at 2 (filed Apr. 28, 2021) (RS Access Opposition); Letter from Chip Pickering, CEO, INCOMPAS, et al., to Marlene H. Dortch, Secretary, FCC, WT Docket No. 20–443, et al., at 2 (filed Apr. 28, 2021) (5G for 12GHz Coalition Opposition) (calling themselves the “5G for 12GHz Coalition”), the Opposition filers include INCOMPAS, Public Knowledge, DISH, Computer & Communications Industry Association (CCIA), RS Access, Open Technology Institute at New America, Federated Wireless, AtLink, Cambridge Broadband Networks Group Ltd. (CBNG), Center for Education Innovations (CEI), Center for Rural Strategies, Etheric Networks, GeoLinks, Go Long Wireless, Granite Telecommunications, mmWave Tech, Resound Networks, Rural Wireless Association (RWA), Tel Net Worldwide, Tilson, White Cloud Technologies, Xiber and X-Lab).

¹¹ See Letter from David Goldman, Director of Satellite Policy, Space Exploration Technologies Corp. (SpaceX), to Marlene H. Dortch, Secretary, FCC, WT Docket No. 20–443, et al., at 2 (filed Apr. 28, 2021) (“SpaceX and the 12 GHz Alliance have previously explained that RS Access's failure to submit the Secret Studies into the record deprives other 12 GHz Band stakeholders the opportunity to review, analyze, and meaningfully respond to the Secret Studies in the comment cycle established by the Commission.”). See also Letter from David Goldman, Director of Satellite Policy, SpaceX, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 20–443, et al., at 1 (the 12 GHz Alliance “reasonably requested an opportunity to review these studies as part of the normal comment cycle,” at 2 (“to promote fairness and a fully considered record, RS Access should at least provide a schedule for the submission of the Secret Studies into the record.”) (filed Apr. 30, 2021).

¹² RS Access Opposition at 1. “The satellite licensees, of course, remain free to prepare their own technical analyses purporting to show that their systems are incapable of sharing with mobile licensees in the band. The satellite licensees can submit their comments and studies either in the initial round of filings due May 7, 2021, or as a response to the submission of RS Access and other interested parties during the reply round that will follow 30 days later, or both.” *Id.* at 1–2 (footnote omitted).

¹³ 5G for 12GHz Coalition Opposition at 2.

¹⁴ 47 CFR 1.46.

⁴ See *Expanding Flexible Use of the 12.2–12.7 GHz Band*, et al., WT Docket No. 20–443, et al., Order, DA 21–370 (WTB Mar. 29, 2021), 86 FR 20111, April 16, 2021 (*Extension Order*) (extended deadlines for comments and reply comments to May 7, 2021, and June 7, 2021, respectively).

⁵ *Extension Order* at para. 3.

⁶ *Extension Order* at n.6 citing Letter from Ruth Pritchard-Kelly, Senior Advisor, ONEWEB, et al. (“12 GHz Alliance”) to Marlene H. Dortch, Secretary, FCC, at 1 (Mar. 23, 2021). The 12 GHz Alliance is WorldVu Satellites Limited (“OneWeb”), Kepler Communications, SpaceX Holdings, LLC (“SpaceX”), Intelsat License LLC, and SES S.A. See, e.g., March 23, 2021, letter at 1.

⁷ See Letter from Ruth Pritchard-Kelly, Senior Advisor, ONEWEB, et al. (“12 GHz Alliance”) to Marlene H. Dortch, Secretary, FCC, at 1 (Apr. 26, 2021) (Further Extension Request).

⁸ Further Extension Request at 1–2 (citing Letter from Ruth Pritchard-Kelly, Senior Advisor, ONEWEB, et al., (“12 GHz Alliance”) to Marlene H. Dortch, Secretary, FCC, at 1 (Mar. 23, 2021)).

⁹ Further Extension Request at 1–2 quoting *Extension Order* at n.6.

¹ *Expanding Flexible Use of the 12.2–12.7 GHz Band*, Notice of Proposed Rulemaking, FCC 21–13.

² See *Expanding Flexible Use of the 12.2–12.7 GHz Band*, et al., WT Docket No. 20–443, Notice of Proposed Rulemaking, 36 FCC Rcd 606 (2021) (*NPRM*). The comment and reply comment deadlines were set at 30 and 60 days after publication in the *Federal Register*. Publication occurred on March 8, 2021, which made the original deadlines April 7, 2021, and May 7, 2021, respectively. See Federal Communications Commission, *Expanding Flexible Use of the 12.2–12.7 GHz Band*, 86 FR 13266, Mar. 8, 2021.

³ See Motion of Computer & Communications Industry Association (CCIA), INCOMPAS, Open Technology Institute at New America, and Public Knowledge for Extension of Time, WT Docket No. 20–443, et al., at 1 (filed Mar. 19, 2021) (Extension Motion).

in rulemaking proceedings. In this proceeding, the Bureau has already granted a 30-day extension of comment and reply deadlines to allow parties additional time to develop submissions that address complex issues raised in the *Notice*.¹⁵ Because a further extension of time would only delay receipt of these comments and parties will have time to reply to these submissions, the Commission is not persuaded that such an extension is warranted. To the extent that members of the 12 GHz Alliance have input on whether filings in the comment stage demonstrate the feasibility of sharing in this band, they may submit such input at the reply stage and in subsequent *ex parte* presentations. The Commission therefore denies the Further Extension Request. The deadlines for filing comments and reply comments in this proceeding continue to be May 7, 2021, and June 7, 2021, respectively.

II. Ordering Clause

5. Accordingly, *it is ordered* that, pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 0.131, 0.331, and § 1.46 of the Commission's rules, 47 CFR 0.131, 0.331, and § 1.46, the Further Extension Request filed by WorldVu Satellites Limited (ONEWEB), Kepler Communications, SpaceX Holdings, LLC, Intelsat License LLC, and SES S.A., on April 26, 2021, *is denied*.

Federal Communications Commission.

Amy Brett,

Acting Chief of Staff, Wireless Telecommunications Bureau.

[FR Doc. 2021-11066 Filed 5-26-21; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 30

[ET Docket No. 21-186; GN Docket No. 14-177; DA 21-482; FRS 27278]

Emission Limits for the 24.25–27.5 GHz Band

AGENCY: Federal Communications Commission (FCC).

ACTION: Requests for comments.

SUMMARY: In this document, The Office of Engineering and Technology (OET) and the Wireless Telecommunications Bureau (WTB) seek comment on implementing certain of the decisions of the World Radiocommunication Conference held by the International

Telecommunication Union (ITU) in 2019 (WRC-19) regarding the 24.25–27.5 GHz band. Specifically, OET and WTB seek comment on aligning the FCC's rules with the unwanted emissions limits into the passive 23.6–24.0 GHz band that were adopted at WRC-19.

DATES: Comments are due on or before June 28, 2021, and reply comments are due on or before July 26, 2021.

ADDRESSES: Federal Communications Commission, 45 L Street NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nicholas Oros, Office of Engineering and Technology, 202-418-0636, Nicholas.Oros@fcc.gov or John Schauble of the Wireless Telecommunications Bureau, at (202) 418-0797, or John.Schauble@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document, *Public Notice*, DA 21-482, ET Docket No. 21-186, GN Docket No. 14-177, released April 26, 2021. The full text of this document is available for public inspection and can be downloaded at: <https://www.fcc.gov/document/oet-wtb-seek-comment-emission-limits-2425-275-ghz-band> or by using the search function for ET Docket No. 21-186 on the Commission's ECFS web page at www.fcc.gov/ecfs.

Synopsis

1. In 2017, the Commission established service rules for fixed and mobile operation in the 24.25–24.45 GHz and 24.75–25.25 GHz bands (collectively, 24 GHz band) under the Upper Microwave Flexible Use Service (UMFUS). The Commission applied the UMFUS rules, including the technical rules, to the 24 GHz band. The UMFUS rules specify that emissions outside of a licensee's assigned frequency block must be limited to –13 dBm/MHz. With respect to the passive systems operating in the 23.6–24 GHz band, the Commission noted that ongoing international studies include analyses to determine International Mobile Telecommunications (IMT) out-of-band emission limits necessary to protect passive sensors onboard weather satellites in that band, and it acknowledged that the Commission's UMFUS rules might be revisited once these international studies have been completed.

2. WRC-19 allocated 24.25–25.25 GHz to mobile (except aeronautical) on a primary basis in Regions 1 and 2, globally identified the 24.25–27.5 GHz band for IMT, and established limits of unwanted emissions that apply to IMT in the 24.25–27.5 GHz band to protect

Earth Exploration-Satellite Service (EESS) passive systems in the 23.6–24.0 GHz band from harmful interference. To protect EESS passive systems, WRC-19 modified a footnote to the International Table of Allocations to specify that Resolution 750 (Rev. WRC-19) applies to the 24.25–27.5 GHz band. Resolution 750 specifies unwanted emission limits as the amount of power that may be radiated into any 200 megahertz of the 23.6–24.0 GHz passive band by IMT base stations and IMT mobile stations operating in the 24.25–27.5 GHz band. Resolution 750 specifies unwanted emission limits in terms of Total Radiated Power (TRP) that currently apply to IMT stations and stricter emission limits that are effective for IMT stations brought into use after September 1, 2027. These unwanted emission limits are shown in Table 1.

TABLE 1—WRC-19 RESOLUTION 750 UNWANTED EMISSIONS PERMITTED WITHIN ANY 200 MEGAHERTZ IN THE 23.6–24 GHz PASSIVE BAND

Type of station	Current TRP limits	TRP limits after Sept. 1, 2027
IMT Base Stations	–33 dBW	–39 dBW
IMT Mobile Stations	–29 dBW	–35 dBW

3. The WRC-19 Final Acts updated the ITU Radio Regulations, including Resolution 750. The National Telecommunications and Information Administration (NTIA), FCC, and the Department of State share responsibility for implementing the WRC Final Acts in the United States. The Commission has authority to implement the changes to the Radio Regulations through its rulemaking proceedings. Given the importance of limiting unwanted emissions into the passive 23.6–24.0 GHz band, OET and WTB seek to develop a record on implementing the changes to the emission limit in Resolution 750 applicable to active services in the 24 GHz band.

4. OET and WTB seek comment broadly on implementing certain of the WRC-19 outcomes with respect to the 24.25–27.5 GHz band. Noting that the United States is a signatory to the treaty text of the Radio Regulations, OET and WTB seek comment on modifying the Commission's rules in response to the unwanted emission limits and international allocation table footnotes adopted for the 24.25–27.5 GHz band at the WRC-19. These rule changes could include, for example, adding footnotes to the United States Table of Frequency

¹⁵ Extension Order at para. 3.

Allocations or aligning the Commission's technical rules.

5. Appropriate out-of-band emission limits in the 24.25–27.5 GHz band are important to protect passive sensing operations in the 23.6–24.0 GHz band. The limits adopted at WRC–19 are to be measured within a 200-megahertz bandwidth within the 400-megahertz 23.6–24 GHz passive band. For comparison with the Resolution 750 unwanted emission limit, a signal at –13 dBm/MHz (conductive or TRP) would result in –20 dBW within a 200-megahertz bandwidth. However, OET and WTB note that the –13 dBm/MHz emission limit applies at the edge of the UMFUS band—*i.e.*, 24.25 GHz. Given this, OET and WTB seek to understand what level of emissions can be expected within the 23.6–24 GHz band from UMFUS transmitters, and whether and to what extent harmful interference to passive systems operating in the 23.6–24.0 GHz band is expected to occur from new 5G deployments at the current UMFUS limit.

6. Recognizing that the unwanted emission limits in Resolution 750 and the current out-of-band emission limits in the UMFUS rules are specified differently, and further recognizing the two-phased approach for the unwanted emissions limits that were adopted in WRC–19, OET and WTB seek information on whether and how equipment intended for use under the UMFUS rules in the 24.25–24.45 GHz and 24.75–25.25 GHz bands can be designed to conform to the Resolution 750 limits—both the current limits and the more restrictive limits that apply to new equipment brought into use after September 1, 2027. Can licensees meet the WRC–19 TRP limits by the relevant deadlines? Is it possible that licensees can meet the –39 dBW limit for IMT base stations and the –35 dBW limit for IMT mobile stations prior to 2027? What steps, if any, can the Commission take to help accelerate development and deployment of equipment that complies with the post-2027 limits?

7. OET and WTB note that Resolution 750 specifies TRP as the only means of meeting the required emission limits. Are there any difficulties in performing over the air TRP measurements at such low signal levels in the 24.25–24.45 GHz and 24.75–25.25 GHz bands? Consistent with the current UMFUS rules, should a conductive power methodology also be included as an alternative means for equipment certification?

8. The UMFUS rules allow licensees flexibility as to the services they will deploy and the architecture of their networks. Under these rules licensees

will be able to deploy mobile services. Licensees will also have the freedom to implement point-to-point and point-to-multipoint systems. The unwanted emission limits of Resolution 750 apply only to IMT base stations and mobile stations. The Commission's rules do not define IMT and do not require that equipment complying with a particular technical standard be used in a band licensed under the UMFUS rules. If the Commission were to adopt the emission limits in Resolution 750 for the 24.25–27.5 GHz band, how should it determine to what stations these limits will apply? Should they only apply to systems that meet the definition of IMT as specified by the ITU? Should the rules apply to point-to-point and point-to-multipoint equipment licensed under the UMFUS rules? Should any mobile UMFUS equipment be required to comply with these unwanted emission limits regardless of the technology used, the application, and the density of deployment?

Federal Communications Commission.

Ronald T. Repasi,

Acting Chief, Office of Engineering and Technology.

[FR Doc. 2021–10536 Filed 5–26–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 21–219; RM–11907; DA 21–583; FR ID 28088]

Television Broadcasting Services, Quincy, Illinois

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has before it a petition for rulemaking filed by WGEM License, LLC (Petitioner), the licensee of WGEM–TV (NBC), channel 10, Quincy, Illinois. The Petitioner requests the substitution of channel 19 for channel 10 at Quincy in the DTV Table of Allotments.

DATES: Comments must be filed on or before June 28, 2021 and reply comments on or before July 12, 2021.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 45 L Street NE, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for the Petitioner as follows: Patrick Cross, Esq., Brooks, Pierce, McLendon, Humphrey & Leonard, LLP,

1700 Wells Fargo Capitol Center, Raleigh, North Carolina 27601.

FOR FURTHER INFORMATION CONTACT:

Joyce Bernstein, Media Bureau, at (202) 418–1647 or Joyce.Bernstein@fcc.gov.

SUPPLEMENTARY INFORMATION: In support of its channel substitution request, the Petitioner states that the Commission has recognized that VHF channels have certain propagation characteristics that pose challenges for their use in providing digital television service, including propagation characteristics that allow undesired signals and noise to be receivable at relatively far distances and nearby electrical devices to cause interference. Petitioner states that it has attempted to address the station's reception issues through multiple technical avenues, including requesting a waiver of the permissible power limits set forth in the Commission's rules, but continues to receive numerous complaints of poor or no reception from viewers. In addition, while the proposed channel 19 facility will result in a slight reduction (approximately 9.4 kilometers) in WGEM–TV's noise limited contour, the Petitioner states that use of the Longley-Rice propagation model indicates that the proposed channel 19 facility will have an extended terrain-limited service throughout the gap area, and thus, there will be no loss of service.

This is a synopsis of the Commission's *Notice of Proposed Rulemaking*, MB Docket No. 21–219; RM–11907; DA 21–583, adopted May 17, 2021, and released May 17, 2021. The full text of this document is available for download at <https://www.fcc.gov/edocs>. To request materials in accessible formats (braille, large print, computer diskettes, or audio recordings), please send an email to FCC504@fcc.gov or call the Consumer & Government Affairs Bureau at (202) 418–0530 (VOICE), (202) 418–0432 (TTY).

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed 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). Provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to this proceeding.

Members of the public should note that all *ex parte* contacts are prohibited from the time a Notice of Proposed Rulemaking is issued to the time the matter is no longer subject to

Commission consideration or court review, *see* 47 CFR 1.1208. There are, however, exceptions to this prohibition, which can be found in § 1.1204(a) of the Commission’s rules, 47 CFR 1.1204(a).

See §§ 1.415 and 1.420 of the Commission’s rules for information regarding the proper filing procedures for comments, 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television.
Federal Communications Commission.
Thomas Horan,
Chief of Staff, Media Bureau.

Proposed Rule

For the reasons discussed in the preamble, the Federal Communications

Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

■ 2. In § 73.622(i), amend the Post-Transition Table of DTV Allotments under Illinois by revising the entry for Quincy to read as follows:

§ 73.622 Digital television table of allotments.

* * * * *
(i) * * *

Community				Channel No.
*	*	*	*	*
ILLINOIS				
*	*	*	*	*
Quincy				19, 32, *34
*	*	*	*	*

Notices

Federal Register

Vol. 86, No. 101

Thursday, May 27, 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

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding: Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by June 28, 2021 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it

displays a currently valid OMB control number.

Rural Housing Service

Title: 7 CFR 1951–E, Servicing of Community and Direct Business Programs Loans and Grants.

OMB Control Number: 0575–0066.

Summary of Collection: Rural Development (Agency) is the credit agency for agriculture and rural development for the U.S. Department of Agriculture. The Community Facilities program is authorized to make loans and grants for the development of essential community facilities primarily serving rural residents. The Direct Business and Industry Program is authorized to make loans to improve, develop, or finance business, industry, and employment, and improve the economic and environmental climate in rural communities. Section 331 and 335 of the Consolidated Farm and Rural Development Act, as amended, authorizes the Secretary of Agriculture, acting through the Agency, to establish provisions for security servicing policies for the loans and grants in questions. When there is a problem, a recipient of the loan, grant, or loan guarantee must furnish financial information to aid in resolving the problem through reamortization, sale, transfer, debt restructuring, liquidation, or other means provided in the regulations.

Need and Use of the Information: The Agency will use several different forms to collect information from applicants, borrowers, consultants, lenders and attorneys. This information is used to determine applicant/borrower eligibility and project feasibility for various servicing actions. The information enables field staff to ensure that borrowers operate on a sound basis and use loan and grant funds for authorized purposes.

Description of Respondents: State, Local or Tribal Government; Not-for-profit institutions.

Number of Respondents: 154.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 1,663.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2021–11203 Filed 5–26–21; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comments Requested

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments regarding these information collections are best assured of having their full effect if received by June 28, 2021. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Agricultural Marketing Service

Title: Dairy Products Mandatory Sales Reporting.

OMB Control Number: 0581–0274.

Summary of Collection: The Mandatory Price Reporting Act of 2010 amended § 273(d) of the Agricultural

Marketing Act of 1946, requiring the Secretary of Agriculture to establish an electronic reporting system for certain manufacturers of dairy products to report sales information under a mandatory dairy product reporting program. Data collection for cheddar cheese, butter, dry whey, or nonfat dry milk sales is limited to manufacturing plants producing annually 1 million pounds or more of one of the surveyed commodities specified in the program.

Need and Use of the Information:

Persons engaged in manufacturing dairy products are required to provide the Department of Agriculture (USDA) certain information, including the price, quantity, and moisture content, where applicable, of dairy products sold by the manufacturer. Various manufacturer reports are filed electronically on a weekly basis. Additional paper forms are filed by manufacturers on an annual basis to validate participation in the mandatory reporting program. Manufacturers and other persons storing dairy products must also report information on the quantity of dairy products stored. USDA publishes composites of the information obtained to help industry members make informed marketing decisions regarding dairy products. The information is also used to establish minimum prices for Class III and Class IV milk under Federal milk marketing orders. Without this information USDA would not be able to verify compliance with applicable regulations.

Description of Respondents:

Businesses—Cheddar Cheese, 40 lb. Blocks.

Number of Respondents: 219.

Frequency of Responses: Reporting: On occasion; Weekly; Annually.

Total Burden Hours: 1,767.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2021-11202 Filed 5-26-21; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Forest Service

Payette National Forest; Idaho; Wildlife Conservation Strategy Forest Plan Amendment; Withdrawal of Notice of Intent To Prepare an Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice; withdrawal.

SUMMARY: The Payette National Forest is withdrawing the Notice of Intent (NOI) that was published in the **Federal**

Register on April 22, 2009 to prepare an Environmental Impact Statement (EIS) for the Wildlife Conservation Strategy Forest Plan Amendment.

FOR FURTHER INFORMATION CONTACT:

Questions concerning this notice should be directed to Deputy Forest Supervisor Susan Howle at Payette National Forest Supervisors Office, 500 North Mission Street Building 2, McCall, ID 83638; via telephone at 208-634-0700 or via email at susan.howle@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 a.m. and 8 p.m., Eastern Daylight Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: A NOI to prepare an EIS was first published in the **Federal Register** on September 14, 2007 (72 FR 52540) to amend the 2003 Land and Resource Management Plans for the Boise, Payette, and Sawtooth National Forests and was corrected on December 8, 2008 (73 FR 74455) due to a delay in release of the three-forest Draft EIS. On April 22, 2009 (74 FR 18348), a new NOI was filed to prepare a separate EIS for each forest. The Notice of Availability for the Draft EIS for the amendment to the Payette Forest Plan was published in the **Federal Register** on January 21, 2011 (76 FR 3884).

The Forest Supervisor in consultation with the Intermountain Regional Office has determined that the forest plan amendment proposed in 2011 cannot be completed as initiated per the provisions of 36 CFR 219.13 issued in 2016. Under the new regulations, the project would be required to be re-initiated in order to meet the public notification requirements. The withdrawal of the EIS could not proceed earlier because of pending litigation for another project that referenced the Draft EIS. Judgment in that case was issued in August 2020, and the litigation is no longer pending. Instead of proceeding with a new or re-initiated Plan Amendment at this time, individual projects are considering the need for project level amendments to address wildlife conservation needs on a project-by-project basis based on the best available science. The need for a plan level wildlife conservation strategy will be reassessed during forest plan revision in the future.

Dated: May 21, 2021.

Barrie Gyant,

Associate Deputy Chief, National Forest System.

[FR Doc. 2021-11196 Filed 5-26-21; 8:45 am]

BILLING CODE 3411-15-P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Rural Housing Service

Rural Utilities Service

[Docket No. RBS-21-CO-OP-0011]

Notice of Funds Availability for the Rural Placemaking Innovation Challenge (RPIC) for Fiscal Year 2021

AGENCY: Rural Business-Cooperative Service (RBCS), Rural Utilities Service (RUS), Rural Housing Service (RHS), USDA.

ACTION: Notice of funds availability.

SUMMARY: The Deputy Under Secretary for Rural Development (RD) is seeking applications for the Rural Placemaking Innovation Challenge (RPIC) from eligible entities to provide technical assistance and training to rural communities for placemaking planning and implementation. This funding opportunity will be administered by the USDA Rural Development Innovation Center and is authorized by the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2021, to provide up to \$3 million in competitive cooperative agreement funds. This announcement lists the information needed to submit an application.

DATES: Applications for RPIC cooperative agreement(s) must be submitted electronically through [Grants.gov](https://www.grants.gov) by 11:59 p.m. Eastern Daylight Time by July 26, 2021. Applications received after 11:59 p.m. Eastern Daylight Time on July 26, 2021 will not be considered.

Comments related to the collection of information must be submitted by July 26, 2021. Follow directions provided in Section IX of this notice.

ADDRESSES:

Application Submission: The application system for electronic submissions will be available at <https://www.grants.gov/>.

Electronic submissions: The electronic submission of an application will allow for the expeditious review of an applicant's proposal. As a result, all applicants must file their application electronically.

FOR FURTHER INFORMATION CONTACT:

USDA Rural Development, Innovation Center, via email at: RD.RPIC@usda.gov, or via phone at: Angela Callie 202-568-9738 or Greg Dale 202-568-9558. Persons with disabilities who require alternative means for communication should contact the U.S. Department of

Agriculture (USDA) Target Center at (202) 720-2600 (voice). The last day for accepting questions on this notice will be July 26, 2021.

SUPPLEMENTARY INFORMATION:

Authority: This solicitation is issued pursuant to 7 U.S.C. 2204b(b)(4).

Overview

Federal Agency: Rural Business-Cooperative Service (RB-CS), Rural Utilities Service (RUS), and Rural Housing Service (RHS), (USDA).

Funding Opportunity Title: Rural Placemaking Innovation Challenge (RPIC).

Announcement Type: Notice of Funds Availability (NOFA).

Catalog of Federal Domestic Assistance (CFDA) Number: Rural Placemaking Innovation Challenge (RPIC)—10.890.

Due Date for Applications: Applications for RPIC cooperative agreement(s) must be received by 11:59 p.m. on July 26, 2021. Applications received after 11:59 p.m. Eastern Daylight Time on July 26, 2021 will not be considered.

Items in Supplementary Information

- I. Program Overview
- II. Federal Award Information
- III. Definitions
- IV. Eligibility Information
- V. Application and Submission Information
- VI. Application Review Information
- VII. Federal Award Administration Information
- VIII. Federal Awarding Agency Contacts
- IX. Other Information

I. Program Overview

A. Background

The Rural Placemaking Innovation Challenge is a technical assistance and planning process for qualified entities to support rural community leaders to create places where people want to live, work, and play. This initiative is to provide planning support, technical assistance, and training to communities to foster placemaking activities in rural communities. Funds can help enhance capacity for broadband access, preserve cultural and historic structures, and support the development of transportation, housing, and recreational spaces. Applicants must demonstrate existing and proposed partnerships with public, private, philanthropic, and community partners to provide assistance. This funding announcement supports the delivery of technical assistance and training in visioning, planning, and assisting communities to implement placemaking efforts in rural communities under the Rural Placemaking Innovation Challenge (RPIC).

B. Program Description

RD is authorized to administer cooperative agreement awards in accordance with 7 U.S.C. 2204b(b)(4). The intention of RPIC is to provide cooperative agreement funding to eligible applicants working to promote public-private-philanthropic partnerships in rural communities that encourage economic and social development. These projects are intended to support rural America and align with the mission of existing USDA RD programs to increase rural economic growth and improve the quality of life in rural America by supporting essential services such as housing, economic development, and required infrastructure.

For purposes of this notice, Technical Assistance and Training for Placemaking is defined in Part III.

RPIC operates under the following concepts:

- Creating livable communities is important for community developers and practitioners who implement these strategies in rural communities and areas.
- Placemaking practices include both innovative and adaptive as well as established technical processes and solutions.
- Partnerships are a key element to the RPIC and must be developed with public, private, and philanthropic organizations creating new collaborative approaches, learning together, and bringing those learned strategies into rural communities.
- Placemaking contributes to long-term investment and therefore supports a community's resiliency, social stability, and collective identity.
- Broadband is an essential component to supporting placemaking initiatives.

For the purpose of this notice, placemaking is the process of creating quality places where people want to live, work, and play. Ultimately, the goal is to create greater social and cultural vitality in rural communities aimed at improving people's social, physical, and economic well-being. The key elements of quality places include, but are not limited to, a mix of uses; effective public spaces; broadband capability; transportation options; multiple housing options; preservation of historic structure; and respect of community heritage, arts, culture, creativity, recreation, and green space.

Throughout the placemaking process applicants are expected to involve public, private, philanthropic, and community partners; this work is to be based on a sense of place with qualitative and quantitative outcomes.

II. Federal Award Information

A. Catalog of Federal Domestic Assistance (CFDA) Number: 10.890.

Catalog of Federal Domestic Assistance (CFDA) Title: Rural Placemaking Innovation Challenge.

B. Funds Available

The amount available for RPIC FY 2021 is up to \$3 million. Lead applicants may not submit more than one application but may identify more than one community with which they are providing placemaking assistance. The maximum award amount for any one applicant is \$250,000. RD reserves the right to withhold the awarding of any funds if no application receives a minimum score of at least 60 points. There is no commitment by USDA to fund any application that does not achieve the minimum score.

This funding opportunity lists the information needed to apply for these funds and announces that RD is accepting FY 2021 applications to support RPIC.

C. Approximate Number of Awards

The Agency anticipates that it may select one, multiple, or no award recipients from this funding opportunity. Applicants may not submit more than one application.

D. Type of Instrument

RD is authorized to administer cooperative agreement awards in accordance with 7 U.S.C. 2204b(b)(4) for the Rural Placemaking Innovation Challenge.

E. Period of Performance

The maximum Period of Performance is 2 years. Applicants should anticipate a Period of Performance beginning October 1, 2021 and ending no later than September 30, 2023.

III. Definitions

The terms and conditions provided in this Notice of Funds Availability (NOFA) are applicable to and for the purposes of this NOFA only. Unless otherwise provided in the award documents, all financial terms not defined herein shall have the meaning as defined by Generally Accepted Accounting Principles (GAAP).

Capacity (for eligibility) is defined as previous experience with federal grant administration and demonstrated experience in economic development and placemaking technical assistance.

Cooperative Agreement Elements mean the cooperative agreements to be funded through RPIC directly support Rural Development's goals of increasing

rural economic growth. As part of the placemaking planning process, required infrastructure, community facilities, housing and/or business development to support the ultimate placemaking goal are documented. In addition, existing assets that can be leveraged in support of a placemaking vision are evaluated, and funding strategies and sources to enhance or construct new assets are identified. Cooperators are expected to have expertise in placemaking and partnerships that will enable a rural community, area, or region to ultimately implement a placemaking strategy and improve the quality of life for its citizens.

Multi-jurisdictional means more than one jurisdiction where jurisdiction refers to a unit of government or other entity with similar powers, such as a city, county, district, special purpose district, township, town, borough, parish, village, state, Indian tribe, etc.

Multi-sectoral means intentional collaboration between two or more sectors (e.g., utility, health, housing, community services, etc.) to accomplish goals and achieve outcomes in communities and regions.

Placemaking means a process involving public, private, philanthropic and community partners working together to strategically improve the social, cultural, and economic structure of a community. This work is based on a sense of place with qualitative and quantitative outcomes.

Placemaking Plan means a written document that describes the strategic plan for the community to implement the goals and objectives identified through the placemaking planning process.

Quality of life means a measure of human well-being that can be identified through economic and social indicators. Modern utilities, affordable housing, efficient transportation, and reliable employment are economic indicators that must be integrated with social indicators such as access to medical services, public safety, education, and community resilience to empower rural communities to thrive.

Region (Four Regions) means:

- The Northeast includes Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, West Virginia, and Pennsylvania.
- The Midwest includes Ohio, Michigan, Indiana, Wisconsin, Illinois, Minnesota, Iowa, Missouri, North Dakota, South Dakota, Nebraska, and Kansas.
- The South includes Kentucky, North Carolina, South Carolina,

Tennessee, Georgia, Florida, Alabama, Mississippi, Arkansas, Louisiana, Texas, Puerto Rico, Virgin Islands and Oklahoma.

- The West includes Montana, Idaho, Wyoming, Colorado, New Mexico, Arizona, Utah, Nevada, California, Oregon, Washington, Alaska, Hawaii, and U.S. Pacific Island Territories.

Rural area means the Rural Business Service's Rural Area definition as outlined in Section 343(a)(13)(A)(i) of the Agricultural Act of 1961 & Consolidated Farm and Rural Development Act which defines "rural area" as any area *other than* (1) a city or town that has a population of greater than 50,000 inhabitants and (2) any urbanized area contiguous and adjacent to such city or town described in subparagraph (1) above.

Sector means stakeholders from areas such as business, health, education, and/or workforce; or from organization types such as public, private, non-profit, and/or philanthropy.

Technical Assistance and Training for Placemaking means the applicant participates in the complete process for the delivery of placemaking planning and implementation in partnership with identified rural communities. The support provided may include, but is not limited to:

- Evidence-based understanding of community assets, challenges, and opportunities,
- A description of the distinct qualities of the community—both positive and negative,
- A vision statement that summarizes the most important outcomes that the community wants to see achieved,
- A statement of values that identifies the principles that leaders and stakeholders should use in determining strategies, and
- Evidence of broad community participation, public input, and buy-in.

Commonly used Acronyms:

DCI Distressed Communities Index

DUNS Data Universal Numbering System

FY Fiscal Year

HBCU Historically Black Colleges and Universities

LOC Letter of Conditions

NEPA National Environmental Policy Act

NICRA Negotiated Indirect Cost Rate Agreement

RD Rural Development

RDCA Rural Development Cooperative Agreement

RPIC Rural Placemaking Innovation Challenge

SAM System for Award Management

SBA Small Business Administration

USDA United States Department of Agriculture
CFR Code of Federal Regulation
SPOC Single Point of Contact

IV. Eligibility Information

A. Applicants

Applicants must meet the following eligibility requirements by the application deadline. Applications that fail to meet any of these requirements by the application deadline will be deemed ineligible and will not be evaluated further and will not receive a Federal award.

Applicant Eligibility: Federally recognized Tribes and Native American Tribal Organizations; institutions of higher education (including 1862 Land-Grant Institutions, 1890 Land-Grant Institutions, 1994 Land-Grant Institutions, Hispanic-Serving Institutions, and Historically Black Colleges and Universities (HBCU)); nonprofit organizations with 501(c)(3) IRS status; public bodies or small private entities meeting the size standards established by the U.S. Small Business Administration (SBA).

All eligible applicants must demonstrate the capacity to deliver and support rural placemaking planning activities within at least one of the four regions found in Part III. Capacity is defined as previous experience with federal grant administration and demonstrated experience in economic development and placemaking technical assistance.

Entities are not eligible if they have been debarred or suspended or otherwise excluded from, or ineligible for, participation in Federal assistance programs under 2 CFR parts 180 and 417. In addition, an applicant will be considered ineligible for a cooperative agreement due to an outstanding judgment obtained by the U.S. in a Federal Court (other than U.S. Tax Court) or if the applicant is delinquent on the payment of Federal income taxes or Federal debt.

B. Eligible Project

The proposed project must include a component that allows for active participation by the Cooperator and substantial involvement by RD in the majority of specified tasks outlined in the applicant's project proposal. Examples of measurable substantial involvement include, but are not limited to, the following: Joint convenings of community members, partners, and stakeholders; joint delivery of training for RD programs; and the development of training sessions and outreach materials. It is the intent of this project

to engage RD staff in the placemaking process, and it is the responsibility of the applicant to identify specific tasks where RD staff can provide measurable, substantial involvement in the project. If such tasks are not identified, the application will not be eligible for funding.

The project must also directly benefit a rural area. All ultimate beneficiaries and/or subrecipients must be located in rural areas, and any activities or tasks must occur in rural areas.

Duplication of services is not allowed. Applicants must demonstrate that they are providing services either to new customers or new services to current customers. If the applicant's workplan and budget are duplicative of a previous and/or existing RPIC award, the application will not be considered for funding. RD will make this determination.

C. Cost Sharing and Matching Funds Verification

(1) A minimum 15 percent match of the federal grant amount requested for the cooperative agreement award is required for all applications. Matching commitments may be made in cash by the applying organization, or a combination of cash and confirmed funding commitments with third-party in-kind contributions as defined in 2 CFR 200.96. This minimum match of at least 15 percent of the federal amount requested must be committed for a period of not less than the cooperative agreement performance period. Cost sharing/matching must be committed at the time of application submission.

(2) Applicants may recruit one or more private, philanthropic, and/or eligible public partner(s) to provide the matching fifteen percent 15 percent (in cash and/or in-kind contributions) of the applicant's proposed federal funding request (*i.e.*, the federal grant amount requested), or the applicant can provide the full match as their own CASH contribution. It is permissible to provide a combination of third party in-kind contribution (as defined in 2 CFR 200.96) from a partner and CASH contribution from the applicant, but it is not permissible for the applicant to provide their own in-kind contribution as part of the match combination. If the applicant is going to provide their own match contribution, that match must be documented as a CASH contribution.

(3) Verification of Matching Funds: The Matching Funds Letter must be signed by the donating organization's authorized representative on the organization's letterhead and must identify the amount of matching funds or in-kind services/goods, the time

period during which matching contribution will be available, and the source of the funds, as applicable (*e.g.*, cash on hand, etc.).

- If providing an in-kind match, the third-party contributor must provide details on how those in-kind sources will be identified and tracked by the contributor.

- The contributor must also attach/stipulate the value of each of the goods or services (including the indirect/direct costs) being offered.

- If using calculated hours for estimating any in-kind service, the contributor must also provide how the value was arrived at for calculating the total cost for the in-kind match and associated personnel, as applicable.

Additional details about cost sharing or matching funds/contributions are located at 2 CFR 200.306. Applicant matching funds must be included in the budget justification. For matching funds offered by project partners, a separate Matching Funds Letter is required for each cash and/or in-kind match contribution. Matching Funds Letters must be signed by the authorized organizational representative of the contributing organization and the applicant organization, which must include:

- The name, address, and telephone number of the contributor,
- the name of the applicant organization,
- the title of the project for which the contribution is made,
- the dollar amount of the contribution, and
- a statement that the contributor commits to furnish the contribution during the cooperative agreement period.

Applications without signed written commitments are deemed incomplete and will be ineligible. The value of applicant contributions to the project is established according to Federal cost principles. Applicants should refer to 2 CFR 200.306 for additional guidance on matching funds, in-kind contributions, and allowable costs.

D. Funding Restrictions

The following funding restrictions also apply to this program:

(1) Pre-award costs are not authorized.

(2) Use of Funds. Awards funds should be calculated based on the federal amount requested by the applicant. A minimum of 15 percent match is required per Part IV. Section C.

(3) Indirect Cost Rate. The indirect cost rate is limited to 10 percent of direct charges for all nonprofit institutions, including institutions of higher education. All other

organizations must use the rate identified in their NICRA. If you do not have a NICRA, you may elect to charge only direct costs to the award. If you have never had a NICRA, you may also choose to use a de minimis rate of 10 percent of modified total direct costs in accordance with 2 CFR 200.414(f). Your indirect cost rate must be included on Form SF-424A.

(4) The applicant may not use their administrative overhead or indirect costs as any part of their matching funds contribution. Using an indirect cost rate or administrative overhead for a matching fund contribution will be deemed as an ineligible use of funds for the cooperative agreement.

(5) Program Income. If you expect to earn Program Income during the Period of Performance, you must identify the amount and how you expect to use it (*e.g.*, matching funds) in your application. If your application is funded, unexpected Program Income or Program Income earned in excess of the amount you identify in your application will be deducted from the Federal share of the project in accordance with 2 CFR 200.307(e)(1).

E. Ineligible Project Costs

In addition to costs identified as unallowable by 2 CFR part 200 or 400, the following costs are prohibited for this program. Neither award funds nor matching funds can be used to pay for the following types of expenses (this is not a comprehensive list of unallowable costs, see 2 CFR part 200).

- (1) Construction (in any form).
- (2) Intermediary preparation of strategic plans for recipients.
- (3) Grants to individuals.
- (4) Funding a grant where there may be a conflict of interest, or an appearance of a conflict of interest, involving any action by the Agency.
- (5) Purchasing real estate.
- (6) Using cooperative agreement assistance or matching funds for individual development accounts.
- (7) Purchasing vehicles.
- (8) To pay an outstanding judgment obtained by the United States in a Federal Court (other than in the United States Tax court), which has been recorded. An applicant will be ineligible to receive an award until the judgment is paid in full or otherwise satisfied.

V. Application and Submission Information

A. Electronic Application and Submission

Applications must be submitted electronically using *Grants.gov*. No other form of application will be

accepted. Application and supporting materials are available at *Grants.gov*. Your application must contain all required information.

To apply electronically, you must follow the instructions for this funding announcement at *Grants.gov*. Please note that we will not accept applications through mail or courier delivery, in-person delivery, email, or fax.

You can locate the *Grants.gov* downloadable application package for this program by using a keyword, the program name, or the Catalog of Federal Domestic Assistance Number for this program.

When you enter the *Grants.gov* website, you will find information about applying electronically through the site as well as the hours of operation.

To use *Grants.gov*, you must already have a Data Universal Number System (DUNS) number and you must also be registered and maintain registration in the System for Award Management (SAM). We strongly recommend that you do not wait until the application deadline date to begin the application process through *Grants.gov*.

RD is not responsible for any technical malfunction or website problems related to *Grants.gov*. If issues are encountered with *Grants.gov*, please contact the *Grants.gov* help desk at (800) 518-4726 or support@grants.gov. The applicant assumes the risk of any delays in application submission through *Grants.gov*.

Submitting an application through *Grants.gov* requires completing a variety of tasks and steps. There are also several preliminary registration steps before the applicant can submit the application. It is recommended that the instructions for registering be reviewed as soon as possible but at least two weeks before the planned application submission date.

You must submit all application documents electronically through *Grants.gov*. Applications must include electronic signatures. Original signatures may be required if funds are awarded.

After applying electronically through *Grants.gov*, you will receive an automatic acknowledgement from *Grants.gov* that contains a *Grants.gov* tracking number.

B. Content and Form of Application Submission

For an application to be considered complete, the applicant must complete and submit the forms contained in this section in addition to the written narrative proposal information in Part VI.

(1) *Applicants must complete and submit the following forms to apply for an RPIC cooperative agreement:*

(a) Standard Form 424, "Application for Federal Assistance—Non-construction."

(b) Standard Form 424A, "Budget Information—Non-Construction Programs."

(c) Standard Form 424B, "Assurances—Non-Construction Programs."

(d) *Risk Review*: RD may request additional documentation from selected applicants in order to evaluate the financial, management, and performance risk posed by awardees as required by 2 CFR 200.205. Based on this risk review, RD may apply special conditions that correspond to the degree of risk assessed.

(e) *Civil Rights Compliance Requirements*: All awards made under this notice are subject to Title VI of the Civil Rights Act of 1964 as required by 7 CFR part 15, subpart A, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA) of 1990, and the Age Discrimination Act of 1975.

(f) Execute Form RD 400-1 "Equal Opportunity Agreement."

(g) *National Environmental Policy Act*: This notice has been reviewed in accordance with 7 CFR part 1970, "Environmental Policies and Procedures." We have determined that an Environmental Impact Statement is not required because the issuance of regulations and instructions, as well as amendments to them, describing administrative and financial procedures for processing, approving, and implementing the Agency's financial programs is categorically excluded in the National Environmental Policy Act (NEPA) regulation found at 7 CFR 1970.53(f). It has been determined that this Funding opportunity does not constitute a major Federal action significantly affecting the quality of the human environment.

(2) *All applications shall be accompanied by the following supporting documentation in concise written narrative form:*

Content and Format—Each page must be on numbered, letter-sized (8½ x 11) paper utilizing a white background that has 1" margins, and the text of the application must be typed, single spaced, black, and in a font no smaller than 12 point.

Written Proposal—The written proposal should be assembled into one or more .pdf file(s) and should conform to the order in which the Evaluation Criteria are presented in Part VI Section B. The completed .pdf file(s) should be

uploaded into *Grants.gov* as an attachment to the application. The maximum limit for the written narrative section is 25 pages. Information exceeding 25 pages for the written narrative may not be considered for evaluation by the scoring panel.

C. DUNS Number and SAM

To be eligible (unless you are excepted under 2 CFR 25.110(b), (c) or (d)), you are required to do the following:

(1) *Provide a valid DUNS number in your application*. The DUNS number can be obtained at no cost via a toll-free request line at (866) 705-5711;

(2) *Register in SAM before submitting your application*. You may register in SAM at no cost at <https://www.sam.gov/portal/public/SAM/>. You must provide your SAM CAGE Code and expiration date. When registering in SAM, you must indicate you are applying for a federal financial assistance project or program or are currently the recipient of funding under any federal financial assistance project or program; and

(3) *Maintain active and current SAM registration*. The SAM registration must remain active with current information at all times while the Agency is considering an application or while a federal grant/cooperative agreement award or loan is active. To maintain the registration in the SAM database, the applicant must review and update the information in the SAM database annually from date of initial registration or from the date of the last update. The applicant must ensure that the information in the database is current, accurate, and complete. Applicants must ensure they complete the Financial Assistance General Certifications and Representations in SAM.

If you have not fully complied with all applicable DUNS and SAM requirements, the Agency may determine that the applicant is not qualified to receive a federal award, and the Agency may use that determination as a basis for making an award to another applicant. In accordance with OMB Memoranda M-20-26, the Agency can accept an application without an active SAM registration. However, the registration must be completed before an award is made. For current registrants in SAM, to help reduce burden, there will be a 180-day extension for *SAM.gov* registrations that have expiration dates ranging between April 1, 2021, and September 30, 2021. This effort is intended as relief for those otherwise required to re-register during that time frame. Each entity registration will have 180 days added to its

expiration date. As an example, an entity that is set to expire on April 1, 2021 will be automatically granted an extension to September 28, 2021.

D. Submission Dates and Times

In order to be considered for funds under this notice, applications must be deemed complete and must be received by *Grants.gov* by the deadline specified in the **DATES** section of this notice.

E. Intergovernmental Review

Executive Order (E.O.) 12372, Intergovernmental Review of Federal Programs, applies to this program. This E.O. requires that federal agencies provide opportunities for consultation on proposed assistance with state and local governments. Many states have established a Single Point of Contact (SPOC) to facilitate this consultation. For a list of states that maintain a SPOC, please see the White House website: <https://www.whitehouse.gov/wp-content/uploads/2020/04/SPOC-4-13-20.pdf>.

If your state has a SPOC, you may submit a copy of the application directly for review. Any comments obtained through the SPOC must be provided to your State Office for consideration as part of your application. If your state has not established a SPOC, or if you do not want to submit a copy of the application, our State Offices will submit your application to the SPOC or other appropriate agency or agencies. Indian tribes are exempt from this requirement.

F. Compliance With Other Federal Statutes and Other Submission Requirements

(1) *Other Federal Statutes.* The applicant must certify to compliance with other Federal Statutes and regulations by completing the Financial Assistance General Certification and Representations in SAM, including, but not limited to the following:

(a) 7 CFR part 15, subpart A—Nondiscrimination in Federally Assisted Programs of the Department of Agriculture—Effectuation of Title VI of the Civil Rights Act of 1964. Civil Rights compliance includes, but is not limited to the following:

(i) Collect and maintain data provided by ultimate recipients on race, sex, and national origin and ensure that ultimate recipients collect and maintain this data;

(ii) Race and ethnicity data will be collected in accordance with Office of Management and Budget (OMB) **Federal Register** Notice, “Revisions of the Standards for the Classification of Federal Data on Race and Ethnicity”

(published October 30, 1997 at 62 FR 58782). Sex data will be collected in accordance with Title IX of the Education Amendments of 1972. These items should not be submitted with the application but should be available upon request by RUS; and

(b) The applicant and the ultimate recipient must comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Executive Order 12250, and 7 CFR part 1901, subpart E;

(c) 2 CFR parts 200 and 400 (Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards), or any successor regulations;

(d) Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency.” For information on limited English proficiency and agency-specific guidance, go to <https://www.lep.gov/>; and

(e) Federal Obligation Certification on Delinquent Debt.

VI. Application Review Information

A. General

The projects should address how existing assets can be leveraged in support of a placemaking vision and how the projects will be evaluated (*e.g.*, how projects are evaluated for funding strategies and sources, construction of new assets to be identified in the planning process). Awardees will be Cooperators and are required to participate substantially in the project alongside RD staff to bring expertise in placemaking technical assistance, to bring partnerships that will enable a rural community, area or region to ultimately implement a placemaking strategy, and to improve the quality of life for its citizens.

Applicants are expected to provide proposals under this notice that include cooperation through substantial and measurable involvement by both the Cooperator and USDA Rural Development staff. Proposals will support multi-sectoral or multi-jurisdictional projects in rural communities and demonstrate how placemaking technical assistance will be provided to develop implementation plans that can be aligned with the mission of USDA Rural Development to improve quality of life and economic growth. The proposal must provide a detailed description of (i) the area to be served and (ii) how such area fits the definition of a region, multi-sectoral, or

multi-jurisdictional rural area. Funding will be prioritized to ensure geographic diversity, so there will be at least one proposal awarded per Region, as defined in Part III. Applicants must identify which Region or Regions are included in their proposal. If applicants propose to serve more than one Region, they must also identify a primary Region.

Applicants for RPIC should be prepared to develop, be in the process of developing, or have developed a placemaking plan in partnership with public, private, or philanthropic partners with the focus on local or regional revitalization towards economic vitality and quality of life impacts. The plans should identify potential projects that can be funded through RD programs and other federal, state, local or private sector resources. Placemaking plans developed through this funding opportunity should focus on one or more of the Quality of Life indicators as defined in Part III.

Applicants are expected to submit placemaking proposals under this notice that include multi-sectoral or multi-jurisdictional planning partnerships within at least one Region (as defined in Part III) that will provide measurable results in helping rural communities create greater social and cultural vitality in rural communities. RPIC projects should also support rural communities' ability to qualify for priority funding under Section 379H of the Consolidated Farm and Rural Development Act, “Strategic economic and community development,” [7 U.S.C. 2008].

For the purpose of RPIC, rural placemaking is: (1) Rooted in emphasizing partnerships and collaboration among multiple public, private, philanthropic and community partners; (2) focused on combining federal, tribal, state, and local resources to make wide-ranging quality-of-life impacts as opposed to separate, piecemeal, incremental improvements; and (3) based on placemaking processes to create quality places where people want to live, work, and play. Ultimately, the goal is to create greater social and cultural vitality in rural communities. The key elements of quality places include, but are not limited to, a mix of uses; effective public spaces; broadband capability; transportation options; multiple housing options; disposition and rehabilitation of vacant structures; preservation of historic properties; and respect of community heritage, arts, culture, creativity, recreation, and green space.

Applications will first be reviewed to determine if they meet the eligibility requirements and compliance with the

funding restrictions in this notice. If we determine that your application is ineligible, we will discontinue processing it, which means that we will not evaluate it further nor provide any scoring information. If your application is determined to be eligible, we will further evaluate it based on the scoring criteria listed in Part VI, Section B. All applications will be competitively scored and ranked. The minimum score requirement for a cooperative agreement award under this funding opportunity is 60 points.

Additionally, the applications will be reviewed for completeness. For an application to be considered complete, the applicant must complete and submit the written narrative proposal information and the forms contained in Parts V and VI in this NOFA. If we determine that your application is not complete, we will discontinue processing it, which means that we will not evaluate it further nor provide any scoring information.

B. Scoring Process

(1) *Number of Awards*: The Agency anticipates that it may select one, multiple, or no award recipients from this funding opportunity. The Agency reserves the right to withhold the awarding of any funds if no application receives a minimum score of at least 60 points.

(2) *Evaluation Criteria*: (refer to Summary Table of Evaluation Criteria).

Proposed projects will be evaluated based only on information provided in the application. Points will be given only for factors that are well documented in the application package and, in the opinion of RD, meet the objectives outlined in each of the evaluation criteria. References to websites or publications will not be reviewed. Full documentation and support of application criteria is encouraged.

(3) The entire written narrative proposal includes the following sections in this order:

(a) *Executive Summary*—Provide the applicant entity name, duration of project (in months), amount of Federal funding requested, amount of non-Federal cost-share/match funding committed, and project title. Identify geographic locations (including the primary region in which the applicant determines where the most significant work takes place) and describe, in non-technical language, the placemaking approach to be used including the objectives and strategies to be utilized; the public, private, and philanthropic partnerships developed or to be developed; the approach to be employed

(including the role of participating partners); how impact will be quantified; and the predicted benefits or deliverables of the project(s). Briefly describe applicant's past experience in federal grant administration, economic development, and specific placemaking technical assistance.

(b) *Work Plan—Soundness of Approach* (0–30 points). The applicant can receive up to 30 points for soundness of placemaking approach in their work plan. The maximum 30 points for this criterion will be based on the following:

(i) *Work Plan Approach—project objectives/background/tasks with timeline and timeframes* (0–10 Points)

- Project Objective(s): Description of objective(s)—clearly defined.

- Project Background: Description of the types and general locations of rural communities to be served through this project—Geographic Location or Project Areas (include Region description).

- Describe project area(s) as multi-sectoral or multi-jurisdictional. Applicant must include their ability to support rural planning activities on a multi-sectoral or multi-jurisdictional basis and how they will effectively serve these communities based on key personnel, established timeframes, and budget.

- Project Key Tasks with Timeline and Timeframes:

- Applicants are required to include Work Plan Chart(s) that lists major task(s) by key personnel involved, time period of the task(s), substantial involvement of RD staff, expected deliverables, and budget associated with tasks.

- Applicants may provide timelines to demonstrate how the technical assistance will be delivered to rural communities and describe any supporting innovative and/or traditional placemaking approaches associated to tasks.

(ii) *Implementation of Workplan—Planning through the Implementation Phase* (0–10 points)

- Project Implementation:

- Applicant should include details on how the technical assistance will be provided for the placemaking planning process and how it will coach/mentor the community to bring the plan to full implementation.

(iii) *Alignment of Budget/Budget Justification to Workplan* (0–10 points)

- Detailed Budget Justification should align with the tasks detailed in the workplan. Discuss how the budget specifically supports the proposed activities discussed in the Project Key Tasks (as described above). Justify

project costs including personnel and any limited consultant salaries with description of duties. The budget justification should include both the Federal funds requested and the applicant's matching funds. The format of the budget's narrative can be in a chart, spreadsheet, table, etc., but it should be readable on letter-size, printable pages. The information needs to be presented in such a way that the reviewers can readily understand what expenses are incurred to support the project. Statement(s) of work for any subcontractors and consultants must be included as part of the application. *(Note: Consultants and subcontracts must only be used on a very limited basis. The majority of the primary work under the cooperative agreement MUST be performed by the applicant).*

(c) *Organizational Capacity & Qualifications* (0–20 points). The applicant can receive up to 20 points based on organizational capacity and qualifications. The maximum 20 points for this criterion will be based on the following:

(i) The applicant should specify years of experience in placemaking activities, types of communities previously served, and experience in performance evaluation. (0–10 points)

(ii) The applicant's proposal should demonstrate that the applicant has identified appropriate key personnel, both in terms of number of personnel and qualifications of personnel and should provide specific detail of qualifications of key personnel relating to placemaking. Capacity of personnel to access data for needs assessments and access to planners and other technical experts will be evaluated. (0–10 points)

(d) *Partnerships* (0–20 points). The applicant can receive up to 20 points for quantity and quality of the applicant's existing public, private, and philanthropic partnerships and proposed new partnerships for this effort. The applicant should demonstrate their ability to leverage new partners that have had limited engagement with RD projects or priorities to leverage resources, enhance technical assistance, and/or increase reach to target areas. The maximum 20 points for this criterion will be based on the following:

(i) The applicant should provide a list of potential partners, existing or new, who might commit to the project as well as a description of the sectors they represent (*i.e.*, public, private, philanthropic). (0–10 points)

(ii) The applicant should describe how they will engage with new and existing partners to support the project

as well as how they can leverage partner resources. (0–10 points)

(e) *Targeted Impacts (0–20 points)*. The applicant can receive up to 20 points for focusing on either or both of the following Targeted Impacts:

(i) Economically Distressed Communities. The applicant should describe how the proposal will address specific socioeconomic indicator(s) and the strategies to be utilized. The Distressed Communities Index (DCI) is considered a good tool for identifying economically distressed communities. (<https://ruraldevelopment.maps.arcgis.com/apps/webappviewer/index.html?id=06a26a91d074426d944d22715a90311e>)

(A) Describe how the applicant plans to address Economically Distressed Communities in its placemaking strategies/activities. What specific actions will be taken, and how do these proposed actions impact Economically Distressed Communities?

(B) What community data does the applicant plan to use to provide foundational context to its placemaking efforts?

(C) What measurable outcomes related to Economically Distressed Communities does the applicant plan to track? How will the applicant know if its efforts are making progress toward addressing Economically Distressed Communities and achieving desired outcomes?

(ii) *Broadband Planning for Infrastructure, Deployment, and/or Access*.

(A) The applicant should propose how the project will create planning or other broadband infrastructure and/or e-connectivity opportunities within targeted areas. Describe how the applicant's proposal will help communities plan for broadband infrastructure around the USDA–RD ReConnect Program (provided that community is eligible for that program); or

(B) If the community(ies) the applicant is supporting already has a ReConnect funded project, describe how the applicant's proposal will provide follow-up and support for future broadband development or deployment; or

(C) If the community(ies) the applicant is supporting is not a participant in the ReConnect Program, describe how the applicant will work with stakeholders to address barriers to broadband development and deployment, or broadband access or e-connectivity.

When addressing this section, after answering (A), (B) or (C) also address:

- What community data does the applicant plan to use to provide foundational context to its placemaking efforts?

- What measurable outcomes related to broadband and e-connectivity does the applicant plan to track. How will the applicant know if its efforts are making progress toward addressing broadband and e-connectivity in its community and achieving desired outcomes?

(f) *Performance Measures (0–10 points)*. The applicant can receive up to 10 points based on the proposed performance measures to evaluate the progress and impact of the proposed project.

The criterion will be based on the applicant's proposal and should include a description for how the results of the technical assistance will be measured, including the quality of life indicators (set forth in Part III) and the benchmarks to be used for measuring effectiveness. Indicators to be used should be specific and be quantifiable. (0–10 points)

(g) *Optional Innovation Seed Grant (0–5 or 0–10 points)* To foster public, private, and philanthropic engagement, not only through RPIC but for the community itself, the Innovation Seed Grant must be matched by no less than 50% match with additional external funding to support the community's project. The external funds can be from public, private, philanthropic, or other federal, state, and local partners. There are two ways to be scored based on how an applicant plans to implement the Innovation Seed Grant: The applicant could receive either up to 0–5 points, or up to 10 points. Note that Cooperators that implement seed grants as a part of their proposal will be subject to the relevant subaward/subrecipient components from 2 CFR part 200.

(i) Option 1—0 to 5 points Innovation Seed Grant:

- Applicants may receive up to 5 points in scoring if their proposal and budget provide for a system of funding an Innovation Seed Grant. The seed grants are to be utilized to fund a new and innovative project that is highlighted in the placemaking plan. These seed grants are considered small financial awards for the purpose of getting a specific project implemented in the plan. The applicant can set aside, from the applicant's award, funds for an Innovation Seed Grant. The maximum RPIC funds that can be set-aside for this purpose is 10 percent.

- Individual Innovation Seed Grants may be no more than \$5,000 from RPIC funds, to an ultimate recipient in a community or for an entity applying for the grant. The seed grant must have matching funds of at least 50 percent

from public, private, or philanthropic support; however, the applicant may have contributions from partnerships in excess of the minimum 50 percent match requirement.

OR

(ii) Option 2—0 to 10 points Innovation Seed Grant:

- Applicants may receive up to 10 points in scoring if their proposal and budget provide for a system of funding an Innovation Seed Grant that funds a new and innovative project that is highlighted in the placemaking plan and focuses on one of the Targeted Impacts listed in Part VI, Section B (e)(Targeted Impacts). The system should describe how the seed grant promotes and connects to the Targeted Impacts. These seed grants are considered small financial awards for the purpose of getting a specific project implemented. The applicant can set aside, from the applicant's award, funds for an Innovation Seed Grant. The maximum RPIC funds that can be set-aside for this purpose is 10 percent.

- Individual Seed Grants may be no more than \$5,000 from RPIC funds, to an ultimate recipient in a community or for an entity applying for the grant. The Seed Grant must have matching funds of at least 50 percent from public, private, or philanthropic support; however, the applicant may have contributions from partnerships in excess of the minimum 50 percent match requirement.

(iii) *Scoring the Innovation Seed Grant*:

- The applicant should provide a brief narrative of how the Innovation Seed Grant will be developed, administered, and implemented.

- It is expected that the Cooperators, in collaboration with the communities they are serving, will develop criterion for evaluating the Innovation Seed Grant for approval by a Seed Grant Committee. For evaluation of these criterion, applicants may provide sample criterion on how Seed Grants could be evaluated for:

—Innovation,

—Whether the project has been highlighted in the Placemaking Plan, and

—The probability of success and sustainability with identified outcomes to be achieved.

- The applicant MUST provide documentation of third-party matching funds contribution. These matching funds are separate from the verified matched funds required for the RPIC application. The Matching Funds Letter for the seed grants MUST specifically state that the funds are being allocated to the Innovation Seed Grant. The letter

may be conditioned to the applicant receiving the award. (Failing to provide verification of match disqualifies the applicant from this optional scoring criteria).

(h) *Agency Discretionary Points* (0–10 points): The Agency may, in individual cases, make an exception to any requirement or provision of this notice, which is determined to be in the Government's interest. The applicant does not need to provide additional information under this category. Information in the applicant's proposal will be used to score this category, if applicable.

The Agency may choose to award points to eligible applicants who have

never previously been awarded an RPIC cooperative agreement. The Agency may also choose to award up to 10 points to an application that addresses any of the following factors: geographic, demographic, economic diversity of awardees.

(i) *Verification of Matching Funds*. The applicant must include Matching Commitment Letters signed by the donating organization's authorized representative on the organization's letterhead that identifies the amount of matching funds or in-kind services, the time period during which matching funds will be available, and the source of the funds (e.g., cash on hand). See Part IV, Section C (*Cost Sharing and*

Matching Funds Verification) for more information. If participating in the Optional Innovation Seed Grant, the applicant must submit separate Matching Funds Commitment Letters that specifically annotate that funds are allocated to the Innovation Seed Grant. The funds are a cash commitment to the seed grant.

(j) *Letters of Support* (e.g., additional resource commitment from partners);

(k) *Appendix*—Graphics, References, Citations, Negotiated Indirect Cost Rate Agreement (NICRA) if applicable, etc. (Note: material added in this section may not be evaluated as part of the competitive scoring process).

SUMMARY TABLE OF EVALUATION CRITERIA

Criteria	Points
1. Work Plan/Soundness of Approach	0–30 points.
a. Work Plan Approach—project objectives/background/tasks with timeline and timeframes	Up to 10 points.
b. Implementation of workplan	Up to 10 points.
c. Alignment of budget/budget justification	Up to 10 points.
2. Organizational Capacity/Qualifications	0–20 points
a. Years of experience and processes employed in placemaking activities	Up to 10 points.
b. Key personnel/number and qualifications relating to placemaking—access to data for needs assessments	Up to 10 points.
3. Partnerships	0–20 points.
a. Extent of existing partnerships (# of partners/public, private, philanthropic partners)	0–10.
b. Value that partnerships will bring to placemaking project, including existing partners and leveraging new partners for the proposed project.	0–10.
4. Targeted Impacts	0–20 points.
• Economically Distressed Communities.	
• Broadband Planning for Infrastructure/Deployment/Access.	
5. Performance Measures	0–10 points.
Measures used for evaluating quality of life indicators and benchmarks used for measuring effectiveness	Up to 10 points.
Optional Innovation Seed Grant	0–10 points.
Option 1—Innovation Seed Grant—offering seed grants for new and innovative projects highlighted in the Placemaking Plan; or.	Up to 5 points or
Option 2—Innovation Seed Grant—offering seed grants for new and innovative projects highlighted in the Placemaking Plan that specifically address one or more of the Targeted Impact priorities.	Up to 10 points.
Agency Discretionary Points (Note: Applicant does not need to provide additional information for this category).	0–10 points.

C. Review and Selection Process

(1) *Incomplete or ineligible applications*. Applications that are incomplete or ineligible will not be considered for funding (Reference Part V and Part VI).

(2) *The Reviewers*. All eligible applications will be evaluated by an Application Review Panel using the criteria described in Part VI of this notice. Panel members will be appointed by RD and will be qualified to evaluate the applications based on the type of work proposed by the applicant.

(3) *Selection of Qualifying Applications*. Applications will be selected in the following order:

(a) First, the highest scoring application in each of the four Regions will be selected.

(b) Second, the remaining applications, regardless of Region, will

be selected starting with the highest scoring application, until all available funds are exhausted.

(c) Applications, at or near the funding line, may be funded in part, if RD believes an appropriate benefit can result from partial funding and if the applicant agrees to the amount of partial funding. In the event RD considers partial funding to be appropriate, the applicant will be contacted to negotiate the final work plan and budget prior to award approval.

(4) *Appeal Request*. The applicant will be notified in writing regarding the reason(s) for any adverse decisions and will be provided a description of the options for review. Note that if the determination is reversed, either due to the discovery of an Agency error or through a formal appeal, funding is restricted to available FY 2021 funds.

(5) *Cooperative Agreement*. Applicants selected for funding will

complete a Cooperative/Grant agreement suitable to Rural Business Cooperative Service, which outlines the terms and conditions of the Cooperative Agreement award. Pursuant to the agreement, funds may be released over the course of the Cooperative Agreement period in the form of a reimbursement for the performance of eligible, approved activities. The agreement may also include reporting requirements which, if not met, may result in a delay in reimbursement, disallowance of expenses, or a suspension of the Agreement.

(6) *Reimbursement*.

(a) SF-270, "Request for Advance or Reimbursement," will be completed by the cooperator and submitted to RD along with supporting documentation.

(b) Upon receipt of a properly completed SF-270, payment will ordinarily be made within 30 days.

(c) Any change in the scope of the project, budget adjustments of more than 10 percent of the total budget, or any other significant change in the project must be reported to and approved by the approving official. Any change not approved may be cause for termination of the Cooperative Agreement.

VII. Federal Award Administration Information

A. Federal Award Notices

(1) Successful applicants will be notified in writing by the Agency with a Letter of Conditions (LOC). The LOC is a notice of selection and does not indicate that an award has been approved, nor is it an authorization to begin performance on the award. While there may be special conditions that apply on a case-by-case basis, the conditions as stated in Part VII, Section B (Administrative and National Policy Requirements) are standard for all successful applicants.

(2) Once the conditions described in the LOC have been met, the award will be approved through the execution of Form RD 4280–2 in conjunction with the Rural Development Cooperative Agreement (RDCA) Program Attachment. If an applicant is unable to meet the conditions of the award within 90 calendar days, the award will be withdrawn.

B. Administrative and National Policy Requirements

(1) The following requirements apply to grantees selected for this program:

(a) Complete Form RD 1942–46 “Letter of Intent to Meet Conditions.”

(b) Complete Form RD 1940–1, “Request for Obligations of Funds.”

(c) Complete FMMI Vendor Code Request Form.

(d) Provide a copy of your organization’s Negotiated Indirect Cost Rate Agreement.

(e) Certify that all work completed for the award will benefit a rural area.

(f) Certify that you will comply with the Federal Funding Accountability and Transparency Act of 2006 and report information about subawards and executive compensation.

(g) Certify that the U.S. has not obtained an outstanding judgement against your organization in a Federal Court (other than in the United States Tax Court).

(h) Execute Form SF–424B, “Assurance—Non-Construction Programs.”

(i) Execute Form SF–LLL, “Disclosure Form to Report Lobbying,” if applicable, or certify that your organization does not lobby.

(2) The applicant must provide evidence of compliance with other federal statutes, including, but not limited to, the following:

(a) Debarment and suspension information as required in accordance with 2 CFR part 417 (Nonprocurement Debarment and Suspension) supplemented by 2 CFR part 180, if applies. The information required under section heading: “What information must I provide before entering into a covered transaction with a Federal agency?” located at 2 CFR 180.335 is part of OMB’s Guidance for Grants and Agreements concerning Governmentwide Debarment and Suspension.

(b) All of your organization’s known workplaces by including the actual address of buildings (or parts of buildings) or other sites where work under the award takes place. Workplace identification is required under the drug-free workplace requirements in Subpart B of 2 CFR part 421, which adopts the Governmentwide implementation (2 CFR part 182) of the Drug-Free Workplace Act.

(c) 2 CFR parts 200 and 400 (Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards).

(d) 2 CFR part 182 (Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)) and 2 CFR part 421 (Requirements for Drug Free Workplace (Financial Assistance)).

(e) Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency.” For information on limited English proficiency and agency-specific guidance, go to <https://www.lep.gov>.

(3) The following forms for acceptance of a federal award are now collected through your registration or annual recertification in *SAM.gov* in the Financial Assistance General Certifications and Representations section:

- Form RD 400–4, “Assurance Agreement.”
- Form AD–1047, “Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Covered Transactions.”
- Form AD–1048, “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion. Lower Tier Covered Transactions.”
- Form AD–1049, “Certification Regarding Drug-Free Workplace Requirements (Grants).”
- Form AD–3031, “Assurance Regarding Felony Conviction or Tax Delinquent Status for Corporate Applicants.”

C. Reporting

Grantees shall constantly monitor performance to ensure that time schedules are being met, projected work by time periods are being accomplished, and other performance objectives are being achieved.

(1) SF–PPR “Performance Progress Report,” must be submitted quarterly based on the following time periods: January 1–March 31, April 1–June 30, July 1–September 30, and October 1–December 31. Quarterly reports are due within 30 calendar days of the end of the reporting period. A final report is due within 90 calendar days of the completion of the project or the end of the period of performance, whichever comes first. Both quarterly and final performance reports must be submitted electronically to RD.

(2) Financial Report: Form SF–425, “Federal Financial Report” must be submitted quarterly based on the following time periods: January 1–March 31, April 1–June 30, July 1–September 30, October 1–December 31. Quarterly reports are due within 30 calendar days of the end of the reporting period. A final report is due within 90 calendar days of the completion of the project or the end of the period of performance, whichever comes first. Both quarterly and final reports must be submitted electronically to RD.

(3) Report Suitable for Public Distribution: A report suitable for public distribution that describes the accomplishments of the project is due within 90 calendar days of the completion of the project. There is no format prescribed for this report, but it is expected that it will be 1–2 pages in length and describe the project in such a way that a member of the public not familiar with the project would gain an understanding of the impact of the project.

VIII. Federal Awarding Agency Contacts

For further information, contact: Angela Callie at (202) 568–9738 or Gregory Dale (202) 568–9558, email: RD.RPIC@usda.gov. Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice).

IX. Other Information

A. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), USDA requested that the Office of Management and Budget (OMB) conduct an emergency review of a new information collection that

contains the Information Collection and Recordkeeping requirements contained in this notice by May 20, 2021. An emergency clearance approval for this information collection is due to the following conditions: (1) The time sensitive competitive solicitation application window commencing on May 27, 2021; (2) the urgency to obligate FY 2021 funds prior to September 30, 2021; and (3) being able to effectively implement the program as quickly as possible to benefit rural communities.

In addition to the emergency clearance, the regular clearance process is hereby being initiated to provide the public with the opportunity to comment under a full comment period, as the Agency intends to request regular approval from OMB for this information collection. Comments from the public on new, proposed, revised, and continuing collections of information help us assess the impact of our information collection requirements and minimize the public's reporting burden. Comments may be submitted regarding this information collection by the following method:

- **Federal eRulemaking Portal:** Go to <https://www.regulations.gov>, and in the lower "Search Regulations and Federal Actions" box, select "RBS" from the agency drop-down menu, then click "Submit." In the Docket ID column, select Docket No. RBS-21-CO-OP-0011 to submit or view public comments and to view supporting and related materials available electronically. Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's "User Tips" link. Comments on this information collection must be received by July 26, 2021.

Copies of all forms, regulations, and instructions referenced in this NOFA may be obtained from RB-CS. Data furnished by the applicants will be used to determine eligibility for program benefits. Furnishing data is voluntary; however, failure to provide data could result in program benefits being withheld or denied.

Comments are invited on (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who

are to respond, including responding through the use of appropriate automated, electronic, mechanical, other technological collection techniques, or other forms of information technology.

Title: Rural Development Cooperative Agreements.

OMB Control Number: 0570-0074.

Abstract: Pursuant to the Federal Agricultural Improvement Act of 1996 (Pub. L. 104-127), the U.S. Department of Agriculture (USDA) received authorization from Congress under 7 U.S.C. 2204b(b)(4) to enter into cooperative agreements for the purpose of improving the coordination and effectiveness of programs that benefit rural areas. This authority is referred to as the Rural Development Cooperative Agreement (RDCA) program. There are three agencies within USDA that administer programs that specifically target rural areas: The Rural Business-Cooperative Service (RB-CS), the Rural Housing Service (RHS), and the Rural Utilities Service (RUS).

Each year, USDA receives proposals from the public that are not in response to a specific program announcement. These proposals are called unsolicited proposals. If a proposal is related to one or more programs, it will be routed to the appropriated RD agency for review and possible consideration for a cooperative agreement using the RDCA authority. If the proposal is unique or innovative, then RD has authority to enter into a cooperative agreement without competition (see 2 CFR 415.1(d)(6)). Alternatively, USDA may issue an invitation to submit applications for a cooperative agreement using the RDCA authority. These proposals are called solicited proposals. Solicited proposals would typically be announced via a **Federal Register** Notice.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1.65 hours per response.

Respondents: Regional consortia of higher education, academic health and research institutes, or economic development entities.

Estimated Number of Respondents: 100.

Estimated Number of Responses per Respondent: 10.

Estimated Total Annual Burden and Record Keeping Hours on Respondents: 1,650 hours.

Copies of this information collection can be obtained from MaryPat Daskal, Chief, Branch 1, Regulations Management Division, Rural Development Innovation Center, U.S. Department of Agriculture, 1400

Independence Ave. SW, Stop 1522, Washington, DC 20250. Phone: 202-720-7853.

All responses to this information collection and recordkeeping notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

B. Nondiscrimination 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, 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) 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:

Mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250-9410; or

Email: OAC@usda.gov.

USDA is an equal opportunity provider, employer, and lender.

Justin Maxson,

Deputy Under Secretary, USDA Rural Development.

[FR Doc. 2021-10963 Filed 5-26-21; 8:45 am]

BILLING CODE 3410-XY-P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Current Population Survey, Basic Demographics

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on January 21, 2021, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: U.S. Census Bureau.

Title: Current Population Survey, Basic Demographics.

OMB Control Number: 0607-0049.

Form Number(s): None.

Type of Request: Regular submission, Request for an Extension, without Change of a Currently Approved Collection.

Number of Respondents: 708,000.

Average Hours Per Response: 0.025.

Burden Hours: 17,700.

Needs and Uses: The demographic information collected in the CPS provides a unique set of data on selected characteristics for the civilian noninstitutional population. We use these data in conjunction with other data, particularly the monthly labor force data, as well as periodic supplement data. We also use these data independently for internal analytic research and for evaluation of other surveys. In addition, we need these data to correctly control estimates of other characteristics to the proper proportions of age, sex, race, and origin.

In addition to the demographic questions are the questions needed to make contact with the household. This

include introductions, determining the correct respondent, and verifying the address. These questions are referred to as the "Front" questions. Also involved in maintaining contact with the household are the "Back" questions. These questions collect telephone numbers, best time to contact, and thank the respondent for their cooperation. These questions are needed to do the interview and maintain contact with the household throughout the survey.

Affected Public: Individuals or households.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C. Sections 8(b), 141, and 182.

This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function and entering either the title of the collection or the OMB Control Number 0607-0049.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021-11273 Filed 5-26-21; 8:45 am]

BILLING CODE 3510-07-P

DEPARTMENT OF COMMERCE

Office of the Secretary

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; the Standardized Research Performance Progress Report (RPPR)

AGENCY: Office of the Secretary, Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act (PRA) of 1995, invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's

reporting burden. The purpose of this notice is to allow for 60 days of public comment on the proposed extension of the standardized Research Performance Progress Report (RPPR), prior to the submission of the information collection request (ICR) to OMB for approval.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before July 26, 2021.

ADDRESSES: Interested persons are invited to submit written comments by email to PRAComments@doc.gov. Please reference the Research Performance Progress Report (RPPR) or the OMB Control Number 0690-0032 in the subject line of your comments. All comments received are part of the public record. No comments will be posted to <http://www.regulations.gov> for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. You may submit attachments to electronic comments in Microsoft Word, Excel, or Adobe PDF file formats.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or specific questions related to collection activities should be directed to Sheleen Dumas, Department PRA Clearance Officer, Office of the Chief Information Officer, U.S. Department of Commerce, 202-482-3306, PRAComments@doc.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Department of Commerce plans to request a three-year extension of the Research Performance Progress Report (RPPR). This Research Performance Progress Report (RPPR) directly benefits award recipients by making it easier for them to administer Federal grant and cooperative agreement programs through standardization of the types of information required in performance reports—thereby reducing their administrative effort and costs. The RPPR also makes it easier to compare the outputs, outcomes, etc. of research programs across the government.

The RPPR resulted from an initiative of the Research Business Models (RBM) Subcommittee of the Committee on Science (CoS), a committee of the National Science and Technology Council (NSTC). One of the RBM Subcommittee's priority areas is to create greater consistency in the

administration of Federal research awards. Given the increasing complexity of interdisciplinary and interagency research, it is important for Federal agencies to manage awards in a similar fashion. The RPPR is used by agencies that support research and research-related activities for use in submission of progress reports. It is intended to replace other performance reporting formats currently in use by agencies. The RPPR does not change the performance reporting requirements specified in 2 CFR part 215 (OMB Circular A–110) and the Common Rule implementing OMB Circular A–102. Each category in the RPPR is a separate reporting component. Agencies will direct recipients to report on the one mandatory component (“Accomplishments”), and may direct them to report on optional components, as appropriate. Within a particular component, agencies may direct recipients to complete only specific questions, as not all questions within a given component may be relevant to all agencies. Agencies may develop an agency- or program-specific component, if necessary, to meet programmatic requirements, although agencies should minimize the degree to which they supplement the standard components. Such agency- or program specific requirements will require review and clearance by OMB.

III. Data

OMB Control Number: 0690–0032.

Form Number(s): None.

Type of Review: Regular submission, Request for an Extension (without change of a currently approved collection).

Affected Public: State and Local governments.

Estimated Number of Respondents: 19,998.

Estimated Time per Response: 8 minutes for monthly respondents who report via internet, mail or faxing the form, 23 minutes for annual respondents who report via internet, mail or faxing the form and 3 minutes for monthly and annual respondents who report by telephone or send electronic files or printouts.

Estimated Total Annual Burden Hours: 17,625.

Estimated Total Annual Cost to Public: \$0. (This is not the cost of respondents’ time, but the indirect costs respondents may incur for such things as purchases of specialized software or hardware needed to report, or expenditures for accounting or records maintenance services required specifically by the collection.)

Respondent’s Obligation: Voluntary.

Legal Authority: Title 13 U.S.C. 131 and 182.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include, or summarize, each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–11199 Filed 5–26–21; 8:45 am]

BILLING CODE 3510–17–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Application Materials for EDA Investment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on

proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public’s reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before July 26, 2021.

ADDRESSES: Interested persons are invited to submit written comments to Bernadette Grafton, Program Analyst, Performance, Research and National Technical Assistance Division, Economic Development Administration, U.S. Department of Commerce, via email at bgraston1@eda.gov. You may also submit comments to PRAcomments@doc.gov. Please

reference OMB Control Number 0610–0094 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or specific questions related to collection activities should be directed to Bernadette Grafton, Program Analyst, Performance, Research and National Technical Assistance Division, Economic Development Administration, U.S. Department of Commerce, via phone at (202) 482–2917 or via email at bgraston1@eda.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Economic Development Administration (EDA) leads the Federal economic development agenda by promoting innovation and competitiveness, preparing American regions for growth and success in the worldwide economy. Guided by the basic principle that sustainable economic development should be locally-driven, EDA works directly with communities and regions to help them build the capacity for economic development based on local business conditions and needs. The Public Works and Economic Development Act of 1965 (PWEDA) (42 U.S.C. 3121 *et seq.*) is EDA’s organic authority and is the primary legal authority under which EDA awards financial assistance. Under PWEDA, EDA provides financial assistance to both rural and urban distressed communities by fostering entrepreneurship, innovation, and productivity through investments in infrastructure development, capacity building, and business development in order to attract private capital

investments and new and better jobs to regions experiencing economic distress. Further information on EDA programs and financial assistance opportunities can be found at www.eda.gov.

EDA must collect specific information from financial assistance applicants to evaluate whether proposed projects satisfy eligibility and programmatic requirements contained in PWEDA, EDA regulations at 13 CFR chapter III, and applicable Notices of Funding Opportunity (NOFOs). The purpose of this notice is to seek comments from the public and other Federal agencies regarding EDA's proposed revision and extension of the application materials under this information collection: Forms ED-900 (General Application (GA) for EDA Programs), ED-900B (Beneficiary Information Form), ED-900C (EDA Application Supplement for Construction Programs), ED-900D (Requirements for Design and Engineering Assistance), ED-900E (Calculation of Estimated Relocation and Land Acquisition Expenses), and ED-900F (Additional EDA Assurances for Revolving Loan Fund Investments).

EDA proposes to make clarifying edits to the following forms under this information collection: Forms ED-900 GA, ED-900B, ED-900C, ED-900D, ED-900E, and ED-900F. The clarifying edits do not change the type or amount of information collected, and the clarifying edits will not impact the time burden for respondents to complete the forms. The clarifying edits include: (1) Re-ordering many of the questions in Form ED-900 GA to improve clarity and to assist applicants in completing the form in a way that can be easily evaluated by EDA; (2) Adding two new questions to Form ED-900 GA to gather improved project location information necessary for EDA to comply with new data and reporting requirements; (3) Removing duplicative questions across the forms under this information collection; (4)

Modifying Form ED-900F to only collect assurances, removing questions regarding the proposed operation of a revolving loan fund (RLF), thus greatly simplifying the form for applicants; and (5) moving form instructions from the end of each form to accompany various questions throughout each form to improve the applicant experience.

EDA does not propose to extend two existing forms under this information collection: Forms ED-900A (Additional EDA Assurances for Construction Or Non-Construction Investments and ED-900P (Proposal for EDA Assistance). Form ED-900A is no longer necessary because the assurances collected in Form ED-900A are redundant with other materials, including other forms under this information collection and certifications collected by SAM.gov. Form ED-900P is no longer necessary because EDA has removed the requirement for a financial assistance applicant to submit a proposal prior to submitting a full application. By eliminating Forms ED-900A and ED-900P, EDA will reduce the estimated time per response to this information collection.

EDA estimates that an increase in the number of respondents to this information collection will outweigh the reduced time per response for this information collection and result in an increase in estimated burden hours for this information collection. The recently enacted American Rescue Plan Act of 2021 (Pub. L. 117-2) appropriated \$3,000,000,000 in supplemental funds to EDA to "prevent, prepare for, and respond to coronavirus and for necessary expenses for responding to economic injury as a result of coronavirus." In comparison, EDA was appropriated \$346,000,000 under the Consolidated Appropriations Act, 2021. This supplemental funding will substantially increase the number of respondents applying for EDA financial

assistance and therefore required to complete the information collection. Although the proposed revision and extension of the information collection will reduce the estimated amount of time required to complete the information collection, the substantially increased number of respondents to this information collection will result in an increase in burden hours for this information collection.

II. Method of Collection

EDA collects information from financial assistance applicants electronically through Grants.gov, or, in very rare instances, via email or paper submission.

III. Data

OMB Control Number: 0610-0094.

Form Number(s): ED-900, ED-900B, ED-900C, ED-900D, ED-900E, ED-900F.

Type of Review: Revision and extension of a currently approved information collection.

Affected Public: Entities eligible for EDA financial assistance, including not-for-profit entities; Federal, State, local, and Tribal governments; and businesses or other for-profit organizations.

Estimated Number of Respondents: For construction projects, 977 estimated respondents, and for non-construction projects, 1,663 estimated respondents, for a total of 2,640 estimated respondents.

Estimated Time per Response: For construction projects, 43.0 estimated hours per response, and for non-construction projects, 17.1 estimated hours per response.

Estimated Total Annual Burden Hours: For construction projects, 42,011 estimated annual burden hours, and for non-construction projects, 28,437 estimated annual burden hours, for a total of 70,448 estimated total annual burden hours.

Application type	Estimated number of responses	Average time estimate	Total hours
Full Application Submission for Construction Applicants	977	43.0	42,011
Full Application Submission All Other EDA Programs	1,663	17.1	28,437
Total	2,640		70,448

Estimated Total Annual Cost to Public: \$4,065,554 (cost assumes application of U.S. Bureau of Labor Statistics fourth quarter 2020 mean hourly employer costs for employee compensation for professional and related occupations of \$57.71).

Respondent's Obligation: Mandatory.

Legal Authority: The Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 *et seq.*).

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed

information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c)

Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–11250 Filed 5–26–21; 8:45 am]

BILLING CODE 3510–34–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–41–2021]

Foreign-Trade Zone (FTZ) 7— Mayaguez, Puerto Rico; Notification of Proposed Production Activity; AbbVie Ltd. (Pharmaceutical Products), Barceloneta, Puerto Rico

AbbVie Ltd. (AbbVie), submitted a notification of proposed production activity to the FTZ Board for its facility in Barceloneta, Puerto Rico. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on May 19, 2021.

AbbVie already has authority to produce pharmaceutical products within Subzone 7I. The current request would add a finished product and a foreign status material to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status material and specific finished product described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt AbbVie from customs duty payments on the foreign-status materials/components used in export production. On its domestic sales, for

the foreign-status materials/components noted below and in the existing scope of authority, AbbVie would be able to choose the duty rates during customs entry procedures that applies to IMBRUVICA® capsules and tablets (duty-free). AbbVie would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The material sourced from abroad is Ibrutinib active pharmaceutical ingredient (duty rate 6.5%). The request indicates that Ibrutinib is subject to duties under Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: ftz@trade.gov. The closing period for their receipt is July 6, 2021.

A copy of the notification will be available for public inspection in the "Reading Room" section of the Board's website, which is accessible via www.trade.gov/ftz.

For further information, contact Christopher Wedderburn at Chris.Wedderburn@trade.gov.

Dated: May 21, 2021.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2021–11170 Filed 5–26–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Order Renewing Order Temporarily Denying Export Privileges

Washington, DC 20230

Mahan Airways, Mahan Tower, No. 21, Azadegan St., M.A. Jenah Exp. Way, Tehran, Iran;

Pejman Mahmood Kosarayanifard, a/k/a Kosarian Fard, P.O. Box 52404, Dubai, United Arab Emirates;

Mahmoud Amini, G#22 Dubai Airport Free Zone, P.O. Box 393754, Dubai, United Arab Emirates, and P.O. Box 52404, Dubai, United Arab Emirates, and Mohamed Abdulla Alqaz Building, Al Maktoum Street, Al Rigga, Dubai, United Arab Emirates;

Kerman Aviation, a/k/a GIE Kerman Aviation, 42 Avenue Montaigne 75008, Paris, France;

Sirjanco Trading LLC, P.O. Box 8709, Dubai, United Arab Emirates;

Mahan Air General Trading LLC, 19th Floor Al Moosa Tower One, Sheikh Zayed Road, Dubai 40594, United Arab Emirates;

Mehdi Bahrami, Mahan Airways—Istanbul Office, Cumhuriye Cad. Sibil Apt No: 101 D:6, 34374 Emadad, Sisli Istanbul, Turkey;

Al Naser Airlines, a/k/a al-Naser Airlines, a/k/a Al Naser Wings Airline, a/k/a Alnaser Airlines and, Air Freight Ltd., Home 46, Al-Karrada, Babil Region, District 929, St 21, Beside Al Jadirya Private Hospital, Baghdad, Iraq, and Al Amirat Street, Section 309, St. 3/H.20, Al Mansour, Baghdad, Iraq, and P.O. Box 28360, Dubai, United Arab Emirates, and P.O. Box 911399, Amman 11191, Jordan;

Ali Abdullah Alhay, a/k/a Ali Alhay, a/k/a Ali Abdullah Ahmed Alhay, Home 46, Al-Karrada, Babil Region, District 929, St 21, Beside Al Jadirya Private Hospital, Baghdad, Iraq, and Anak Street, Qatif, Saudi Arabia 61177;

Bahar Safwa General Trading, P.O. Box 113212 Citadel Tower, Floor-5, Office #504, Business Bay, Dubai, United Arab Emirates, and P.O. Box 8709, Citadel Tower, Business Bay, Dubai, United Arab Emirates;

Sky Blue Bird Group, a/k/a Sky Blue Bird Aviation, a/k/a Sky Blue Bird Ltd., a/k/a Sky Blue Bird FZC, P.O. Box 16111, Ras Al Khaimah Trade Zone, United Arab Emirates;

Issam Shammout, a/k/a Muhammad Isam Muhammad Anwar Nur Shammout, a/k/a Issam Anwar, Philips Building, 4th Floor, Al Fardous Street, Damascus, Syria, and Al Kolaa, Beirut, Lebanon 151515, and 17–18 Margaret Street, 4th Floor, London, W1W 8RP, United Kingdom, and Cumhuriyet Mah. Kavakli San St. Fulya, Cad. Hazar Sok. No.14/A Silivri, Istanbul, Turkey.

Pursuant to Section 766.24 of the Export Administration Regulations, 15 CFR parts 730–774 (2021) ("EAR" or "the Regulations"), I hereby grant the request of the Office of Export Enforcement ("OEE") to renew the temporary denial order issued in this matter on November 24, 2020. I find that renewal of this order, as modified, is necessary in the public interest to prevent an imminent violation of the Regulations.¹

¹ The Regulations, currently codified at 15 CFR parts 730–774 (2021), originally issued pursuant to the Export Administration Act (50 U.S.C. 4601–4623 (Supp. III 2015)) ("EAA"), which lapsed on August 21, 2001. The President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), as extended by successive Presidential Notices, continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2012)) ("IEEPA"). On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. 4801–4852 ("ECRA"). While Section 1766 of ECRA repeals the provisions of the EAA (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all orders, rules, regulations, and other forms of administrative action that were made or issued under the EAA, including as continued in effect pursuant to IEEPA, and were in

I. Procedural History

On March 17, 2008, Darryl W. Jackson, the then-Assistant Secretary of Commerce for Export Enforcement (“Assistant Secretary”), signed an order denying Mahan Airways’ export privileges for a period of 180 days on the ground that issuance of the order was necessary in the public interest to prevent an imminent violation of the Regulations. The order also named as denied persons Blue Airways, of Yerevan, Armenia (“Blue Airways of Armenia”), as well as the “Balli Group Respondents,” namely, Balli Group PLC, Balli Aviation, Balli Holdings, Vahid Alaghband, Hassan Alaghband, Blue Sky One Ltd., Blue Sky Two Ltd., Blue Sky Three Ltd., Blue Sky Four Ltd., Blue Sky Five Ltd., and Blue Sky Six Ltd., all of the United Kingdom. The order was issued *ex parte* pursuant to Section 766.24(a) of the Regulations, and went into effect on March 21, 2008, the date it was published in the **Federal Register**.

This temporary denial order (“TDO”) was renewed in accordance with Section 766.24(d) of the Regulations.² Subsequent renewals also have issued pursuant to Section 766.24(d), including most recently on November 24, 2020.³

effect as of ECRA’s date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA. Moreover, Section 1761(a)(5) of ECRA authorizes the issuance of temporary denial orders.

² Section 766.24(d) provides that BIS may seek renewal of a temporary denial order for additional 180-day renewal periods, if it believes that renewal is necessary in the public interest to prevent an imminent violation. Renewal requests are to be made in writing no later than 20 days before the scheduled expiration date of a temporary denial order. Renewal requests may include discussion of any additional or changed circumstances, and may seek appropriate modifications to the order, including the addition of parties as respondents or related persons, or the removal of parties previously added as respondents or related persons. BIS is not required to seek renewal as to all parties, and a removal of a party can be effected if, without more, BIS does not seek renewal as to that party. Any party included or added to a temporary denial order as a respondent may oppose a renewal request as set forth in Section 766.24(d). Parties included or added as related persons can at any time appeal their inclusion as a related person, but cannot challenge the underlying temporary denial order, either as initially issued or subsequently renewed, and cannot oppose a renewal request. *See also* note 4, *infra*.

³ The November 24, 2020 renewal order was effective upon issuance and published in the **Federal Register** on December 1, 2020 (85 FR 77,147). Prior renewal orders issued on September 17, 2008, March 16, 2009, September 11, 2009, March 9, 2010, September 3, 2010, February 25, 2011, August 24, 2011, February 15, 2012, August 9, 2012, February 4, 2013, July 31, 2013, January 24, 2014, July 22, 2014, January 16, 2015, July 13, 2015, January 7, 2016, July 7, 2016, December 30, 2016, June 27, 2017, December 20, 2017, June 14, 2018, December 11, 2018, June 5, 2019, May 29, 2020, and

Some of the renewal orders and the modification orders that have issued between renewals have added certain parties as respondents or as related persons, or effected the removal of certain parties.⁴

The September 11, 2009 renewal order continued the denial order as to Mahan Airways, but not as to the Balli Group Respondents or Blue Airways of Armenia.⁵ As part of the February 25, 2011 renewal order, Pejman Mahmood Kosarayanifard (a/k/a Kosarian Fard), Mahmoud Amini, and Gatewick LLC (a/k/a Gatewick Freight and Cargo Services, a/k/a Gatewick Aviation Services) were added as related persons to prevent evasion of the TDO.⁶ A modification order issued on July 1, 2011, adding Zarand Aviation as a respondent in order to prevent an imminent violation.⁷

As part of the August 24, 2011 renewal, Kerman Aviation, Sirjanco

November 24, 2020, respectively. The August 24, 2011 renewal followed the issuance of a modification order that issued on July 1, 2011, to add Zarand Aviation as a respondent. The July 13, 2015 renewal followed a modification order that issued May 21, 2015, and added Al Naser Airlines, Ali Abdullah Alhay, and Bahar Safwa General Trading as respondents. Each of the renewal orders and each of the modification orders referenced in this footnote or elsewhere in this order has been published in the **Federal Register**.

⁴ Pursuant to Sections 766.23 and 766.24(c) of the Regulations, any person, firm, corporation, or business organization related to a denied person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may be added as a “related person” to a temporary denial order to prevent evasion of the order.

⁵ Balli Group PLC and Balli Aviation settled proposed BIS administrative charges as part of a settlement agreement that was approved by a settlement order issued on February 5, 2010. The sanctions imposed pursuant to that settlement and order included, *inter alia*, a \$15 million civil penalty and a requirement to conduct five external audits and submit related audit reports. The Balli Group Respondents also settled related charges with the Department of Justice and the Treasury Department’s Office of Foreign Assets Control.

⁶ *See* note 4, *supra*, concerning the addition of related persons to a temporary denial order. Kosarian Fard and Mahmoud Amini remain parties to the TDO. On August 13, 2014, BIS and Gatewick resolved administrative charges against Gatewick, including a charge for acting contrary to the terms of a BIS denial order (15 CFR 764.2(k)). In addition to the payment of a civil penalty, the settlement includes a seven-year denial order. The first two years of the denial period were active, with the remaining five years suspended conditioned upon Gatewick’s full and timely payment of the civil penalty and its compliance with the Regulations during the seven-year denial order period. This denial order, in effect, superseded the TDO as to Gatewick, which was not included as part of the January 16, 2015 renewal order. The Gatewick LLC Final Order was published in the **Federal Register** on August 20, 2014. *See* 79 FR 49283 (Aug. 20, 2014).

⁷ Zarand Aviation’s export privileges remained denied until July 22, 2014, when it was not included as part of the renewal order issued on that date.

Trading LLC, and Ali Eslamian were added as related persons. Mahan Air General Trading LLC, Equipco (UK) Ltd., and Skycro (UK) Ltd. were added as related persons by a modification order issued on April 9, 2012. Mehdi Bahrami was added as a related person as part of the February 4, 2013 renewal order.

On May 21, 2015, a modification order issued adding Al Naser Airlines, Ali Abdullah Alhay, and Bahar Safwa General Trading as respondents. As detailed in that order and discussed further *infra*, these respondents were added to the TDO based upon evidence that they were acting together to, *inter alia*, obtain aircraft subject to the Regulations for export or reexport to Mahan in violation of the Regulations and the TDO.

Sky Blue Bird Group and its chief executive officer, Issam Shammout, were added as related persons as part of the July 13, 2015 renewal order.⁸ On November 16, 2017, a modification order issued to remove Ali Eslamian, Equipco (UK) Ltd., and Skycro (UK) Ltd. as related persons following a request by OEE for their removal.⁹

The December 11, 2018 renewal order continued the denial of the export privileges of Mahan Airways, Pejman Mahmood Kosarayanifard, Mahmoud Amini, Kerman Aviation, Sirjanco Trading LLC, Mahan Air General Trading LLC, Mehdi Bahrami, Al Naser Airlines, Ali Abdullah Alhay, Bahar Safwa General Trading, Sky Blue Bird Group, and Issam Shammout.

On April 27, 2021, BIS, through OEE, submitted a written request for renewal of the TDO that issued on November 24, 2020. The written request was made more than 20 days before the TDO’s scheduled expiration. Notice of the renewal request was provided to Mahan Airways, Al Naser Airlines, Ali Abdullah Alhay, and Bahar Safwa

⁸ The U.S. Department of the Treasury’s Office of Foreign Assets Control (“OFAC”) designated Sky Blue Bird and Issam Shammout as Specially Designated Global Terrorists (“SDGTs”) on May 21, 2015, pursuant to Executive Order 13224, for “providing support to Iran’s Mahan Air.” *See* 80 FR 30762 (May 29, 2015).

⁹ The November 16, 2017 modification was published in the **Federal Register** on December 4, 2017. *See* 82 FR 57203 (Dec. 4, 2017). On September 28, 2017, BIS and Ali Eslamian resolved an administrative charge for acting contrary to the terms of the denial order (15 CFR 764.2(k)) that was based upon Eslamian’s violation of the TDO after his addition to the TDO on August 24, 2011. Equipco (UK) Ltd. and Skycro (UK) Ltd., two companies owned and operated by Eslamian, also were parties to the settlement agreement and were added to the settlement order as related persons. In addition to other sanctions, the settlement provides that Eslamian, Equipco, and Skycro shall be subject to a conditionally-suspended denial order for a period of four years from the date of the settlement order.

General Trading in accordance with Sections 766.5 and 766.24(d) of the Regulations. No opposition to the renewal of the TDO has been received. Furthermore, no appeal of the related person determinations made as part of the September 3, 2010, February 25, 2011, August 24, 2011, April 9, 2012, February 4, 2013, and July 13, 2015 renewal or modification orders has been made by Kosarian Fard, Mahmoud Amini, Kerman Aviation, Sirjanco Trading LLC, Mahan Air General Trading LLC, Mehdi Bahrami, Sky Blue Bird Group, or Issam Shammout.¹⁰

II. Renewal of the TDO

A. Legal Standard

Pursuant to Section 766.24, BIS may issue or renew an order temporarily denying a respondent's export privileges upon a showing that the order is necessary in the public interest to prevent an "imminent violation" of the Regulations. 15 CFR 766.24(b)(1) and 766.24(d). "A violation may be 'imminent' either in time or degree of likelihood." 15 CFR 766.24(b)(3). BIS may show "either that a violation is about to occur, or that the general circumstances of the matter under investigation or case under criminal or administrative charges demonstrate a likelihood of future violations." *Id.* As to the likelihood of future violations, BIS may show that the violation under investigation or charge "is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent [.]". *Id.* A "lack of information establishing the precise time a violation may occur does not preclude a finding that a violation is imminent, so long as there is sufficient reason to believe the likelihood of a violation." *Id.*

B. The TDO and BIS's Requests for Renewal

OEE's request for renewal is based upon the facts underlying the issuance of the initial TDO, and the renewal and modification orders subsequently issued in this matter, including the May 21, 2015 modification order and the renewal order issued on November 24, 2020, and the evidence developed over the course of this investigation, which indicate a blatant disregard of U.S. export controls and the TDO. The initial TDO was issued as a result of evidence that showed that Mahan Airways and other parties engaged in conduct

prohibited by the EAR by knowingly re-exporting to Iran three U.S.-origin aircraft, specifically Boeing 747s ("Aircraft 1-3"), items subject to the EAR and classified under Export Control Classification Number ("ECCN") 9A991.b, without the required U.S. Government authorization. Further evidence submitted by BIS indicated that Mahan Airways was involved in the attempted re-export of three additional U.S.-origin Boeing 747s ("Aircraft 4-6") to Iran.

As discussed in the September 17, 2008 renewal order, evidence presented by BIS indicated that Aircraft 1-3 continued to be flown on Mahan Airways' routes after issuance of the TDO, in violation of the Regulations and the TDO itself.¹¹ It also showed that Aircraft 1-3 had been flown in further violation of the Regulations and the TDO on the routes of Iran Air, an Iranian Government airline. Moreover, as discussed in the March 16, 2009, September 11, 2009 and March 9, 2010 renewal orders, Mahan Airways registered Aircraft 1-3 in Iran, obtained Iranian tail numbers for them (EP-MNA, EP-MNB, and EP-MNE, respectively), and continued to operate at least two of them in violation of the Regulations and the TDO,¹² while also committing an additional knowing and willful violation when it negotiated for and acquired an additional U.S.-origin aircraft. The additional acquired aircraft was an MD-82 aircraft, which subsequently was painted in Mahan Airways' livery and flown on multiple Mahan Airways' routes under tail number TC-TUA.

The March 9, 2010 renewal order also noted that a court in the United Kingdom ("U.K.") had found Mahan Airways in contempt of court on February 1, 2010, for failing to comply with that court's December 21, 2009 and January 12, 2010 orders compelling Mahan Airways to remove the Boeing 747s from Iran and ground them in the Netherlands. Mahan Airways and the Balli Group Respondents had been litigating before the U.K. court concerning ownership and control of Aircraft 1-3. In a letter to the U.K. court dated January 12, 2010, Mahan Airways' Chairman indicated, *inter alia*, that Mahan Airways opposes U.S. Government actions against Iran, that it continued to operate the aircraft on its routes in and out of Tehran (and had

158,000 "forward bookings" for these aircraft), and that it wished to continue to do so and would pay damages if required by that court, rather than ground the aircraft.

The September 3, 2010 renewal order discussed the fact that Mahan Airways' violations of the TDO extended beyond operating U.S.-origin aircraft and attempting to acquire additional U.S.-origin aircraft. In February 2009, while subject to the TDO, Mahan Airways participated in the export of computer motherboards, items subject to the Regulations and designated as EAR99, from the United States to Iran, via the United Arab Emirates ("UAE"), in violation of both the TDO and the Regulations, by transporting and/or forwarding the computer motherboards from the UAE to Iran. Mahan Airways' violations were facilitated by Gatewick LLC, which not only participated in the transaction, but also has stated to BIS that it acted as Mahan Airways' sole booking agent for cargo and freight forwarding services in the UAE.

Moreover, in a January 24, 2011 filing in the U.K. court, Mahan Airways asserted that Aircraft 1-3 were not being used, but stated in pertinent part that the aircraft were being maintained in Iran "in an airworthy condition" and that, depending on the outcome of its U.K. court appeal, the aircraft "could immediately go back into service . . . on international routes into and out of Iran." Mahan Airways' January 24, 2011 submission to U.K. Court of Appeal, at p. 25, ¶¶ 108, 110. This clearly stated intent, both on its own and in conjunction with Mahan Airways' prior misconduct and statements, demonstrated the need to renew the TDO in order to prevent imminent future violations. Two of these three 747s subsequently were removed from Iran and are no longer in Mahan Airways' possession. The third of these 747s remained in Iran under Mahan's control. Pursuant to Executive Order 13224, this 747 was designated a Specially Designated Global Terrorist ("SDGT") by the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") on September 19, 2012.¹³ Furthermore, as discussed in the February 4, 2013 Order, open source information indicated that this 747, painted in the livery and logo of Mahan Airways, had been flown between Iran and Syria, and was suspected of ferrying weapons and/or other equipment to the

¹⁰ A party named or added as a related person may not oppose the issuance or renewal of the underlying temporary denial order, but may file an appeal of the related person determination in accordance with Section 766.23(c). See also note 2, *supra*.

¹¹ Engaging in conduct prohibited by a denial order violates the Regulations. 15 CFR 764.2(a) and (k).

¹² The third Boeing 747 appeared to have undergone significant service maintenance and may not have been operational at the time of the March 9, 2010 renewal order.

¹³ See <https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/pages/20120919.aspx>.

Syrian Government from Iran's Islamic Revolutionary Guard Corps.

In addition, as first detailed in the July 1, 2011 and August 24, 2011 orders, and discussed in subsequent renewal orders in this matter, Mahan Airways also continued to evade U.S. export control laws by operating two Airbus A310 aircraft, bearing Mahan Airways' livery and logo, on flights into and out of Iran.¹⁴ At the time of the July 1, 2011 and August 24, 2011 orders, these Airbus A310s were registered in France, with tail numbers F-OJHH and F-OJHI, respectively.¹⁵ The August 2012 renewal order also found that Mahan Airways had acquired another Airbus A310 aircraft subject to the Regulations, with MSN 499 and Iranian tail number EP-VIP, in violation of the Regulations.¹⁶ On September 19, 2012, all three Airbus A310 aircraft (tail numbers F-OJHH, F-OJHI, and EP-VIP) were designated as SDGTs.¹⁷

The February 4, 2013 renewal order laid out further evidence of continued and additional efforts by Mahan Airways and other persons acting in concert with Mahan, including Kral Aviation and another Turkish company, to procure U.S.-origin engines—two GE CF6–50C2 engines, with MSNs 517621 and 517738, respectively—and other aircraft parts in violation of the TDO and the Regulations.¹⁸ The February 4,

2013 order also added Mehdi Bahrami as a related person in accordance with Section 766.23 of the Regulations. Bahrami, a Mahan Vice-President and the head of Mahan's Istanbul Office, also was involved in Mahan's acquisition of the original three Boeing 747s (Aircraft 1–3) that resulted in the original TDO, and has had a business relationship with Mahan dating back to 1997.

The July 31, 2013 renewal order detailed additional evidence obtained by OEE showing efforts by Mahan Airways to obtain another GE CF6–50C2 aircraft engine (MSN 528350) from the United States via Turkey. Multiple Mahan employees, including Mehdi Bahrami, were involved in or aware of matters related to the engine's arrival in Turkey from the United States, plans to visually inspect the engine, and prepare it for shipment from Turkey.

Mahan Airways sought to obtain this U.S.-origin engine through Pioneer Logistics Havicilik Turizm Yonetim Danismanlik ("Pioneer Logistics"), an aircraft parts supplier located in Turkey, and its director/operator, Gulnihal Yegane, a Turkish national who previously had conducted Mahan related business with Mehdi Bahrami and Ali Eslamian. Moreover, as referenced in the July 31, 2013 renewal order, a sworn affidavit by Kosol Surinanda, also known as Kosol Surinandha, Managing Director of Mahan's General Sales Agent in Thailand, stated that the shares of Pioneer Logistics for which he was the listed owner were "actually the property of and owned by Mahan." He further stated that he held "legal title to the shares until otherwise required by Mahan" but would "exercise the rights granted to [him] exactly and only as instructed by Mahan and [his] vote and/or decisions [would] only and exclusively reflect the wills and demands of Mahan[.]"¹⁹

The January 24, 2014 renewal order outlined OEE's continued investigation

(MSN 517738) on July 30, 2012. The owner of the second engine subsequently cancelled the item's sale to Kral Aviation. In September 2012, OEE was alerted by a U.S. exporter that another Turkish company ("Turkish Company No. 2") was attempting to purchase aircraft spare parts intended for re-export by Turkish Company No. 2 to Mahan Airways. See February 4, 2013 renewal order.

On December 31, 2013, Kral Aviation was added to BIS's Entity List, Supplement No. 4 to Part 744 of the Regulations. See 78 FR 75458 (Dec. 12, 2013). Companies and individuals are added to the Entity List for engaging in activities contrary to the national security or foreign policy interests of the United States. See 15 CFR 744.11.

¹⁹ Pioneer Logistics, Gulnihal Yegane, and Kosol Surinanda also were added to the Entity List on December 12, 2013. See 78 FR 75458 (Dec. 12, 2013).

of Mahan Airways' activities and detailed an attempt by Mahan, which OEE thwarted, to obtain, via an Indonesian aircraft parts supplier, two U.S.-origin Honeywell ALF–502R–5 aircraft engines (MSNs LF5660 and LF5325), items subject to the Regulations, from a U.S. company located in Texas. An invoice of the Indonesian aircraft parts supplier dated March 27, 2013, listed Mahan Airways as the purchaser of the engines and included a Mahan ship-to address. OEE also obtained a Mahan air waybill dated March 12, 2013, listing numerous U.S.-origin aircraft parts subject to the Regulations—including, among other items, a vertical navigation gyroscope, a transmitter, and a power control unit—being transported by Mahan from Turkey to Iran in violation of the TDO.

The July 22, 2014 renewal order discussed open source evidence from the March-June 2014 time period regarding two BAE regional jets, items subject to the Regulations, that were painted in the livery and logo of Mahan Airways and operating under Iranian tail numbers EP-MOI and EP-MOK, respectively.²⁰ In addition, aviation industry resources indicated that these aircraft were obtained by Mahan Airways in late November 2013 and June 2014, from Ukrainian Mediterranean Airline, a Ukrainian airline that was added to BIS's Entity List (Supplement No. 4 to Part 744 of the Regulations) on August 15, 2011, for acting contrary to the national security and foreign policy interests of the United States.²¹ Open source information indicated that at least EP-MOI remained active in Mahan's fleet, and that the aircraft was being operated on multiple flights in July 2014.

The January 16, 2015 renewal order detailed evidence of additional attempts

²⁰ The BAE regional jets are powered with U.S.-origin engines. The engines are subject to the EAR and classified under ECCN 9A991.d. These aircraft contain controlled U.S.-origin items valued at more than 10 percent of the total value of the aircraft and as a result are subject to the EAR. They are classified under ECCN 9A991.b. The export or reexport of these aircraft to Iran requires U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations.

²¹ See 76 FR 50407 (Aug. 15, 2011). The July 22, 2014 renewal order also referenced two Airbus A320 aircraft painted in the livery and logo of Mahan Airways and operating under Iranian tail numbers EP-MMK and EP-MML, respectively. OEE's investigation also showed that Mahan obtained these aircraft in November 2013, from Khors Air Company, another Ukrainian airline that, like Ukrainian Mediterranean Airlines, was added to BIS's Entity List on August 15, 2011. Open source evidence indicates the two Airbus A320 aircraft may have been transferred by Mahan Airways to another Iranian airline in October 2014, and issued Iranian tail numbers EP-APE and EP-APF, respectively.

¹⁴ The Airbus A310s are powered with U.S.-origin engines. The engines are subject to the Regulations and classified under Export Control Classification ("ECCN") 9A991.d. The Airbus A310s contain controlled U.S.-origin items valued at more than 10 percent of the total value of the aircraft and as a result are subject to the Regulations. They are classified under ECCN 9A991.b. The export or reexport of these aircraft to Iran requires U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations.

¹⁵ OEE subsequently presented evidence that after the August 24, 2011 renewal, Mahan Airways worked along with Kerman Aviation and others to de-register the two Airbus A310 aircraft in France and to register both aircraft in Iran (with, respectively, Iranian tail numbers EP-MHH and EP-MHI). It was determined subsequent to the February 15, 2012 renewal order that the registration switch for these A310s was cancelled and that Mahan Airways then continued to fly the aircraft under the original French tail numbers (F-OJHH and F-OJHI, respectively). Both aircraft apparently remain in Mahan Airways' possession.

¹⁶ See note 14, *supra*.

¹⁷ See <http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/pages/20120919.aspx>. Mahan Airways was previously designated by OFAC as a SDGT on October 18, 2011. 77 FR 64427 (October 18, 2011).

¹⁸ Kral Aviation was referenced in the February 4, 2013 renewal order as "Turkish Company No. 1." Kral Aviation purchased a GE CF6–50C2 aircraft engine (MSN 517621) from the United States in July 2012, on behalf of Mahan Airways. OEE was able to prevent this engine from reaching Mahan by issuing a redelivery order to the freight forwarder in accordance with Section 758.8 of the Regulations. OEE also issued Kral Aviation a redelivery order for the second CF6–50C2 engine

by Mahan Airways to acquire items subject the Regulations in further violation of the TDO. Specifically, in March 2014, OEE became aware of an inertial reference unit bearing serial number 1231 (“the IRU”) that had been sent to the United States for repair. The IRU is a U.S.-origin item, subject to the Regulations, classified under ECCN 7A103, and controlled for missile technology reasons. Upon closer inspection, it was determined that IRU came from or had been installed on an Airbus A340 aircraft bearing MSN 056. Further investigation revealed that as of approximately February 2014, this aircraft was registered under Iranian tail number EP-MMB and had been painted in the livery and logo of Mahan Airways.

The January 16, 2015 renewal order also described related efforts by the Departments of Justice and Treasury to further thwart Mahan’s illicit procurement efforts. Specifically, on August 14, 2014, the United States Attorney’s Office for the District of Maryland filed a civil forfeiture complaint for the IRU pursuant to 22 U.S.C. 401(b) that resulted in the court issuing an Order of Forfeiture on December 2, 2014. EP-MMB remains listed as active in Mahan Airways’ fleet and has been used on flights into and out of Iran as recently as December 19, 2017.

Additionally, on August 29, 2014, OFAC blocked the property and interests in property of Asian Aviation Logistics of Thailand, a Mahan Airways affiliate or front company, pursuant to Executive Order 13224. In doing so, OFAC described Mahan Airways’ use of Asian Aviation Logistics to evade sanctions by making payments on behalf of Mahan for the purchase of engines and other equipment.²²

The May 21, 2015 modification order detailed the acquisition of two aircraft, specifically an Airbus A340 bearing MSN 164 and an Airbus A321 bearing MSN 550, that were purchased by Al Naser Airlines in late 2014/early 2015 and were under the possession, control, and/or ownership of Mahan Airways.²³

²² See <http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20140829.aspx>. See 79 FR 55073 (Sep. 15, 2014). OFAC also blocked the property and property interests of Pioneer Logistics of Turkey on August 29, 2014. *Id.* Mahan Airways’ use of Pioneer Logistics in an effort to evade the TDO and the Regulations was discussed in a prior renewal order, as summarized, *supra*, at 14. BIS added both Asian Aviation Logistics and Pioneer Logistics to the Entity List on December 12, 2013. See 78 FR 75458 (Dec. 12, 2013).

²³ Both of these aircraft are powered by U.S.-origin engines that are subject to the Regulations and classified under ECCN 9A991.d. Both aircraft

The sales agreements for these two aircraft were signed by Ali Abdullah Alhay for Al Naser Airlines.²⁴ Payment information reveals that multiple electronic funds transfers (“EFT”) were made by Ali Abdullah Alhay and Bahar Safwa General Trading in order to acquire MSNs 164 and 550.

The May 21, 2015 modification order also laid out evidence showing the respondents’ attempts to obtain other controlled aircraft, including aircraft physically located in the United States in similarly-patterned transactions during the same recent time period. Transactional documents involving two Airbus A320s bearing MSNs 82 and 99, respectively, again showed Ali Abdullah Alhay signing sales agreements for Al Naser Airlines.²⁵ A review of the payment information for these aircraft similarly revealed EFTs from Ali Abdullah Alhay and Bahar Safwa General Trading that follow the pattern described for MSNs 164 and 550, *supra*. MSNs 82 and 99 were detained by OEE Special Agents prior to their planned export from the United States.

The July 13, 2015 renewal order outlined evidence showing that Al Naser Airlines’ attempts to acquire aircraft on behalf of Mahan Airways extended beyond MSNs 164 and 550 to include a total of nine aircraft.²⁶ Four of

contain controlled U.S.-origin items valued at more than 10 percent of the total value of the aircraft and as a result are subject to the EAR regardless of their location. The aircraft are classified under ECCN 9A991.b. The export or re-export of these aircraft to Iran requires U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations.

²⁴ The evidence obtained by OEE showed Ali Abdullah Alhay as a 25% owner of Al Naser Airlines.

²⁵ Both aircraft were physically located in the United States and therefore are subject to the Regulations pursuant to Section 734.3(a)(1). Moreover, these Airbus A320s are powered by U.S.-origin engines that are subject to the Regulations and classified under Export Control Classification Number ECCN 9A991.d. The Airbus A320s contain controlled U.S.-origin items valued at more than 10 percent of the total value of the aircraft and as a result are subject to the EAR regardless of their location. The aircraft are classified under ECCN 9A991.b. The export or re-export of these aircraft to Iran requires U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations.

²⁶ This evidence included a press release dated May 9, 2015, that appeared on Mahan Airways’ website and stated that Mahan “added 9 modern aircraft to its air fleet [.]” and that the newly acquired aircraft included eight Airbus A340s and one Airbus A321. See <http://www.mahan.aero/en/mahan-air/press-room/44>. The press release was subsequently removed from Mahan Airways’ website. Publicly available aviation databases similarly showed that Mahan had obtained nine additional aircraft from Al Naser Airlines in May 2015, including MSNs 164 and 550. As also discussed in the July 13, 2015 renewal order, Sky Blue Bird Group, via Issam Shammout, was actively

the aircraft, all of which are subject to the Regulations and were obtained by Mahan from Al Naser Airlines, had been issued the following Iranian tail numbers: EP-MMD (MSN 164), EP-MMG (MSN 383), EP-MMH (MSN 391) and EP-MMR (MSN 416), respectively.²⁷ Publicly available flight tracking information provided evidence that at the time of the July 13, 2015 renewal, both EP-MMH and EP-MMR were being actively flown on routes into and out of Iran in violation of the Regulations.²⁸

The January 7, 2016 renewal order discussed evidence that Mahan Airways had begun actively flying EP-MMD on international routes into and out of Iran. Additionally, the January 7, 2016 order described publicly available aviation database and flight tracking information indicating that Mahan Airways continued efforts to acquire Iranian tail numbers and press into active service under Mahan’s livery and logo at least two more of the Airbus A340 aircraft it had obtained from or through Al Naser Airlines: EP-MME (MSN 371) and EP-MMF (MSN 376), respectively.

The July 7, 2016 renewal order described Mahan Airways’ acquisition of a BAE Avro RJ-85 aircraft (MSN 2392) in violation of the Regulations and its subsequent registration under Iranian tail number EP-MOR.²⁹ This information was corroborated by publicly available information on the website of Iran’s civil aviation authority. The July 7, 2016 order also outlined Mahan’s continued operation of EP-

involved in Al Naser Airlines’ acquisition of MSNs 164 and 550, and the attempted acquisition of MSNs 82 and 99 (which were detained by OEE).

²⁷ The Airbus A340s are powered by U.S.-origin engines that are subject to the Regulations and classified under ECCN 9A991.d. The Airbus A340s contain controlled U.S.-origin items valued at more than 10 percent of the total value of the aircraft and as a result are subject to the EAR regardless of their location. The aircraft are classified under ECCN 9A991.b. The export or re-export of these aircraft to Iran requires U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations.

²⁸ There is some publicly available information indicating that the aircraft Mahan Airways is flying under Iranian tail number EP-MMR is now MSN 615, rather than MSN 416. Both aircraft are Airbus A340 aircraft that Mahan acquired from Al Naser Airlines in violation of the Regulations. Moreover, both aircraft were designated as SDGTs by OFAC on May 21, 2015, pursuant to Executive Order 13224. See 80 FR 30762 (May 29, 2015).

²⁹ The BAE Avro RJ-85 is powered by U.S.-origin engines that are subject to the Regulations and classified under ECCN 9A991.d. The BAE Avro RJ-85 contains controlled U.S.-origin items valued at more than 10 percent of the total value of the aircraft and as a result is subject to the EAR regardless of its location. The aircraft is classified under ECCN 9A991.b, and its export or re-export to Iran requires U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations.

MMF in violation of the Regulations on routes from Tehran, Iran to Beijing, China and Shanghai, China, respectively.

The December 30, 2016 renewal order outlined Mahan's continued operation of multiple Airbus aircraft, including EP-MMD (MSN 164), EP-MMF (MSN 376), and EP-MMH (MSN 391), which were acquired from or through Al Naser Airlines, as previously detailed in pertinent part in the July 13, 2015 and January 7, 2016 renewal orders. Publicly available flight tracking information showed that the aircraft were operated on flights into and out of Iran, including from/to Beijing, China, Kuala Lumpur, Malaysia, and Istanbul, Turkey.³⁰

The June 27, 2017 renewal order included similar evidence regarding Mahan Airways' operation of multiple Airbus aircraft subject to the Regulations, including, but not limited to, aircraft procured from or through Al Naser Airlines, on flights into and out of Iran, including from/to Moscow, Russia, Shanghai, China and Kabul, Afghanistan. The June 27, 2017 order also detailed evidence concerning a suspected planned or attempted diversion to Mahan of an Airbus A340 subject to the Regulations that had first been mentioned in OEE's December 13, 2016 renewal request.

The December 20, 2017 renewal order presented evidence that a Mahan employee attempted to initiate negotiations with a U.S. company for the purchase of an aircraft subject to the Regulations and classified under ECCN 9A610. Moreover, the order highlighted Al Naser Airlines' acquisition, via lease, of at least possession and/or control of a Boeing 737 (MSN 25361), bearing tail number YR-SEB, and an Airbus A320 (MSN 357), bearing tail number YR-SEA, from a Romanian company in violation of the TDO and the Regulations.³¹ Open source information indicates that after the December 20, 2017 renewal order publicly exposed Al Naser's acquisition of these two aircraft (MSNs 25361 and 357), the leases were

subsequently cancelled and the aircraft returned to their owner.

The December 20, 2017 renewal order also included evidence indicating that Mahan Airways was continuing to operate a number of aircraft subject to the Regulations, including aircraft originally procured from or through Al Naser Airlines, on flights into and out of Iran, including from/to Lahore, Pakistan, Shanghai, China, Ankara, Turkey, Kabul, Afghanistan, and Baghdad, Iraq.

The June 14, 2018 renewal order outlined evidence that Mahan began actively operating EP-MMT, an Airbus A340 aircraft (MSN 292) acquired in 2017 and previously registered in Kazakhstan under tail number UP-A4003, on international flights into and out of Iran.³² It also discussed evidence that Mahan continued to operate a number of aircraft subject to the Regulations, including, but not limited to, EP-MME, EP-MMF, and EP-MMH, on international flights into and out of Iran, including from/to Beijing, China.

The June 14, 2018 renewal order also noted OFAC's May 24, 2018 designation of Otik Aviation, a/k/a Otik Havacilik Sanayi Ve Ticaret Limited Sirketi, of Turkey, as an SDGT pursuant to Executive Order 13224, for providing material support to Mahan, as well as OFAC's designation as SDGTs of an additional twelve aircraft in which Mahan has an interest.³³ The June 14, 2018 order also cited the April 2018 arrest and arraignment of a U.S. citizen on a three-count criminal information filed in the United States District Court

for the District of New Jersey involving the unlicensed exports of U.S.-origin aircraft parts valued at over \$2 million to Iran, including to Mahan Airways.

The December 11, 2018 renewal order detailed publicly available information showing that Mahan Airways had continued operating a number of aircraft subject to the EAR, including, but not limited to, EP-MMB, EP-MME, EP-MMF, and EP-MMQ, on international flights into and out of Iran from/to Istanbul, Turkey, Guangzhou, China, Bangkok, Thailand, and Dubai, UAE.³⁴ It also discussed that OEE's continued investigation of Mahan Airways and its affiliates and agents had resulted in an October 2018 guilty plea by Arzu Sagsoz, a Turkish national, in the U.S. District Court for the District of Columbia, stemming from her involvement in a conspiracy to export a U.S.-origin aircraft engine, valued at approximately \$810,000, to Mahan.

The December 11, 2018 order also noted OFAC's September 14, 2018 designation of Mahan-related entities as SDGTs pursuant to Executive Order 13224, namely, My Aviation Company Limited, of Thailand, and Mahan Travel and Tourism SDN BHD, a/k/a Mahan Travel a/k/a Mihan Travel & Tourism SDN BHD, of Malaysia.³⁵ As general sales agents for Mahan Airways, these companies sold cargo space aboard Mahan Airways' flights, including on flights to Iran, and provided other services to or for the benefit of Mahan Airways and its operations.³⁶

The June 5, 2019 renewal order highlighted Mahan's continued violation of the TDO and the Regulations. An end-use check conducted by BIS in Malaysia in March

³² The Airbus A340 is powered by U.S.-origin engines that are subject to the Regulations and classified under ECCN 9A991.d. The Airbus A340 contains controlled U.S.-origin items valued at more than 10 percent of the total value of the aircraft and as a result is subject to the Regulations regardless of its location. The aircraft is classified under ECCN 9A991.b. The export or re-export of this aircraft to Iran requires U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations. On June 4, 2018, EP-MMT (MSN 292) flew from Bangkok, Thailand to Tehran, Iran.

³³ See 83 FR 27828 (June 14, 2018). OFAC's related press release stated in part that "[o]ver the last several years, Otik Aviation has procured and delivered millions of dollars in aviation-related spare and replacement parts for Mahan Air, some of which are procured from the United States and the European Union. As recently as 2017, Otik Aviation continued to provide Mahan Air with replacement parts worth well over \$100,000 per shipment, such as aircraft brakes." The twelve additional Mahan-related aircraft that were designated are: EP-MMA (MSN 20), EP-MMB (MSN 56), EP-MMC (MSN 282), EP-MMJ (MSN 526), EP-MMV (MSN 2079), EP-MNF (MSN 547), EP-MOD (MSN 3162), EP-MOM (MSN 3165), EP-MOP (MSN 2257), EP-MOQ (MSN 2261), EP-MOR (MSN 2392), and EP-MOS (MSN 2347). See <https://home.treasury.gov/news/press-releases/sm0395>. See also <https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20180524.aspx>.

³⁴ Flight tracking information showed that on December 10, 2018, EP-MMB (MSN 56) flew from Istanbul, Turkey to Tehran, Iran, and EP-MME (MSN 371) flew from Guangzhou, China to Tehran, Iran. Additionally, on December 6, 2018, EP-MMF (MSN 376) flew from Bangkok, Thailand to Tehran, Iran, and on December 9, 2018, EP-MMQ (MSN 449) flew on routes between Dubai, United Arab Emirates and Tehran, Iran.

³⁵ See 83 FR 34301 (July 19, 2018) (designation of Mahan Travel and Tourism SDN BHD on July 9, 2018), and 83 FR 53,359 (Oct. 22, 2018) (designation of My Aviation Company Limited and updating of entry for Mahan Travel and Tourism SDN BHD on September 14, 2018).

³⁶ OFAC's press release concerning its designation of My Aviation Company Limited on September 14, 2018, states in part that "[t]his Thailand-based company has disregarded numerous U.S. warnings, issued publicly and delivered bilaterally to the Thai government, to sever ties with Mahan Air." My Aviation provides cargo services to Mahan Airways, including freight booking, and works with local freight forwarding entities to ship cargo on regularly-scheduled Mahan Airways' flights to Tehran, Iran. My Aviation has also provided Mahan Airways with passenger booking services. See <https://home.treasury.gov/news/press-releases/sm484>.

³⁰ Specifically, on December 22, 2016, EP-MMD (MSN 164) flew from Dubai, UAE to Tehran, Iran. Between December 20 and December 22, 2016, EP-MMF (MSN 376) flew on routes from Tehran, Iran to Beijing, China and Istanbul, Turkey, respectively. Between December 26 and December 28, 2016, EP-MMH (MSN 391) flew on routes from Tehran, Iran to Kuala Lumpur, Malaysia.

³¹ The Airbus A320 is powered with U.S.-origin engines, which are subject to the EAR and classified under Export Control Classification ("ECCN") 9A991.d. The engines are valued at more than 10 percent of the total value of the aircraft, which consequently is subject to the EAR. The aircraft is classified under ECCN 9A991.b, and its export or reexport to Iran would require U.S. Government authorization pursuant to Sections 742.8 and 746.7 of the Regulations.

2019 uncovered evidence that, on approximately ten occasions, Mahan had caused, aided and/or abetted the unlicensed export of U.S.-origin items subject to the Regulations from the United States to Iran via Malaysia. The items included helicopter shafts, transmitters, and other aircraft parts, some of which are listed on the Commerce Control List and controlled on anti-terrorism grounds. The June 5, 2019 order also detailed publicly available flight tracking information showing that Mahan continued to unlawfully operate a number of aircraft subject to the EAR on flights into and out of Iran, including on routes to and from Damascus, Syria.³⁷

The June 5, 2019 order also described actions taken by both BIS and OFAC to thwart efforts by entities connected to or acting on behalf of Mahan Airways to violate U.S. export controls and sanctions related to Iran. On May 14, 2019, BIS added Manohar Nair, Basha Asmath Shaikh, and two co-located companies that they operate, Emirates Hermes General Trading and Presto Freight International, LLC, to the Entity List pursuant to Section 744.11 of the Regulations, including for engaging in activities to procure U.S.-origin items on Mahan's behalf.³⁸ On January 24, 2019, OFAC designated as SDGTs Flight Travel LLC, which is Mahan's general service agent in Yerevan, Armenia, and Qeshm Fars Air, an Iranian airline which operates two U.S.-origin Boeing 747s³⁹ and is owned or controlled by Mahan, and also linked to the Islamic Revolutionary Guard Corps-Qods Force (IRGC-QF).⁴⁰

The December 2, 2019 renewal order noted that OEE's on-going investigation revealed that U.S.-origin passenger flight and database management

software subject to the Regulations was provided to a company in Turkey and subsequently used to facilitate and service Mahan's operations into and out of Turkey in further violation of the Regulations.

Additionally, open source information, including flight tracking data and news articles published in October 2019, showed that Mahan Airways was now operating a U.S.-origin Boeing 747 on routes between Iranian airports in Tehran, Kish Island, and Mashhad. This aircraft, bearing Iranian tail number EP-MNB, appears to be one of the three aircraft that Mahan illegally acquired via Blue Airways of Armenia and U.K.-based Balli Group that resulted in the issuance of the original TDO.⁴¹ See *supra* at 10–12.

Evidence was also described in the December 2, 2019 renewal order showing that on or about November 11, 2019, Mahan caused, aided and/or abetted the unlicensed export of a U.S.-origin atomic absorption spectrometer, an item subject to the Regulations, from the United States to Iran via the UAE. Finally, publicly available flight tracking information showed that Mahan continued to unlawfully operate a number of aircraft subject to the EAR on flights into and out of Iran, including on routes to and from Guangzhou, China, Istanbul, Turkey, and Kuala Lumpur, Malaysia.⁴²

The May 29, 2020 renewal order cited Mahan's operation of EP-MMD, EP-MMF, and EP-MMI, aircraft originally acquired from Al Naser Airlines, on international flights into and out of Iran from/to Bangkok, Thailand, Dubai, UAE, and Shanghai, China in violation of the TDO and EAR.⁴³ The May 29, 2020 renewal order also detailed the indictment of Ali Abdullah Alhay and Issam Shammout, parties added to the TDO in May and July 2015, respectively, in the United States District Court for the District of Columbia. Alhay and Shammout were charged with, among

other violations, conspiring to export aircraft and parts to Mahan in violation of export control laws and the embargo on Iran beginning around August 2012 through May 2015.

In addition to detailing the operation of multiple aircraft in violation of the Regulations,⁴⁴ the November 24, 2020 renewal order discussed a related TDO issued on August 19, 2020, denying for 180 days the export privileges of Indonesia-based PT MS Aero Support ("PTMS Aero"), PT Antasena Kreasi ("PTAK"), PT Kandiyasa Energi Utama ("PTKEU"), Sunarko Kuntjoro, Triadi Senna Kuntjoro, and Satrio Wiharjo Sasmito based on their involvement in the unlicensed export of aircraft parts to Mahan Airways—often in coordination with Mustafa Ovieci, a Mahan executive.⁴⁵ These parties also facilitated the shipment of damaged Mahan parts to the United States for repair and subsequent export back to Iran in further violation of U.S. laws. In both instances, the fact that the items were destined to Iran/Mahan was concealed from U.S. companies, shippers, and freight forwarders.⁴⁶

The November 24, 2020 renewal order also includes actions taken by other U.S. government agencies such as OFAC's August 19, 2020 designation of UAE-based Parthia Cargo, its CEO Amin Mahdavi, and Delta Parts Supply FZC as SDGTs pursuant to Executive Order 13224 for providing "key parts and logistics services for Mahan Air. . . ." The OFAC press release further states, in part, that Mahdavi "has directly coordinated the shipment of parts on behalf of Mahan Air."⁴⁷ In addition, Mahdavi and Parthia Cargo were indicted in the United States District Court for the District of Columbia for violating sanctions on Iran.⁴⁸

Moreover, in October 2020, the U.S. District Court for the District of New Jersey sentenced Joyce Eliasbachus to 18 months of confinement based on her role in a conspiracy to export \$2 million dollars' worth of aircraft parts from the

³⁷ Specifically, on May 26, 2019, EP-MMJ (MSN 526) flew from Damascus, Syria to Tehran, Iran. In addition, on May 24, 2019, EP-MNF (MSN 547) flew on routes between Moscow, Russia and Tehran, and on May 23, 2019, EP-MMF (MSN 376) flew from Dubai, UAE to Tehran.

³⁸ See 84 FR 21233 (May 14, 2019).

³⁹ These 747s are registered in Iran with tail numbers EP-FAA and EP-FAB, respectively.

⁴⁰ OFAC's press release concerning these designations states that Qeshm Fars Air was being designated for "being owned or controlled by Mahan Air, as well as for assisting in, sponsoring, or providing financial, material or technological support for, or financial or other services to or in support of, the IRGC-QF," and that Flight Travel LLC was being designated for "acting for or on behalf of Mahan Air." It further states, *inter alia*, that "Mahan Air employees fill Qeshm Fars Air management positions, and Mahan Air provides technical and operational support for Qeshm Fars Air, facilitating the airline's illicit operations." See <https://home.treasury.gov/news/press-releases/sm590>. See also <https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20190124.aspx>.

⁴¹ The same open sources indicated this aircraft continued to operate on flights within Iran to include a May 11, 2020 flight from Tehran, Iran to Kerman, Iran.

⁴² Publicly available flight tracking information shows that on November 23, 2019, EP-MME (MSN 371) flew from Guangzhou, China to Tehran, Iran, and on November 21, 2019, EP-MMF (MSN 376) flew on routes between Istanbul, Turkey and Tehran, Iran. Additionally, on November 20, 2019, EP-MMQ (MSN 449) flew from Kuala Lumpur, Malaysia, to Tehran, Iran.

⁴³ Publicly available flight tracking information shows that on May 8, 2020, EP-MMD (MSN 164) flew on routes between Bangkok, Thailand and Tehran, Iran, and on May 10, 2020, EP-MMF (MSN 376) flew on routes between Dubai, UAE and Tehran. In addition, on May 9, 2020, EP-MMI (MSN 416) flew on routes between Shanghai, China and Tehran.

⁴⁴ Publicly available flight tracking information shows that on November 13, 2020, EP-MMQ (MSN 449) flew on routes between Istanbul, Turkey and Tehran, Iran, and on November 15, 2020, EP-MMI (MSN 416) flew on routes between Shenzhen, China and Tehran.

⁴⁵ See 85 FR 52321 (Aug. 25, 2020).

⁴⁶ PTMS Aero, PTAK, PTKEU, and Sunarko Kuntjoro were each indicted in December 2019 on multiple counts related to this conspiracy in the United States District Court for the District of Columbia.

⁴⁷ <https://home.treasury.gov/news/press-releases/sm1098>.

⁴⁸ <https://www.justice.gov/opa/pr/iranian-national-and-uae-business-organization-charged-criminal-conspiracy-violate-iranian>.

United States to Iran, including to Mahan Airways.⁴⁹

OEE's on-going investigation since the November 24, 2020 renewal order further demonstrates the nature of Mahan Airway's prior actions and its continued actions in violation of the TDO and the Regulations, both directly and through its widespread network of procurement agents, front companies, and intermediaries. In particular, Mahan Airways continues to operate a number of aircraft subject to the EAR, including, but not limited to, EP-MMH, EP-MMI, and EP-MMQ, on international flights into and out of Iran from/to Shanghai, China, and Dubai, United Arab Emirates, and Guangzhou, China, respectively. These flights have continued since the April 27, 2021 renewal request was submitted.⁵⁰

Open source news reporting also indicates that after five years of maintenance, Mahan Air is now operating EP-MNE, a Boeing 747 on domestic flights within Iran.⁵¹ In addition to this aircraft being one of the original three Boeing aircraft Mahan obtained in violation of the Regulations, any service or maintenance involving parts subject to the EAR would further violate the TDO.

Through these prior and on-going investigative efforts, OEE and its law enforcement partners are working to disrupt Mahan's illicit acquisition of aircraft and parts as well as its role in transporting or forwarding such items.

C. Findings

Under the applicable standard set forth in Section 766.24 of the Regulations and my review of the entire record, I find that the evidence presented by BIS convincingly demonstrates that the denied persons have acted in violation of the Regulations and the TDO; that such violations have been significant, deliberate and covert; and that given the foregoing and the nature of the matters under investigation, there is a likelihood of imminent violations. Therefore, renewal of the TDO is necessary in the public interest to prevent imminent violation of the Regulations and to give notice to companies and individuals in

the United States and abroad that they should continue to avoid dealing with Mahan Airways and Al Naser Airlines and the other denied persons, in connection with export and reexport transactions involving items subject to the Regulations and in connection with any other activity subject to the Regulations.

III. Order

It is therefore ordered:

First, that MAHAN AIRWAYS, Mahan Tower, No. 21, Azadegan St., M.A. Jenah Exp. Way, Tehran, Iran; PEJMAN MAHMOOD KOSARAYANIFARD A/K/A KOSARIAN FARD, P.O. Box 52404, Dubai, United Arab Emirates; MAHMOUD AMINI, G#22 Dubai Airport Free Zone, P.O. Box 393754, Dubai, United Arab Emirates, and P.O. Box 52404, Dubai, United Arab Emirates, and Mohamed Abdulla Alqaz Building, Al Maktoum Street, Al Rigga, Dubai, United Arab Emirates; KERMAN AVIATION A/K/A GIE KERMAN AVIATION, 42 Avenue Montaigne 75008, Paris, France; SIRJANCO TRADING LLC, P.O. Box 8709, Dubai, United Arab Emirates; MAHAN AIR GENERAL TRADING LLC, 19th Floor Al Moosa Tower One, Sheik Zayed Road, Dubai 40594, United Arab Emirates; MEHDI BAHAMI, Mahan Airways-Istanbul Office, Cumhuriye Cad. Sibil Apt No: 101 D:6, 34374 Emadad, Sisli Istanbul, Turkey; AL NASER AIRLINES A/K/A AL-NASER AIRLINES A/K/A AL NASER WINGS AIRLINE A/K/A ALNASER AIRLINES AND AIR FREIGHT LTD., Home 46, Al-Karrada, Babil Region, District 929, St 21, Beside Al Jadirya Private Hospital, Baghdad, Iraq, and Al Amirat Street, Section 309, St. 3/H.20, Al Mansour, Baghdad, Iraq, and P.O. Box 28360, Dubai, United Arab Emirates, and P.O. Box 911399, Amman 11191, Jordan; ALI ABDULLAH ALHAY A/K/A ALI ALHAY A/K/A ALI ABDULLAH AHMED ALHAY, Home 46, Al-Karrada, Babil Region, District 929, St 21, Beside Al Jadirya Private Hospital, Baghdad, Iraq, and Anak Street, Qatif, Saudi Arabia 61177; BAHAR SAFWA GENERAL TRADING, P.O. Box 113212, Citadel Tower, Floor-5, Office #504, Business Bay, Dubai, United Arab Emirates, and P.O. Box 8709, Citadel Tower, Business Bay, Dubai, United Arab Emirates; SKY BLUE BIRD GROUP A/K/A SKY BLUE BIRD AVIATION A/K/A SKY BLUE BIRD LTD A/K/A SKY BLUE BIRD FZC, P.O. Box 16111, Ras Al Khaimah Trade Zone, United Arab Emirates; and ISSAM SHAMMOUT A/K/A MUHAMMAD ISAM MUHAMMAD ANWAR NUR SHAMMOUT A/K/A ISSAM ANWAR, Philips Building, 4th Floor, Al Fardous

Street, Damascus, Syria, and Al Kolaa, Beirut, Lebanon 151515, and 17-18 Margaret Street, 4th Floor, London, W1W 8RP, United Kingdom, and Cumhuriyet Mah. Kavakli San St. Fulya, Cad. Hazar Sok. No.14/A Silivri, Istanbul, Turkey, and when acting for or on their behalf, any successors or assigns, agents, or employees (each a "Denied Person" and collectively the "Denied Persons") may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or engaging in any other activity subject to the EAR; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or from any other activity subject to the EAR.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of a Denied Person any item subject to the EAR;

B. Take any action that facilitates the acquisition or attempted acquisition by a Denied Person of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby a Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from a Denied Person of any item subject to the EAR that has been exported from the United States;

D. Obtain from a Denied Person in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by a Denied Person, or service any item, of whatever

⁴⁹ Eliasbachus' arrest and arraignment were detailed in the June 14, 2018 renewal order, as described *supra* at 21.

⁵⁰ Publicly available flight tracking information shows that on May 14, 2021, EP-MMH (MSN 391) flew on routes between Shanghai, China and Tehran, Iran, and on May 13, 2021, EP-MMI (MSN 416) flew on routes between Dubai, United Arab Emirates and Tehran. In addition, on May 20, 2021, EP-MMQ (MSN 346) flew on routes between Guangzhou, China and Tehran.

⁵¹ <https://simpleflying.com/mahan-air-747-300-flies-again/>.

origin, that is owned, possessed or controlled by a Denied Person if such service involves the use of any item subject to the EAR that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, after notice and opportunity for comment as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to a Denied Person by ownership, control, position of responsibility, affiliation or other connection in the conduct of trade or business may also be made subject to the provisions of this Order.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the EAR where the only items involved that are subject to the EAR are the foreign-produced direct product of U.S.-origin technology.

In accordance with the provisions of Sections 766.24(e) of the EAR, Mahan Airways, Al Naser Airlines, Ali Abdullah Alhay, and/or Bahar Safwa General Trading may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202-4022. In accordance with the provisions of Sections 766.23(c)(2) and 766.24(e)(3) of the EAR, Pejman Mahmood Kosarayanifard, Mahmoud Amini, Kerman Aviation, Sirjanco Trading LLC, Mahan Air General Trading LLC, Mehdi Bahrami, Sky Blue Bird Group, and/or Issam Shammout may, at any time, appeal their inclusion as a related person by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202-4022.

In accordance with the provisions of Section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. A renewal request may be opposed by Mahan Airways, Al Naser Airlines, Ali Abdullah Alhay, and/or Bahar Safwa General Trading as provided in Section 766.24(d), by filing a written submission with the Assistant Secretary of Commerce for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be provided to Mahan Airways, Al Naser Airlines, Ali Abdullah Alhay, and Bahar Safwa General Trading and each related

person, and shall be published in the **Federal Register**.

This Order is effective immediately and shall remain in effect for 180 days.

Dated: May 21st, 2021.

Kevin J. Kurland,

Acting Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 2021-11194 Filed 5-26-21; 8:45 am]

BILLING CODE 3510-DT-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-549-842]

Passenger Vehicle and Light Truck Tires From Thailand: Final Affirmative Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that passenger vehicle and light truck tires (passenger tires) from Thailand are being, or are likely to be, sold in the United States at less than fair value (LTFV) for the period of investigation (POI) April 1, 2019, through March 31, 2020.

DATES: Applicable May 27, 2021.

FOR FURTHER INFORMATION CONTACT: Leo Ayala or Myrna Lobo, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3945 or (202) 482-2371, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 6, 2021, Commerce published in the **Federal Register** its preliminary affirmative determination in the LTFV investigation of passenger tires from Thailand, in which we also postponed the final determination until May 21, 2021.¹ We invited interested parties to comment on the *Preliminary Determination*. A summary of the events that occurred since Commerce published the *Preliminary Determination* may be found in the Issues and Decision Memorandum.²

¹ See *Passenger Vehicle and Light Truck Tires from the Republic of Thailand: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 86 FR 517 (January 6, 2021) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

² See Memorandum, "Issues and Decision Memorandum for the Final Affirmative

Scope of the Investigation

The products covered by this investigation are passenger tires from Thailand. For a complete description of the scope of this investigation, see Appendix I.

Scope Comments

During the course of this investigation, Commerce received scope comments from interested parties. Commerce issued a Preliminary Scope Decision Memorandum to address these comments.³ We received comments from interested parties on the Preliminary Scope Decision Memorandum, which we addressed in the Final Scope Decision Memorandum.⁴ With the exception of one revision to correct a typographical error, Commerce is not modifying the scope language as it appeared in the correction to the *Preliminary Determination*.⁵ See Appendix I for the final scope of the investigation.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice at Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn>.

Determination in the Less-Than-Fair-Value Investigation of Passenger Vehicle and Light Truck Tires from Thailand," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³ See Memorandum, "Passenger Vehicle and Light Truck Tires from the Republic of Korea, Taiwan, Thailand, and the Socialist Republic of Vietnam: Preliminary Scope Comments Decision Memorandum," dated December 29, 2020 (Preliminary Scope Decision Memorandum).

⁴ See Memorandum, "Passenger Vehicle and Light Truck Tires from the Republic of Korea, Taiwan, Thailand, and the Socialist Republic of Vietnam: Scope Comments Final Decision Memorandum," dated concurrently with this notice (Final Scope Decision Memorandum).

⁵ See *Passenger Vehicle and Light Truck Tires from the Republic of Korea, Taiwan, Thailand, and the Socialist Republic of Vietnam: Notice of Correction to Preliminary Determinations in Less-Than-Fair-Value Investigations*, 86 FR 7252 (January 27, 2021).

Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of an on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act).⁶

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings related to our request for information in lieu of verification, we made changes to the margin calculations regarding Sumitomo Rubber (Thailand) Co., Ltd. (SRT) and LLIT (Thailand) Co., Ltd. (LLIT). For a discussion of these changes, see Comments 1 through 5 of the Issues and Decision Memorandum.⁷

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all other producers and exporters not individually investigated shall be equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding rates that are zero, *de minimis*, or determined entirely under section 776 of the Act. Pursuant to section 735(c)(5)(B) of the Act, if the estimated weighted-average dumping margins established for all exporters and producers individually examined are zero, *de minimis* or determined based entirely on facts otherwise available, Commerce may use any reasonable method to establish the estimated weighted-average dumping margin for all other producers or exporters.

In this investigation, Commerce calculated estimated weighted-average dumping margins for SRT and LLIT that are not zero, *de minimis*, or based entirely on facts otherwise available. Commerce calculated the all-others rate using a weighted-average of the estimated weighted-average dumping margins calculated for the individually examined mandatory respondents using each company's publicly-ranged total

U.S. sale values for the merchandise under consideration.⁸

Final Determination

The final estimated weighted-average dumping margins are as follows:

Exporter/producer	Estimated weighted-average dumping margin (percent)
Sumitomo Rubber (Thailand) Co., Ltd	14.62
LLIT (Thailand) Co., Ltd	21.09
All Others	17.08

Disclosure

We intend to disclose the calculations performed in this final determination within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of passenger tires from Thailand, as described in Appendix I of this notice, which are entered, or withdrawn from warehouse, for consumption on or after January 6, 2021, the date of publication in the **Federal Register** of the affirmative *Preliminary Determination*.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), we will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-

others rate, as follows: (1) The cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this final determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all others estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) of passenger tires no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all cash deposits posted will be refunded and suspension of liquidation will be lifted. If the ITC determines that such injury does exist, Commerce will issue an AD order directing CBP to assess, upon further instruction by Commerce, AD duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the "Continuation of Suspension of Liquidation" section.

Notification Regarding Administrative Protective Orders

This notice will serve as a final reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

⁶ See Commerce's Letter, "In Lieu of Verification Supplemental," dated March 8, 2021; see also SRT's Letter, "Passenger Vehicle and Light Truck Tires from the Republic of Korea (A-549-842): Verification Questionnaire Response," dated March 16, 2021; and LLIT's Letter, "Passenger Vehicle and Light Truck Tires from South Korea: Response to Request for Information In Lieu of Verification," dated March 24, 2021.

⁷ See Issues and Decision Memorandum.

⁸ With two respondents under examination, Commerce normally calculates: (A) A weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents; (B) a simple average of the estimated weighted-average dumping margins calculated for the examined respondents; and (C) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's publicly-ranged U.S. sale quantities for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. See, e.g., *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (September 1, 2010). As complete publicly ranged sales data was available, Commerce based the all-others rate on the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, please see Memorandum, "Final Determination of the Less-Than-Fair Value Investigation of Passenger Vehicles and Light Truck Tires from Korea: Rate for Non-Examined Companies," dated concurrently with this FR notice.

Notification to Interested Parties

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: May 21, 2021.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations.

Appendix I

Scope of the Investigation

The scope of this investigation is passenger vehicle and light truck tires. Passenger vehicle and light truck tires are new pneumatic tires, of rubber, with a passenger vehicle or light truck size designation. Tires covered by this investigation may be tube-type, tubeless, radial, or non-radial, and they may be intended for sale to original equipment manufacturers or the replacement market.

Subject tires have, at the time of importation, the symbol "DOT" on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Subject tires may also have the following prefixes or suffix in their tire size designation, which also appears on the sidewall of the tire:

Prefix designations:

P—Identifies a tire intended primarily for service on passenger cars.

LT—Identifies a tire intended primarily for service on light trucks.

Suffix letter designations:

LT—Identifies light truck tires for service on trucks, buses, trailers, and multipurpose passenger vehicles used in nominal highway service.

All tires with a "P" or "LT" prefix, and all tires with an "LT" suffix in their sidewall markings are covered by this investigation regardless of their intended use.

In addition, all tires that lack a "P" or "LT" prefix or suffix in their sidewall markings, as well as all tires that include any other prefix or suffix in their sidewall markings, are included in the scope, regardless of their intended use, as long as the tire is of a size that fits passenger cars or light trucks. Sizes that fit passenger cars and light trucks include, but are not limited to, the numerical size designations listed in the passenger car section or light truck section of the Tire and Rim Association Year Book, as updated annually. The scope includes all tires that are of a size that fits passenger cars or light trucks, unless the tire falls within one of the specific exclusions set out below.

Passenger vehicle and light truck tires, whether or not attached to wheels or rims, are included in the scope. However, if a subject tire is imported attached to a wheel or rim, only the tire is covered by the scope.

Specifically excluded from the scope are the following types of tires:

- (1) Racing car tires; such tires do not bear the symbol "DOT" on the sidewall and may be marked with "ZR" in size designation;
- (2) pneumatic tires, of rubber, that are not new, including recycled and retreaded tires;
- (3) non-pneumatic tires, such as solid rubber tires;

(4) tires designed and marketed exclusively as temporary use spare tires for passenger vehicles which, in addition, exhibit each of the following physical characteristics:

(a) The size designation and load index combination molded on the tire's sidewall are listed in Table PCT-1R ("T" Type Spare Tires for Temporary Use on Passenger Vehicles) or PCT-1B ("T" Type Diagonal (Bias) Spare Tires for Temporary Use on Passenger Vehicles) of the Tire and Rim Association Year Book.

(b) the designation "T" is molded into the tire's sidewall as part of the size designation, and,

(c) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by Tire and Rim Association Year Book, and the rated speed is 81 MPH or a "M" rating;

(5) Tires designed and marketed exclusively as temporary use spare tires for light trucks which, in addition, exhibit each of the following physical characteristics:

(a) The tires have a 265/70R17, 255/80R17, 265/70R16, 245/70R17, 245/75R17, 245/70R18, or 265/70R18 size designation;

(b) "Temporary Use Only" or "Spare" is molded into the tire's sidewall;

(c) the tread depth of the tire is no greater than 6.2 mm; and

(d) Uniform Tire Quality Grade Standards ("UTQG") ratings are not molded into the tire's sidewall with the exception of 265/70R17 and 255/80R17 which may have UTQG molded on the tire sidewall;

(6) tires designed and marketed exclusively for specialty tire (ST) use which, in addition, exhibit each of the following conditions:

(a) The size designation molded on the tire's sidewall is listed in the ST sections of the Tire and Rim Association Year Book,

(b) the designation "ST" is molded into the tire's sidewall as part of the size designation,

(c) the tire incorporates a warning, prominently molded on the sidewall, that the tire is "For Trailer Service Only" or "For Trailer Use Only",

(d) the load index molded on the tire's sidewall meets or exceeds those load indexes listed in the Tire and Rim Association Year Book for the relevant ST tire size, and

(e) either

(i) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by Tire and Rim Association Year Book, and the rated speed does not exceed 81 MPH or an "M" rating; or

(ii) the tire's speed rating molded on the sidewall is 87 MPH or an "N" rating, and in either case the tire's maximum pressure and maximum load limit are molded on the sidewall and either

(1) both exceed the maximum pressure and maximum load limit for any tire of the same size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book; or

(2) if the maximum cold inflation pressure molded on the tire is less than any cold inflation pressure listed for that size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book, the maximum load limit molded on the tire is higher than the

maximum load limit listed at that cold inflation pressure for that size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book;

(7) tires designed and marketed exclusively for off-road use and which, in addition, exhibit each of the following physical characteristics:

(a) The size designation and load index combination molded on the tire's sidewall are listed in the off-the-road, agricultural, industrial or ATV section of the Tire and Rim Association Year Book,

(b) in addition to any size designation markings, the tire incorporates a warning, prominently molded on the sidewall, that the tire is "Not For Highway Service" or "Not for Highway Use",

(c) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by the Tire and Rim Association Year Book, and the rated speed does not exceed 55 MPH or a "G" rating, and

(d) the tire features a recognizable off-road tread design;

(8) Tires designed and marketed for off-road use as all-terrain-vehicle (ATV) tires or utility-terrain-vehicle (UTV) tires, and which, in addition, exhibit each of the following characteristics:

(a) The tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by the Tire and Rim Association Year Book, and the rated speed does not exceed 87 MPH or an "N" rating, and

(b) both of the following physical characteristics are satisfied:

(i) The size designation and load index combination molded on the tire's sidewall does not match any of those listed in the passenger car or light truck sections of the Tire and Rim Association Year Book, and

(ii) The size designation and load index combination molded on the tire's sidewall matches any of the following size designation (American standard or metric) and load index combinations:

American standard	Metric size	Load index
26x10R12	254/70R/12	72
27x10R14	254/65R/14	73
28x10R14	254/70R/14	75
28x10R14	254/70R/14	86
30x10R14	254/80R/14	79
30x10R15	254/75R/15	78
30x10R14	254/80R/14	90
31x10R14	254/85R/14	81
32x10R14	254/90R/14	95
32x10R15	254/85R/15	83
32x10R15	254/85R/15	94
33x10R15	254/90R/15	86
33x10R15	254/90R/15	95
35x9.50R15	241/105R/15	82
35x10R15	254/100R/15	97

The products covered by this investigation are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.10.10.10, 4011.10.10.20, 4011.10.10.30, 4011.10.10.40, 4011.10.10.50, 4011.10.10.60, 4011.10.10.70, 4011.10.50.00, 4011.20.10.05, and 4011.20.50.10. Tires meeting the scope

description may also enter under the following HTSUS subheadings: 4011.90.10.10, 4011.90.10.50, 4011.90.20.10, 4011.90.20.50, 4011.90.80.10, 4011.90.80.50, 8708.70.45.30, 8708.70.45.46, 8708.70.45.48, 8708.70.45.60, 8708.70.60.30, 8708.70.60.45, and 8708.70.60.60. While HTSUS subheadings are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Changes from the Preliminary Determination
- IV. Scope of the Investigation
- V. Discussion of the Issues
 - Comment 1: SRT's U.S. Date of Sale
 - Comment 2: SRT's Direct Expenses
 - Comment 3: SRT's Warranty Costs
 - Comment 4: SRT's Differential Pricing Analysis
 - Comment 5: Whether LLIT Satisfies the Requirements for the Duty Drawback Adjustment and the Appropriate Calculation Methodology for LLIT and SRT
- VI. Recommendation

[FR Doc. 2021-11264 Filed 5-26-21; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-122-857]

Certain Softwood Lumber Products From Canada: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is conducting an administrative review of the antidumping duty (AD) order on certain softwood lumber products (softwood lumber) from Canada. The period of review (POR) is January 1, 2019, through December 31, 2019. Commerce preliminarily determines that the producers/exporters subject to this review made sales of subject merchandise at less than normal value. We invite interested parties to comment on these preliminary results.

DATES: Applicable May 27, 2021.

FOR FURTHER INFORMATION CONTACT: Jeff Pedersen (Canfor), and Maisha Cryor (West Fraser), AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington,

DC 20230; telephone: (202) 482-2769 and (202) 482-5831, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 10, 2020, Commerce published in the **Federal Register** the notice of initiation of an AD administrative review on softwood lumber from Canada.¹ On March 10, 2020, based on timely requests for administrative reviews, Commerce initiated an AD administrative review covering 268 companies and has not rescinded the review of any of these companies.² Thus, the review covers 268 producers/exporters of the subject merchandise, including mandatory respondents Canfor³ and West Fraser.⁴ The remaining companies were not selected for individual examination and remain subject to this administrative review. On April 24, 2020 and July 21, 2020, Commerce tolled all deadlines in administrative reviews by 50 days and 60 days, respectively, thereby extending the deadline for issuing the preliminary results of this review.⁵ On January 8, 2021, we extended the preliminary results until May 20, 2021.⁶

Scope of the Order

The product covered by this review is softwood lumber from Canada. For a full description of the scope, *see* the Preliminary Decision Memorandum.⁷

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 13860 (March 10, 2020).

² *Id.*

³ As described in the Preliminary Decision Memorandum, we have treated Canfor Corporation, Canadian Forest Products Ltd., and Canfor Wood Products Marketing Ltd. (collectively, Canfor) as a single entity. See Memorandum, "Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review: Certain Softwood Lumber Products from Canada; 2019," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum) at 5.

⁴ As described in the Preliminary Decision Memorandum, we have treated West Fraser Mills Ltd., Blue Ridge Lumber Inc., Manning Forest Products Ltd., and Sundre Forest Products Inc. (collectively, West Fraser) as a single entity. See Preliminary Decision Memorandum at 5-6.

⁵ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID-19," dated April 24, 2020; and Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews," dated July 21, 2020.

⁶ See Memorandum "Extension of Deadline for Preliminary Results of Second Antidumping Duty Administrative Review," dated January 8, 2021.

⁷ See Preliminary Decision Memorandum at 3-5.

(the Act). For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. A list of the topics is included in the Preliminary Decision Memorandum as Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum is available at <http://enforcement.trade.gov/frn/>.

Preliminary Results of the Administrative Review

We preliminarily determine that the following weighted-average dumping margins exist for the period January 1, 2019, through December 31, 2019:

Exporter/producer	Weighted-average margin (percent)
Canfor Corporation/Canadian Forest Products Ltd./Canfor Wood Products Marketing Ltd	18.62
West Fraser Mills Ltd./Blue Ridge Lumber Inc./Manning Forest Products Ltd./and Sundre Forest Products Inc.	6.58
Non-Selected Companies	12.05

Rate for Companies Not Individually Examined

Generally, when calculating margins for non-selected respondents, Commerce looks to section 735(c)(5) of the Act for guidance, which provides instructions for calculating the all-others margin in an investigation. Section 735(c)(5)(A) of the Act provides that when calculating the all-others margin, Commerce will exclude any zero and *de minimis* weighted-average dumping margins, as well as any weighted-average dumping margins based on total facts available. Accordingly, Commerce's usual practice has been to average the margins for selected respondents, excluding margins that are zero, *de minimis*, or based entirely on facts available.

In this review, we calculated a weighted-average dumping margin of 18.62 percent for Canfor and 6.58 percent for West Fraser. In accordance with section 735(c)(5)(A) of the Act, Commerce assigned the weighted-average of these two calculated weighted-average dumping margins, 12.05 percent, to the non-selected companies in these preliminary results.

The rate calculated for the non-selected companies is a weighted-average percentage margin which is calculated based on the U.S. values of the two reviewed companies with an affirmative AD margin.⁸ Accordingly, we have applied a rate of 12.05 percent to the non-selected companies.⁹

Disclosure

We intend to disclose the calculations performed for these preliminary results to the interested parties within five days after public announcement of the preliminary results in accordance with 19 CFR 351.224(b).

Public Comment

Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs to the Assistant Secretary for Enforcement and Compliance not later than 30 days after the date of publication of this notice, unless Commerce alters the time limit. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than seven days after the date for filing case briefs.¹⁰ Parties who submit case briefs or rebuttal briefs in this administrative review are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹¹ Commerce has modified certain of its requirements for service of documents containing business proprietary information, until further notice.¹²

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. An electronically filed document must be received successfully in its entirety via ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.¹³ Requests should contain: (1) The party's name,

address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act, unless extended.

Assessment Rate

Upon issuance of the final results, Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.¹⁴ If a respondent's weighted-average dumping margin is above *de minimis* in the final results of this review, we will calculate an importer-specific assessment rate based on the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of the sales in accordance with 19 CFR 351.212(b)(1).¹⁵ If a respondent's weighted-average dumping margin or an importer-specific assessment rate is zero or *de minimis* in the final results of review, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties in accordance with the *Final Modification for Reviews*.¹⁶ The final results of this administrative review shall be the basis for the assessment of antidumping duties on entries of merchandise under review and for future deposits of estimated duties, where applicable. We intend to issue liquidation instructions to CBP no earlier than 35 days after date of publication of the final results of this review in the **Federal Register**.

Cash Deposit Requirements

The following cash deposit requirements for estimated antidumping duties will be effective upon publication of the notice of final results of this review for all shipments of softwood lumber from Canada entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section

751(a)(2)(C) of the Act: (1) The cash deposit rate for companies subject to this review will be equal to the dumping margin established in the final results of the review; (2) for merchandise exported by companies not covered in this review but covered in a prior segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value (LTFV) investigation but the producer is, the cash deposit rate will be the rate established for the most recently completed segment for the producer of the merchandise; (4) the cash deposit rate for all other producers or exporters will continue to be the 6.04 percent, the all-others rate established in the LTFV investigation.¹⁷ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this period of review. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

Commerce is issuing and publishing these results in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.221(b)(4).

Dated: May 20, 2021.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Affiliation and Collapsing of Affiliates
- V. Particular Market Situation Allegation
- VI. Unexamined Respondents
- VII. Discussion of the Methodology
- VIII. Recommendation

Appendix II

Non-Selected Companies Under Review

1. 0729670 B.C. Ltd. DBA Anderson Sales

¹⁷ See *Certain Softwood Lumber Products from Canada: Antidumping Duty Order and Partial Amended Final Determination*, 83 FR 350 (January 3, 2018).

⁸ See *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (September 1, 2010).

⁹ See Memorandum, "Calculation of the Rate for Non-Selected Respondents," dated concurrently with this notice. A list of the non-selected companies under review is included as Attachment II.

¹⁰ See 19 CFR 351.309(d); and 19 CFR 351.303 (for general filing requirements).

¹¹ See 19 CFR 351.309(c)(2) and (d)(2).

¹² See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 17006 (March 26, 2020); and *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

¹³ See 19 CFR 351.310(c).

¹⁴ See 19 CFR 351.212(b).

¹⁵ In these preliminary results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012) (*Final Modification for Reviews*).

¹⁶ See *Final Modification for Reviews*, 77 FR at 8103; and 19 CFR 351.106(c)(2).

2. 1074712 BC Ltd.
3. 258258 B.C. Ltd., dba Pacific Coast Cedar Products
4. 5214875 Manitoba Ltd.
5. 752615 B.C. Ltd.
6. 9224-5737 Quebec Inc. (aka A.G. Bois)
7. A.B. Cedar Shingle Inc.
8. Absolute Lumber Products Ltd.
9. AJ Forest Products Ltd.
10. Alberta Spruce Industries Ltd.
11. Aler Forest Products Ltd.
12. Alpa Lumber Mills Inc.
13. American Pacific Wood Products
14. Anbrook Industries Ltd.
15. Andersen Pacific Forest Products Ltd.
16. Anglo American Cedar Products Ltd.; Anglo-American Cedar Products Ltd.
17. Antrim Cedar Corporation
18. Aquila Cedar Products Ltd.
19. Arbec Lumber Inc.
20. Aspen Planers Ltd.
21. B&L Forest Products Ltd.
22. B.B. Pallets Inc.
23. Babine Forest Products Limited
24. Bakerview Forest Products Inc.
25. Bardobec Inc.
26. Barrette-Chapais Ltee
27. BarretteWood Inc.
28. Benoît & Dionne Produits Forestiers Ltee (aka Benoît & Dionne Forest Products Ltd.)
29. Best Quality Cedar Products Ltd.
30. Blanchet Multi Concept Inc.
31. Blanchette & Blanchette Inc.
32. Bois Aisé de Montréal Inc.
33. Bois Bonsaï Inc.
34. Bois Daaquam Inc.
35. Bois D'oeuvre Cedrico Inc. (aka Cedrico Lumber Inc.)
36. Bois et Solutions Marketing SPEC, Inc.
37. Boisaco Inc.
38. Boscus Canada Inc.
39. Boucher Bros. Lumber Ltd.
40. BPWood Ltd.
41. Bramwood Forest Inc.
42. Brink Forest Products Ltd.
43. Brunswick Valley Lumber Inc.
44. Busque & Laflamme Inc.
45. C&C Wood Products Ltd.
46. Caledonia Forest Products Inc.
47. Campbell River Shake & Shingle Co. Ltd.
48. Canadian American Forest Products Ltd.
49. Canadian Wood Products Inc.
50. Canasia Forest Industries Ltd.
51. Canusa Cedar Inc.
52. Canyon Lumber Company Ltd.
53. Careau Bois Inc.
54. Carrier & Begin Inc.
55. Carrier Forest Products Ltd.
56. Carrier Lumber Ltd.
57. Carter Forest Products Inc.
58. Cedar Valley Holdings Ltd.
59. Cedarline Industries Ltd.
60. Central Alberta Pallet Supply
61. Central Cedar Ltd.
62. Central Forest Products Inc.
63. Centurion Lumber Ltd.
64. Chaleur Sawmills LP
65. Channel-ex Trading Corporation
66. Clair Industrial Development Corp. Ltd.
67. Clermond Hamel Ltée
68. CNH Products Inc.
69. Coast Clear Wood Ltd.
70. Coast Mountain Cedar Products Ltd.
71. Commonwealth Plywood Co. Ltd.
72. Comox Valley Shakes Ltd.
73. Conifex Fibre Marketing Inc.
74. Cowichan Lumber Ltd.
75. CS Manufacturing Inc. (dba Cedarshed)
76. CWP—Industriel Inc.
77. CWP—Montréal Inc.
78. D & D Pallets Ltd.
79. Dakeryn Industries Ltd.
80. Decker Lake Forest Products Ltd.
81. Delco Forest Products Ltd.
82. Delta Cedar Specialties Ltd.
83. Devon Lumber Co. Ltd.
84. DH Manufacturing Inc.
85. Direct Cedar Supplies Ltd.
86. Doubletree Forest Products Ltd.
87. Downie Timber Ltd.
88. Dunkley Lumber Ltd.
89. EACOM Timber Corporation
90. East Fraser Fiber Co. Ltd.
91. Edgewood Forest Products Inc.
92. ER Probyn Export Ltd.
93. Eric Goguen & Sons Ltd.
94. Falcon Lumber Ltd.
95. Fontaine Inc.
96. Foothills Forest Products Inc.
97. Fornebu Lumber Company Inc.
98. Fraser Specialty Products Ltd.
99. Frasersview Cedar Products
100. FraserWood Inc.
101. FraserWood Industries Ltd.
102. Furtado Forest Products Ltd.
103. G & R Cedar Ltd.
104. Galloway Lumber Company Ltd.
105. Glandell Enterprises Inc.
106. Goat Lake Forest Products Ltd.
107. Goldband Shake & Shingle Ltd.
108. Golden Ears Shingle Ltd.
109. Goldwood Industries Ltd.
110. Goodfellow Inc.
111. Gorman Bros. Lumber Ltd.
112. Groupe Crête Chertsey Inc.
113. Groupe Crête ivision St-Faustin Inc.
114. Groupe Lebel Inc.
115. Groupe Lignarex Inc.
116. H.J. Crabbe & Sons Ltd.
117. Haida Forest Products Ltd.
118. Harry Freeman & Son Ltd.
119. Hornepayne Lumber LP
120. Imperial Cedar Products Ltd.
121. Imperial Shake Co. Ltd.
122. Independent Building Materials Distribution Inc.
123. Interfor Corporation
124. Island Cedar Products Ltd.
125. Ivor Forest Products Ltd.
126. J&G Log Works Ltd.
127. J.D. Irving, Limited
128. J.H. Huscroft Ltd.
129. Jan Woodlands (2001) Inc.
130. Jasco Forest Products Ltd.
131. Jazz Forest Products Ltd.
132. Jhaji Lumber Corporation
133. Kalesnikoff Lumber Co. Ltd.
134. Kan Wood Ltd.
135. Kebois Ltée/Ltd
136. Keystone Timber Ltd.
137. Kootenay Innovative Wood Ltd.
138. Lafontaine Lumber Inc.
139. Langevin Forest Products Inc.
140. Lecours Lumber Co. Limited
141. Ledwidge Lumber Co. Ltd.
142. Leisure Lumber Ltd.
143. Les Bois d'oeuvre Beaudoin Gauthier Inc.
144. Les Bois Martek Lumber
145. Les Bois Traités M.G. Inc.
146. Les Chantiers de Chibougamau Ltee
147. Les Produits Forestiers D&G Ltee (aka D&G Forest Products Ltd.)
148. Leslie Forest Products Ltd.
149. Lignum Forest Products LLP
150. Linwood Homes Ltd.
151. Longlac Lumber Inc.
152. Lulumco Inc.
153. Magnum Forest Products Ltd.
154. Maibec Inc.
155. Manitou Forest Products Ltd.
156. Marcel Lauzon Inc.
157. Marwood Ltd.
158. Matériaux Blanchet Inc.
159. Matsqui Management and Consulting Services Ltd., dba Canadian Cedar Roofing Depot
160. Metrie Canada Ltd.
161. Mid Valley Lumber Specialties Ltd.
162. Midway Lumber Mills Ltd.
163. Mill & Timber Products Ltd.
164. Millar Western Forest Products Ltd.
165. Mobilier Rustique (Beauce) Inc.
166. MP Atlantic Wood Ltd.
167. Multicetre Ltee
168. Murray Brothers Lumber Company Ltd.
169. Nakina Lumber Inc.
170. National Forest Products Ltd.
171. New Future Lumber Ltd.
172. Nicholson and Cates Ltd.
173. Norsask Forest Products Limited Partnership
174. North American Forest Products Ltd. (located in Abbotsford, British Columbia)
175. North American Forest Products Ltd. (located in Saint-Quentin, New Brunswick)
176. North Enderby Timber Ltd.
177. Oikawa Enterprises Ltd.
178. Olympic Industries Inc.
179. Olympic Industries ULC
180. Oregon Canadian Forest Products
181. Pacific Coast Cedar Products Ltd.
182. Pacific Pallet Ltd.
183. Pacific Western Wood Works Ltd.
184. Parallel Wood Products Ltd.
185. Pat Power Forest Products Corporation
186. Phoenix Forest Products Inc.
187. Pine Ideas Ltd.
188. Pioneer Pallet & Lumber Ltd.
189. Porcupine Wood Products Ltd.
190. Portbec Forest Products Ltd.
191. Power Wood Corp.
192. Precision Cedar Products Corp.
193. Prendville Industries Ltd. (aka Kenora Forest Products)
194. Produits Forestiers Petit Paris Inc.
195. Produits forestiers Temrex, s.e.c.
196. Produits Matra Inc.
197. Promobois G.D.S. Inc.
198. Rayonier A.M. Canada GP
199. Rembos Inc.
200. Rene Bernard Inc.
201. Resolute Growth Canada Inc./Forest Products Mauricie LP, Société en commandite Scierie Opitciwan/Resolute-LP Engineered Wood Larouche Inc./Resolute-LP Engineered Wood St-Prime Limited Partnership/Resolute FP Canada Inc.
202. Richard Lutes Cedar Inc.
203. Rielly Industrial Lumber Inc.
204. Roland Boulanger & Cie Ltee
205. S & K Cedar Products Ltd.
206. S&R Sawmills Ltd.
207. S&W Forest Products Ltd.
208. San Industries Ltd.

209. Sawarne Lumber Co. Ltd.
210. Scierie Alexandre Lemay & Fils Inc.
211. Scierie P.S.E. Inc.
212. Scierie St-Michel Inc.
213. Scierie West Brome Inc.
214. Scotsburn Lumber Co. Ltd.
215. Sechoirs de Beauce Inc.
216. Serpentine Cedar Ltd.
217. Serpentine Cedar Roofing Ltd.
218. Sexton Lumber Co. Ltd.
219. Sigurdson Forest Products Ltd.
220. Silvaris Corporation
221. Silver Creek Premium Products Ltd.
222. Sinclair Group Forest Products Ltd.
223. Skana Forest Products Ltd.
224. Skeena Sawmills Ltd.
225. Sound Spars Enterprise Ltd.
226. South Beach Trading Inc.
227. Spécialiste du Bardeau de Cedre Inc.
228. Spruceland Millworks Inc.
229. Star Lumber Canada Ltd.
230. Sundher Timber Products Ltd.
231. Surrey Cedar Ltd.
232. T.G. Wood Products Ltd.
233. Taan Forest Limited Partnership (aka Taan Forest Products)
234. Taiga Building Products Ltd.
235. Tall Tree Lumber Company
236. Teal Cedar Products Ltd.
237. Tembec Inc.
238. Terminal Forest Products Ltd.
239. The Teal Jones Group
240. The Wood Source Inc.
241. Tolko Industries Ltd.; Tolko Marketing and Sales Ltd.; Gilbert Smith Forest Products Ltd.
242. Trans-Pacific Trading Ltd.
243. Triad Forest Products Ltd.
244. Twin Rivers Paper Co. Inc.
245. Tyee Timber Products Ltd.
246. Universal Lumber Sales Ltd.
247. Usine Sartigan Inc.
248. Vaagen Fibre Canada ULC
249. Valley Cedar 2 Inc.
250. Vancouver Island Shingle Ltd.
251. Vancouver Specialty Cedar Products Ltd.
252. Vanderhoof Specialty Wood Products Ltd.
253. Visscher Lumber Inc.
254. W.I. Woodtone Industries Inc.
255. Waldun Forest Product Sales Ltd.
256. Watkins Sawmills Ltd.
257. West Bay Forest Products Ltd.
258. West Fraser Timber Co. Ltd.
259. West Wind Hardwood Inc.
260. Western Forest Products Inc.
261. Western Lumber Sales Limited
262. Western Wood Preservers Ltd.
263. Weston Forest Products Inc.
264. Westrend Exteriors Inc.
265. Weyerhaeuser Co.
266. White River Forest Products L.P.
267. Winton Homes Ltd.
268. Woodline Forest Products Ltd.
269. Woodstock Forest Products
270. Woodtone Specialties Inc.
271. Yarrow Wood Ltd.

[FR Doc. 2021-11171 Filed 5-26-21; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-583-856]

Certain Corrosion-Resistant Steel Products From Taiwan: Final Results of the Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018–2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that Yieh Phui Enterprise Co., Ltd. (YP) made sales of subject merchandise at less than normal value (NV) during the period of review (POR) July 1, 2018, through June 30, 2019. We also find that Prosperity Tieh Enterprise Co., Ltd. (Prosperity) did not sell subject merchandise at less than NV during the POR. Further, we determine that Synn Co., Ltd. (Synn) had no shipments of subject merchandise during the POR.

DATES: Applicable May 27, 2021.

FOR FURTHER INFORMATION CONTACT: Charles Doss or Kate Sliney, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-4474 or (202) 482-2437, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 23, 2020, Commerce published the *Preliminary Results* for this administrative review.¹ We invited interested parties to comment on the *Preliminary Results*. This review covers two mandatory respondents: Prosperity and YP.² We received case briefs from

¹ See *Certain Corrosion-Resistant Steel Products from Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2018–2019*, 85 FR 74669 (November 23, 2020) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

² In the less-than-fair-value (LTFV) investigation of the AD order, we collapsed Prosperity, YP, and Synn and treated them as a single entity. See *Certain Corrosion-Resistant Steel Products from Taiwan: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part*, 81 FR 35313 (June 2, 2016) and accompanying Issues and Decision Memorandum (IDM) at Comment 3 (*Taiwan CORE LTFV Final*); unchanged in *Certain Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China, the Republic of Korea and Taiwan: Amended Final Affirmative Antidumping Determination for India and Taiwan, and Antidumping Duty Orders*, 82 FR 48390 (July 25, 2016) (*Order*). The determination to collapse

AK Steel Corporation, California Steel Industries, and Steel Dynamics, Inc. (collectively, the petitioners), and YP.³ We received rebuttal briefs from YP and the petitioners.⁴ On March 18, 2021, we extended the deadline for the final results of this review to May 21, 2021.⁵ A complete summary of the events that occurred since publication of the *Preliminary Results* is found in the Issues and Decision Memorandum.⁶ Commerce conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The product covered by the order is flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. The subject

Prosperity, YP and Synn was challenged by respondent parties in the investigation and is subject to pending litigation. In the first antidumping duty administrative review, we determined to no longer collapse Prosperity with YP and Synn but we continued to collapse YP and Synn and treat them as a single entity. See *Certain Corrosion-Resistant Steel Products from Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review; 2016–2017*, 83 FR 39679 (August 10, 2018); unchanged in *Certain Corrosion-Resistant Steel Products from Taiwan: Final Results of Antidumping Duty Administrative Review; 2016–2017*, 83 FR 64527 (December 17, 2018), amended by *Certain Corrosion-Resistant Steel Products from Taiwan: Amended Final Results of Antidumping Duty Administrative Review; 2016–2017*, 84 FR 5991 (February 25, 2019). In the *Preliminary Results* of the instant review, we preliminarily found YP and Synn to no longer be collapsed, and made a preliminary finding of no shipments with respect to Synn. As discussed further below, we sustain our preliminary determination finding YP and Synn to be not collapsed and our preliminary determination of no shipments with respect to Synn. See “Affiliation and Collapsing” and “Final Determination of No Shipments” sections, below. Accordingly, though the instant review was initiated on YP and Synn as a single collapsed respondent, we have treated them as distinct entities for the purposes of these final results.

³ See YP’s Letter, “Case Brief,” dated January 6, 2021; and Petitioners’ Letter, “Petitioners’ Case Brief,” dated January 6, 2021.

⁴ See YP’s Letter, “Rebuttal Brief,” dated January 13, 2021; and Petitioners’ Letter, “Petitioners’ Rebuttal Brief,” dated January 13, 2021.

⁵ See Memorandum, “Certain Corrosion-Resistant Steel Products from Taiwan: Extension of Time Limit for the Final Results of Antidumping Duty Administrative Review, 2018–2019,” dated March 18, 2021.

⁶ See Memorandum, “Issues and Decision Memorandum for the Final Results of the 2018–2019 Antidumping Duty Administrative Review: Certain Corrosion-Resistant Steel Products from Taiwan,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

merchandise is currently classifiable under the Harmonized Tariff Schedule of the United States (HTSUS)

subheadings: 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0091, 7210.49.0095, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, and 7212.60.0000. The products subject to the orders may also enter under the following HTSUS item numbers:

7210.90.1000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.91.0000, 7225.92.0000, 7225.99.0090, 7226.99.0110, 7226.99.0130, 7226.99.0180, 7228.60.6000, 7228.60.8000, and 7229.90.1000. The HTSUS subheadings above are provided for convenience and customs purposes only. The written description of the scope of the order is dispositive.

Affiliation and Collapsing

In the *Preliminary Results*, we preliminarily determined that the evidence on the record of this administrative review does not support a finding that YP should be collapsed with Synn, and therefore should not be collapsed as the YP/Synn entity for this POR. As we have not received any information to contradict this preliminary determination, nor comment in opposition to our preliminary finding, we determine not to collapse YP with Synn and thus to treat YP and Synn as distinct entities for the purposes of these final results.⁷

Analysis of the Comments Received

All issues raised in the case and rebuttal briefs by parties to this review are addressed in the Issues and Decision Memorandum.⁸ A list of the issues which parties raised, and to which we respond in the Issues and Decision Memorandum, is attached in the appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's

Antidumping and Countervailing Duty Centralized Electronic System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results*, we made a change to the preliminary weighted-average margin calculation for YP. For detailed information, see the Issues and Decision Memorandum.

Final Determination of No Shipments

In the *Preliminary Results*, Commerce determined that Synn made no shipments of subject merchandise during the POR.⁹ As we have not received any information to contradict this determination, nor comment in opposition to our preliminary finding, we continue to determine that Synn made no shipments of subject merchandise during the POR. Consistent with our practice, we will instruct U.S. Customs and Border Protection (CBP) to liquidate any existing entries of subject merchandise produced by Synn, but exported by other parties, at the rate for the intermediate reseller, if available, or at the all-others rate.

Rates for Respondents Not Selected for Individual Examination

The statute and Commerce's regulations do not address the establishment of a rate to be applied to individual respondents not selected for examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for respondents which we did not examine in an administrative review. Section 735(c)(5)(A) of the Act establishes a preference to avoid using rates which are zero, *de minimis*, or based entirely on facts available (FA) in calculating an all others rate. Accordingly, Commerce's practice in administrative reviews has been to average the weighted-average dumping margins for the companies selected for individual examination in the administrative review, excluding rates that are zero, *de minimis*, or based

entirely on FA.¹⁰ For these final results of review, we calculated a zero percent weighted-average dumping margin for Prosperity and a weighted-average dumping margin for YP that is above *de minimis* and not based entirely on FA. Therefore, consistent with our practice, we have assigned the companies not selected for individual examination the weighted-average dumping margin calculated for YP.

Final Results of the Administrative Review

We determine that the following weighted-average dumping margins exist for the respondents for the period July 1, 2018 through June 30, 2019:

Exporter/producer	Weighted-average dumping margin (percent)
Hoa Sen Group	1.53
Nippon Steel	1.53
Prosperity Tieh Enterprise Co., Ltd	0.00
Sheng Yu Steel Co., Ltd	1.53
Sumikin Sales Vietnam Co., Ltd	1.53
Ton Dong A Corporation	1.53
Yieh Phui Enterprise Co., Ltd	1.53

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Pursuant to 19 CFR 351.212(b)(1), we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to the total entered value of those sales. Where either the respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), or an importer-specific assessment rate is zero or *de minimis*, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.¹¹ For entries of subject merchandise during the POR produced by the mandatory respondents

¹⁰ See, e.g., *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part*, 73 FR 52823, 52824 (September 11, 2008), and accompanying Issues and Decision Memorandum at Comment 16.

¹¹ In these final results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012).

⁷ See *Preliminary Results*, 85 FR at 74670; and Memorandum, "Administrative Review of the Antidumping Duty Order on Certain Corrosion-Resistant Steel Products from Taiwan: Preliminary Affiliation and Collapsing Memorandum for Yieh Phui Enterprise Co., Ltd. and Synn Industrial Co., Ltd.," dated November 17, 2020.

⁸ See Issues and Decision Memorandum.

⁹ See *Preliminary Results*, 85 FR at 74670.

for which they did not know their merchandise was destined for the United States, or for entries associated with Synn, who had no shipments during the POR, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.¹²

Consistent with its recent notice,¹³ Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the companies listed above will be equal to the weighted-average dumping margins established in the final results of this administrative review; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior completed segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the producer has been covered in a prior complete segment of this proceeding, then the cash deposit rate will be the rate established for the most recent period for the producer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will continue to be 3.66 percent,¹⁴ the

all-others rate from the *Amended Final Determination*. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these final results of administrative review in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.221(b)(5).

Dated: May 20, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Changes Since the Preliminary Results
- V. Discussion of the Issues
 - Comment 1: Cost Adjustment for YP's Affiliated Purchases of Cold-Rolled Steel
 - Comment 2: Treatment of Guarantee Fee Income in YP's General and Administrative (G&A) Expense Ratio
 - Comment 3: Basis for U.S. Price and Calculation of Imputed Credit Expenses
- VI. Recommendation

[FR Doc. 2021-11248 Filed 5-26-21; 8:45 am]

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Investigation and Notice of Amended Final Determination of Investigation, 84 FR 6129 (February 26, 2019) (*Amended Final Determination*).

DEPARTMENT OF COMMERCE

International Trade Administration

[C-122-858]

Certain Softwood Lumber Products From Canada: Preliminary Results and Partial Rescission of the Countervailing Duty Administrative Review, 2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain softwood lumber products (softwood lumber) from Canada. The period of review is January 1, 2019, through December 31, 2019. Interested parties are invited to comment on these preliminary results.

DATES: Applicable May 27, 2021.

FOR FURTHER INFORMATION CONTACT:

Jonathan Hall-Eastman (Canfor), John Hoffner (JDIL), Kristen Johnson/Samuel Brummitt (Resolute), and Laura Griffith (West Fraser), AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-1468, (202) 482-3315, (202) 482-4793/(202) 482-7851, and (202) 482-6430, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 3, 2018, Commerce published in the **Federal Register** the countervailing duty (CVD) order on softwood lumber from Canada.¹ Several interested parties requested that Commerce conduct an administrative review of the *CVD Order* and, on March 10, 2020, Commerce published in the **Federal Register** a notice of initiation of the second administrative review.² On May 19, 2020, Commerce selected the following producers and exporters as the mandatory respondents in the administrative review: Canfor Corporation, Resolute FP Canada Inc., and West Fraser Mills Ltd.³ On September 14, 2020, Commerce selected

¹ See *Certain Softwood Lumber Products from Canada: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 83 FR 347 (January 3, 2018) (*CVD Order*).

² See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 13860 (March 10, 2020).

³ See Memorandum, "Administrative Review of the Countervailing Duty Order on Certain Softwood Lumber Products from Canada: Respondent Selection," dated May 19, 2020.

¹² See section 751(a)(2)(C) of the Act.

¹³ See *Notice of Discontinuation of Policy to Issue Liquidation Instructions After 15 Days in Applicable Antidumping and Countervailing Duty Administrative Proceedings*, 86 FR 3995 (January 15, 2021).

¹⁴ See *Corrosion-Resistant Steel Products from Taiwan: Notice of Court Decision Not in Harmony with Final Determination of Antidumping Duty*

J.D. Irving, Limited as a voluntary respondent in the administrative review.⁴

Commerce tolled all deadlines in administrative reviews by 50 days on April 24, 2020, and by an additional 60 days on July 21, 2020,⁵ thereby extending the deadline for these preliminary results until January 21, 2021. On December 2, 2020, Commerce extended the deadline for the preliminary results of this administrative review to May 20, 2021, in accordance with 19 CFR 351.213(h)(2).⁶

Scope of the Order

The product covered by this order is certain softwood lumber products from Canada. For a complete description of the scope of the *CVD Order*, see the Preliminary Decision Memorandum.⁷

Methodology

Commerce is conducting this CVD administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that confers a benefit to the recipient, and that the subsidy is specific.⁸ For a full description of the methodology underlying our preliminary conclusions, see the Preliminary Decision Memorandum.

⁴ See Commerce’s Letter, “Second Administrative Review of the Countervailing Duty Order on Certain Softwood Lumber Products from Canada: Selection of JD Irving, Ltd. as a Voluntary Respondent,” September 14, 2020.

⁵ See Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID-19,” dated April 24, 2020; see also Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews,” dated July 21, 2020.

⁶ See Memorandum, “Certain Softwood Lumber Products from Canada: Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review, 2019,” dated December 2, 2020.

⁷ See Memorandum, “Decision Memorandum for the Preliminary Results of Administrative Review of the Countervailing Duty Order on Certain Softwood Lumber Products from Canada: 2019,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum). The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn/index.html>.

⁸ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

The list of topics discussed in the Preliminary Decision Memorandum is included at Appendix I.

Partial Rescission of Administrative Review

As a result of the final results of the CVD expedited review covering the *CVD Order*, subject merchandise produced and exported by certain companies is excluded from the *CVD Order*.⁹

On May 6, 2021, Commerce issued a memorandum regarding its intent to rescind this administrative review, in part, for the companies excluded from the *CVD Order*.¹⁰ No interested party submitted comments on the Intent to Rescind Review In Part Memorandum. We therefore are rescinding the administrative review with respect to D&G, MLI, NAFF, Roland, and Lemay for which there was a request for review.

Subject merchandise which D&G, MLI, NAFF, Roland, and Lemay exports but does not produce, as well as subject merchandise that D&G, MLI, NAFF, Roland, and Lemay produces but is exported by another company, remains subject to the *CVD Order*. Based on the facts of this administrative review, we are also rescinding the review of D&G, MLI, NAFF, Roland, and Lemay where they may have been the producer or exporter given that there were no such entries during the POR. For further information on the companies excluded from the *CVD Order*, see “Non-Shipment Claim and Partial Rescission of Review” in the Preliminary Decision Memorandum.

Rate for Non-Selected Companies Under Review

There are 261 companies for which a review was requested and not rescinded, but were not selected as mandatory respondents. The statute and Commerce’s regulations do not directly address the establishment of rates to be applied to companies not selected for individual examination where Commerce limits its examination in an administrative review pursuant to section 777A(e)(2) of the Act. However, Commerce normally determines the

rates for non-selected companies in reviews in a manner that is consistent with section 705(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation.

Section 705(c)(5)(A)(i) of the Act instructs Commerce, as a general rule, to calculate an all-others rate equal to the weighted average of the countervailable subsidy rates established for exporters and/or producers individually examined, excluding any zero, *de minimis*, or rates based entirely on facts available. In this review, none of the rates for the respondents were zero, *de minimis*, or based entirely on facts available. Therefore, for the POR, we are assigning to the non-selected companies an average of the subsidy rates calculated for the companies that were selected as respondents in the administrative review.

For further information on the calculation of the non-selected rate, see “Preliminary *Ad Valorem* Rate for Non-Selected Companies under Review” in the Preliminary Decision Memorandum. A list of all the non-selected companies is included in Appendix II.

Preliminary Results of Review

For the period January 1, 2019, through December 31, 2019, we preliminarily determine the following estimated countervailable subsidy rates:

Companies	Subsidy rate (percent) ad valorem
Canfor Corporation and its cross-owned affiliates ¹¹	2.42
J.D. Irving, Limited and its cross-owned affiliates ¹²	3.77
Resolute FP Canada Inc. and its cross-owned affiliates ¹³ ...	18.17
West Fraser Mills Ltd. and its cross-owned affiliates ¹⁴	4.80
Non-Selected Companies	6.27

Assessment Rate

In accordance with 19 CFR 351.221(b)(4)(i), Commerce has preliminarily assigned subsidy rates as

¹¹ Commerce finds the following companies to be cross-owned with Canfor Corporation: Canadian Forest Products, Ltd. and Canfor Wood Products Marketing, Ltd.

¹² Commerce finds the following companies to be cross-owned with J.D. Irving, Limited: Miramichi Timber Holdings Limited, The New Brunswick Railway Company, Rothesay Paper Holdings Ltd., and St. George Pulp & Paper Limited.

¹³ Commerce finds the following companies to be cross-owned with Resolute: Resolute Growth Canada Inc., Produits Forestiers Maurice S.E.C., and Resolute Forest Products Inc.

¹⁴ Commerce finds the following companies to be cross-owned with West Fraser: West Fraser Timber Co., Ltd., Blue Ridge Lumber Inc., Sunpine Inc., Sundre Forest Products Inc., Manning Forest Products, and West Fraser Alberta Holdings.

⁹ See *Certain Softwood Lumber Products from Canada: Final Results of Countervailing Duty Expedited Review*, 84 FR 32121 (July 5, 2019). The excluded companies are: Les Produits Forestiers D&G Ltee (D&G), Marcel Lauzon Inc. (MLI), North American Forest Products Ltd. (NAFF) (located in Saint-Quentin, New Brunswick), Roland Boulanger & Cie Ltee (Roland), and Scierie Alexandre Lemay & Fils Inc. (Lemay).

¹⁰ See Memorandum, “Administrative Review of the Countervailing Duty Order on Certain Softwood Lumber Products from Canada: Intent to Rescind the 2019 Administrative Review, in Part,” dated May 6, 2021 (Intent to Rescind Review In Part Memorandum).

indicated above. Consistent with section 751(a)(2)(C) of the Act, upon issuance of the final results, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries covered by this review. Commerce intends to issue assessment instructions to CBP no earlier than 41 days after the date of publication of the final results of this review in the **Federal Register**, in accordance with 19 CFR 356.8(a). If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Rate

Pursuant to section 751(a)(1) of the Act, Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts indicated above with regard to shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all non-reviewed companies, we will instruct CBP to collect cash deposits of estimated countervailing duties at the most recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

Commerce intends to disclose to parties to this proceeding the calculations performed in reaching these preliminary results within five days of publication of this notice in the **Federal Register**.¹⁵ Interested parties may submit written comments (case briefs) within 30 days of publication of the preliminary results. Rebuttal comments (rebuttal briefs), limited to issues raised in case briefs, are due within seven days after the time limit for filing case briefs.¹⁶ Parties who submit arguments are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹⁷ Note that Commerce has temporarily modified certain of its requirements for serving

documents containing business proprietary information, until further notice.¹⁸

Interested parties who wish to request a hearing must do so within 30 days of publication of these preliminary results by submitting a written request to the Assistant Secretary for Enforcement and Compliance using ACCESS.¹⁹ Requests should contain the party's name, address, and telephone number; the number of participants and whether any participant is a foreign national; and a list of the issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs.²⁰ If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm the date and time of the hearing two days before the scheduled date. Parties are reminded that all briefs and hearing requests must be filed electronically using ACCESS and received successfully in their entirety by 5:00 p.m. Eastern Time on the due date.

Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised by parties in their comments, within 120 days after the date of publication of these preliminary results.

Notification to Interested Parties

These preliminary results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: May 20, 2021.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Review
- IV. Non-Shipment Claim and Partial Rescission of Review
- V. Scope of the Order
- VI. Subsidies Valuation
- VII. Analysis of Programs
- VIII. Preliminary *Ad Valorem* Rate for Non-Selected Companies Under Review
- IX. Recommendation

Appendix II

Non-Selected Exporters/Producers

1074712 BC Ltd.

258258 B.C. Ltd., dba Pacific Coast Cedar Products
 5214875 Manitoba Ltd.
 752615 B.C. Ltd., Frasersview
 Remanufacturing Inc., dba Frasersview Cedar Products.
 9224-5737 Quebec Inc. (aka A.G. Bois)
 A.B. Cedar Shingle Inc.
 Absolute Lumber Products, Ltd.
 AJ Forest Products Ltd.
 Alberta Spruce Industries Ltd.
 Aler Forest Products, Ltd.
 Alpa Lumber Mills Inc.
 AM Lumber Brokerage
 American Pacific Wood Products
 Anbrook Industries Ltd.
 Andersen Pacific Forest Products Ltd.
 Anglo-American Cedar Products, Ltd.
 Antrim Cedar Corporation
 Aquila Cedar Products, Ltd.
 Arboc Lumber Inc.
 Aspen Planers Ltd.
 B&L Forest Products Ltd.
 B.B. Pallets Inc.
 Babine Forest Products Limited
 Bakerview Forest Products Inc.
 Bardobec Inc.
 BarretteWood Inc.
 Barrette-Chapais Ltee
 Benoit & Dionne Produits Forestiers Ltee
 Best Quality Cedar Products Ltd.
 Blanchet Multi Concept Inc.
 Blanchette & Blanchette Inc.
 Bois Aise de Montreal Inc.
 Bois Bonsai Inc.
 Bois Daaquam Inc.
 Bois D'oeuvre Cedrico Inc. (aka Cedrico Lumber Inc.)
 Bois et Solutions Marketing SPEC, Inc.
 Boisaco Inc.
 Boscus Canada Inc.
 BPWood Ltd.
 Bramwood Forest Inc.
 Brink Forest Products Ltd.
 Brunswick Valley Lumber Inc.
 Busque & Laflamme Inc.
 C&C Wood Products Ltd.
 Caledonia Forest Products Inc.
 Campbell River Shake & Shingle Co., Ltd.
 Canadian American Forest Products Ltd.
 Canadian Wood Products Inc.
 Canasia Forest Industries Ltd
 Canusa cedar inc.
 Canyon Lumber Company, Ltd.
 Careau Bois Inc.
 Carrier & Begin Inc.
 Carrier Forest Products Ltd.
 Carrier Lumber Ltd.
 Cedar Valley Holdings Ltd.
 Cedarline Industries, Ltd.
 Central Alberta Pallet Supply
 Central Cedar Ltd.
 Central Forest Products Inc.
 Centurion Lumber, Ltd.
 Chaleur Sawmills LP
 Channel-ex Trading Corporation
 Clair Industrial Development Corp. Ltd.
 Clermond Hamel Ltee
 CNH Products Inc.
 Coast Clear Wood Ltd.
 Coast Mountain Cedar Products Ltd.
 Columbia River Shake & Shingle Ltd./Teal Cedar Products Ltd., dba The Teal Jones Group
 Commonwealth Plywood Co. Ltd.
 Comox Valley Shakes Ltd./Comox Valley Shakes (2019) Ltd.

¹⁵ See 19 CFR 351.224(b).

¹⁶ See 19 CFR 351.309(c)(1)(ii) and 351.309(d)(1); see also *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

¹⁷ See 19 CFR 351.309(c)(2) and 351.309(d)(2).

¹⁸ See *Temporary Rule*.

¹⁹ See 19 CFR 351.310(c).

²⁰ See 19 CFR 351.310.

Conifex Fibre Marketing Inc.
 Cowichan Lumber Ltd.
 CS Manufacturing Inc., dba Cedarshed
 CWP—Industriel Inc.
 CWP—Montreal Inc.
 D & D Pallets, Ltd.
 Dakeryn Industries Ltd.
 Decker Lake Forest Products Ltd.
 Delco Forest Products Ltd.
 Delta Cedar Specialties Ltd.
 Devon Lumber Co. Ltd.
 DH Manufacturing Inc.
 Direct Cedar Supplies Ltd.
 Doubletree Forest Products Ltd.
 Downie Timber Ltd.
 Dunkley Lumber Ltd.
 EACOM Timber Corporation
 East Fraser Fiber Co. Ltd.
 Edgewood Forest Products Inc.
 ER Probyn Export Ltd.
 Eric Goguen & Sons Ltd.
 Falcon Lumber Ltd.
 Fontaine Inc.
 Foothills Forest Products Inc.
 Fornebu Lumber Company Inc.
 Fraser Specialty Products Ltd.
 FraserWood Inc.
 FraserWood Industries Ltd.
 Furtado Forest Products Ltd.
 G & R Cedar Ltd.
 Galloway Lumber Company Ltd.
 Gilbert Smith Forest Products Ltd.
 Glandell Enterprises Inc.
 Goat Lake Forest Products Ltd.
 Goldband Shake & Shingle Ltd.
 Golden Ears Shingle Ltd.
 Goldwood Industries Ltd.
 Goodfellow Inc.
 Gorman Bros. Lumber Ltd.
 Groupe Crete Chertsey Inc.
 Groupe Crete Division St-Faustin Inc.
 Groupe Lebel Inc.
 Groupe Lignarex Inc.
 H.J. Crabbe & Sons Ltd.
 Haida Forest Products Ltd.
 Harry Freeman & Son Ltd.
 Hornepayne Lumber LP
 Imperial Cedar Products, Ltd.
 Imperial Shake Co. Ltd.
 Independent Building Materials Dist.
 Interfor Corporation
 Island Cedar Products Ltd
 Ivor Forest Products Ltd.
 J&G Log Works Ltd.
 J.H. Huscroft Ltd.
 Jan Woodlands (2001) Inc.
 Jasco Forest Products Ltd.
 Jazz Forest Products Ltd.
 Jhajj Lumber Corporation
 Kalesnikoff Lumber Co. Ltd.
 Kan Wood, Ltd.
 Kebois Ltee/Ltd.
 Keystone Timber Ltd.
 Kootenay Innovative Wood Ltd.
 L'Atelier de Readaptation au Travail de
 Beauce Inc.
 Lafontaine Lumber Inc.
 Langevin Forest Products Inc.
 Lecours Lumber Co. Limited
 Ledwidge Lumber Co. Ltd.
 Leisure Lumber Ltd.
 Les Bois d'oeuvre Beaudoin Gauthier inc.
 Les Bois Martek Lumber
 Les Bois Traites M.G. Inc.
 Les Chantiers de Chibougamau Ltd.
 Leslie Forest Products Ltd.

Lignum Forest Products LLP
 Linwood Homes Ltd.
 Longlac Lumber Inc.
 Lulumco Inc.
 Magnum Forest Products, Ltd.
 Maibec inc.
 Manitou Forest Products Ltd.
 Marwood Ltd.
 Materiaux Blanchet Inc.
 Matsqui Management and Consulting
 Services Ltd., dba Canadian Cedar Roofing
 Depot
 Metrie Canada Ltd.
 Mid Valley Lumber Specialties, Ltd.
 Midway Lumber Mills Ltd.
 Mill & Timber Products Ltd.
 Millar Western Forest Products Ltd.
 Mobilier Rustique (Beauce) Inc.
 MP Atlantic Wood Ltd.
 Multicedre ltee
 Murray Brothers Lumber Company Ltd
 Nakina Lumber Inc.
 National Forest Products Ltd.
 New Future Lumber Ltd.
 Nicholson and Cates Ltd
 Norsask Forest Products Limited Partnership
 North American Forest Products Ltd. (located
 in Abbotsford, British Columbia)
 North Enderby Timber Ltd.
 Oikawa Enterprises Ltd.
 Olympic Industries, Inc./Olympic Industries
 Inc-Reman Code/Olympic Industries ULC/
 Olympic Industries ULC-Reman/Olympic
 Industries ULC-Reman Code
 Oregon Canadian Forest Products
 Pacific Coast Cedar Products, Ltd.
 Pacific Pallet, Ltd.
 Pacific Western Wood Works Ltd.
 Parallel Wood Products Ltd.
 Pat Power Forest Products Corporation
 Phoenix Forest Products Inc.
 Pine Ideas Ltd.
 Pioneer Pallet & Lumber Ltd.
 Porcupine Wood Products Ltd.
 Power Wood Corp.
 Precision Cedar Products Corp.
 Prendville Industries Ltd. (aka, Kenora
 Forest Products)
 Produits Forestiers Petit Paris Inc.
 Produits forestiers Temrex, s.e.c.
 Produits Matra Inc. and Sechoirs de Beauce
 Inc.
 Promobois G.D.S. inc.
 Quadra Cedar
 Rayonier A.M. Canada GP
 Rembos Inc.
 Rene Bernard Inc.
 Richard Lutes Cedar Inc.
 Rielly Industrial Lumber Inc.
 S & K Cedar Products Ltd.
 S&R Sawmills Ltd
 S&W Forest Products Ltd.
 San Industries Ltd.
 Sawarne Lumber Co. Ltd.
 Scierie P.S.E. Inc.
 Scierie St-Michel inc.
 Scierie West Brome Inc.
 Scotsburn Lumber Co. Ltd.
 Scott Lumber Sales
 Serpentine Cedar Ltd.
 Sexton Lumber Co. Ltd.
 Sigurdson Forest Products Ltd.
 Silvaris Corporation
 Silver Creek Premium Products Ltd.
 Sinclar Group Forest Products Ltd.
 Skana Forest Products Ltd.

Skeena Sawmills Ltd
 Sound Spars Enterprise Ltd.
 South Beach Trading Inc.
 Specialiste du Bardeau de Cedre Inc
 Spruceland Millworks Inc.
 Star Lumber Canada Ltd.
 Sundher Timber Products Ltd.
 Surrey Cedar Ltd.
 T.G. Wood Products, Ltd.
 Taan Forest LP/Taan Forest Products
 Taiga Building Products Ltd.
 Tall Tree Lumber Company
 Tembec Inc.
 Temrex Produits Forestiers s.e.c.
 Terminal Forest Products Ltd.
 The Wood Source Inc.
 Tolko Industries Ltd. and Tolko Marketing
 and Sales Ltd.
 Trans-Pacific Trading Ltd.
 Triad Forest Products Ltd.
 Twin Rivers Paper Co. Inc.
 Tyee Timber Products Ltd.
 Universal Lumber Sales Ltd.
 Usine Sartigan Inc.
 Vaagen Fibre Canada, ULC
 Valley Cedar 2 Inc./Valley Cedar 2 ULC
 Vancouver Island Shingle, Ltd.
 Vancouver Specialty Cedar Products Ltd.
 Vanderhoof Specialty Wood Products Ltd.
 Visscher Lumber Inc
 W.I. Woodtone Industries Inc.
 Waldun Forest Product Sales Ltd.
 Watkins Sawmills Ltd.
 West Bay Forest Products Ltd.
 West Wind Hardwood Inc.
 Western Forest Products Inc.
 Western Lumber Sales Limited
 Western Wood Preservers Ltd.
 Weston Forest Products Inc.
 Westrend Exteriors Inc.
 Weyerhaeuser Co.
 White River Forest Products L.P.
 Winton Homes Ltd.
 Woodline Forest Products Ltd.
 Woodstock Forest Products/Woodstock
 Forest Products Inc.
 Woodtone Specialties Inc.
 Yarrow Wood Ltd.

[FR Doc. 2021-11169 Filed 5-26-21; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-552-828]

Passenger Vehicle and Light Truck Tires From the Socialist Republic of Vietnam: Final Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance,
International Trade Administration,
Department of Commerce.

SUMMARY: The Department of Commerce
(Commerce) determines that imports of
passenger vehicle and light truck tires
(passenger tires) from the Socialist
Republic of Vietnam (Vietnam) are
being, or are likely to be, sold in the
United States at less than fair value
(LTFV). The period of investigation is

October 1, 2019, through March 31, 2020.

DATES: Applicable May 27, 2021.

FOR FURTHER INFORMATION CONTACT:

Jasun Moy or Robert Scully, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–8194 or (202) 482–0572, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 6, 2021, Commerce published in the **Federal Register** the preliminary affirmative determination in the LTFV investigation of passenger tires from Vietnam, in which we also postponed the final determination until May 21, 2021.¹ We invited interested parties to comment on the *Preliminary Determination*. A summary of the events that occurred since Commerce published the *Preliminary Determination* may be found in the Issues and Decision Memorandum.²

Scope of the Investigation

The products covered by this investigation are passenger tires from Vietnam. For a complete description of the scope of this investigation, see Appendix I.

Scope Comments

During the course of this investigation, Commerce received scope comments from interested parties. Commerce issued a Preliminary Scope Decision Memorandum to address these comments.³ We received comments from interested parties on the Preliminary Scope Decision Memorandum, which we addressed in the Final Scope Decision Memorandum.⁴ With the exception of one revision to correct a typographical error, Commerce is not modifying the scope language as it appeared in the

correction to the *Preliminary Determination*.⁵ See Appendix I for the final scope of the investigation.

Analysis of Comments Received

All the issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>.

Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of an on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act).⁶

Methodology

Commerce conducted this investigation in accordance with section 731 of the Act. Export price was calculated in accordance with section 772(a) of the Act. Constructed export price was calculated in accordance with section 772(b) of the Act. Because Vietnam is a non-market economy within the meaning of section 771(18) of the Act, normal value was calculated in accordance with section 773(c) of the Act. For a full description of the methodology underlying Commerce's

determination, see the *Preliminary Determination* PDM and the Issues and Decision Memorandum.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings related to our request for information in lieu of on-site verification, we have made certain changes to the margin calculations. For a discussion of these changes, see the Issues and Decision Memorandum.

Vietnam-Wide Entity

For the final determination, we continue to find that the use of adverse facts available (AFA), pursuant to sections 776(a) and (b) of the Act, is warranted in determining the rate for the Vietnam-wide entity. In the *Preliminary Determination*, Commerce based the AFA rate for the Vietnam-wide entity on the petition margin of 22.30 percent.⁷ For this final determination, we continue to rely on AFA in determining the rate for the Vietnam-wide entity and, as AFA, we continue to select the highest petition margin of 22.30 percent as the estimated weighted-average dumping margin for the Vietnam-wide entity.⁸

Combination Rates

In the *Initiation Notice*,⁹ Commerce stated that it would calculate producer/exporter combination rates for the respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.¹⁰ In this investigation, we assigned producer/exporter combination rates for respondents eligible for separate rates and these combination rates are listed in the table in the "Final Determination" section of this notice.

Final Determination

The final estimated weighted-average dumping margins are as follows:

¹ See *Passenger Vehicle and Light Truck Tires from the Socialist Republic of Vietnam: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 86 FR 504 (January 6, 2021) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

² See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Passenger Vehicle and Light Truck Tires from the Socialist Republic of Vietnam," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³ See Memorandum, "Passenger Vehicle and Light Truck Tires from the Republic of Korea, Taiwan, Thailand, and the Socialist Republic of

Vietnam: Preliminary Scope Comments Decision Memorandum," dated December 29, 2020 (Preliminary Scope Decision Memorandum).

⁴ See Memorandum, "Passenger Vehicle and Light Truck Tires from the Republic of Korea, Taiwan, Thailand, and the Socialist Republic of Vietnam: Scope Comments Final Decision Memorandum," dated concurrently with this notice (Final Scope Decision Memorandum).

⁵ See *Passenger Vehicle and Light Truck Tires from the Republic of Korea, Taiwan, Thailand, and the Socialist Republic of Vietnam: Notice of Correction to Preliminary Determinations in Less-Than-Fair-Value Investigations*, 86 FR 7252 (January 27, 2021).

⁶ See Commerce's Letter, "Request for Documentation," dated January 26, 2021; Commerce's Letter, "Request for Documentation,"

dated January 28, 2021; Sailun's Letter, "Sailun Response to Commerce Verification Document Request," dated February 2, 2021; and Kenda's Letter, "Response to the Department's Request for Documentation in Lieu of On-Site Verification," dated February 4, 2021.

⁷ See *Preliminary Determination* PDM at 18.

⁸ For the corroboration of this margin, see Issues and Decision Memorandum at Comment 1.

⁹ See *Initiation Notice*, 85 FR at 38858.

¹⁰ See Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries," April 5, 2005 (Policy Bulletin 05.1), available on Commerce's website at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

Exporter	Producer	Estimated weighted-average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offset) (percent)
Kenda Rubber (Vietnam) Co. Ltd	Kenda Rubber (Vietnam) Co. Ltd	0.00	0.00
Sailun Group (HongKong) Co., Limited/Sailun Tire Americas Inc.	Sailun (Vietnam) Co., Ltd	0.00	0.00
Bridgestone Corporation	Bridgestone Tire Manufacturing Vietnam LLC	0.00	0.00
Bridgestone Tire Manufacturing Vietnam LLC	Bridgestone Tire Manufacturing Vietnam LLC	0.00	0.00
Kumho Tire (Vietnam) Co., Ltd	Kumho Tire (Vietnam) Co., Ltd	0.00	0.00
The Yokohama Rubber Co., Ltd	Yokohama Tyre Vietnam Co	0.00	0.00
Vietnam-Wide Entity		22.30	22.27

Disclosure

We intend to disclose the calculations performed in this final determination within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend the liquidation of all appropriate entries of subject merchandise, as described in Appendix I of this notice, entered, or withdrawn from warehouse, for consumption on or after January 6, 2021, the date of publication in the **Federal Register** of the affirmative *Preliminary Determination*, except for those entries of subject merchandise produced and exported by Kenda and entries of subject merchandise produced by Sailun Vietnam and exported by Sailun Group (HongKong) Co., Limited or Sailun Tire Americas Inc. (collectively, Sailun).

Because the estimated weighted-average dumping margins for Kenda and Sailun in the above-specified producer/exporter combinations are zero, entries of shipments of subject merchandise from these producer/exporter combinations will not be subject to suspension of liquidation or cash deposit requirements. Accordingly, Commerce will direct CBP not to suspend liquidation of entries of subject merchandise produced and exported by Kenda, and produced by Sailun Vietnam and exported by Sailun Group (HongKong) Co., Limited or Sailun Tire Americas Inc. In accordance with section 735(a)(4) of the Act and 19 CFR 351.204(e)(1), should the investigation result in an antidumping duty (AD) order pursuant to section 736 of the Act, entries of shipments of subject merchandise from these producer/exporter combinations will be excluded

from the order. However, entries of shipments of subject merchandise from these companies in any other producer/exporter combinations, or by third parties that sourced subject merchandise from the excluded producer/exporter combinations, will be subject to suspension of liquidation at the Vietnam-wide entity rate. Additionally, any exclusion will not apply to entries of shipments of subject merchandise from the other producer/exporter combinations listed in the table above that were assigned a weighted-average dumping margin of zero.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), where appropriate, we will instruct CBP to require a cash deposit for entries of subject merchandise equal to the estimated weighted-average dumping margin as follows: (1) For the exporter/producer combinations listed in the table above, except those specified for Kenda and Sailun Vietnam/Sailun Group (HongKong) Co., Limited/Sailun Tire Americas Inc., the cash deposit rate is equal to the estimated weighted-average dumping margin listed for that combination in the table; (2) for all combinations of Vietnamese exporters/producers not listed in the above table, the cash deposit rate is equal to the estimated weighted-average dumping margin listed in the table for the Vietnam-wide entity; and (3) for all non-Vietnamese exporters not listed in the table above, the cash deposit rate applicable to the Vietnamese exporter/producer combination (or the Vietnam-wide entity) that supplied that non-Vietnamese exporter.

Commerce normally adjusts cash deposits for estimated antidumping duties by the amount of domestic subsidy pass-through and export subsidies countervailed in a companion countervailing duty (CVD) proceeding when CVD provisional measures are in effect. Accordingly, where Commerce made an affirmative determination for domestic subsidy pass-through or export subsidies, Commerce has offset the estimated weighted-average dumping

margins by the appropriate rates.¹¹

However, provisional measures are no longer in effect in the companion CVD case. Therefore, we are not instructing CBP to collect cash deposits based upon the estimated the estimated weighted-average dumping margins adjusted for domestic subsidy pass-through or export subsidies at this time.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of passenger tires no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all cash deposits posted will be refunded and suspension of liquidation will be lifted. If the ITC determines that such injury does exist, Commerce will issue an AD order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the "Continuation of Suspension of Liquidation" section.

Notification Regarding Administrative Protective Orders

This notice will serve as a final reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the

¹¹ See Issues and Decision Memorandum; see also Memorandum, "Calculation of Double Remedies and Export Subsidy Offset," dated December 29, 2020.

disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination and this notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: May 21, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The scope of this investigation is passenger vehicle and light truck tires. Passenger vehicle and light truck tires are new pneumatic tires, of rubber, with a passenger vehicle or light truck size designation. Tires covered by this investigation may be tube-type, tubeless, radial, or non-radial, and they may be intended for sale to original equipment manufacturers or the replacement market.

Subject tires have, at the time of importation, the symbol “DOT” on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Subject tires may also have the following prefixes or suffix in their tire size designation, which also appears on the sidewall of the tire:

Prefix designations:

P—Identifies a tire intended primarily for service on passenger cars.

LT—Identifies a tire intended primarily for service on light trucks.

Suffix letter designations:

LT—Identifies light truck tires for service on trucks, buses, trailers, and multipurpose passenger vehicles used in nominal highway service.

All tires with a “P” or “LT” prefix, and all tires with an “LT” suffix in their sidewall markings are covered by this investigation regardless of their intended use.

In addition, all tires that lack a “P” or “LT” prefix or suffix in their sidewall markings, as well as all tires that include any other prefix or suffix in their sidewall markings, are included in the scope, regardless of their intended use, as long as the tire is of a size that fits passenger cars or light trucks. Sizes that fit passenger cars and light trucks include, but are not limited to, the numerical size designations listed in the passenger car section or light truck section of the Tire and Rim Association Year Book, as updated annually. The scope includes all tires that are of a size that fits passenger cars or light trucks, unless the tire falls within one of the specific exclusions set out below.

Passenger vehicle and light truck tires, whether or not attached to wheels or rims, are included in the scope. However, if a subject tire is imported attached to a wheel or rim, only the tire is covered by the scope.

Specifically excluded from the scope are the following types of tires:

(1) Racing car tires; such tires do not bear the symbol “DOT” on the sidewall and may be marked with “ZR” in size designation;

(2) pneumatic tires, of rubber, that are not new, including recycled and retreaded tires;

(3) non-pneumatic tires, such as solid rubber tires;

(4) tires designed and marketed exclusively as temporary use spare tires for passenger vehicles which, in addition, exhibit each of the following physical characteristics:

(a) The size designation and load index combination molded on the tire’s sidewall are listed in Table PCT-1R (“T” Type Spare Tires for Temporary Use on Passenger Vehicles) or PCT-1B (“T” Type Diagonal (Bias) Spare Tires for Temporary Use on Passenger Vehicles) of the Tire and Rim Association Year Book,

(b) the designation “T” is molded into the tire’s sidewall as part of the size designation, and,

(c) the tire’s speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by Tire and Rim Association Year Book, and the rated speed is 81 MPH or a “M” rating;

(5) tires designed and marketed exclusively as temporary use spare tires for light trucks which, in addition, exhibit each of the following physical characteristics:

(a) The tires have a 265/70R17, 255/80R17, 265/70R16, 245/70R17, 245/75R17, 245/70R18, or 265/70R18 size designation;

(b) “Temporary Use Only” or “Spare” is molded into the tire’s sidewall;

(c) the tread depth of the tire is no greater than 6.2 mm; and

(d) Uniform Tire Quality Grade Standards (“UTQG”) ratings are not molded into the tire’s sidewall with the exception of 265/70R17 and 255/80R17 which may have UTQG molded on the tire sidewall;

(6) tires designed and marketed exclusively for specialty tire (ST) use which, in addition, exhibit each of the following conditions:

(a) The size designation molded on the tire’s sidewall is listed in the ST sections of the Tire and Rim Association Year Book,

(b) the designation “ST” is molded into the tire’s sidewall as part of the size designation,

(c) the tire incorporates a warning, prominently molded on the sidewall, that the tire is “For Trailer Service Only” or “For Trailer Use Only”,

(d) the load index molded on the tire’s sidewall meets or exceeds those load indexes listed in the Tire and Rim Association Year Book for the relevant ST tire size, and

(e) either

(i) the tire’s speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by Tire and Rim Association Year Book, and the rated speed does not exceed 81 MPH or an “M” rating; or

(ii) the tire’s speed rating molded on the sidewall is 87 MPH or an “N” rating, and in either case the tire’s maximum pressure and maximum load limit are molded on the sidewall and either

(1) both exceed the maximum pressure and maximum load limit for any tire of the same size designation in either the passenger car

or light truck section of the Tire and Rim Association Year Book; or

(2) if the maximum cold inflation pressure molded on the tire is less than any cold inflation pressure listed for that size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book, the maximum load limit molded on the tire is higher than the maximum load limit listed at that cold inflation pressure for that size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book;

(7) tires designed and marketed exclusively for off-road use and which, in addition, exhibit each of the following physical characteristics:

(a) The size designation and load index combination molded on the tire’s sidewall are listed in the off-the-road, agricultural, industrial or ATV section of the Tire and Rim Association Year Book,

(b) in addition to any size designation markings, the tire incorporates a warning, prominently molded on the sidewall, that the tire is “Not For Highway Service” or “Not for Highway Use”,

(c) the tire’s speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by the Tire and Rim Association Year Book, and the rated speed does not exceed 55 MPH or a “G” rating, and

(d) the tire features a recognizable off-road tread design;

(8) Tires designed and marketed for off-road use as all-terrain-vehicle (ATV) tires or utility-terrain-vehicle (UTV) tires, and which, in addition, exhibit each of the following characteristics:

(a) The tire’s speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by the Tire and Rim Association Year Book, and the rated speed does not exceed 87 MPH or an “N” rating, and

(b) both of the following physical characteristics are satisfied:

(i) The size designation and load index combination molded on the tire’s sidewall does not match any of those listed in the passenger car or light truck sections of the Tire and Rim Association Year Book, and

(ii) The size designation and load index combination molded on the tire’s sidewall matches any of the following size designation (American standard or metric) and load index combinations:

American standard size	Metric size	Load index
26x10R12	254/70R/12	72
27x10R14	254/65R/14	73
28x10R14	254/70R/14	75
28x10R14	254/70R/14	86
30x10R14	254/80R/14	79
30x10R15	254/75R/15	78
30x10R14	254/80R/14	90
31x10R14	254/85R/14	81
32x10R14	254/90R/14	95
32x10R15	254/85R/15	83
32x10R15	254/85R/15	94
33x10R15	254/90R/15	86
33x10R15	254/90R/15	95
35x9.50R15	241/105R/15	82
35x10R15	254/100R/15	97

The products covered by this investigation are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.10.10.10, 4011.10.10.20, 4011.10.10.30, 4011.10.10.40, 4011.10.10.50, 4011.10.10.60, 4011.10.10.70, 4011.10.50.00, 4011.20.10.05, and 4011.20.50.10. Tires meeting the scope description may also enter under the following HTSUS subheadings: 4011.90.10.10, 4011.90.10.50, 4011.90.20.10, 4011.90.20.50, 4011.90.80.10, 4011.90.80.50, 8708.70.45.30, 8708.70.45.46, 8708.70.45.48, 8708.70.45.60, 8708.70.60.30, 8708.70.60.45, and 8708.70.60.60. While HTSUS subheadings are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

Appendix II—List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Investigation
- IV. Changes Since the *Preliminary Determination*
- V. Adjustment under Section 777A(f) of the Act
- VI. Adjustments to Cash Deposit Rates for Export Subsidies
- VII. Discussion of the Issues
 - Comment 1: Appropriate Adverse Facts Available (AFA) Rate for the Vietnam-Wide Entity
 - Comment 2: Selecting Kumho Tire (Vietnam) Co., Ltd. (KTV) as a Voluntary Respondent
 - Comment 3: KTV's Request to Be Excluded from the Order
 - Comment 4: Whether Kenda's Rate Should Be Based on AFA
 - Comment 5: Whether Sailun's Rate Should Be Based on AFA
 - Comment 6: Classification of U.S. Sales as Export Price (EP) or Constructed Export Price (CEP)
 - Comment 7: Surrogate Value (SV) for Ocean Freight for Sailun's Sales
 - Comment 8: SV of Bead Wire
 - Comment 9: Other Issues Raised by Sailun
- VIII. Recommendation

[FR Doc. 2021-11266 Filed 5-26-21; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-583-869]

Passenger Vehicle and Light Truck Tires From Taiwan: Final Affirmative Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that imports of passenger vehicle and light truck tires

(passenger tires) from Taiwan are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) April 1, 2019, through March 31, 2020.

DATES: Applicable May 27, 2021.

FOR FURTHER INFORMATION CONTACT:

Lauren Caserta or Chien-Min Yang, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-4737 or (202) 482-5484, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 6, 2021, Commerce published in the **Federal Register** its preliminary affirmative determination in the LTFV investigation of passenger tires from Taiwan, in which we also postponed the final determination until May 21, 2021.¹ We invited interested parties to comment on the *Preliminary Determination*. A summary of the events that occurred since Commerce published the *Preliminary Determination*, may be found in the Issues and Decision Memorandum.²

Scope of the Investigation

The products covered by this investigation are passenger tires from Taiwan. For a complete description of the scope of this investigation, see Appendix I.

Scope Comments

During the course of this investigation, Commerce received scope comments from interested parties. Commerce issued a Preliminary Scope Decision Memorandum to address these comments.³ We received comments from interested parties on the Preliminary Scope Decision Memorandum, which we addressed in the Final Scope Decision

Memorandum.⁴ With the exception of one revision to correct a typographical error, Commerce is not modifying the scope language as it appeared in the correction to the *Preliminary Determination*.⁵ See Appendix I for the final scope of the investigation.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice at Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn>.

Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act).⁶

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings related to our request for information in lieu of verification, we made changes to the margin calculations for both Cheng Shin Rubber Ind. Co., Ltd.'s (Cheng Shin) and Nankang Rubber Tire Corp. Ltd. (Nankang). For a discussion of

¹ See *Passenger Vehicle and Light Truck Tires from Taiwan: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 86 FR 508 (January 6, 2021) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

² See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Passenger Vehicle and Light Truck Tires from Taiwan," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³ See Memorandum, "Passenger Vehicle and Light Truck Tires from the Republic of Korea, Taiwan, Thailand, and the Socialist Republic of Vietnam: Preliminary Scope Comments Decision Memorandum," dated December 29, 2020 (Preliminary Scope Decision Memorandum).

⁴ See Memorandum, "Passenger Vehicle and Light Truck Tires from the Republic of Korea, Taiwan, Thailand, and the Socialist Republic of Vietnam: Scope Comments Final Decision Memorandum," dated concurrently with this notice (Final Scope Decision Memorandum).

⁵ See *Passenger Vehicle and Light Truck Tires from the Republic of Korea, Taiwan, Thailand, and the Socialist Republic of Vietnam: Notice of Correction to Preliminary Determinations in Less-Than-Fair-Value Investigations*, 86 FR 7252 (January 27, 2021).

⁶ See Commerce's Letters, "In Lieu of Verification Questionnaire for Cheng Shin Rubber Ind. Co. Ltd. in the Antidumping Duty Investigation of Passenger Vehicle and Light Truck Tires from Taiwan," dated February 25, 2021; and "In Lieu of Verification Questionnaire for Nankang Rubber Tire Corp., Ltd. in the Antidumping Duty Investigation of Passenger Vehicle and Light Truck Tires from Taiwan," dated February 24, 2021.

these changes, *see* the Issues and Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all other producers and exporters not individually investigated shall be equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding rates that are zero, *de minimis*, or determined entirely under section 776 of the Act. Pursuant to section 735(c)(5)(B) of the Act, if the estimated weighted-average dumping margins established for all exporters and producers individually examined are zero, *de minimis* or determined based entirely on facts otherwise available, Commerce may use any reasonable method to establish the estimated weighted-average dumping margin for all other producers or exporters.

In this investigation, Commerce calculated estimated weighted-average dumping margins for Cheng Shin and Nankang that are not zero, *de minimis*, or based entirely on facts otherwise available. Commerce calculated the all-others rate using a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents weighted by each company's publicly-ranged total U.S. sale values for the merchandise under consideration.⁷

Final Determination

The final estimated weighted-average dumping margins are as follows:

⁷ With two respondents under examination, Commerce normally calculates: (A) A weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents; (B) a simple average of the estimated weighted-average dumping margins calculated for the examined respondents; and (C) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's publicly-ranged U.S. sale quantities for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See, e.g., Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (September 1, 2010). As complete publicly ranged sales data was available, Commerce based the all-others rate on the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, please *see* Memorandum, "Antidumping Duty Investigation of Passenger Vehicle and Light Truck Tires from Taiwan: Final Determination Calculation for the All-Others Rate," dated concurrently with this FR notice.

Exporter/producer	Estimated weighted-average dumping margin (percent)
Cheng Shin Rubber Ind. Co., Ltd	20.04
Nankang Rubber Tire Corp. Ltd	101.84
All Others	84.75

Disclosure

We intend to disclose the calculations performed in this final determination within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of passenger tires from Taiwan, as described in Appendix I of this notice, which are entered, or withdrawn from warehouse, for consumption on or after January 6, 2021, the date of publication in the **Federal Register** of the affirmative *Preliminary Determination*.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), we will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) The cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this final determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with

material injury, by reason of imports or sales (or the likelihood of sales) of passenger tires no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all cash deposits posted will be refunded and suspension of liquidation will be lifted. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the "Continuation of Suspension of Liquidation" section.

Notification Regarding Administrative Protective Orders

This notice will serve as a final reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: May 21, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The scope of this investigation is passenger vehicle and light truck tires. Passenger vehicle and light truck tires are new pneumatic tires, of rubber, with a passenger vehicle or light truck size designation. Tires covered by this investigation may be tube-type, tubeless, radial, or non-radial, and they may be intended for sale to original equipment manufacturers or the replacement market.

Subject tires have, at the time of importation, the symbol "DOT" on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Subject tires may also have the following prefixes or suffix in their tire size designation, which also appears on the sidewall of the tire:

Prefix designations:

P—Identifies a tire intended primarily for service on passenger cars.

LT—Identifies a tire intended primarily for service on light trucks.

Suffix letter designations:

LT—Identifies light truck tires for service on trucks, buses, trailers, and multipurpose passenger vehicles used in nominal highway service.

All tires with a “P” or “LT” prefix, and all tires with an “LT” suffix in their sidewall markings are covered by these investigations regardless of their intended use.

In addition, all tires that lack a “P” or “LT” prefix or suffix in their sidewall markings, as well as all tires that include any other prefix or suffix in their sidewall markings, are included in the scope, regardless of their intended use, as long as the tire is of a size that fits passenger cars or light trucks. Sizes that fit passenger cars and light trucks include, but are not limited to, the numerical size designations listed in the passenger car section or light truck section of the Tire and Rim Association Year Book, as updated annually. The scope includes all tires that are of a size that fits passenger cars or light trucks, unless the tire falls within one of the specific exclusions set out below.

Passenger vehicle and light truck tires, whether or not attached to wheels or rims, are included in the scope. However, if a subject tire is imported attached to a wheel or rim, only the tire is covered by the scope.

Specifically excluded from the scope are the following types of tires:

(1) Racing car tires; such tires do not bear the symbol “DOT” on the sidewall and may be marked with “ZR” in size designation;

(2) pneumatic tires, of rubber, that are not new, including recycled and retreaded tires;

(3) non-pneumatic tires, such as solid rubber tires;

(4) tires designed and marketed exclusively as temporary use spare tires for passenger vehicles which, in addition, exhibit each of the following physical characteristics:

(a) The size designation and load index combination molded on the tire’s sidewall are listed in Table PCT-1R (“T” Type Spare Tires for Temporary Use on Passenger Vehicles) or PCT-1B (“T” Type Diagonal (Bias) Spare Tires for Temporary Use on Passenger Vehicles) of the Tire and Rim Association Year Book,

(b) the designation “T” is molded into the tire’s sidewall as part of the size designation, and,

(c) the tire’s speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by Tire and Rim Association Year Book, and the rated speed is 81 MPH or a “M” rating;

(5) tires designed and marketed exclusively as temporary use spare tires for light trucks which, in addition, exhibit each of the following physical characteristics:

(a) The tires have a 265/70R17, 255/80R17, 265/70R16, 245/70R17, 245/75R17, 265/70R18, or 265/70R18 size designation;

(b) “Temporary Use Only” or “Spare” is molded into the tire’s sidewall;

(c) the tread depth of the tire is no greater than 6.2 mm; and

(d) Uniform Tire Quality Grade Standards (“UTQG”) ratings are not molded into the tire’s sidewall with the exception of 265/70R17 and 255/80R17 which may have UTQG molded on the tire sidewall;

(6) tires designed and marketed exclusively for specialty tire (ST) use which, in addition, exhibit each of the following conditions:

(a) The size designation molded on the tire’s sidewall is listed in the ST sections of the Tire and Rim Association Year Book,

(b) the designation “ST” is molded into the tire’s sidewall as part of the size designation,

(c) the tire incorporates a warning, prominently molded on the sidewall, that the tire is “For Trailer Service Only” or “For Trailer Use Only”,

(d) the load index molded on the tire’s sidewall meets or exceeds those load indexes listed in the Tire and Rim Association Year Book for the relevant ST tire size, and

(e) either

(i) the tire’s speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by Tire and Rim Association Year Book, and the rated speed does not exceed 81 MPH or an “M” rating; or

(ii) the tire’s speed rating molded on the sidewall is 87 MPH or an “N” rating, and in either case the tire’s maximum pressure and maximum load limit are molded on the sidewall and either

(1) both exceed the maximum pressure and maximum load limit for any tire of the same size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book; or

(2) if the maximum cold inflation pressure molded on the tire is less than any cold inflation pressure listed for that size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book, the maximum load limit molded on the tire is higher than the maximum load limit listed at that cold inflation pressure for that size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book;

(7) tires designed and marketed exclusively for off-road use and which, in addition, exhibit each of the following physical characteristics:

(a) The size designation and load index combination molded on the tire’s sidewall are listed in the off-the-road, agricultural, industrial or ATV section of the Tire and Rim Association Year Book,

(b) in addition to any size designation markings, the tire incorporates a warning, prominently molded on the sidewall, that the tire is “Not For Highway Service” or “Not for Highway Use”,

(c) the tire’s speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by the Tire and Rim Association Year Book, and the rated speed does not exceed 55 MPH or a “G” rating, and

(d) the tire features a recognizable off-road tread design;

(8) Tires designed and marketed for off-road use as all-terrain-vehicle (ATV) tires or utility-terrain-vehicle (UTV) tires, and which, in addition, exhibit each of the following characteristics:

(a) the tire’s speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by the Tire and Rim Association Year Book, and the rated speed does not exceed 87 MPH or an “N” rating, and

(b) both of the following physical characteristics are satisfied:

(i) The size designation and load index combination molded on the tire’s sidewall does not match any of those listed in the passenger car or light truck sections of the Tire and Rim Association Year Book, and

(ii) The size designation and load index combination molded on the tire’s sidewall matches any of the following size designation (American standard or metric) and load index combinations:

American standard size	Metric size	Load index
26x10R12	254/70R/12	72
27x10R14	254/65R/14	73
28x10R14	254/70R/14	75
28x10R14	254/70R/14	86
30x10R14	254/80R/14	79
30x10R15	254/75R/15	78
30x10R14	254/80R/14	90
31x10R14	254/85R/14	81
32x10R14	254/90R/14	95
32x10R15	254/85R/15	83
32x10R15	254/85R/15	94
33x10R15	254/90R/15	86
33x10R15	254/90R/15	95
35x9.50R15	241/105R/15	82
35x10R15	254/100R/15	97

The products covered by this investigation are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.10.10.10, 4011.10.10.20, 4011.10.10.30, 4011.10.10.40, 4011.10.10.50, 4011.10.10.60, 4011.10.10.70, 4011.10.50.00, 4011.20.10.05, and 4011.20.50.10. Tires meeting the scope description may also enter under the following HTSUS subheadings: 4011.90.10.10, 4011.90.10.50, 4011.90.20.10, 4011.90.20.50, 4011.90.80.10, 4011.90.80.50, 8708.70.45.30, 8708.70.45.46, 8708.70.45.48, 8708.70.45.60, 8708.70.60.30, 8708.70.60.45, and 8708.70.60.60. While HTSUS subheadings are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

Appendix II—List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Investigation
- IV. Nankang’s Withdrawal and Request for Destruction of Business Proprietary Information
- V. Changes from the Preliminary Determination
- VI. Discussion of the Issues
 - Comment 1: Whether Commerce Should Utilize Cheng Shin’s Affiliate Sales for the Calculation of Normal Value
 - Comment 2: Whether Commerce Should Treat Home Market Sales as Being at the Same Level of Trade
 - Comment 3: Whether Commerce Should Grant Certain Post-Sale Price Adjustments and Inland Freight Expenses for Affiliated Sales
 - Comment 4: Whether Commerce Should Exclude Certain Alleged “Out-of-Scope”

Tires from Cheng Shin's Margin Calculation

Comment 5: Whether Commerce Should Match Control Numbers in the U.S. and Home Markets Based on Similarities in Product Characteristics

Comment 6: Whether Commerce Should Take Tire Category into Account in Conducting its Matching Analysis

Comment 7: Whether Commerce Should Exclude Home Market CONNUMs with Small Quantities From the Dumping Calculation

Comment 8: Whether Commerce Should Remove Maxxis-branded Home Market Sales for the Calculation of Normal Value

Comment 9: Whether Commerce Should Remove Sales Not Intended for Sale in the U.S. Market from Dumping Calculation

Comment 10: Whether Commerce Should Use the A-to-A Methodology in the Final Determination and Refrain from Zeroing

Comment 11: Whether Commerce Should Allow Certain Non-Operating Income Offsets to the Reported General and Administrative (G&A) Expenses

VII. Recommendation

[FR Doc. 2021-11263 Filed 5-26-21; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-552-829]

Passenger Vehicle and Light Truck Tires From the Socialist Republic of Vietnam: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of passenger vehicle and light truck tires (passenger tires) from the Socialist Republic of Vietnam (Vietnam).

DATES: Applicable May 27, 2021.

FOR FURTHER INFORMATION CONTACT:

Michael Romani or Thomas Schauer, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-0198 or (202) 482-0410, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 10, 2020, Commerce published the *Preliminary Determination* in the **Federal Register**.¹

¹ See *Passenger Vehicle and Light Truck Tires from the Socialist Republic of Vietnam: Preliminary*

In addition to the Government of Vietnam (GOV), the mandatory respondents in this investigation are Kumho Tire (Vietnam) Co., Ltd. (KTV) and Sailun (Vietnam) Co., Ltd. (Sailun). In the *Preliminary Determination*, and in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(b)(4), Commerce aligned the final countervailable duty (CVD) determination with the final antidumping duty (AD) determination.²

A summary of the events that occurred since Commerce published the *Preliminary Determination* is found in the Issues and Decision Memorandum.³ The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>.

Period of Investigation

The period of investigation is January 1, 2019, through December 31, 2019.

Scope of the Investigation

The products covered by this investigation are passenger tires from Vietnam. For a complete description of the scope of the investigation, see Appendix I.

Scope Comments

During the course of this investigation, Commerce received scope comments from interested parties. Commerce issued a Preliminary Scope Decision Memorandum to address these comments.⁴ We received comments from interested parties on the Preliminary Scope Decision Memorandum, which we address in the

Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination, 85 FR 71607 (November 10, 2020) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

² See *Preliminary Determination*, 85 FR at 71608.

³ See Memorandum, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Passenger Vehicle and Light Truck Tires from the Socialist Republic of Vietnam," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁴ See Memorandum, "Passenger Vehicle and Light Truck Tires from the Republic of Korea, Taiwan, Thailand, and the Socialist Republic of Vietnam: Preliminary Scope Comments Decision Memorandum," dated December 29, 2020 (Preliminary Scope Decision Memorandum).

Final Scope Decision Memorandum.⁵ With the exception of one revision to correct a typographical error, Commerce is not modifying the scope language as it appeared in the correction to the preliminary determinations issued in the concurrent AD investigations.⁶ See Appendix I for the final scope of the investigation.

Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Act.⁷

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. For a list of the issues raised by parties, to which we responded in the Issues and Decision Memorandum, see Appendix II of this notice.

Methodology

Commerce conducted this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce determines that there is a subsidy, *i.e.*, a financial contribution by an "authority" that gives rise to a benefit to the recipient, and that the subsidy is specific.⁸ For a full

⁵ See Memorandum, "Passenger Vehicle and Light Truck Tires from the Republic of Korea, Taiwan, Thailand, and the Socialist Republic of Vietnam: Scope Comments Final Decision Memorandum," dated concurrently with, and hereby adopted by, this notice (Final Scope Decision Memorandum).

⁶ See *Passenger Vehicle and Light Truck Tires from the Republic of Korea, Taiwan, Thailand, and the Socialist Republic of Vietnam: Notice of Correction to Preliminary Determinations in Less-Than-Fair-Value Investigations*, 86 FR 7252 (January 27, 2021).

⁷ See Commerce's Letters, dated February 18, 2021; see also GOV's Letter, "Passenger Vehicle and Light Truck Tires from the Socialist Republic of Vietnam: GOV's Verification Questionnaire Response," dated February 26, 2021; KTV's Letter, "Countervailing Duty Investigation of Passenger Vehicle and Light Truck Tires from Vietnam—Response to February 18 In Lieu of Verification Questionnaire," dated February 26, 2021; and Sailun's Letter, "Sailun Verification Questionnaire Response to February 18 In Lieu of Verification of Passenger Vehicle and Light Truck Tires ("PVL") From Vietnam (C-552-829)," dated February 26, 2021.

⁸ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

description of the methodology underlying this final determination, *see* the Issues and Decision Memorandum.

Changes Since the Preliminary Determination

Based on our review and analysis of the record and the comments received, we made certain changes to the countervailable subsidy rate calculations. For discussion of these changes, *see* the Issues and Decision Memorandum.

All-Others Rate

Section 705(c)(5)(A) of the Act provides that in the final determination, Commerce shall determine an all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any rates that are zero, *de minimis*, or based entirely under section 776 of the Act.

In this investigation, Commerce calculated individual estimated countervailable subsidy rates for KTV and Sailun that are not zero, *de minimis*, or based entirely on facts otherwise available. Commerce calculated the all-others rate using a weighted average of the individual estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged values for the merchandise under consideration.⁹

Final Determination

We determine the countervailable subsidy rates to be:

Company	Subsidy rate (percent)
Kumho Tire (Vietnam) Co., Ltd	7.89

⁹ With two respondents under examination, Commerce normally calculates: (A) A weighted-average of the estimated subsidy rates calculated for the examined respondents; (B) a simple average of the estimated subsidy rates calculated for the examined respondents; and (C) a weighted-average of the estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged U.S. sale quantities for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See, e.g., Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (September 1, 2010). As complete publicly ranged sales data was available, Commerce based the all-others rate on the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, *see* Memorandum, "Countervailing Duty Investigation of Passenger Vehicle and Light Truck Tires from the Socialist Republic of Vietnam: Calculation of All-Others Rate," dated concurrently with this notice.

Company	Subsidy rate (percent)
Sailun (Vietnam) Co., Ltd	6.23
All Others	6.46

Disclosure

We intend to disclose the calculations performed in this final determination to interested parties within five days of any public announcement or, if there is no public announcement, within five days of the date of the publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination*, and pursuant to section 703(d)(1)(B) and (d)(2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all passenger tires from Vietnam, that were entered, or withdrawn from warehouse, for consumption on or after November 10, 2020, the date of the publication of the *Preliminary Determination* in the **Federal Register**.

In accordance with section 703(d) of the Act, effective March 10, 2021, we instructed CBP to discontinue the suspension of liquidation of all entries, but to continue the suspension of liquidation of all entries between November 10, 2020, through March 9, 2021.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a CVD order, reinstate the suspension of liquidation, and require a cash deposit of estimated countervailable duties for such entries of subject merchandise in the amounts indicated above, in accordance with section 706(a) of the Act. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all cash deposits will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. Because the final determination in this proceeding is affirmative, in accordance with section 705(b) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of passenger tires from Vietnam no later than 45 days after our final determination. In addition, we are making available to the ITC all non-privileged and non-proprietary

information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Notification Regarding APO

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to the parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

Notification to Interested Parties

This determination is issued and published in accordance with sections 705(d) and 777(i) of the Act, and 19 CFR 351.210(c).

Dated: May 21, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The scope of this investigation is passenger vehicle and light truck tires. Passenger vehicle and light truck tires are new pneumatic tires, of rubber, with a passenger vehicle or light truck size designation. Tires covered by this investigation may be tube-type, tubeless, radial, or non-radial, and they may be intended for sale to original equipment manufacturers or the replacement market.

Subject tires have, at the time of importation, the symbol "DOT" on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Subject tires may also have the following prefixes or suffix in their tire size designation, which also appears on the sidewall of the tire:

Prefix designations:

P—Identifies a tire intended primarily for service on passenger cars.

LT—Identifies a tire intended primarily for service on light trucks.

Suffix letter designations:

LT—Identifies light truck tires for service on trucks, buses, trailers, and multipurpose passenger vehicles used in nominal highway service.

All tires with a "P" or "LT" prefix, and all tires with an "LT" suffix in their sidewall markings are covered by this investigation regardless of their intended use.

In addition, all tires that lack a "P" or "LT" prefix or suffix in their sidewall markings, as

well as all tires that include any other prefix or suffix in their sidewall markings, are included in the scope, regardless of their intended use, as long as the tire is of a size that fits passenger cars or light trucks. Sizes that fit passenger cars and light trucks include, but are not limited to, the numerical size designations listed in the passenger car section or light truck section of the Tire and Rim Association Year Book, as updated annually. The scope includes all tires that are of a size that fits passenger cars or light trucks, unless the tire falls within one of the specific exclusions set out below.

Passenger vehicle and light truck tires, whether or not attached to wheels or rims, are included in the scope. However, if a subject tire is imported attached to a wheel or rim, only the tire is covered by the scope.

Specifically excluded from the scope are the following types of tires:

(1) Racing car tires; such tires do not bear the symbol "DOT" on the sidewall and may be marked with "ZR" in size designation;

(2) pneumatic tires, of rubber, that are not new, including recycled and retreaded tires;

(3) non-pneumatic tires, such as solid rubber tires;

(4) tires designed and marketed exclusively as temporary use spare tires for passenger vehicles which, in addition, exhibit each of the following physical characteristics:

(a) The size designation and load index combination molded on the tire's sidewall are listed in Table PCT-1R ("T" Type Spare Tires for Temporary Use on Passenger Vehicles) or PCT-1B ("T" Type Diagonal (Bias) Spare Tires for Temporary Use on Passenger Vehicles) of the Tire and Rim Association Year Book,

(b) the designation "T" is molded into the tire's sidewall as part of the size designation, and,

(c) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by Tire and Rim Association Year Book, and the rated speed is 81 MPH or a "M" rating;

(5) tires designed and marketed exclusively as temporary use spare tires for light trucks which, in addition, exhibit each of the following physical characteristics:

(a) The tires have a 265/70R17, 255/80R17, 265/70R16, 245/70R17, 245/75R17, 245/70R18, or 265/70R18 size designation;

(b) "Temporary Use Only" or "Spare" is molded into the tire's sidewall;

(c) the tread depth of the tire is no greater than 6.2 mm; and

(d) Uniform Tire Quality Grade Standards ("UTQG") ratings are not molded into the tire's sidewall with the exception of 265/70R17 and 255/80R17 which may have UTQG molded on the tire sidewall;

(6) tires designed and marketed exclusively for specialty tire (ST) use which, in addition, exhibit each of the following conditions:

(a) The size designation molded on the tire's sidewall is listed in the ST sections of the Tire and Rim Association Year Book,

(b) the designation "ST" is molded into the tire's sidewall as part of the size designation,

(c) the tire incorporates a warning, prominently molded on the sidewall, that the tire is "For Trailer Service Only" or "For Trailer Use Only",

(d) the load index molded on the tire's sidewall meets or exceeds those load indexes listed in the Tire and Rim Association Year Book for the relevant ST tire size, and

(e) either

(i) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by Tire and Rim Association Year Book, and the rated speed does not exceed 81 MPH or an "M" rating; or

(ii) the tire's speed rating molded on the sidewall is 87 MPH or an "N" rating, and in either case the tire's maximum pressure and maximum load limit are molded on the sidewall and either

(1) both exceed the maximum pressure and maximum load limit for any tire of the same size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book; or

(2) if the maximum cold inflation pressure molded on the tire is less than any cold inflation pressure listed for that size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book, the maximum load limit molded on the tire is higher than the maximum load limit listed at that cold inflation pressure for that size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book;

(7) tires designed and marketed exclusively for off-road use and which, in addition, exhibit each of the following physical characteristics:

(a) The size designation and load index combination molded on the tire's sidewall are listed in the off-the-road, agricultural, industrial or ATV section of the Tire and Rim Association Year Book,

(b) in addition to any size designation markings, the tire incorporates a warning, prominently molded on the sidewall, that the tire is "Not For Highway Service" or "Not for Highway Use",

(c) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by the Tire and Rim Association Year Book, and the rated speed does not exceed 55 MPH or a "G" rating, and

(d) the tire features a recognizable off-road tread design;

(8) Tires designed and marketed for off-road use as all-terrain-vehicle (ATV) tires or utility-terrain-vehicle (UTV) tires, and which, in addition, exhibit each of the following characteristics:

(a) The tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by the Tire and Rim Association Year Book, and the rated speed does not exceed 87 MPH or an "N" rating, and

(b) both of the following physical characteristics are satisfied:

(i) The size designation and load index combination molded on the tire's sidewall does not match any of those listed in the passenger car or light truck sections of the Tire and Rim Association Year Book, and

(ii) The size designation and load index combination molded on the tire's sidewall matches any of the following size designation (American standard or metric) and load index combinations:

American standard size	Metric size	Load index
26x10R12	254/70R/12	72
27x10R14	254/65R/14	73
28x10R14	254/70R/14	75
28x10R14	254/70R/14	86
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30x10R15	254/75R/15	78
30x10R14	254/80R/14	90
31x10R14	254/85R/14	81
32x10R14	254/90R/14	95
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35x9.50R15	241/105R/15	82
35x10R15	254/100R/15	97

The products covered by this investigation are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.10.10.10, 4011.10.10.20, 4011.10.10.30, 4011.10.10.40, 4011.10.10.50, 4011.10.10.60, 4011.10.10.70, 4011.10.50.00, 4011.20.10.05, and 4011.20.50.10. Tires meeting the scope description may also enter under the following HTSUS subheadings: 4011.90.10.10, 4011.90.10.50, 4011.90.20.10, 4011.90.20.50, 4011.90.80.10, 4011.90.80.50, 8708.70.45.30, 8708.70.45.46, 8708.70.45.48, 8708.70.45.60, 8708.70.60.30, 8708.70.60.45, and 8708.70.60.60. While HTSUS subheadings are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

Appendix II—List of Topics Discussed in the Final Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Investigation
- IV. Subsidies Valuation Information
- V. Analysis of Programs
- VI. Analysis of Comments
 - Comment 1: Whether International and U.S. Law Permits Commerce to Countervail Exchanges of Undervalued Currency
 - Comment 2: Whether Commerce's Promulgation of the Currency Regulations in the Absence of Legislative Authority Is Outside Its Legal Authority
 - Comment 3: Whether an Exchange of Currency Constitutes a Financial Contribution
 - Comment 4: Whether the Currency Program Is Specific
 - Comment 5: Whether the Vietnamese Dong Was Undervalued During the POI
 - Comment 6: Whether Countervailing Currency Exchanges Results in a Double Remedy
 - Comment 7: How the Subsidy Rate for the Currency Program Should Be Calculated
 - Comment 8: Whether Import Duty Exemptions for Raw Materials Are Countervailable
 - Comment 9: Whether Commerce Should Revise the Benchmark for the Provision of Natural Rubber to KTV
 - Comment 10: Whether KTV's Preferential Rent is Countervailable

Comment 11: Whether Sailun Used the Program on Preferential Rent
 Comment 12: Whether Commerce Should Revise the Benchmark for Preferential Rent for KTV
 VII. Recommendation

[FR Doc. 2021–11265 Filed 5–26–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–908]

Passenger Vehicle and Light Truck Tires From the Republic of Korea: Final Affirmative Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that passenger vehicle and light truck tires (passenger tires) from the Republic of Korea (Korea) are being, or are likely to be, sold in the United States at less than fair value (LTFV) for the period of investigation (POI) April 1, 2019, through March 31, 2020.

DATES: Applicable May 27, 2021.

FOR FURTHER INFORMATION CONTACT: Elfi Blum or Jun Jack Zhao, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0197 or (202) 482–1396, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 6, 2021, Commerce published in the *Federal Register* its preliminary affirmative determination in the LTFV investigation of passenger tires from Korea, in which we also postponed the final determination until May 21, 2021.¹ We invited interested parties to comment on the *Preliminary Determination*. A summary of the events that occurred since Commerce published the *Preliminary Determination* is found in the Issues and Decision Memorandum.²

¹ See *Passenger Vehicle and Light Truck Tires from the Republic of Korea: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 86 FR 501 (January 6, 2021) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

² See Memorandum, “Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Passenger Vehicle and Light Truck

Scope of the Investigation

The products covered by this investigation are passenger tires from Korea. For a complete description of the scope of this investigation, see Appendix I.

Scope Comments

During the course of this investigation, Commerce received scope comments from interested parties. Commerce issued a Preliminary Scope Decision Memorandum to address these comments.³ We received comments from interested parties on the Preliminary Scope Decision Memorandum, which we addressed in the Final Scope Decision Memorandum.⁴ With the exception of one revision to correct a typographical error, Commerce is not modifying the scope language as it appeared in the correction to the *Preliminary Determination*.⁵ See Appendix I for the final scope of the investigation.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice at Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn>.

Verification

Commerce was unable to conduct on-site verification of the information

Tires from the Republic of Korea,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³ See Memorandum, “Passenger Vehicle and Light Truck Tires from the Republic of Korea, Taiwan, Thailand, and the Socialist Republic of Vietnam: Preliminary Scope Comments Decision Memorandum,” dated December 29, 2020 (Preliminary Scope Decision Memorandum).

⁴ See Memorandum, “Passenger Vehicle and Light Truck Tires from the Republic of Korea, Taiwan, Thailand, and the Socialist Republic of Vietnam: Scope Comments Final Decision Memorandum,” dated concurrently with this notice (Final Scope Decision Memorandum).

⁵ See *Passenger Vehicle and Light Truck Tires from the Republic of Korea, Taiwan, Thailand, and the Socialist Republic of Vietnam: Notice of Correction to Preliminary Determinations in Less-Than-Fair-Value Investigations*, 86 FR 7252 (January 27, 2021).

relied upon in making its final determination in this investigation. However, we took additional steps in lieu of on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act).⁶

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings related to our requests for information in lieu of verification, we made changes to the margin calculations regarding Hankook Tire & Technology Co. Ltd. (Hankook) and Nexen Tire Corporation (Nexen). For a discussion of these changes, see the Issues and Decision Memorandum as well as the final analysis memoranda for Hankook and Nexen.⁷

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all other producers and exporters not individually investigated shall be equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding rates that are zero, *de minimis*, or determined entirely under section 776 of the Act. Pursuant to section 735(c)(5)(B) of the Act, if the estimated weighted-average dumping margins established for all exporters and producers individually examined are zero, *de minimis* or determined based entirely on facts otherwise available, Commerce may use any reasonable method to establish the estimated weighted-average dumping margin for all other producers or exporters.

In this investigation, Commerce calculated estimated weighted-average dumping margins for Hankook and Nexen that are not zero, *de minimis*, or based entirely on facts otherwise

⁶ See Commerce’s Letters, “In Lieu of Verification Supplemental,” dated March 8, 2021; see also Hankook’s Letter, “Passenger Vehicle and Light Truck Tires from the Republic of Korea (A–580–908): Verification Questionnaire Response,” dated March 16, 2021, and Nexen’s Letter, “Passenger Vehicle and Light Truck Tires from South Korea: Response to Request for Information In Lieu of Verification,” dated March 17, 2021.

⁷ See Memoranda, “Analysis for the Final Determination of the Less-Than-Fair Value Investigation of Passenger Vehicle and Light Truck Tires from South Korea: Final Margin Analysis for Hankook Tire & Technology Co. Ltd.” dated May 21, 2021; “Analysis for the Final Determination of the Less-Than-Fair Value Investigation of Passenger Vehicle and Light Truck Tires from South Korea: Final Margin Analysis for Nexen Tire Corporation.” dated May 21, 2021.

available. Commerce calculated the all-others rate using a weighted average of the estimated weighted-average dumping margins calculated for the examined respondents weighted by each respondent's publicly-ranged total U.S. sale values for the merchandise under consideration.⁸

Final Determination

The final estimated weighted-average dumping margins are as follows:

Exporter or producer	Estimated weighted-average dumping margin (percent)
Hankook Tire & Technology Co. Ltd	27.05
Nexen Tire Corporation	14.72
All Others	21.74

Disclosure

We intend to disclose the calculations performed in this final determination within five days of its public announcement or, if there is no public announcement, within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, Commerce will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of passenger tires from Korea, as described

in Appendix I of this notice, which are entered, or withdrawn from warehouse, for consumption on or after January 6, 2021, the date of publication in the **Federal Register** of the affirmative *Preliminary Determination*.

Pursuant to section 735(c)(1)(B)(ii) of the Act and 19 CFR 351.210(d), we will instruct CBP to require a cash deposit as follows: (1) The cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not a company identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) of passenger tires no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all cash deposits posted will be refunded and suspension of liquidation will be lifted. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the "Continuation of Suspension of Liquidation" section.

Notification Regarding Administrative Protective Orders

This notice will serve as a final reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information

disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: May 21, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The scope of this investigation is passenger vehicle and light truck tires. Passenger vehicle and light truck tires are new pneumatic tires, of rubber, with a passenger vehicle or light truck size designation. Tires covered by this investigation may be tube-type, tubeless, radial, or non-radial, and they may be intended for sale to original equipment manufacturers or the replacement market.

Subject tires have, at the time of importation, the symbol "DOT" on the sidewall, certifying that the tire conforms to applicable motor vehicle safety standards. Subject tires may also have the following prefixes or suffix in their tire size designation, which also appears on the sidewall of the tire:

Prefix designations:

P—Identifies a tire intended primarily for service on passenger cars.

LT—Identifies a tire intended primarily for service on light trucks.

Suffix letter designations:

LT—Identifies light truck tires for service on trucks, buses, trailers, and multipurpose passenger vehicles used in nominal highway service.

All tires with a "P" or "LT" prefix, and all tires with an "LT" suffix in their sidewall markings are covered by this investigation regardless of their intended use.

In addition, all tires that lack a "P" or "LT" prefix or suffix in their sidewall markings, as well as all tires that include any other prefix or suffix in their sidewall markings, are included in the scope, regardless of their intended use, as long as the tire is of a size that fits passenger cars or light trucks. Sizes that fit passenger cars and light trucks include, but are not limited to, the numerical size designations listed in the passenger car section or light truck section of the Tire and Rim Association Year Book, as updated annually. The scope includes all tires that are of a size that fits passenger cars or light trucks, unless the tire falls within one of the specific exclusions set out below.

Passenger vehicle and light truck tires, whether or not attached to wheels or rims, are included in the scope. However, if a subject tire is imported attached to a wheel or rim, only the tire is covered by the scope.

⁸ With two respondents under examination, Commerce normally calculates: (A) An average, weighted by each respondent's publicly-ranged U.S. sale quantity for the merchandise under consideration, of the estimated weighted-average dumping margins calculated for the examined respondents; (B) a simple average of the estimated weighted-average dumping margins calculated for the examined respondents; and (C) an average, weighted by each company's publicly-ranged U.S. sale quantities for the merchandise under consideration, of the estimated weighted-average dumping margins calculated for the examined respondents. Commerce then compares (B) and (C) to (A) and selects either the (B) or (C) rate based on the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See, e.g., Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (September 1, 2010). As complete publicly ranged sales data are available, Commerce based the all-others rate on the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, please see 'Memorandum "Final Determination of the Less-Than-Fair Value Investigation of Passenger Vehicles and Light Truck Tires from Korea: Rate for Non-Examined Companies,"' dated concurrently with this notice.

Specifically excluded from the scope are the following types of tires:

- (1) Racing car tires; such tires do not bear the symbol "DOT" on the sidewall and may be marked with "ZR" in size designation;
- (2) pneumatic tires, of rubber, that are not new, including recycled and retreaded tires;
- (3) non-pneumatic tires, such as solid rubber tires;

(4) tires designed and marketed exclusively as temporary use spare tires for passenger vehicles which, in addition, exhibit each of the following physical characteristics:

(a) The size designation and load index combination molded on the tire's sidewall are listed in Table PCT-1R ("T" Type Spare Tires for Temporary Use on Passenger Vehicles) or PCT-1B ("T" Type Diagonal (Bias) Spare Tires for Temporary Use on Passenger Vehicles) of the Tire and Rim Association Year Book,

(b) the designation "T" is molded into the tire's sidewall as part of the size designation, and,

(c) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by Tire and Rim Association Year Book, and the rated speed is 81 MPH or a "M" rating;

(5) tires designed and marketed exclusively as temporary use spare tires for light trucks which, in addition, exhibit each of the following physical characteristics:

(a) the tires have a 265/70R17, 255/80R17, 265/70R16, 245/70R17, 245/75R17, 245/70R18, or 265/70R18 size designation;

(b) "Temporary Use Only" or "Spare" is molded into the tire's sidewall;

(c) the tread depth of the tire is no greater than 6.2 mm; and

(d) Uniform Tire Quality Grade Standards ("UTQG") ratings are not molded into the tire's sidewall with the exception of 265/70R17 and 255/80R17 which may have UTQG molded on the tire sidewall;

(6) tires designed and marketed exclusively for specialty tire (ST) use which, in addition, exhibit each of the following conditions:

(a) The size designation molded on the tire's sidewall is listed in the ST sections of the Tire and Rim Association Year Book,

(b) the designation "ST" is molded into the tire's sidewall as part of the size designation,

(c) the tire incorporates a warning, prominently molded on the sidewall, that the tire is "For Trailer Service Only" or "For Trailer Use Only",

(d) the load index molded on the tire's sidewall meets or exceeds those load indexes listed in the Tire and Rim Association Year Book for the relevant ST tire size, and

(e) either

(i) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by Tire and Rim Association Year Book, and the rated speed does not exceed 81 MPH or an "M" rating; or

(ii) the tire's speed rating molded on the sidewall is 87 MPH or an "N" rating, and in either case the tire's maximum pressure and maximum load limit are molded on the sidewall and either

(1) both exceed the maximum pressure and maximum load limit for any tire of the same size designation in either the passenger car

or light truck section of the Tire and Rim Association Year Book; or

(2) if the maximum cold inflation pressure molded on the tire is less than any cold inflation pressure listed for that size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book, the maximum load limit molded on the tire is higher than the maximum load limit listed at that cold inflation pressure for that size designation in either the passenger car or light truck section of the Tire and Rim Association Year Book;

(7) tires designed and marketed exclusively for off-road use and which, in addition, exhibit each of the following physical characteristics:

(a) The size designation and load index combination molded on the tire's sidewall are listed in the off-the-road, agricultural, industrial or ATV section of the Tire and Rim Association Year Book,

(b) in addition to any size designation markings, the tire incorporates a warning, prominently molded on the sidewall, that the tire is "Not For Highway Service" or "Not for Highway Use",

(c) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by the Tire and Rim Association Year Book, and the rated speed does not exceed 55 MPH or a "G" rating, and

(d) the tire features a recognizable off-road tread design;

(8) Tires designed and marketed for off-road use as all-terrain-vehicle (ATV) tires or utility-terrain-vehicle (UTV) tires, and which, in addition, exhibit each of the following characteristics:

(a) the tire's speed rating is molded on the sidewall, indicating the rated speed in MPH or a letter rating as listed by the Tire and Rim Association Year Book, and the rated speed does not exceed 87 MPH or an "N" rating, and

(b) both of the following physical characteristics are satisfied:

(i) The size designation and load index combination molded on the tire's sidewall does not match any of those listed in the passenger car or light truck sections of the Tire and Rim Association Year Book, and

(ii) The size designation and load index combination molded on the tire's sidewall matches any of the following size designation (American standard or metric) and load index combinations:

American standard size	Metric size	Load index
26x10R12	254/70R/12	72
27x10R14	254/65R/14	73
28x10R14	254/70R/14	75
28x10R14	254/70R/14	86
30x10R14	254/80R/14	79
30x10R15	254/75R/15	78
30x10R14	254/80R/14	90
31x10R14	254/85R/14	81
32x10R14	254/90R/14	95
32x10R15	254/85R/15	83
32x10R15	254/85R/15	94
33x10R15	254/90R/15	86
33x10R15	254/90R/15	95
35x9.50R15 ...	241/105R/15 ..	82
35x10R15	254/100R/15 ..	97

The products covered by this investigation are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4011.10.10.10, 4011.10.10.20, 4011.10.10.30, 4011.10.10.40, 4011.10.10.50, 4011.10.10.60, 4011.10.10.70, 4011.10.50.00, 4011.20.10.05, and 4011.20.50.10. Tires meeting the scope description may also enter under the following HTSUS subheadings:

4011.90.10.10, 4011.90.10.50, 4011.90.20.10, 4011.90.20.50, 4011.90.80.10, 4011.90.80.50, 8708.70.45.30, 8708.70.45.46, 8708.70.45.48, 8708.70.45.60, 8708.70.60.30, 8708.70.60.45, and 8708.70.60.60. While HTSUS subheadings are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

Appendix II—List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Investigation
- IV. Changes from the Preliminary Determination
- V. Application of Facts Available and Use of Adverse Inference
- VI. Discussion of the Issues
 - Comment 1: Application of Partial Adverse Facts Available (AFA) to Certain Downstream Sales of Hankook
 - Comment 2: Hankook's Revised Home and U.S. Market Sales Data
 - Comment 3: Hankook's Minor Corrections
 - Comment 4: Hankook's Warranty Expenses
 - Comment 5: Application of Partial AFA to Nexen's Sample Sales
 - Comment 6: Nexen's CEP Offset
 - Comment 7: Nexen's Noise Reduction Foam and Special Wrapping Costs
- VII. Recommendation

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-878]

Corrosion-Resistant Steel Products From the Republic of Korea: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018–2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that certain corrosion-resistant steel products (CORE) from the Republic of Korea (Korea) were sold in the United States at less than normal value during the period of review of July 1, 2018, through June 30, 2019.

DATES: Applicable May 27, 2021.

FOR FURTHER INFORMATION CONTACT: Leo Ayala, Elfi Blum, or Lingjun Wang, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3945, (202) 482-0197, or (202) 482-2316, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 24, 2020, Commerce published the *Preliminary Results* of the 2018–2019 administrative review of the antidumping duty (AD) order on CORE from Korea.¹ This review covers eleven companies,² of which we collapsed Dongbu Steel Co., Ltd. and Dongbu Incheon Steel Co., Ltd. as single entity (i.e., Dongbu) for AD purposes, and selected Dongbu, Dongkuk, and Hyundai as mandatory respondents.

We invited interested parties to comment on the *Preliminary Results* and received case and rebuttal briefs.³ On March 22, 2021, we extended the time limit for the final results of this review from 120 days to 168 days.⁴ On May 10, 2021, Commerce extended the deadline for the final results by an additional 10 days to May 21, 2021.⁵ Commerce conducted this review in accordance with section 751(a)(1)(B) of

the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The products covered by this order are CORE from Korea. For a complete description of the scope of this order, see the Issues and Decision Memorandum.⁶

Analysis of Comments Received

All issues raised by parties in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is provided in the appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>.

Changes Since the Preliminary Results

Based on the comments received, we made changes for these final results which are explained in the Issues and Decision Memorandum.

Final Determination of No Shipments

We received no comments regarding the no shipments claims with respect to NSSVC, HSG, and TDA since the *Preliminary Results*. Further, we have analyzed the questionnaire responses submitted by the respondents since the *Preliminary Results* and determined that the record contains no information that calls into question a finding of no shipments.⁷ Therefore, we find that NSSVC, HSG, and TDA had no shipments of subject merchandise during the POR.

⁶ See Memorandum, "Certain Corrosion-Resistant Steel Products from the Republic of Korea: Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018–2019," dated with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁷ See NSSVC's Letter, "Corrosion-Resistant Steel Products from the Republic of Korea: NSSVC's Response to the Department's Administrative Review Questionnaire," dated November 24, 2020; TDA's Letters, "Certain Corrosion-Resistant Steel Products from the Republic of Korea, 7/1/2018–6/30/2018 Administrative Review, Case No. A–580–878: Initial Questionnaire Response," dated November 23, 2020, and "Certain Corrosion-Resistant Steel Products from the Republic of Korea, Case No. A–580–878: No Shipment letter," dated October 9, 2019; and HSG's Letter, "Corrosion-Resistant Steel Products from the People's Republic of China: Response to Questionnaire," dated March 11, 2020.

Rate for Non-Examined Companies

The statute and Commerce's regulations do not address the establishment of a rate to be applied to companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation, for guidance when calculating the rate for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally "an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}."

In this review, the final estimated weighted-average dumping margins for Dongbu and Dongkuk are not zero, *de minimis*, or based entirely on facts otherwise available, and for Hyundai is zero. Therefore, Commerce calculated the rate for non-examined companies using a weighted average of the estimated weighted-average dumping margins calculated for Dongbu and Dongkuk using each company's publicly ranged values for the subject merchandise.⁸

Final Results of the Administrative Review

We determine that the following weighted-average dumping margins exist for the period July 1, 2018, through June 30, 2019:

⁸ Commerce normally calculates (A) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents; (B) a simple average of the estimated weighted-average dumping margins calculated for the examined respondents; and (C) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's publicly ranged U.S. sale values of the subject merchandise. Commerce then selects from (B) and (C) the rate closest to (A) as the most appropriate rate for non-examined companies. See *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (September 1, 2010).

⁹ Commerce finds that that KG Dongbu Steel Co., Ltd. is the successor-in-interest to Dongbu Steel Co., Ltd. and Dongbu Incheon Steel Co., Ltd. for purposes of determining AD cash deposits and liabilities. See *Certain Cold-Rolled Steel Flat Products and Certain Corrosion-Resistant Steel Products from the Republic of Korea: Final Results of Antidumping and Countervailing Duty Changed*

¹ See *Certain Corrosion-Resistant Steel Products from the Republic of Korea: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*; 2018–019, 85 FR 74987 (November 24, 2020) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

² The eleven companies are: Dongbu Steel Co., Ltd., Dongbu Incheon Steel Co., Ltd., Dongkuk Steel Mill Co., Ltd. (Dongkuk), Hyundai Steel Company (Hyundai), POSCO Ltd., POSCO Daewoo Corporation, POSCO International Corporation, POSCO Coated & Color Steel Co., Hoa Sen Group (HSG), Ton Dong A Corporation (TDA), and Nippon Steel and Sumikin Sales Vietnam Co. (NSSVC).

³ See Petitioners' Letters: "Corrosion-Resistant Steel Products from the Republic of Korea: Petitioners' Case Brief Regarding Dongbu Steel Co., Ltd.," dated January 11, 2021; "Corrosion-Resistant Steel Products from the Republic of Korea: Petitioners' Case Brief Regarding Dongkuk Steel Mill Co., Ltd.," dated January 11, 2021; "Corrosion-Resistant Steel Products from South Korea: Petitioners' Rebuttal Brief Regarding Dongkuk Steel Mill Co., Ltd.," dated January 19, 2021; Dongkuk's Letters, "Certain Corrosion-Resistant Steel Products from the Republic of Korea: Case Brief," dated January 11, 2021; and "Certain Corrosion-Resistant Steel Products from the Republic of Korea: Rebuttal Brief," dated January 19, 2021.

⁴ See Memorandum, "Certain Corrosion-Resistant Steel Products from the Republic of Korea: Extension of Deadline for Final Results of Antidumping Duty Administrative Review," dated March 22, 2021.

⁵ See Memorandum, "Certain Corrosion-Resistant Steel Products from the Republic of Korea: Second Extension of Deadline for Final Results of Antidumping Duty Administrative Review," dated May 10, 2021.

Producer or exporter	Weighted-average dumping margin (percent)
Dongbu Steel Co., Ltd./Dongbu Incheon Steel Co., Ltd. ⁹	0.86
Dongkuk Steel Mill Co., Ltd	0.76
Hyundai Steel Company	0.00
Review-Specific Average Rate Applicable to the Following Companies:¹⁰	
POSCO, POSCO Daewoo Corporation and POSCO International Corporation	0.80
POSCO Coated & Color Steel Co., Ltd	0.80

Disclosure

We intend to disclose the calculations performed in connection with these final results to parties in this proceeding within five days after public announcement of the final results, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act, and 19 CFR 351.212(b)(1), Commerce will determine, and U.S. Customs and Border Protections (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. We will calculate importer-specific assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for each importer's examined sales and the total entered value of the sales in accordance with 19 CFR 351.212(b)(1).

For entries of subject merchandise during the POR produced by each respondent for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate such entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

Consistent with its recent notice,¹¹ Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has

expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for the respondents noted above will be the rate established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the producer is, then the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 8.31 percent, the all-others cash deposit rate established in the investigation.¹² These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties

prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.221(b)(5).

Dated: May 21, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Changes Since the Preliminary Results
- V. Final Determination of No Shipments
- VI. Discussion of Comments
 - Comment 1: Home Market Packing Expenses
 - Comment 2: Clad Material/Coating Metal (CMETALH/U) Coding

Circumstances Reviews, 86 FR 10922 (February 23, 2021).

¹⁰ See *supra* n.8.

⁹ Commerce finds that that KG Dongbu Steel Co., Ltd. is the successor-in-interest to Dongbu Steel Co., Ltd. and Dongbu Incheon Steel Co., Ltd. for purposes of determining AD cash deposits and liabilities. See *Certain Cold-Rolled Steel Flat Products and Certain Corrosion-Resistant Steel Products from the Republic of Korea: Final Results of Antidumping and Countervailing Duty Changed*

Circumstances Reviews, 86 FR 10922 (February 23, 2021).

¹⁰ See *supra* n.8.

¹¹ See *Notice of Discontinuation of Policy to Issue Liquidation Instructions After 15 Days in Applicable Antidumping and Countervailing Duty Administrative Proceedings*, 86 FR 3995 (January 15, 2021).

¹² See *Certain Corrosion-Resistant Steel Products from India, Italy, the People's Republic of China,*

the Republic of Korea and Taiwan: Amended Final Affirmative Antidumping Determination for India and Taiwan, and Antidumping Duty Orders, 81 FR 48390 (July 25, 2016), as amended by *Certain Corrosion-Resistant Steel Products from the Republic of Korea: Notice of Court Decision Not in Harmony with Final Determination of Investigation and Notice of Amended Final Results*, 83 FR 39054 (August 8, 2018).

Comment 3: Changes to Calculations
 Comment 4: General & Administrative
 (G&A) Expenses
 Comment 5: Constructed Export Price
 (CEP) Offset
 Comment 6: Cost of Production-Smoothing
 VII. Recommendation

[FR Doc. 2021-11247 Filed 5-26-21; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-489-829]

Steel Concrete Reinforcing Bar From the Republic of Turkey: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018–2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) finds that sales of steel concrete reinforcing bar (rebar) from the Republic of Turkey (Turkey) were made at less than normal value during the period of review (POR) July 1, 2018, through June 30, 2019.

DATES: Applicable May 27, 2021.

FOR FURTHER INFORMATION CONTACT: Robert Copyak or Thomas Dunne, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3642 or (202) 482-2328, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 24, 2020, Commerce published the *Preliminary Results* of this administrative review and invited interested parties to comment on the *Preliminary Results*.¹ These final results cover seven companies for which an administrative review was initiated and not rescinded. On December 22, 2020, Kaptan Demir Celik Endustrisi ve Ticaret A.S. (Kaptan Demir) and Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S. (Icdas) (collectively, the respondents) filed a joint case brief.² Also, on the same day, the Rebar Trade

Action Coalition (the petitioner) filed its case brief.³

On January 8, 2021, we received a joint rebuttal brief from the respondents and a rebuttal brief from the petitioner.⁴ On February 26, 2021, Commerce rejected the respondents' case brief and the petitioner's rebuttal brief for containing untimely new factual information.⁵ On March 2, 2021, the respondents' submitted a revised case brief, and the petitioner submitted its revised rebuttal case brief.⁶

On March 3, 2021, Commerce extended the deadline for these final results until May 21, 2021.⁷

Scope of the Order⁸

The scope of the *Order* covers rebar from Turkey. A full description of the scope of the *Order* is contained in the Issues and Decision Memorandum.⁹

Analysis of Comments Received

All issues raised in the case and rebuttal briefs filed by parties in this review are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is in the appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's

³ See Petitioner's Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: RTAC's Case Brief," dated December 22, 2020.

⁴ See Respondents' Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Turkish Respondents' Rebuttal Case Brief," dated January 8, 2021; see also Petitioner's Letter, "Steel Concrete Reinforcing Bars from the Republic of Turkey: RTAC's Rebuttal Brief," dated January 8, 2021.

⁵ See Commerce Letters, "Steel Concrete Reinforcing Bar from the Republic of Turkey—Rejection of Case Brief Containing Untimely New Factual Information," dated February 26, 2021 and "Steel Concrete Reinforcing Bar from the Republic of Turkey—Rejection of Rebuttal Brief Containing Untimely New Factual Information," dated February 26, 2021.

⁶ See Respondents' Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Submission of Turkish Respondents' Revised Case Brief," dated March 2, 2021; see also Petitioner's Letter, "Steel Concrete Reinforcing Bar from Turkey: Resubmission of RTAC's Rebuttal Brief," dated March 2, 2021.

⁷ See Memorandum, "Administrative Review of the Antidumping Duty Order on Steel Concrete Reinforcing Bar from the Republic of Turkey," dated March 3, 2021.

⁸ See *Steel Concrete Reinforcing Bar from the Republic of Turkey and Japan: Amended Final Affirmative Antidumping Duty Determination for the Republic of Turkey and Antidumping Duty Orders*, 82 FR 32532 (July 14, 2017) (*Order*).

⁹ See Memorandum, "Issues and Decision Memorandum for the Final Results of the 2018–2019 Administrative Review of the Antidumping Duty Order on Steel Concrete Reinforcing Bar from Turkey," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>.

Changes Since the Preliminary Results

Based on our analysis of the comments received, and for the reasons explained in the Issues and Decision Memorandum, we made certain changes from the *Preliminary Results*.

Final Determination of No Shipments

For the *Preliminary Results*, we found that Habas Sinai ve Tibbi Gazlar Istihsal Endüstrisi A.S (Habas) did not have any shipments of subject merchandise during the POR. No parties commented on this preliminary determination. For the final results of review, we continue to find that Habas made no shipments of subject merchandise during the POR.

Final Results of Administrative Review

For these final results, we determine that the following weighted-average dumping margins exist for the period July 1, 2018, through June 30, 2019:

Producers/exporters	Weighted-average dumping margin (percent)
Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S. ¹⁰	5.30
Kaptan Demir Celik Endüstrisi ve Ticaret A.S.	12.41
Review-Specific Average Rate Applicable to the Following Companies: ¹¹	
Colakoglu Dis Ticaret A.S. ...	7.05
Colakoglu Metalurji A.S.	7.05
Diler Dis Ticaret A.S.	7.05
Kaptan Metal Dis Ticaret ve Nakliyat A.S.	7.05

Rates for Non-Selected Companies

For the rate for non-selected respondents in an administrative

¹⁰ We have determined that the two company names (Icdas Celik Enerji Tersane ve Ulasim and Icdas) refer to the same company, and the rate calculated for Icdas applies to both company names. See *Preliminary Results* and accompanying Preliminary Decision Memorandum at 2.

¹¹ This rate is based on the rates for the respondents that were selected for individual review, excluding rates that are zero, *de minimis*, or based entirely on facts available. See section 735(c)(5)(A) of the Act; see also Memorandum, "Final Results of the Antidumping Administrative Review of Steel Concrete Reinforcing Bar from the Republic of Turkey; 2018–2019: Calculation of the Cash Deposit Rate for Non-Selected Companies," dated concurrently with these final results (Non-Selected Companies Memorandum).

¹ See *Steel Concrete Reinforcing Bar from the Republic of Turkey: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No-Shipments; 2018–2019*, 85 FR 74983 (November 24, 2020) (*Preliminary Results*).

² See Respondents' Letter, "Steel Concrete Reinforcing Bar from the Republic of Turkey: Turkish Respondents' Case Brief," dated December 22, 2020.

review, generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a market economy investigation. Under section 735(c)(5)(A) of the Act, the all-others rate is normally “an amount equal to the weighted-average of the estimated weighted average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}.” In this segment of the proceeding, we calculated margins for Kaptan Demir and Icdas that were not zero, *de minimis*, or based on facts available. Accordingly, Commerce calculated the cash deposit rate for the companies not selected for individual examination to be 7.05 percent using a weighted-average of the estimated weighted-average dumping margins calculated for Icdas and Kaptan Demir and each company’s publicly-ranged values for the merchandise under consideration.¹²

Disclosure

Commerce intends to disclose the calculations performed for these final results of review within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), Commerce shall determine and U.S. Customs and Border Protection (CBP) shall assess antidumping duties on all appropriate entries. Commerce will instruct CBP to apply an *ad valorem* assessment rate of 12.41 percent to all entries of subject merchandise during the POR which were produced and/or exported by Kaptan Demir and an *ad valorem* assessment rate of 5.30 percent to all entries of subject merchandise during the POR which were produced and/or exported by Icdas. Commerce will also instruct CBP to apply an *ad valorem* assessment rate of 7.05 percent to all entries of subject merchandise during the POR which were produced and/or exported by Colakoglu Dis Ticaret A.S., Colakoglu Metalurji A.S., Diler Dis Ticaret A.S., and Kaptan Metal Dis Ticaret ve Nakliyat A.S. In addition, we continue to find that Habas had no shipments during the POR. Accordingly, consistent with Commerce’s practice, we intend to instruct CBP to liquidate any existing entries of merchandise produced by Habas, but exported by other parties, at the rate for the

intermediate reseller, if available, or at the all others rate.¹³ Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements for estimated antidumping duties will be effective upon publication of the notice of these final results of review for all shipments of rebar from Turkey entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for Kaptan Demir will be 12.41 percent; (2) the cash deposit rate for Icdas will be 5.30 percent; (3) the cash deposit rate for Colakoglu Dis Ticaret A.S., Colakoglu Metalurji A.S., Diler Dis Ticaret A.S., and Kaptan Metal Dis Ticaret ve Nakliyat A.S. will be 7.05 percent; (4) for merchandise exported by producers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (5) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the producer is, then the cash deposit rate will be the rate established for the most recent period for the producer of the merchandise; (6) the cash deposit rate for all other producers or exporters will continue to be 7.26 percent,¹⁴ the all-others rate established in the less-than-fair-value investigation. These cash deposit requirements shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce’s presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties Regarding Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h).

Dated: May 21, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Changes Since the Preliminary Results
- V. Discussion of the Issues
 - Comment 1: Whether Commerce Should Use Contract Date for Kaptan Demir’s U.S. Date of Sale
 - Comment 2: Whether Commerce Should Revise the Duty Drawback Adjustment Methodology
 - Comment 3: Whether Commerce Should Grant Icdas a Duty Drawback Adjustment
 - Comment 4: Whether There was High Inflation in Turkey During the Period of Review
 - Comment 5: Whether to Treat Section 232 Tariffs as U.S. Customs Duties
 - Comment 6: Whether Commerce Erred in Calculating Icdas’ Margin in the Preliminary Results
 - Comment 7: Whether Commerce Should Change the Treatment of Late Payments in Icdas’ Home Market and Margin Programs
 - Comment 8: Whether Commerce Should Activate a Macro Pertaining to Net Price for Kaptan Demir’s Downstream Home Market Sales
- VI. Recommendation

[FR Doc. 2021–11258 Filed 5–26–21; 8:45 am]

BILLING CODE 3510–DS–P

¹³ See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

¹⁴ See *Order*, 82 FR at 32533.

¹² See Non-Selected Companies Memorandum.

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; West Coast Region Vessel Identification Requirements**

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on January 22, 2021, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: West Coast Region Vessel Identification Requirements.

OMB Control Number: 0648–0355.

Form Number(s): None.

Type of Request: Regular submission (extension of a currently approved collection).

Number of Respondents: 1,007.

Average Hours per Response: 45 minutes.

Total Annual Burden Hours: 151.

Needs and Uses: This request is for extension of a currently approved information collection.

The success of fisheries management programs depends significantly on regulatory compliance. The vessel identification requirement is essential to facilitate enforcement. The ability to link fishing (or other activity) to the vessel owner or operator is crucial to enforcement of regulations issued under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. A vessel's official number is required to be displayed on the port and starboard sides of the deckhouse or hull, and on a weather deck. It identifies each vessel and should be visible at distances at sea and in the air. Law enforcement personnel rely on vessel marking information to assure compliance with fisheries management regulations. Vessels that qualify for particular fisheries are also readily identified, and this allows for more cost-effective

enforcement. Cooperating fishermen also use the vessel numbers to report suspicious or non-compliant activities that they observe in unauthorized areas. The identifying number on fishing vessels is used by the National Marine Fisheries Service (NMFS), the United States Coast Guard (USCG), and other marine agencies in issuing regulations, prosecutions, and other enforcement actions necessary to support sustainable fisheries behaviors as intended in regulations. Regulation-compliant fishermen ultimately benefit from these requirements, as unauthorized and illegal fishing is deterred, and more burdensome regulations are avoided.

Affected Public: Business or other for-profit organizations.

Frequency: SFD staff consulted with various groundfish vessel captains participating in various groundfish pot, longline, midwater trawl, bottom trawl fisheries, and determined that gear and vessel markings have a five-year life span.

Respondent's Obligation: Mandatory.

Legal Authority: 50 CFR 660.12.

This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function and entering either the title of the collection or the OMB Control Number 0648–0355.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–11201 Filed 5–26–21; 8:45 am]

BILLING CODE 3510–22–P

ACTION: Request for comments on draft revised management plan.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is soliciting comments from the public regarding a proposed revision of the management plan for the Kachemak Bay National Estuarine Research Reserve. A management plan: Provides a framework for the direction and timing of a reserve's programs; allows reserve managers to assess a reserve's success in meeting its goals and to identify any necessary changes in direction; and is used to guide programmatic evaluations of the reserve. Plan revisions are required of each reserve in the National Estuarine Research Reserve System at least every five years. This revised plan is intended to replace the plan approved in 2012.

DATES: Comments must be received at the appropriate address (see **ADDRESSES**) on or before June 28, 2021.

ADDRESSES: The draft revised management plan can be downloaded or viewed at <https://accs.uaa.alaska.edu/kachemak-bay-nerr-draft-management-plan>. The document is also available by sending a written request to the point of contact identified below (see **FOR FURTHER INFORMATION**).

You may submit comments by:

Electronic Submission: Submit all electronic public comments by email to Bree.Turner@noaa.gov. Include "Comments on draft Kachemak Bay National Estuarine Research Reserve Management Plan" in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Bree Turner of NOAA's Office for Coastal Management, by email at Bree.Turner@noaa.gov or phone at (206) 526–4641.

SUPPLEMENTARY INFORMATION: Pursuant to 15 CFR 921.33(c), a state must revise the management plan for the research reserve at least every five years. If approved by NOAA, the Kachemak Bay National Estuarine Research Reserve's revised plan will replace the plan previously approved in 2012.

The draft revised management plan outlines the reserve's: Strategic goals and objectives; administrative structure; programs for conducting research and monitoring, education, and training; resource protection plan; public access and visitor use plans; consideration for future land acquisition; and facility development to support reserve operations. In particular, this draft revised management plan focuses on changes to the Kachemak Bay National Estuarine Research Reserve's management issues and goals, which are now: Understanding environmental

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****Draft Revised Management Plan for the Kachemak Bay National Estuarine Research Reserve**

AGENCY: Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

change; understanding land use and human impacts; community-relevant engagement; and long-term ecosystem monitoring.

Since 2012, the reserve has undergone significant state agency administration transition from the Alaska Department of Fish and Game, Division of Sport Fish to the University of Alaska-Anchorage, College of Arts and Sciences, Alaska Center for Conservation Science. With the administrative transition, the reserve staff and programs have relocated from the Alaska Islands and Ocean Visitor Center to the reserve's Field Station modular office and bunkhouse. Due to the change in facilities, some of the education and training programs have changed, but many of the core research, monitoring, education, and training activities have remained the same. The revised management plan, once approved, would serve as the guiding document for the 372,000-acre Kachemak Bay National Estuarine Research Reserve for the next five years.

NOAA's Office for Coastal Management analyzes the environmental impacts of the proposed approval of this draft revised management plan in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4332(2)(C), and the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR 1500–1508). The public is invited to comment on the draft revised management plan. NOAA will take these comments into consideration in deciding whether to approve the draft revised management plan in whole or in part.

(Authority: 16 U.S.C. 1451 *et seq.*; 15 CFR 921.33.)

Keelin S. Kuipers,

Deputy Director, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2021–11270 Filed 5–26–21; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB029]

Endangered and Threatened Species; Notice of Initiation of a 5-Year Review of the Sperm Whale

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; request for information.

SUMMARY: NMFS announces the initiation of a 5-year review for the sperm whale (*Physeter macrocephalus*). NMFS is required by the Endangered Species Act (ESA) to conduct 5-year reviews to ensure that the listing classifications of species are accurate. The 5-year review must be based on the best scientific and commercial data available at the time of the review. We request submission of any such information on the sperm whale, particularly information on the status, threats, and recovery of the species that has become available since its last status review in 2015.

DATES: To allow us adequate time to conduct this review, we must receive your information no later than July 26, 2021.

ADDRESSES: You may submit information on this document, identified by NOAA–NMFS–2021–0041, by the following method:

- **Electronic Submission:** Submit electronic information via the Federal e-Rulemaking Portal. Go to www.regulations.gov and enter NOAA–NMFS–2021–0041 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the specified period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive or protected information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous submissions (enter “N/A” in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Caroline Good by phone at (301) 427–8445 or Caroline.Good@noaa.gov.

SUPPLEMENTARY INFORMATION: This notice announces our review of the sperm whale (*Physeter macrocephalus*) listed as endangered under the ESA. Section 4(c)(2)(A) of the ESA requires that we conduct a review of listed species at least once every 5 years. The regulations in 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing species currently under active review. On the basis of such reviews under section 4(c)(2)(B),

we determine whether any species should be removed from the list (*i.e.*, delisted) or reclassified from endangered to threatened or from threatened to endangered (16 U.S.C. 1533(c)(2)(B)). As described by the regulations in 50 CFR 424.11(e), the Secretary shall delist a species if the Secretary finds that, after conducting a status review based on the best scientific and commercial data available: (1) The species is extinct; (2) the species does not meet the definition of an endangered species or a threatened species; and/or (3) the listed entity does not meet the statutory definition of a species. Any change in Federal classification would require a separate rulemaking process.

Background information on the species is available on the NMFS website at: <https://www.fisheries.noaa.gov/species/sperm-whale>.

Public Solicitation of New Information

To ensure that the review is complete and based on the best available scientific and commercial information, we are soliciting new information from the public, governmental agencies, Tribes, the scientific community, industry, environmental entities, and any other interested parties concerning the status of *Physeter macrocephalus*. Categories of requested information include: (1) Species biology including, but not limited to, population trends, distribution, abundance, demographics, and genetics; (2) habitat conditions including, but not limited to, amount, distribution, and important features for conservation; (3) status and trends of threats to the species and its habitats; (4) conservation measures that have been implemented that benefit the species, including monitoring data demonstrating effectiveness of such measures; and (5) other new information, data, or corrections including, but not limited to, taxonomic or nomenclatural changes and improved analytical methods for evaluating extinction risk.

If you wish to provide information for the review, you may submit your information and materials electronically (see **ADDRESSES** section). We request that all information be accompanied by supporting documentation such as maps, bibliographic references, or reprints of pertinent publications.

Authority: 16 U.S.C. 1531 *et seq.*

Margaret H. Miller,

*Acting Chief, Endangered Species Division,
Office of Protected Resources, National
Marine Fisheries Service.*

[FR Doc. 2021-11190 Filed 5-26-21; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB087]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Chevron Richmond Refinery Long Wharf Maintenance and Efficiency Project in San Francisco Bay, California

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an IHA to Chevron Products Company (Chevron) to incidentally harass, by Level B harassment only, marine mammals during construction activities associated with the Chevron Richmond Refinery Long Wharf Maintenance and Efficiency Project (LWMEP) in San Francisco Bay, California.

DATES: This authorization is effective from June 1, 2021 through May 31, 2022.

FOR FURTHER INFORMATION CONTACT: Dwayne Meadows, Ph.D., Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application, 2019 and 2020 IHAs, and supporting documents (including NMFS **Federal Register** notices of the earlier proposed and final authorizations, and the previous IHAs), as well as a list of the references cited in this document, may be obtained online at: <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>. In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the “take” of marine mammals, with certain

exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to here as “mitigation measures”). Monitoring and reporting of such takings are also required. The meaning of key terms such as “take,” “harassment,” and “negligible impact” can be found in section 3 of the MMPA (16 U.S.C. 1362) and the agency’s regulations at 50 CFR 216.103.

History of Request

On February 1, 2018, NMFS received a request from Chevron for an IHA to take marine mammals incidental to pile driving and pile removal associated with the LWMEP in San Francisco Bay, California. An IHA was issued on May 31, 2018 (83 FR 27548, June 13, 2018). Chevron was unable to complete all of the planned work and was issued a second IHA on June 1, 2019 (84 FR 28474, June 19, 2019) and when the work was again not completed a Renewal IHA was issued on June 11, 2020 (85 FR 37064; June 19, 2020). Chevron was again unable to complete the work in 2020 and on February 24, 2021 requested a new IHA to authorize take of marine mammals for the subset of the initially planned work that could not be completed. The application was deemed adequate and complete on March 22, 2021. Chevron requested the new IHA be effective from June 1, 2021 through May 31, 2022. Chevron does not

qualify for an additional renewal IHA, but given the proposed work is a subset of that which has been previously analyzed, we will be referencing the prior authorization except where activities or analysis have changed as described below.

Comments and Responses

A notice of NMFS’s proposal to issue an IHA to Chevron was published in the **Federal Register** on April 6, 2021 (86 FR 17777). That notice described, in detail, Chevron’s activity, the marine mammal species that may be affected by the activity, and the anticipated effects on marine mammals. During the 30-day public comment period, NMFS received comments from the U.S. Geological Survey that they have “no comment at this time”. No changes have been made from the proposed IHA to the final IHA.

Description of the Specified Activities and Anticipated Impacts

As described in the 2018, 2019 and 2020 IHAs, Chevron is upgrading Long Wharf to comply with current Marine Oil Terminal Engineering and Maintenance Standards and in order to accept more modern, fuel efficient vessels. The remaining work includes installing four new standoff fenders and removing obsolete piles at Berth 2 and installing four new dolphins and removing temporary piles associated with the prior work at Berth 4. Remaining construction at Long Wharf includes vibratory pile installation of 52 14-inch composite piles, vibratory removal of 150 piles (eight 36-inch steel piles, 36 14-inch steel H piles, and 106 16-inch timber piles) and impact installation of nine 24-inch concrete piles (Table 1). A detailed description of the planned project is provided in the **Federal Register** notice for the proposed IHA (86 FR 17777; April 6, 2021). Since that time, no changes have been made to the planned activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity. The activities consist of 36 days of in-water work. Pile driving and removal activities will continue to occur within the standard NMFS work windows for Endangered Species Act (ESA)-listed fish species (June 1 through November 30). The prior IHAs included Level A harassment take associated with installation of larger piles that has since been completed, therefore no Level A harassment take is requested or proposed for this IHA.

TABLE 1—PILE DRIVING DETAILS FOR WORK REMAINING TO BE COMPLETED

Pile type and number per day	Pile driver type	Number of piles	Number of driving days	Strikes/pile	Time/pile (min)
36-inch steel pipe pile (4/day)	Vibratory removal	8	2	N/A	5
14-inch H pile removal (6/day)	Vibratory removal	36	6	N/A	5
24-inch concrete (1–2/day)	Impact install	9	8	440	20
14-inch composite (5/day)	Vibratory install	52	11	N/A	10
16-inch timber pile (12/day)	Vibratory removal	106	9	N/A	6.67

Description of Marine Mammals

A description of the marine mammals in the area of the activities for which take is authorized here, including information on abundance, status, distribution, and hearing, may be found in the notices of the proposed and final IHAs for the 2019 and 2020 authorization. NMFS has reviewed the monitoring data from the 2020 IHA, recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature, and determined that neither this nor any other new information affects which species or stocks have the potential to be affected or the pertinent information in the Description of the Marine Mammals in the Area of Specified Activities contained in the supporting documents for the 2019 and 2020 IHAs.

Potential Effects on Marine Mammals and Their Habitat

A description of the potential effects of the specified activity on marine mammals and their habitat for the activities for which take is authorized here may be found in the notices of the proposed and final IHAs for the 2018 authorization. NMFS has reviewed the monitoring data from the 2019 and 2020 IHAs, recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature, and determined that, besides the revised source information harbor seal occurrence mentioned above and analyzed below, neither this nor any other new information affects our initial analysis of impacts on marine mammals and their habitat.

Estimated Take

A detailed description of the methods and inputs used to estimate take for the specified activity are found in the notice of the final 2018 and 2019 IHAs. As noted above, hydroacoustic monitoring from prior years has changed the source levels, transmission loss coefficients, time and strikes to drive piles for various of the pile sizes. Instead of referencing prior discussions of these topics we provide complete details of the pile driving parameters used to compute the Level A and Level B harassment isopleths for this proposed IHA in Tables 1 and 2. Based on these revised inputs the Level A and Level B harassment isopleth radii from the NMFS User Spreadsheet are shown for all pile sizes in Tables 2 and 3.

TABLE 2—PILE DRIVING SOURCE LEVELS AND CALCULATED DISTANCES TO LEVEL A HARASSMENT ISOPLETHS
[Sound source reference in *italics*]

Pile type and sound source reference	Transmission loss coefficient	Source levels at 10 meters (dB) unless noted		Distance to Level A threshold (meters)				
		Peak	RMS/SEL	Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocid pinnipeds	Otariid pinnipeds
Attenuated Impact Driving (with bubble curtain):								
24-inch square concrete	15	191	161 SEL	31	1	37	17	1
(<i>2018 acoustic monitoring</i>).								
Vibratory Driving/Extraction:								
14-inch Composite Barrier	15	178	168 RMS	18	2	26	11	1
Pile (<i>Laughlin 2012</i>).								
36-inch steel pipe pile (<i>2019 acoustic monitoring</i>).	20	196	167 RMS @15 m.	13	2	17	9	1
14-inch H pile (<i>2018 acoustic monitoring</i>).	20	165	150 RMS	2	1	2	1	1
16-inch timber pile (<i>WSDOT 2011</i>).	15	N/A	152 RMS	2	1	3	1	1

Notes: SEL = sound exposure level, RMS = Root Mean Square.

TABLE 3—DISTANCES TO LEVEL B THRESHOLDS AND SIZE OF THE LEVEL B HARASSMENT ZONE FOR EACH PILE TYPE

Pile type	Level B harassment isopleth (meters)	Area of Level B zone (square kilometers)
Attenuated Impact Driving (with bubble curtain):		
24-inch square concrete	74	0.01
Vibratory Driving/Extraction:		
14-inch Composite	15,849	26.5
36-inch steel pipe	*3,358	4.04
14-inch H	*316	0.05
16-inch timber	1,359	0.9

* Using transmission loss coefficient and source levels from hydroacoustic monitoring.

The stocks taken, methods of take, and types of take remain unchanged from the previously issued IHAs. The only change to the marine mammal density/occurrence data used to calculate take is an increase in harbor seal abundance at the Castro Rocks haulout. Castro Rocks are part of the survey area for long-term National Park Service (NPS) monitoring studies of harbor seal colonies within the Golden Gate National Recreation Area that have been conducted since 1976. The take estimates for this stock for this project have been based on the highest mean plus the standard error of harbor seals observed at Castro Rocks during recent annual surveys conducted by the NPS during the molting season. Based on the most recent surveys (Codde 2020, Codde and Allen 2020) and using the methods from the prior IHAs, the current daily abundance for use in calculating take of this stock would increase to 376 seals. However, given the prior monitoring results, the smaller pile sizes left to be driven or removed, and their location and distance from Castro Rocks, we are reverting to our more common practice of using the mean abundance estimate to estimate take. The mean using the most recent data is 237 animals per day

(an increase from 176). Therefore, Level B harassment take for this stock is the estimated daily abundance in the project area (237) times the number of days of in-water work (36), resulting in a proposed authorization for Level B harassment of 8,532 harbor seals. Because the Level A harassment zones are small and we believe the Protected Species Observers (PSOs) will be able to effectively monitor the Level A harassment zones and implement shutdowns, we do not authorize take by Level A harassment for this or any other stock.

For the remaining species take is estimated as follows (using the same criteria as prior IHAs). It is possible that a lone northern elephant seal may enter the Level B Harassment area once every 3 days during pile driving, resulting in a proposed authorization for Level B harassment of 12 northern elephant seals. While no northern fur seals have been observed in the 2018–2020 monitoring for this project, the incidence of northern fur seal in San Francisco Bay depends largely on oceanic conditions, with animals more likely to occur during El Niño events. As in prior IHAs, we propose authorization for Level B harassment of

10 northern fur seals. While no bottlenose dolphins have been observed in the 2018–2020 monitoring for this project, this species occurs intermittently in San Francisco Bay. As in prior IHAs, we propose authorization for Level B harassment of 30 bottlenose dolphins. Gray whales occasionally enter San Francisco Bay, and as in prior IHAs, we propose authorization for Level B harassment of 2 gray whales. Estimated Level B harassment take for California sea lions and harbor porpoises for this project has been based on densities of those stocks in the vicinity of the project. The estimated densities for these species have not changed from prior IHAs (0.16 and 0.17 animals per square kilometer, respectively). The only factors that have changed are the days of work for each pile type and the areas of the Level B harassment zones (see Tables 1 and 3 above, respectively).

Based on the above discussion, the only changes to the number of authorized takes, which are indicated below in Table 4, is to account for the increased occurrence of harbor seals and the area and days of work remaining to be completed.

TABLE 4—ESTIMATED TAKE BY LEVEL B HARASSMENT, BY SPECIES AND STOCK

Common name	Scientific name	Stock	Level B harassment	Percent of stock
Harbor seal	<i>Phoca vitulina</i>	California	8,532	1.6
Harbor porpoise	<i>Phocoena phocoena</i>	San Francisco—Russian River	327	4.4
California sea lion	<i>Zalophus californianus</i>	U.S.	308	<0.1
Northern elephant seal	<i>Mirounga angustirostris</i>	California Breeding	12	<0.1
Gray whale	<i>Eschrichtius robustus</i>	Eastern North Pacific	2	<0.1
Northern fur seal	<i>Callorhinus ursinus</i>	California	10	<0.1
Bottlenose Dolphin	<i>Tursiops truncatus</i>	California Coastal	30	6.6

Description of Mitigation, Monitoring and Reporting Measures

The mitigation, monitoring, and reporting measures included as requirements in this authorization are identical to those included in the **Federal Register** notice announcing the issuance of the 2020 IHA, except for the changes to the shutdown zones discussed above and shown in Table 5 and updated language we have developed for our typical measures. The location of the PSOs has changed, eliminating some of the prior concerns about visibility towards Castro Rocks as the work locations for the remaining work at berth 4 are off to the north side of the wharf. Because the mitigation measures have not increased, the discussion of the least practicable adverse impact included in the **Federal Register** notice announcing the

issuance of the 2019 IHA remains accurate. The following measures are included in this authorization:

- Conduct training between construction supervisors and crews and the marine mammal monitoring team and relevant Chevron staff prior to the start of all pile driving activity and when new personnel join the work, so that responsibilities, communication procedures, monitoring protocols, and operational procedures are clearly understood;
- Avoid direct physical interaction with marine mammals during construction activity. If a marine mammal comes within 10 meters (m) of such activity, operations must cease and vessels must reduce speed to the minimum level required to maintain steerage and safe working conditions;
- Pile driving activity must be halted upon observation of either a species for

which incidental take is not authorized or a species for which incidental take has been authorized but the authorized number of takes has been met, entering or within the harassment zone;

- Implement the shutdown zones indicated in Table 5;
- Employ PSOs and establish monitoring locations as described in the Marine Mammal Monitoring Plan and Section 5 of the IHA. For all pile driving locations two PSOs must be used, with a minimum of one PSO assigned to each active pile driving location to monitor the shutdown zones. During work at Berth 2, PSOs will be stationed on the east and west edges of the Long Wharf. The PSO on the east has 180-degree views from the Long Wharf, north, south and east toward the shore and would have views of Castro Rocks. The PSO on the west would have 180-degree views,

north to south, with views of San Francisco Bay to the west. During work at Berth 4, one PSO would be stationed on the east side of the wharf, just south of Berth 4 on an elevated viewpoint. This position allows clear views of the work area and shutdown zones, and views of the waters to the east and west of Long Wharf. A second PSO would be stationed on the mooring dolphin at the north end of the Long Wharf. This location provides a view of the work area and shutdown zones from the north as well as a clear view of Castro Rocks and areas to the east and west;

- The placement of PSOs during all pile driving and removal and drilling activities will ensure that the entire shutdown zone is visible during pile installation. Should environmental conditions deteriorate such that marine mammals within the entire shutdown zone will not be visible (e.g., fog, heavy rain), pile driving and removal must be delayed until the PSO is confident marine mammals within the shutdown zone could be detected;

- Monitoring must take place from 30 minutes prior to initiation of pile driving activity through 30 minutes post-completion of pile driving activity. Pre-start clearance monitoring must be conducted during periods of visibility sufficient for the lead PSO to determine the shutdown zones clear of marine mammals. Pile driving may commence following 30 minutes of observation when the determination is made;

- If pile driving is delayed or halted due to the presence of a marine mammal, the activity may not commence or resume until either the animal has voluntarily exited and been visually confirmed beyond the shutdown zone or 15 minutes have passed without re-detection of the animal;

- Chevron must use soft start techniques when impact pile driving. Soft start requires contractors to provide an initial set of three strikes at reduced energy, followed by a 30-second waiting period, then two subsequent reduced-energy strike sets. A soft start must be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of 30 minutes or longer;

- Use a bubble curtain during impact pile driving of 24-inch concrete piles and must ensure that it is operated as necessary to achieve optimal performance, and that no reduction in performance may be attributable to faulty deployment. At a minimum, the Holder must adhere to the following performance standards: The bubble curtain must distribute air bubbles around 100 percent of the piling circumference for the full depth of the water column. The lowest bubble ring must be in contact with the substrate for the full circumference of the ring, and the weights attached to the bottom ring shall ensure 100 percent substrate contact. No parts of the ring or other objects shall prevent full substrate contact. Air flow to the bubblers must be balanced around the circumference of the pile;

- Conduct sound source level measurements during driving of a minimum of two 14-inch composite piles;

- Monitoring must be conducted by qualified, NMFS-approved PSOs, in accordance with the following: PSOs must be independent (*i.e.*, not construction personnel) and have no other assigned tasks during monitoring periods. At least one PSO must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental

take authorization. Other PSOs may substitute other relevant experience, education (degree in biological science or related field), or training. Where a team of three or more PSOs are required, a lead observer or monitoring coordinator must be designated. The lead observer must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization. PSOs must be approved by NMFS prior to beginning any activity subject to this IHA.

- PSOs must record all observations of marine mammals as described in the Monitoring Plan, regardless of distance from the pile being driven. PSOs shall document any behavioral reactions in concert with distance from piles being driven or removed;

- The marine mammal and acoustic monitoring reports must contain the informational elements described in the Monitoring Plan;

- A draft marine mammal monitoring report, and PSO datasheets and/or raw sighting data, must be submitted to NMFS within 90 calendar days after the completion of pile driving activities. If no comments are received from NMFS within 30 calendar days, the draft report will constitute the final report. If comments are received, a final report addressing NMFS comments must be submitted within 30 calendar days after receipt of comments; and

- In the event that personnel involved in the construction activities discover an injured or dead marine mammal, the IHA-holder must immediately cease the specified activities and report the incident to the Office of Protected Resources (OPR) (*PR.ITP.Monitoring Reports@noaa.gov*), NMFS and to West Coast Regional Stranding Coordinator as soon as feasible.

TABLE 5—SHUTDOWN ZONES BY MARINE MAMMAL HEARING GROUP, PILE SIZE, AND METHOD

Pile type	Radial distance of shutdown zone (meters)				
	Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocid pinnipeds	Otariid pinnipeds
Attenuated Impact Driving (with bubble curtain):					
24-inch square concrete	40	10	40	20	10
Vibratory Driving/Extraction:					
14-inch Composite	20	10	30	20	10
36-inch steel pipe pile	20	10	20	10	10
14-inch H pile	10	10	10	10	10
16-inch timber	10	10	10	10	10

Determinations

The action in this IHA is identical to the action in the 2020 IHA except that sound isopleths have decreased for a number of sources, harbor seal daily rate

of take has increased, and the mitigation and monitoring measures have been updated to our new language. As described in the notice of issuance of the 2020 final IHA (85 FR 37064, June

19, 2020) we found that Chevron's construction activities would have a negligible impact and that the taking would be small relative to population size. For this analysis of the new IHA

we found that marine mammal stock abundance was still estimated to be the same as for the 2020 IHA. Other marine mammal information and the potential effects were identical to the 2020 IHA except for the increase in the daily abundance of harbor seals. The estimated take was calculated identically to the 2020 IHA, except for harbor seals, and zone sizes decreased for a number of pile sizes. The increased daily abundance and take of harbor seals still involves far less than 10 percent of the stock (Table 4). Mitigation and monitoring are identical to the 2020 IHA except for the decrease in Level A harassment and shutdown zones for many pile types and the change in standard language, which has no substantive effect on our analysis.

NMFS has concluded that there is no new information suggesting that our analysis or findings should change from those reached for the 2020 IHA. This includes consideration of the estimated abundance of harbor seals increasing, the change in harassment and shutdown zones, and the updating of IHA language for mitigation and monitoring.

Based on the information and analysis contained here and in the referenced documents, NMFS has determined the following: (1) The required mitigation measures will effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the authorized takes represent small numbers of marine mammals relative to the affected stock abundances; (4) Chevron's activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action, and; (5) appropriate monitoring and reporting requirements are included.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216-6A, NMFS must review our proposed action (*i.e.*, the issuance of an IHA) with respect to potential impacts on the human environment. This action is consistent with categories of activities identified in Categorical Exclusion B4 IHAs with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216-6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this

categorical exclusion. Accordingly, NMFS has determined that this action qualifies to be categorically excluded from further NEPA review.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the West Coast Region, Protected Resources Division Office, whenever we propose to authorize take for endangered or threatened species.

No incidental take of ESA-listed species is proposed for authorization or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Authorization

NMFS has issued an IHA to Chevron for the potential harassment of small numbers of seven species of marine mammal species incidental to the LWMEP project in San Francisco Bay, CA, provided the previously mentioned mitigation, monitoring and reporting requirements are followed.

Dated: May 24, 2021.

Catherine Marzin,

*Acting Director, Office of Protected Resources,
National Marine Fisheries Service.*

[FR Doc. 2021-11243 Filed 5-26-21; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA-2021-HQ-0004]

Submission for OMB Review; Comment Request

AGENCY: Office of the Surgeon General of the United States Army, United States Medical Command (MEDCOM), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by June 28, 2021.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Angela Duncan, 571-372-7574, or whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Heart of Recovery—Military Caregiver Needs Assessment; OMB Control Number 0702-0143.

Type of Request: Extension.

Number of Respondents: 5,000.

Responses per Respondent: 1.

Annual Responses: 5,000.

Average Burden per Response: 30 minutes.

Annual Burden Hours: 2,500.

Needs and Uses: The information collection requirement is necessary to support the formation of the United States Army Office of the Surgeon General Military Caregivers Program: Heart of Recovery.

Affected Public: Individuals or Households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.

Dated: May 19, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021-11178 Filed 5-26-21; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE**Office of the Secretary****Department of Defense Science and Technology Reinvention Laboratory Personnel Demonstration Project**

AGENCY: Office of the Under Secretary of Defense for Research and Engineering (OUSD(R&E)), Department of Defense (DoD).

ACTION: Notice of amendment.

SUMMARY: On September 15, 2017, DoD published a **Federal Register** Notice (FRN) to implement a new workforce-shaping pilot program that provides the science and technology reinvention laboratory (STRL) lab directors the authority to dynamically shape the mix of technical skills and expertise in the workforces of such laboratories to achieve one or more of the objectives in section 1109(a) of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2016. The suite of workforce-shaping tools available to STRL lab directors includes flexible-length and renewable-term technical appointments, modified re-employed annuitant authority, and modified voluntary early retirement and separation incentive authorities. Updates are necessary to clarify that subsequent changes to this authority are applicable. For example, section 1112 of the NDAA for FY 2019 amends this authority to allow flexible-length and renewable-term technical appointments for current DoD term employees. In addition to updating other legislative references, this notice clarifies application of probationary/trial periods and career tenure to flexible-length and renewable-term technical appointments and subsequent conversion to career or career-conditional appointments.

DATES: This notice may be implemented beginning on May 27, 2021.

FOR FURTHER INFORMATION CONTACT: Dr. Jagadeesh Pamulapati, Director, Laboratories and Personnel Office, 4800 Mark Center Drive, Alexandria, VA 22350.

SUPPLEMENTARY INFORMATION:**Modifications**

In the notice published on September 15, 2017, 82 FR 43339–43343:

1. On page 43339, second column, under **SUMMARY**, in the first sentence, after “section 1109(a) of the NDAA for FY2016” insert “, Public Law 114–92, as amended by section 1112 of the NDAA for FY 2019, Public Law 115–232.”

2. On page 43339, third column, **FOR FURTHER INFORMATION CONTACT**, under

“Department of the Army” replace all with the following bullet list:

- *Combat Capabilities Development Command Armaments Center*: Mr. Mike Nicotra, Human Capital Management Office, Building 1, 3rd Floor, RDAR–EIH, Picatinny Arsenal, NJ 07806–5000;
- *Combat Capabilities Development Command Army Research Laboratory*: Mr. Christopher Tahaney, AMSRD–ARL–O–HR, 2800 Powder Mill Road, Adelphi, MD 20783–1197;
- *Combat Capabilities Development Command Aviation and Missile Center*: Ms. Nancy Salmon, 5400 Fowler Road, Redstone Arsenal, AL 35898–5000;
- *Combat Capabilities Development Command Chemical Biological Center*: Ms. Patricia Milwicz, Office of the Technical Director, G–1 Human Resource Office, Department of the Army, ATTN: FCDD–CBD–CH, 8198 Blackhawk Road, Building E3330, Aberdeen Proving Ground, MD 21010–5424;
- *Combat Capabilities Development Command Command, Control, Communications, Computers, Cyber, Intelligence, Surveillance, and Reconnaissance Center*: Ms. Angela Clybourn, C4ISR Campus Building 6002, Room D3126D, ATTN: RDER–DOS–ER, Aberdeen Proving Ground, MD 21005;
- *Combat Capabilities Development Command Ground Vehicle Systems Center*: Ms. Jennifer Davis, ATTN: RDTA–CS/MS 204, Warren, MI 48397–5000;
- *Combat Capabilities Development Command Soldier Center*: Ms. Joelle Montecalvo, 15 General Greene Ave. (FCDD–SCG–HR), Natick, MA 01760;
- *Engineer Research and Development Center*: Ms. Patricia Sullivan, 3909 Halls Ferry Road, Vicksburg, MS 39180–6199;
- *Medical Research and Development Command*: Ms. Linda Krout, 505 Scott St., Fort Detrick, MD 21702–5000.

3. On page 43340, first column, delete the following bullet:

- Space and Naval Warfare Systems Command, Space and Naval Warfare Systems Center (SSC):

○ *SSC Atlantic*: Ms. Veronica Truesdale, SSC Atlantic STRL Project Lead, SSC Atlantic, P.O. Box 190022, North Charleston, SC 29419–9022;

○ *SSC Pacific*: Ms. Angela Hanson, SSC Pacific STRL Project Lead, SSC Pacific, 53560 Hull Street, San Diego, CA 92152–5001

and insert the following:

- *Naval Information Warfare Center*: ○ *Naval Information Warfare Center Atlantic*: Mr. Michael Gagnon, P.O. Box 190022, North Charleston, SC 29419–9022;

○ *Naval Information Warfare Center Pacific*: Ms. Angela Hanson, 53560 Hull Street, San Diego, CA 92152–5001.

4. On page 43340, first column, **SUPPLEMENTARY INFORMATION**, under 1. “Background,” in the second sentence, after “section 1105 of the NDAA for FY 2010, Public Law 111–84,” insert “as amended by section 1103 of the NDAA for FY 2015, Public Law 113–291, and section 1104 of the NDAA for FY 2018, Public Law 115–91,”

5. On page 43340, first column and top of second column, **SUPPLEMENTARY INFORMATION**, under 1. Background,” the last sentence of the first paragraph, remove “The 15 current STRLs are” and replace with “The 20 current STRLs are”; replace the listing of STRLs with the following:

- *Combat Capabilities Development Command Armaments Center (CCDC AC)*
- *Combat Capabilities Development Command Army Research Laboratory (CCDC ARL)*
- *Combat Capabilities Development Command Aviation and Missile Center (CCDC AvMC)*
- *Combat Capabilities Development Command Chemical Biological Center (CCDC CBC)*
- *Combat Capabilities Development Command Command, Control, Communications, Cyber, Intelligence, Surveillance, and Reconnaissance Center (CCDC C5ISR)*
- *Combat Capabilities Development Command Ground Vehicle Systems Center (CCDC GVSC)*
- *Medical Research and Development Command (MRDC)*
- *Combat Capabilities Development Command Soldier Center (CCDC SC)*
- *Army Research Institute for the Behavioral and Social Sciences (ARI)*
- *Engineer Research and Development Center (ERDC)*
- *Technical Center, U.S. Army Space and Missile Defense Command (USASMDC)*
- *Naval Air Systems Command (NAVAIR) Warfare Centers*
- *Naval Facilities Engineering Systems Command Engineering and Expeditionary Warfare Center (NAVFAC EXWC)*
- *Naval Information Warfare Centers (NIWC)*
- *Naval Medical Research Center (NMRC)*
- *Naval Research Laboratory (NRL)*
- *Naval Sea Systems Command (NAVSEA) Warfare Centers*
- *Office of Naval Research (ONR)*
- *Air Force Research Laboratory (AFRL)*
- *Joint Warfare Analysis Center (JWAC)*

6. On page 43340, second column, under 2.I.A., “Purpose,” in the first

sentence, after “NDAA for FY 2016” insert “, as amended by section 1112 of the NDAA for FY 2019,”

7. On page 43340, second column, 2.I.B., “Required Waivers to Law and Regulation,” in the first sentence after “NDAA for FY 2016” insert “, as amended by section 1112 of the NDAA for FY 2019,”

8. On page 43340, third column, under II.A.1., “Authorized Positions,” in the first sentence, after “NDAA for FY 2016” insert “, as amended by section 1112 of the NDAA for FY 2019,” and after “civilian employees” insert “, with the exception of current DoD term employees,”

9. On page 43340, third column, under II.A.1.a., “Authorized Positions,” in the first sentence, after “NDAA for FY 2016,” insert “as amended by section 1112 of the NDAA for FY 2019,”

10. On page 43341, first column, under II.A.3.b., “Provisions,” after “Current DoD employees” insert “, with the exception of current DoD term employees,”

11. On page 43341, at the bottom of the first column and top of the second column, under II.A.3.f., replace “term” with “permanent” as updated in a minor modification dated April 11, 2019. The sentence will read as follows: “Appointees will be afforded equal eligibility for employee programs and benefits comparable to those provided to similar employees on permanent appointments at each STRL, to include opportunities for professional development and eligibility for award programs.”

12. On page 43341, second column, under II.A.3.g., in the first sentence, after “NDAA for FY 2016” insert “, as amended by section 1112 of the NDAA for FY 2019,”

13. On page 43341, in the second column, add the following after j:

k. Probationary/Trial Period. The trial period specified in each STRL FRN will apply to individuals appointed under the Flexible Length and Renewable Term Appointment. If not specified, appointees will serve a two-year trial period.

l. Tenure. For those appointed under the Flexible Length and Renewable Term Technical Appointment authority or converted from a term or modified term to a Flexible Length and Renewable Term Technical Appointment and later converted to a career or career-conditional appointment, the time spent on both appointments will count toward career tenure.

14. On page 43341, II.A.3., based on the additions above, in the second column rename previous:

k. to m.

l. to n.

15. On page 43341, in the third column, under the section renamed to n., “Documenting Personnel Actions,” replace the first sentence in the third column with “The NDAA for FY 2016, section 1109(b)(1), amended by section 1112 of the NDAA for FY 2019, Public Law 115–232, dtd 8/13/2018 (LAC ZLM), will also be cited on all personnel actions.”

16. On page 43341, in the third column, under the section renamed to n., “Documenting Personnel Actions,” at the end of the last sentence, delete “section 1109(b)(1)(B) of the NDAA for FY 2016.” Insert “Public Law 115–232, section 1112.”

17. On page 43341, in the third column, II.B.1., “Authorities,” after “NDAA for FY 2016” insert “, as

amended by section 1112 of the NDAA for FY 2019,”

18. On page 43342, first column, II.B.3.b., “Provisions,” remove second sentence and replace it with “The appropriate annuitant indicator will be used (once assigned) on all personnel actions.”

19. On page 43342, first column, II.C.1.a., “Authorities,” in the first sentence, after “NDAA for FY 2016” insert “, as amended by section 1112 of the NDAA for FY 2019,”

20. On page 43342, first column, II.C.1.a., “Authorities,” in the second sentence, after “NDAA for FY 2016” insert “, as amended by section 1112 of the NDAA for FY 2019,”

21. On page 43342, third column, II.D.a., “Sunset Date and Conditions of Use,” in the first sentence, after “NDAA for FY 2016” insert “, as amended by section 1112 of the NDAA for FY 2019,”

22. On pages 43342–43343, in Appendix A, in the table under “Title 5, Code of Federal Regulations,” add the following waivers:

5 CFR part 315.201(b) waived to the extent necessary to allow Flexible Length and Renewable Term Technical Appointments to be considered non-temporary employment for the purposes of determining creditable service toward career tenure.

5 CFR part 316.303(a) waived to the extent necessary to allow Flexible Length and Renewable Term Technical Appointments to count toward competitive status.

5 CFR part 316.304(a) waived to allow a two-year trial period under the Flexible Length and Renewable Term Technical Appointment.

23. On page 43343, replace Appendix B in its entirety with the following:

APPENDIX B—AUTHORIZED STRLS AND FRNS

STRL	FRN
Combat Capabilities Development Command Armaments Center	76 FR 3744.
Combat Capabilities Development Command Army Research Laboratory.	63 FR 10680.
Combat Capabilities Development Command Aviation and Missile Center.	62 FR 34906 and 62 FR 34876 amended by 65 FR 53142 (AVRDEC and AMRDEC merged together).
Combat Capabilities Development Command Chemical Biological Center.	74 FR 68936.
Combat Capabilities Development Command Command, Control, Communications, Cyber, Intelligence, Surveillance, and Reconnaissance Center.	66 FR 54872.
Combat Capabilities Development Command Ground Vehicle Systems Center.	76 FR 12508.
Combat Capabilities Development Command Soldier Center	74 FR 68448.
Army Research Institute for the Behavioral and Social Sciences	85 FR 76038.
Engineer Research and Development Center	63 FR 14580 amended by 65 FR 32135.
Medical Research and Development Command	63 FR 10440.
Technical Center, U.S. Army Space and Missile Defense Command	85 FR 3339.
Naval Air Warfare Center	76 FR 8530.
Naval Facilities Engineering Command Engineering and Expeditionary Warfare Center.	86 FR 14084.

APPENDIX B—AUTHORIZED STRLS AND FRNs—Continued

STRL	FRN
Naval Information Warfare Centers	76 FR 1924.
Naval Medical Research Center	Not yet published.
Naval Research Laboratory	64 FR 33970.
Naval Sea Systems Command Warfare Centers	62 FR 64050.
Office of Naval Research	75 FR 77380.
Air Force Research Laboratory	61 FR 60400 amended by 75 FR 53076.
Joint Warfare Analysis Center	85 FR 29414.

Dated: May 14, 2021.

Aaron T. Siegel,

*Alternate OSD Federal Register Liaison
Officer, Department of Defense.*

[FR Doc. 2021–11185 Filed 5–26–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2021–OS–0039]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995*, the Office of the Under Secretary of Defense for Personnel and Readiness announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's 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.

DATES: Consideration will be given to all comments received by July 26, 2021.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Mail: The DoD cannot receive written comments at this time due to the COVID–19 pandemic. Comments should be sent electronically to the docket listed above.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to RAND Corporation, 1776 Main Street, Santa Monica, California 90401, Susan Gates, 917–601–3120.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB

Number: Understanding Employer Experiences Under Continuing Reserve Component Operations; OMB Control Number 0704–ESGR.

Needs and Uses: In accordance with 10 United States Code, Section 2358, the Under Secretary of Defense for Personnel and Readiness (USD[P&R]) is required to conduct research of interest to the Department of Defense (DoD). This research of interest to DoD requires the collection and dissemination of information from employers about their views on employing members of the National Guard and Reserve (G&R). The data RAND collects via the survey vendor will be used to provide descriptive information about the experiences and views of employers with respect to employing G&R members as civilians. Findings will inform leadership of the experiences and opinions of G&R personnel and used in a review of G&R policies and programs and could be used to change the strategic communications with and outreach to civilian employers.

Affected Public: Individuals or households.

Annual Burden Hours: 1,642 hours.

Number of Respondents: 3,284.

Responses per Respondent: 1.

Annual Responses: 3,284.

Average Burden per Response: 30 minutes.

Frequency: On occasion.

Dated: May 19, 2021.

Aaron T. Siegel,

*Alternate OSD Federal Register Liaison
Officer, Department of Defense.*

[FR Doc. 2021–11180 Filed 5–26–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2021–OS–0041]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Acquisition and Sustainment, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: Consistent with the *Paperwork Reduction Act of 1995* and its implementing regulations, this document provides notice DoD is submitting an Information Collection Request to the Office of Management and Budget (OMB) to collect information necessary for the Office of Local Defense Community Cooperation to make and maintain grants to qualified applicants under the Defense Manufacturing Community Support Program. DoD requests emergency processing and OMB authorization to collect the information after publication of this Notice for a period of six months.

DATES: Comments must be received by June 28, 2021.

ADDRESSES: The Department has requested emergency processing from OMB for this information collection request by 30 days after publication of this notice. Interested parties can access the supporting materials and collection instrument as well as submit comments and recommendations to OMB at www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search

function. Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT:

Angela Duncan, 571–372–7574, or whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.

SUPPLEMENTARY INFORMATION: The Defense Manufacturing Community Support Program, authorized under Section 846 of the Fiscal Year 2019 National Defense Authorization Act (Pub. L. 115–232), is designed to undertake long-term investments in critical skills, facilities, research and development, and small business support in order to strengthen the national security innovation and manufacturing base. The program also seeks to ensure complementarity of those communities so designated with existing Defense Manufacturing Institutes. Defense Manufacturing Institutes are manufacturing ecosystems established since 2014, with common manufacturing and design challenges revolving around specific technologies. This information collection supports the awarding of grants under the Defense Manufacturing Community Support Program, including the initial Grant Proposal, final Grant Application, and Post-Award Performance Reporting.

Title; Associated Form; and OMB Number: Defense Manufacturing Community Support Program; OMB Control Number 0704–DMCS.

Type of Request: New.

Grant Proposal

Number of Respondents: 75.

Responses per Respondent: 1.

Annual Responses: 75.

Average Burden per Response: 7 hours.

Annual Burden Hours: 525.

Grant Application and Post-Award Performance Reporting

Number of Respondents: 6.

Responses per Respondent: 6.

Annual Responses: 36.

Average Burden per Response: 170 minutes.

Annual Burden Hours: 102.

Affected Public: State, Local, and Tribal Governments.

Frequency: Annually.

Respondent's Obligation: Voluntary (Grant Proposal); Required to Obtain or Retain Benefits (Grant Application and Post-Award Performance Reporting).

Request for Comments

Comments are invited on: (1) Whether the proposed collection of information

is necessary for the proper performance of the functions of DoD, including whether the information collected has practical utility; (2) the accuracy of DoD's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Dated: May 24, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021–11272 Filed 5–26–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2021–OS–0040]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Acquisition and Sustainment, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: Consistent with the Paperwork Reduction Act of 1995 and its implementing regulations, this document provides notice DoD is submitting an Information Collection Request to the Office of Management and Budget (OMB) to collect information necessary for the Office of Local Defense Community Cooperation to make and maintain grants to qualified applicants under the Defense Community Infrastructure Program. DoD requests emergency processing and OMB authorization to collect the information after publication of this notice for a period of six months.

DATES: Comments must be received by June 11, 2021.

ADDRESSES: The Department has requested emergency processing from OMB for this information collection request by 15 days after publication of this notice. Interested parties can access the supporting materials and collection instrument as well as submit comments and recommendations to OMB at www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 15-day Review—Open for Public Comments” or by using the search

function. Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT:

Angela Duncan, 571–372–7574, or whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.

SUPPLEMENTARY INFORMATION: Section 2391(d) of Title 10, United States Code (10 U.S.C. 2391), authorizes the Secretary of Defense to, “make grants, conclude cooperative agreements, and supplement funds available under Federal programs administered by agencies other than the Department of Defense, for projects owned by a State or local government, or a not-for-profit, member-owned utility service to address deficiencies in community infrastructure supportive of a military installation.” This information collection supports the awarding of grants under the Defense Community Infrastructure Program. The criteria established for the selection of community infrastructure projects will likely reflect projects consisting of some combination of attributes that will enhance: (i) Military value; (ii) military installation resilience; and/or, (iii) military family quality of life at a military installation. The Consolidated Appropriations Act for Fiscal Year 2021 (PL 116–260) provides \$60 million to the Office of Local Defense Community Cooperation for this program, and these funds expire if they are not obligated prior to September 30, 2021.

Title; Associated Form; and OMB Number: Defense Community Infrastructure Program; OMB Control Number 0704–DCIP.

Type of Request: New.

Grant Proposal

Number of Respondents: 150.

Responses per Respondent: 1.

Annual Responses: 150.

Average Burden per Response: 15 hours.

Annual Burden Hours: 2,250.

Grant Application and Post-Award Performance Reporting

Number of Respondents: 15.

Responses per Respondent: 6.

Annual Responses: 90.

Average Burden per Response: 130 minutes.

Annual Burden Hours: 195.

Affected Public: State, Local, and Tribal Governments.

Frequency: Annually.

Respondent's Obligation: Voluntary (Grant Proposal); Required to Obtain or

Retain Benefits (Grant Application and Post-Award Performance Reporting).

Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information collected has practical utility; (2) the accuracy of DoD's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Dated: May 24, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021-11271 Filed 5-26-21; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF EDUCATION

Applications for New Awards; Native American-Serving Nontribal Institutions Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for new awards for fiscal year (FY) 2021 for the Native American-Serving Nontribal Institutions (NASNTI) Program, Assistance Listing Number 84.382C. This notice relates to the approved information collection under OMB control number 1840-0816.

DATES:

Applications Available: May 27, 2021.

Deadline for Transmittal of

Applications: July 12, 2021.

Deadline for Intergovernmental

Review: September 9, 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.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.

FOR FURTHER INFORMATION CONTACT: Don Crews, U.S. Department of Education, 400 Maryland Avenue SW, Room 2B110, Washington, DC 20202-4260. Telephone: (202) 453-7920. Email: Don.Crews@ed.gov.

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

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The NASNTI Program provides grants to eligible institutions of higher education (IHEs) to enable them to improve and expand their capacity to serve Native Americans and low-income individuals. Institutions may use the grants to plan, develop, undertake, and carry out activities to improve and expand their capacity to serve Native American and low-income students.

Background: Colleges and universities that are eligible to participate in the NASNTI Program have a critical role in serving Native American students and eradicating systemic and institutional barriers that limit progress in improving educational outcomes for Native American students. To identify and address those barriers, applicants should consider data on existing gaps in retention and graduation rates. In developing their proposed projects, we strongly encourage applicants to propose high-impact services informed by data and to set specific targets and measures for each year of the project for how the proposed services will address those gaps and improve results for Native American students.

Priorities: This notice contains one competitive preference priority and one invitational priority. The competitive preference priority is from the Notice of Administrative Priority and Definitions for Discretionary Grant Programs, published in the **Federal Register** on December 30, 2020 (85 FR 86545) (Remote Learning NFP).

Competitive Preference Priority: For FY 2021 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i), we award up to an additional 5 points to an application, depending on how well the application meets this priority.

This priority is:

Building Capacity for Remote Learning (up to 5 points).

Background: Reports on students with disabilities reveal that the transition to remote learning presents new obstacles to educational accessibility.¹ In rural

reservation communities during the novel coronavirus (COVID-19) pandemic, special education services for students with disabilities were significantly disrupted due, in part, to lack of access to high-speed internet and technology.² Achieving educational equity for students with disabilities has long been a goal, but the pandemic has highlighted how advances toward equity are often lost during crises.³

Additionally, recent data indicates that homelessness affects 18 percent of students at two-year institutions and 14 percent of students enrolled at four-year institutions. In a survey of 167,000 college students, 27 percent of American Indians or Alaska Native students that responded were homeless. Housing insecurity and homelessness have a particularly strong, statistically significant negative association with college completion rates, persistence, and credit attainment.⁴

Through this priority, the Department invites applicants to submit proposals to provide high-quality remote learning to students with disabilities and students experiencing homelessness.

Priority:

Under this priority, an applicant must propose a project that is designed to provide high-quality remote learning specifically for one or more of the following student subgroups:

- (a) Children or students with disabilities; or
- (b) Homeless students.

The remote learning environment must be accessible to individuals with disabilities in accordance with Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act, as applicable. The remote learning environment must also provide appropriate remote learning language assistance services to English learners.

Invitational Priority: For FY 2021 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an invitational priority. Under 34 CFR 75.105(c)(1), we do not give an application that meets this

² Candi Running Bear, MA, William P.A. Terrill, MEd, Adriana Frates, MEd, Patricia Peterson, Ph.D., and Judith Ulrich, AA, 2021, "Challenges for Rural Native American Students With Disabilities During COVID-19," retrieved March 24, 2021 from <https://journals.sagepub.com/doi/10.1177/8756870520982294>.

³ Carla D. Chugani and Amy Houtrow, "Effect of the COVID-19 Pandemic on College Students With Disabilities," *American Journal of Public Health* 110, no. 12 (December 1, 2020): pp. 1722-1723. <https://doi.org/10.2105/AJPH.2020.305983>.

⁴ https://hope4college.com/wp-content/uploads/2019/04/HOPE_realcollege_National_report_digital.pdf.

¹ <https://reader.mediawiremobile.com/accessibility/issues/206098/articles/5eb34168a3bbc201b7822f5f/reader>.

invitational priority a competitive or absolute preference over other applications.

This priority is:

Addressing the Impact of COVID-19 on Students' Mental Health and Academic Outcomes.

Background: Recent data suggests that the COVID-19 pandemic has created academic challenges and greatly exacerbated mental health issues among students. For example, in a recent survey conducted by the Centers for Disease Control and Prevention, 63 percent of 18- to 24-year-olds reported symptoms of anxiety or depression.⁵

In addition, the transition to remote learning has introduced academic challenges for all students, particularly students from low-income backgrounds, students of color, English learners, students with disabilities, and students living in rural communities. In particular, students with disabilities may not know where or how to access information about college services designed to meet the academic and health needs of students with disabilities.⁶

Priority:

Projects proposing to provide integrated student support services (also known as wrap-around services) for Native American students to address mental health and academic support due to the COVID-19 pandemic. An applicant should describe in its application how it will collaborate to leverage grant funding to support students hit the hardest by COVID-19 and implement evidence-based practices to address the existing inequities exacerbated by the pandemic. Integrated services should meet the whole needs of Native American students and include mentoring, tutoring, and peer support groups designed to help ensure successful articulation from two-year to four-year academic programs and successful graduation with a credential.

Definitions: The definitions below are from 34 CFR part 77.1 and the Remote Learning NFP.

Demonstrates a rationale means a key project component included in the project's logic model is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes. (34 CFR 77.1).

Logic model (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (*i.e.*, the active "ingredients" that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes. (34 CFR 77.1).

Note: In developing logic models, applicants may want to use resources such as the Regional Educational Laboratory Program's (REL Pacific) Education Logic Model Application, available at <https://ies.ed.gov/ncee/edlabs/regions/pacific/elm.asp>, to help design their logic models. Other sources include: https://ies.ed.gov/ncee/edlabs/regions/pacific/pdf/REL_2014025.pdf, https://ies.ed.gov/ncee/edlabs/regions/pacific/pdf/REL_2014007.pdf, and https://ies.ed.gov/ncee/edlabs/regions/northeast/pdf/REL_2015057.pdf.

Project component means an activity, strategy, intervention, process, product, practice, or policy included in a project. Evidence may pertain to an individual project component or to a combination of project components (*e.g.*, training teachers on instructional practices for English learners and follow-on coaching for these teachers). (34 CFR 77.1).

Relevant outcome means the student outcome(s) or other outcome(s) the key project component is designed to improve, consistent with the specific goals of the program. (34 CFR 77.1).

Remote learning means programming where at least part of the learning occurs away from the physical building in a manner that addresses a learner's education needs. Remote learning may include online, hybrid/blended learning, or non-technology-based learning (*e.g.*, lab kits, project supplies, paper packets). (Remote Learning NFP).

Program Authority: 20 U.S.C. 1067q (title III, part F, of the Higher Education Act of 1965, as amended (HEA)).

Note: In 2008, the HEA was amended by the Higher Education Opportunity Act of 2008 (HEOA), Public Law 110-315. Please note that the regulations in 34 CFR part 607 have not been updated to reflect these statutory changes.

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in the Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR

part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR part 607. (e) The Remote Learning NFP.

II. Award Information

Type of Award: Discretionary grants. Five-year Individual Development Grants and Cooperative Arrangement Development Grants will be awarded in FY 2021.

Note: A cooperative arrangement is an arrangement to carry out allowable grant activities between an institution eligible to receive a grant under this part and another eligible or ineligible IHE, under which the resources of the cooperating institutions are combined and shared to better achieve the purposes of this part and avoid costly duplication of effort.

Estimated Available Funds: \$4,700,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applications from this competition.

Individual Development Grants:

Estimated Range of Awards:

\$350,000–\$450,000 per year.

Estimated Average Size of Awards:

\$400,000 per year.

Maximum Award: We will not make an award exceeding \$450,000 for a single budget period of 12 months.

Estimated Number of Awards: 8.

Cooperative Arrangement Development Grants:

Estimated Range of Awards:

\$450,000–\$550,000 per year.

Estimated Average Size of Awards:

\$500,000 per year.

Maximum Award: We will not make an award exceeding \$500,000 for a single budget period of 12 months.

Estimated Number of Awards: 3.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. **Eligible Applicants:** This program is authorized by title III, part F, of the HEA. At the time of submission of their applications, applicants must certify their total undergraduate headcount enrollment and that 10 percent of the IHE's enrollment is Native American. An assurance form, which is included in the application materials for this competition, must be signed by an official for the applicant and submitted.

⁵ www.cdc.gov/mmwr/volumes/69/wr/pdfs/mm6932a1-H.pdf.

⁶ Zoe Meleo-Erwin, Ph.D., Betty Kollia, Ph.D., Joe Fera, Ph.D., Alyssa Jahren, BA, and Corey Basch, Ph.D., "Online support information for students with disabilities in colleges and universities during the COVID-19 pandemic." *American Journal of Public Health*, December 2020, 1722–23.

To qualify as an eligible institution under the NASNTI Program, an institution must—

(i) Be accredited or preaccredited by a nationally recognized accrediting agency or association that the Secretary has determined to be a reliable authority as to the quality of education or training offered;

(ii) Be legally authorized by the State in which it is located to be a junior or community college or to provide an educational program for which it awards a bachelor's degree; and

(iii) Be designated as an "eligible institution," by demonstrating that it: (1) Has an enrollment of needy students as described in 34 CFR 607.3; and (2) has low average educational and general expenditures per full-time equivalent (FTE) undergraduate student as described in 34 CFR 607.4.

Note: The notice announcing the FY 2021 process for designation of eligible institutions, and inviting applications for waiver of eligibility requirements, was published in the **Federal Register** on March 4, 2021 (86 FR 12665). The Department extended the deadline for applications in a notice published in the **Federal Register** on April 13, 2021 (86 FR 19231). Only institutions that the Department determines are eligible, or which are granted a waiver under the process described in the March 4, 2021 notice, may apply for a grant in this program.

An eligible IHE that submits applications for an Individual Development Grant and a Cooperative Arrangement Development Grant in this competition may be awarded both in the same fiscal year. A grantee with an Individual Development Grant or a Cooperative Arrangement Development Grant may be a partner in one or more Cooperative Arrangement Development Grants. The lead institution in a Cooperative Arrangement Development Grant must be an eligible institution. Partners are not required to be eligible institutions. Tribally Controlled Colleges and Universities, as authorized by title III of the Higher Education Act of 1965, as amended, may participate in a Cooperative Arrangement Development Grant as a partner.

Note: If you are a nonprofit organization, under 34 CFR 75.51, you may demonstrate your nonprofit status by providing: (1) Proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code; (2) a statement from a State taxing body or the State attorney general certifying that the organization is a nonprofit organization operating

within the State and that no part of its net earnings may lawfully benefit any private shareholder or individual; (3) a certified copy of the applicant's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the applicant; or (4) any item described above if that item applies to a State or national parent organization, together with a statement by the State or parent organization that the applicant is a local nonprofit affiliate.

2. a. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

b. *Supplement-Not-Supplant:* This competition involves supplement-not-supplant funding requirements. Grant funds must be used so that they supplement and, to the extent practical, increase the funds that would otherwise be available for the activities to be carried out under the grant and in no case supplant those funds (34 CFR 607.30(b)).

c. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

IV. Application and Submission Information

1. Application Submission

Instructions: Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf, which contain requirements and information on how to submit an application.

2. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

3. *Funding Restrictions:* We specify unallowable costs in 34 CFR 607.10(c). We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 55 pages for Individual Development Grants and no more than 75 pages for Cooperative Arrangement Development Grants and (2) use the following standards:

- A "page" is 8.5" x 11", on one side only, with 1" margins at the top, bottom, and both sides.

- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions as well as all text in charts, tables, figures, and graphs.

- Use a font that is either 12 point or larger, and no smaller than 10 pitch (characters per inch).

- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the one-page abstract and the bibliography. However, the recommended page limit does apply to all of the application narrative.

Note: The Budget Information-Non-Construction Programs Form (ED 524) Sections A–C are not the same as the narrative response to the Budget section of the selection criteria.

V. Application Review Information

1. *Selection Criteria:* The following selection criteria for this competition are from 34 CFR 75.210. Applicants should address each of the following selection criteria separately for each proposed activity. The selection criteria are worth a total of 100 points; the maximum score for each criterion is noted in parentheses.

(a) *Need for project.* (Maximum 15 points) The Secretary considers the need for the proposed project. In determining the need for the proposed project, the Secretary considers:

(1) The magnitude of the need for the services to be provided or the activities to be carried out by the proposed project. (5 points)

(2) The extent to which the proposed project will focus on serving or otherwise addressing the needs of disadvantaged individuals. (5 points)

(3) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the

nature and magnitude of those gaps or weaknesses. (5 points)

(b) *Quality of the project design.* (Maximum 25 points) The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers:

(1) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable. (10 points)

(2) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs. (5 points)

(3) The extent to which the proposed project demonstrates a rationale (as defined in this notice). (10 points)

(c) *Quality of project services.* (Maximum 10 points) The Secretary considers the quality of the services to be provided by the proposed project.

(1) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. (4 points)

(2) In addition, the Secretary considers:

(i) The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services. (4 points)

(ii) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice. (2 points)

(d) *Quality of project personnel.* (Maximum 20 points) The Secretary considers the quality of the personnel who will carry out the proposed project.

(1) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. (9 points)

(2) In addition, the Secretary considers:

(i) The qualifications, including relevant training and experience, of the project director or principal investigator. (3 points)

(ii) The qualifications, including relevant training and experience, of key project personnel. (8 points)

(e) *Adequacy of resources.* (Maximum 5 points) The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers:

(1) The extent to which the budget is adequate to support the proposed project. (3 points)

(2) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project. (2 points)

(f) *Quality of the management plan.* (Maximum 15 points) The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers:

(1) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks. (8 points)

(2) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project. (2 points)

(3) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project. (5 points)

(g) *Quality of the project evaluation.* (Maximum 10 points) The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers:

(1) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project. (5 points)

(2) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible. (5 points)

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

A panel of three non-Federal reviewers will review and score each application in accordance with the selection criteria. A rank order funding slate will be made from this review.

Awards will be made in rank order according to the average score received from the peer review and from the competitive preference priority, if addressed by the applicant.

In tie-breaking situations for development grants, under 34 CFR 607.23(b) we award one additional point to an application from an IHE that has an endowment fund of which the current market value, per FTE enrolled student, is less than the average current market value of the endowment funds, per FTE enrolled student, at comparable type institutions that offer similar instruction. We award one additional point to an application from an IHE that has expenditures for library materials per FTE enrolled student that are less than the average expenditure for library materials per FTE enrolled student at similar type institutions. We also add one additional point to an application from an IHE that proposes to carry out one or more of the following activities:

- (1) Faculty development.
- (2) Funds and administrative management.
- (3) Development and improvement of academic programs.
- (4) Acquisition of equipment for use in strengthening management and academic programs.
- (5) Joint use of facilities.
- (6) Student services.

For the purpose of these funding considerations, we use 2018–2019 data.

If a tie remains after applying the tie-breaker mechanism above, priority will be given to applicants that have the lowest endowment values per FTE enrolled student.

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this program the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions and, under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2

CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently \$250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds \$10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed \$10,000,000.

5. *In General:* In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with—

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115–232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure

information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to www.ed.gov/fund/grant/apply/appforms/appforms.html.

5. *Performance Measures:* Under the Government Performance and Results Act of 1993 and 34 CFR 75.110, the following performance measures will be used in assessing the effectiveness of NASNTI:

(a) The percentage of first-time, full-time degree-seeking undergraduate students at four-year NASNTIs who were in their first year of postsecondary enrollment in the previous year and are enrolled in the current year at the same NASNTI;

(b) The percentage of first-time, full-time degree-seeking undergraduate students at two-year NASNTIs who were in their first year of postsecondary enrollment in the previous year and are enrolled in the current year at the same NASNTI;

(c) The percentage of first-time, full-time degree-seeking undergraduate students enrolled at four-year NASNTIs who graduate within six years of enrollment; and

(d) The percentage of first-time, full-time degree-seeking undergraduate students enrolled at two-year NASNTIs who graduate within three years of enrollment.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, whether the grantee has made substantial progress in achieving the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain

this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

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

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

Michelle Asha Cooper,

Acting Assistant Secretary for the Office of Postsecondary Education.

[FR Doc. 2021-11200 Filed 5-26-21; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC21-84-000.

Applicants: Seneca Energy II, LLC, Innovative Energy Systems, LLC, Sunshine Gas Producers, LLC, Rice Acquisition Corporation, PEI Power LLC, PEI Power II, LLC.

Description: Supplement to April 28, 2021 Application for Authorization Under Section 203 of the Federal Power Act of Seneca Energy II, LLC, et al.

Filed Date: 5/17/21.

Accession Number: 20210517-5233.

Comments Due: 5 p.m. ET 6/1/21.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG21-152-000.

Applicants: Blackwell Wind Energy, LLC.

Description: Notice of Self-Certification of Exempt Wholesale

Generator Status of Blackwell Wind Energy, LLC.

Filed Date: 5/19/21.

Accession Number: 20210519-5173.

Comments Due: 5 p.m. ET 6/9/21.

Docket Numbers: EG21-153-000.

Applicants: Fort Bend Solar LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Fort Bend Solar LLC.

Filed Date: 5/20/21.

Accession Number: 20210520-5072.

Comments Due: 5 p.m. ET 6/10/21.

Docket Numbers: EG21-154-000.

Applicants: Big River Solar, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Big River Solar, LLC.

Filed Date: 5/20/21.

Accession Number: 20210520-5126.

Comments Due: 5 p.m. ET 6/10/21.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER19-1200-002; ER10-2346-011; ER10-2353-011; ER11-4351-012; ER19-842-002; ER21-1947-001.

Applicants: Clearway Power Marketing LLC, Energy Center Paxton LLC, Forward WindPower LLC, Lookout Windpower, LLC, Pinnacle Wind, LLC, NedPower Mount Storm LLC.

Description: Notice of Change in Status of Clearway Power Marketing LLC, et al.

Filed Date: 5/19/21.

Accession Number: 20210519-5180.

Comments Due: 5 p.m. ET 6/9/21.

Docket Numbers: ER21-1191-001.

Applicants: Southwestern Electric Power Company.

Description: Tariff Amendment: Amended and Restated Minden PSA to be effective 1/1/2018.

Filed Date: 5/20/21.

Accession Number: 20210520-5029.

Comments Due: 5 p.m. ET 6/10/21.

Docket Numbers: ER21-1191-002.

Applicants: Southwestern Electric Power Company.

Description: Tariff Amendment: Amended and Restated Minden PSA to be effective 5/31/2018.

Filed Date: 5/20/21.

Accession Number: 20210520-5038.

Comments Due: 5 p.m. ET 6/10/21.

Docket Numbers: ER21-1191-003.

Applicants: Southwestern Electric Power Company.

Description: Tariff Amendment: Amended and Restated Minden PSA to be effective 8/1/2018.

Filed Date: 5/20/21.

Accession Number: 20210520-5039.

Comments Due: 5 p.m. ET 6/10/21.

Docket Numbers: ER21-1191-004.

Applicants: Southwestern Electric Power Company.

Description: Tariff Amendment: Amended and Restated Minden PSA to be effective 1/1/2020.

Filed Date: 5/20/21.

Accession Number: 20210520-5045.

Comments Due: 5 p.m. ET 6/10/21.

Docket Numbers: ER21-1528-001.

Applicants: Midcontinent Independent System Operator, Inc., Duke Energy Indiana, LLC.

Description: Tariff Amendment: 2021-05-20 SA 3646 DEI-Hardy Hills Substitute E&P (J1063) to be effective 3/27/2021.

Filed Date: 5/20/21.

Accession Number: 20210520-5043.

Comments Due: 5 p.m. ET 6/10/21.

Docket Numbers: ER21-1671-001.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Correction: Amendment to ISA, SA No. 5596; Queue No. AD1-020 to be effective 2/4/2020.

Filed Date: 5/20/21.

Accession Number: 20210520-5056.

Comments Due: 5 p.m. ET 6/10/21.

Docket Numbers: ER21-1953-000.

Applicants: Heartland Divide Wind II, LLC.

Description: Baseline eTariff Filing: Heartland Divide Wind II, LLC Application for MBR Authority to be effective 7/19/2021.

Filed Date: 5/19/21.

Accession Number: 20210519-5168.

Comments Due: 5 p.m. ET 6/9/21.

Docket Numbers: ER21-1954-000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original WMPA, Service Agreement No. 6067; Queue No. AG1-079 to be effective 4/20/2021.

Filed Date: 5/20/21.

Accession Number: 20210520-5040.

Comments Due: 5 p.m. ET 6/10/21.

Docket Numbers: ER21-1955-000.

Applicants: Duke Energy Progress, LLC.

Description: § 205(d) Rate Filing: DEP-American Beech Solar ASOA SA No. 388 to be effective 5/21/2021.

Filed Date: 5/20/21.

Accession Number: 20210520-5059.

Comments Due: 5 p.m. ET 6/10/21.

Docket Numbers: ER21-1956-000.

Applicants: GenOn Canal, LLC.

Description: Tariff Cancellation: Notice of Cancellation to be effective 5/21/2021.

Filed Date: 5/20/21.

Accession Number: 20210520-5064.

Comments Due: 5 p.m. ET 6/10/21.
Docket Numbers: ER21–1957–000.
Applicants: Duke Energy Florida, LLC.
Description: § 205(d) Rate Filing: DEF–TECO Concurrence RS 268 to be effective 8/1/2021.
Filed Date: 5/20/21.
Accession Number: 20210520–5070.
Comments Due: 5 p.m. ET 6/10/21.
Docket Numbers: ER21–1958–000.
Applicants: Idaho Power Company.
Description: § 205(d) Rate Filing: BPA NITSA SA 305 Update to be effective 6/1/2021.
Filed Date: 5/20/21.
Accession Number: 20210520–5073.
Comments Due: 5 p.m. ET 6/10/21.
Docket Numbers: ER21–1959–000.
Applicants: Southern California Edison Company.
Description: Tariff Cancellation: Notices of Termination SGIA & DSA SA Nos. 221 and 222 to be effective 7/20/2021.
Filed Date: 5/20/21.
Accession Number: 20210520–5080.
Comments Due: 5 p.m. ET 6/10/21.
Docket Numbers: ER21–1960–000.
Applicants: Duke Energy Progress, LLC.
Description: § 205(d) Rate Filing: DEP–Dominion Concurrence RS No. 196 to be effective 5/19/2021.
Filed Date: 5/20/21.
Accession Number: 20210520–5094.
Comments Due: 5 p.m. ET 6/10/21.
Docket Numbers: ER21–1961–000.
Applicants: Big River Solar, LLC.
Description: Baseline eTariff Filing: Application for Market-Based Rate Authority to be effective 7/15/2021.
Filed Date: 5/20/21.
Accession Number: 20210520–5101.
Comments Due: 5 p.m. ET 6/10/21.
Docket Numbers: ER21–1962–000.
Applicants: Mulberry BESS LLC.
Description: Baseline eTariff Filing: Market-Based Rate Application and Request for Expedited Action to be effective 5/21/2021.
Filed Date: 5/20/21.
Accession Number: 20210520–5113.
Comments Due: 5 p.m. ET 6/10/21.
 Take notice that the Commission received the following electric securities filings:
Docket Numbers: ES21–37–000.
Applicants: DTE Electric Company.
Description: DTE Electric Company submits Amendments to Exhibits C and D of Application and Request to Shorten Comment Period.
Filed Date: 5/20/21.
Accession Number: 20210520–5083.
Comments Due: 5 p.m. ET 6/1/21.
 Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RR21–4–000.
Applicants: North American Electric Reliability Corporation.
Description: Petition of The North American Electric Reliability Corporation For Approval of Amendments to the Western Electricity Coordinating Council Regional Reliability Standards Development Procedures.
Filed Date: 5/19/21.
Accession Number: 20210519–5190.
Comments Due: 5 p.m. ET 6/9/21.
 The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.
 Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.
 eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 20, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–11179 Filed 5–26–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP19–810–000.
Applicants: Tallgrass Interstate Gas Transmission, LP, Trailblazer Pipeline Company LLC, Rockies Express Pipeline LLC.
Description: Request for Additional Time to Implement NAESB Standards of the Tallgrass Pipelines under RP19–810, et al.
Filed Date: 5/19/21.
Accession Number: 20210519–5189.
Comments Due: 5 p.m. ET 6/1/21.
Docket Numbers: RP19–811–000.
Applicants: Tallgrass Interstate Gas Transmission, LP, Trailblazer Pipeline

Company LLC, Rockies Express Pipeline LLC.

Description: Request for Additional Time to Implement NAESB Standards of the Tallgrass Pipelines under RP19–810, et al.

Filed Date: 5/19/21.

Accession Number: 20210519–5189.

Comments Due: 5 p.m. ET 6/1/21.

Docket Numbers: RP19–812–000.

Applicants: Tallgrass Interstate Gas Transmission, LP, Trailblazer Pipeline Company LLC, Rockies Express Pipeline LLC.

Description: Request for Additional Time to Implement NAESB Standards of the Tallgrass Pipelines under RP19–810, et al.

Filed Date: 5/19/21.

Accession Number: 20210519–5189.

Comments Due: 5 p.m. ET 6/1/21.

Docket Numbers: RP21–830–000.

Applicants: Leaf River Energy Center LLC.

Description: Compliance filing Leaf River Compliance filing 5–18–21 to be effective 4/1/2021.

Filed Date: 5/18/21.

Accession Number: 20210518–5066.

Comments Due: 5 p.m. ET 6/1/21.

Docket Numbers: RP21–831–000.

Applicants: Elba Express Company, L.L.C.

Description: Compliance filing Annual Cashout True-up 2021.

Filed Date: 5/19/21.

Accession Number: 20210519–5026.

Comments Due: 5 p.m. ET 6/1/21.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 21, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–11239 Filed 5–26–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****Combined Notice of Filings #1**

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG21–155–000.

Applicants: Mulberry BESS LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Mulberry BESS LLC.
Filed Date: 5/17/21.

Accession Number: 20210517–5260.

Comments Due: 5 p.m. ET 6/7/21.

Docket Numbers: EG21–156–000.

Applicants: Ranchland Wind Project, LLC.

Description: Ranchland Wind Project, LLC submits Exempt Wholesale Generator Filing.

Filed Date: 5/21/21.

Accession Number: 20210521–5150.

Comments Due: 5 p.m. ET 6/11/21.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC21–96–000.

Applicants: Sky River LLC, Sky River Wind, LLC.

Description: Application for Authorization Under Section 203 of the Federal Power Act of Sky River LLC, et al.

Filed Date: 5/20/21.

Accession Number: 20210520–5186.

Comments Due: 5 p.m. ET 6/10/21.

Docket Numbers: EC21–97–000.

Applicants: AEP GENERATING CO, Indiana Michigan Power Company.

Description: Application for Authorization Under Section 203 of the Federal Power Act of AEP Generating Company, et al.

Filed Date: 5/20/21.

Accession Number: 20210520–5187.

Comments Due: 5 p.m. ET 6/10/21.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2193–003.

Applicants: Hydro-Quebec Energy Services (U.S.) Inc.

Description: Notice of Non-Material Change in Status of H.Q. Energy Services (U.S.) Inc.

Filed Date: 5/19/21.

Accession Number: 20210519–5192.

Comments Due: 5 p.m. ET 6/9/21.

Docket Numbers: ER21–1600–001.

Applicants: Public Service Company of Colorado.

Description: Tariff Amendment: Burlington February 2021 Fuel Cost Adjustment_Eff. 03–2–2021

(Amendment) to be effective 3/12/2021.

Filed Date: 5/21/21.

Accession Number: 20210521–5000.

Comments Due: 5 p.m. ET 6/11/21.

Docket Numbers: ER21–1963–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Tariff Cancellation: Notice of Cancellation of Rate Schedule FERC No. 305 to be effective 4/15/2021.

Filed Date: 5/21/21.

Accession Number: 20210521–5048.

Comments Due: 5 p.m. ET 6/11/21.

Docket Numbers: ER21–1964–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2021–05–21 Att X, GIP Site Control Deadline Filing to be effective 7/21/2021.

Filed Date: 5/21/21.

Accession Number: 20210521–5055.

Comments Due: 5 p.m. ET 6/11/21.

Docket Numbers: ER21–1966–000.

Applicants: Broadlands Wind Farm LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 5/22/2021.

Filed Date: 5/21/21.

Accession Number: 20210521–5107.

Comments Due: 5 p.m. ET 6/11/21.

Docket Numbers: ER21–1967–000.

Applicants: Crossing Trails Wind Power Project LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 5/22/2021.

Filed Date: 5/21/21.

Accession Number: 20210521–5109.

Comments Due: 5 p.m. ET 6/11/21.

Docket Numbers: ER21–1968–000.

Applicants: Headwaters Wind Farm II LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 5/22/2021.

Filed Date: 5/21/21.

Accession Number: 20210521–5112.

Comments Due: 5 p.m. ET 6/11/21.

Docket Numbers: ER21–1969–000.

Applicants: Lexington Chenoa Wind Farm LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 5/22/2021.

Filed Date: 5/21/21.

Accession Number: 20210521–5116.

Comments Due: 5 p.m. ET 6/11/21.

Docket Numbers: ER21–1970–000.

Applicants: Paulding Wind Farm IV LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 5/22/2021.

Filed Date: 5/21/21.

Accession Number: 20210521–5117.

Comments Due: 5 p.m. ET 6/11/21.

Docket Numbers: ER21–1971–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: BPA NITSA (UIUC) Rev 10 to be effective 5/1/2021.

Filed Date: 5/21/21.

Accession Number: 20210521–5138.

Comments Due: 5 p.m. ET 6/11/21.

Docket Numbers: ER21–1972–000.

Applicants: Union Electric Company.

Description: Notice of Cancellation of Market Based Rate Tariff of TG High Prairie, LLC.

Filed Date: 5/21/21.

Accession Number: 20210521–5145.

Comments Due: 5 p.m. ET 6/11/21.

Docket Numbers: ER21–1973–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: BPA NITSA (Clark PUD) Rev 3 to be effective 5/1/2021.

Filed Date: 5/21/21.

Accession Number: 20210521–5158.

Comments Due: 5 p.m. ET 6/11/21.

Docket Numbers: ER21–1974–000.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: § 205(d) Rate Filing: ISO-NE/NEPOOL; Rev to Estb Operational & Meteorological Data Req for Solar/Wind to be effective 7/20/2021.

Filed Date: 5/21/21.

Accession Number: 20210521–5177.

Comments Due: 5 p.m. ET 6/11/21.

Docket Numbers: ER21–1975–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: BPA NITSA (Yakama) Rev 8 to be effective 5/1/2021.

Filed Date: 5/21/21.

Accession Number: 20210521–5179.

Comments Due: 5 p.m. ET 6/11/21.

Docket Numbers: ER21–1976–000.

Applicants: Duke Energy Florida, LLC.

Description: Tariff Cancellation: DEF—Telogia Cancellation of SA No. 156 to be effective 7/21/2021.

Filed Date: 5/21/21.

Accession Number: 20210521–5181.

Comments Due: 5 p.m. ET 6/11/21.

Docket Numbers: ER21–1977–000.

Applicants: El Paso Electric Company.

Description: Tariff Cancellation: Termination of Rate Schedule No. 115 EPE E&P Agreement w/Southline Transmission to be effective 5/12/2021.

Filed Date: 5/21/21.

Accession Number: 20210521–5193.

Comments Due: 5 p.m. ET 6/11/21.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: May 21, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021-11238 Filed 5-26-21; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD21-13-000]

Climate Change, Extreme Weather, and Electric System Reliability; Supplemental Notice of Technical Conference

As announced in the Notice of Technical Conference issued in this proceeding on March 5, 2021, Federal Energy Regulatory Commission (Commission) staff will convene a technical conference to discuss issues surrounding the threat to electric system reliability posed by climate change and extreme weather events. The conference will be held on Tuesday, June 1, 2021 and Wednesday June 2, 2021, from approximately 1:00 p.m. to 6:00 p.m. Eastern Time each day. The conference will be held virtually via WebEx. Commissioners may attend and participate.

We note that discussions at the conference may involve issues raised in proceedings that are currently pending before the Commission. These proceedings include, but are not limited to:

California Independent System Operator Corp., Docket No. ER21-1536-000
California Independent System Operator Corp., Docket No. ER21-1551-000
California Independent System Operator Corp., Docket No. ER21-1790-000
Californians for Renewable Energy v. California Independent System Operator Corp., Docket No. EL20-69-001

Central Hudson Gas & Elec. Corp., et al. v. New York Independent System Operator, Inc., Docket No. EL21-66-000

Complaint of Michael Mabee, Docket No. EL21-54-000

Duke Energy Carolinas, LLC, *et al.*, Docket No. ER21-1579-000

George Berka v. Andrew Cuomo, et al., Docket No. EL21-61-000

New York Independent System Operator, Inc., Docket Nos. ER21-502-002, ER21-502-003

New York Independent System Operator, Inc., Docket Nos. ER21-1018-000, ER21-1018-001

New York Transmission Owners, Docket No. ER21-1647-000

NV Energy v. California Independent System Operator Corp., Docket No. EL21-74-000

PJM Interconnection, L.L.C., Docket No. ER21-278-001

PJM Interconnection, L.L.C., Docket Nos. EL19-100-000, ER20-584-000

PJM Interconnection, L.L.C., Docket No. ER21-1635-000

Attached to this Supplemental Notice is an agenda for the technical conference, which includes the final conference program and expected speakers. The conference will be open for the public to attend virtually. Information on the technical conference will also be posted on the Calendar of Events on the Commission's website, <http://www.ferc.gov>, prior to the event. The conference will be transcribed. Transcripts of the conference will be available for a fee from Ace-Federal Reporters, Inc. (202-347-3700).

For more information about this technical conference, please contact Rahim Amerkhail, 202-502-8266, rahim.amerkhail@ferc.gov for technical questions or Sarah McKinley, 202-502-8368, sarah.mckinley@ferc.gov for logistical issues.

Dated: May 21, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021-11240 Filed 5-26-21; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OECA-2013-0349; FRL-10024-52-OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Pharmaceuticals Production (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), NESHAP for Pharmaceuticals Production, to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through July 31, 2021. Public comments were previously requested, via the **Federal Register**, on May 12, 2020 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before June 28, 2021.

ADDRESSES: Submit your comments to EPA, referencing Docket ID Number EPA-HQ-OECA-2013-0349, online using www.regulations.gov (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564-2970; fax number: (202) 564-0050; email address: yellin.patrick@epa.gov.

SUPPLEMENTARY INFORMATION:

Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket

can be viewed online at www.regulations.gov, or in person, at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit: <http://www.epa.gov/dockets>.

Abstract: The NESHAP for Pharmaceuticals Production were proposed on April 2, 1997, and promulgated on September 21, 1998, and amended on both April 21, 2011 and February 27, 2014. In general, all NESHAP standards require initial notifications, performance tests, and periodic reports. Owners or operators are also required to maintain records of the occurrence and duration of any malfunctions in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are essential in determining compliance and, in general, are required of all sources subject to NESHAP. This information is used by the Agency to identify sources subject to these standards to ensure that the maximum achievable control technologies are being applied. Semiannual summary reports are also required.

Form Numbers: None.

Respondents/affected entities: Pharmaceutical manufacturing operations.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart GGG).

Estimated number of respondents: 27 (total).

Frequency of response: Initially, occasionally, quarterly and semiannually.

Total estimated burden: 44,300 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: \$5,300,000 (per year), which includes \$112,000 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is no change in burden from the most-recently approved ICR as currently identified in the OMB Inventory of Approved Burdens. This is due to two considerations: (1) The regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for this industry is very low or non-existent, so there is no significant change in the overall burden. Since there are no changes in the regulatory requirements and there is no significant industry growth, there are also no changes in the capital/startup or

operation and maintenance (O&M) costs.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2021-11184 Filed 5-26-21; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-OW-2013-0610; FRL-10024-55-OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Clean Water Act Section 404 State-Assumed Programs (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Clean Water Act Section 404 State-Assumed Programs (EPA ICR Number 0220.14, OMB Control Number 2040-0168) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through July 31, 2021. Public comments were previously requested, via **Federal Register** during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may not conduct, or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be received on or before June 28, 2021.

ADDRESSES: Submit your comments to EPA, referencing Docket ID EPA-OW-2013-0610, online using www.regulations.gov (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute. Submit written comments and recommendations to OMB for the proposed information collection within

30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Dolores Wesson, Oceans, Communities, and Wetlands Division, Environmental Protection Agency, 1200 Pennsylvania Ave. NW (4504T), Washington, DC 20460; telephone number: 202-566-2755; email: wesson.dolores@epa.gov.

SUPPLEMENTARY INFORMATION:

Supporting documents, which explain in detail the information that EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744.

Abstract: Section 404(g) of the Federal Water Pollution Control Act (FWPCA/CWA) authorizes States and Tribes to assume the section 404 permit program for discharges of dredged or fill material into certain waters of the United States. This ICR covers the collection of information EPA needs to perform its program approval and oversight responsibilities and the State or Tribe needs to implement its program.

Request to assume CWA section 404 permit program. States and Tribes must demonstrate that they meet the statutory and regulatory requirements at 40 CFR part 233 for an approvable program. Specified information and documents must be submitted by the State or Tribe to EPA to request assumption and must be sufficient to enable EPA to undertake an analysis of the State or tribal program. The information contained in the assumption request submission is provided to the other involved federal agencies (e.g., U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, and National Marine Fisheries Service) and to the public for review and comment.

Permit application information. States and Tribes with assumed programs must be able to issue permits that assure compliance with all applicable statutory and regulatory requirements, including CWA section 404(b)(1) Guidelines. Sufficient information must be provided in the application so that States or Tribes and federal agencies reviewing the permit can evaluate, avoid, minimize, and compensate for any anticipated impacts resulting from the proposed project. EPA's assumption regulations at 40 CFR 233.30 establish

required and recommended elements that should be included in the State or Tribe's permit application, so that sufficient information is available to make a thorough analysis of anticipated impacts. These minimum information requirements generally reflect the information that must be submitted when applying for a section 404 permit from the U.S. Army Corps of Engineers. (CWA section 404(h); CWA section 404(j); 40 CFR 230.10, 233.20, 233.21, 233.34, and 233.50; 33 CFR 325)).

Annual report and program information. EPA has an oversight role for assumed section 404 permitting programs to ensure that State or tribal programs are in compliance with applicable requirements and that State or tribal permit decisions adequately consider, avoid, minimize, and compensate for anticipated impacts. States and tribes must evaluate their programs annually and submit the results in a report to EPA. EPA's assumption regulations at 40 CFR 233.52 establish minimum requirements for the annual report.

The information included in the State or Tribe's assumption request and the information included in a permit application is made available for public review and comment. The information included in the annual report to EPA is made available to the public. EPA does not make any assurances of confidentiality for this information.

Form Numbers: None.

Respondents/affected entities: States requesting assumption of the CWA section 404 permit program; States with approved assumed programs; and permit applicants for assumed State programs. No Tribes are expected to assume at this time.

Respondent's obligation to respond: Required to obtain or retain a benefit (40 CFR 233).

Estimated number of respondents: Two States to request program assumption; 9,022 permit applicants; and four States with assumed programs.

Frequency of response: States will respond one time to request assumption; if the program is approved, they will respond annually for the annual report; permit applicants will respond one time when requesting a permit.

Total estimated burden: 218,836 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: Costs to States for assumed section 404 permit programs will vary widely by State and permit; however, the total estimated costs for four programs is \$5,641,625.21 and costs to permittees in State-assumed programs is \$1,266,824.13. There are \$0

capital or operation and maintenance costs.

Changes in estimates: There is an increase of 99,174 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. There are several reasons for this increase: (1) A small increase in the estimated hours to assume a program based on information provided by Michigan and New Jersey; (2) recent changes to policy addressing endangered species and historic preservation requiring; (3) including burden to State-assumed programs of permit review and to permittees; and (4) a small increase in the estimated hours for permit review by Michigan and New Jersey and for completing the annual report by Michigan. The estimated number of permits per state has been reduced based on data provided by New Jersey and Michigan.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2021-11276 Filed 5-26-21; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OECA-2013-0322; FRL-10024-53-OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Beryllium Rocket Motor Fuel Firing (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), "NESHAP for Beryllium Rocket Motor Fuel Firing (EPA ICR Number 1125.09, OMB Control Number 2060-0394), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through July 31, 2021. Public comments were previously requested, via the **Federal Register**, on May 12, 2020 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before June 28, 2021.

ADDRESSES: Submit your comments to EPA, referencing Docket ID Number EPA-HQ-OECA-2013-0322, online using www.regulations.gov (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Patrick Yellin, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564-2970; fax number: (202) 564-0050; email address: yellin.patrick@epa.gov.

SUPPLEMENTARY INFORMATION:

Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov, or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit: <http://www.epa.gov/dockets>.

Abstract: The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Beryllium Rocket Motor Fuel Firing were promulgated on April 6, 1973 (38 FR 8826), and amended on both October 17, 2000 (65 FR 62151) and February 27, 2014 (79 FR 11275). These regulations apply to existing and new buildings, structures, facilities, or installations where the static test firing of a beryllium rocket motor and/or the disposal of beryllium propellant is conducted. New facilities include those that commenced construction or reconstruction after the date of

promulgation. This information is being collected to assure compliance with 40 CFR part 61, subpart D.

Form Numbers: None.

Respondents/affected entities: Beryllium rocket motor fuel firing test sites.

Respondent's obligation to respond: Mandatory (40 CFR part 61, subpart D).

Estimated number of respondents: 1 (total).

Frequency of response: Annually.

Total estimated burden: 9 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: \$1,110 (per year), which includes \$0 for annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is no change in burden from the most-recently approved ICR as currently identified in the OMB Inventory of Approved Burdens. This is due to two considerations: (1) The regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for this industry is very low or non-existent, so there is no significant change in the overall burden. Since there are no changes in the regulatory requirements and there is no significant industry growth, there are also no changes in the capital/startup and/or operation and maintenance (O&M) costs.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2021-11183 Filed 5-26-21; 8:45 am]

BILLING CODE 6560-50-P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Information Collection Activities: Existing Collection

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice of information collection—extension without change: State and Local Government Information Report (EEO-4).

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Equal Employment Opportunity Commission (EEOC or Commission) announces that it is submitting to the Office of Management and Budget (OMB) a request for a three-year extension without change of the State and Local Government

Information Report (EEO-4) as described below.

DATES: Written comments on this notice are encouraged and must be submitted on or before June 28, 2021.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Margaret Noonan, Employer Data Team, Data Development and Information Products Division, Equal Employment Opportunity Commission, 131 M Street NE, Room 4SW32J, Washington, DC 20507; (202) 921-2928 (voice), (800) 669-6820 (TTY) or email at margaret.noonan@eEOC.gov.

SUPPLEMENTARY INFORMATION: A notice that the EEOC would be submitting this request was published in the **Federal Register** on January 19, 2021, allowing for a 60-day public comment period. No comments were received from the public during the 60-day public comment period.

Overview of Information Collection

Collection Title: State and Local Government Information Report (EEO-4).

OMB Number: 3046-0008.

Frequency of Report: Biennial, odd years.

Type of Respondent: State and local governments with 100 or more employees within the 50 U.S. states and District of Columbia.

Description of Affected Public: State and local governments with 100 or more employees within the 50 U.S. states and District of Columbia.

Reporting Hours: 95,542 per biennial collection.

Burden Hour Cost: \$4,719,509.02 per biennial collection.

Federal Cost: \$386,609.20 per biennial collection.

Number of Respondents: 5,687.

Number of Responses: 13,649.

Number of Forms: 1.

Form Number: EEOC Form 164.

Abstract: Section 709(c) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-8(c), requires State and local governments to make and keep records relevant to a determination of whether unlawful

employment practices have been or are being committed and produce reports required by the EEOC. Accordingly, the EEOC issued regulations, 29 CFR 1602.30 and 1602.32–37, which set forth the reporting requirements and related record retention policies for State and local governments. 29 CFR 1602.30 requires every covered State and local government to make or keep all records necessary for completion of an EEO-4 submission and retain those records for three years. 29 CFR 1602.32 requires filers to retain a copy of each filed EEO-4 report for three years. These requirements are related to recordkeeping, which is part of standard administrative practices, and as a result, the EEOC believes that any impact on burden would be negligible and nearly impossible to quantify. State and local governments with 100 or more employees have been required to submit EEO-4 reports since 1974 (biennially since 1993). The EEOC uses EEO-4 data for research and to investigate charges of discrimination. The individual reports are confidential.

Burden Statement: The methodology for calculating annual burden reflects the different staff that are responsible for preparing and filing the EEO-4. These estimates are based on the estimated submission time of 7 hours per reporting unit, as published in the 2018 EEO-4 Information Collection Review as required by the Paperwork Reduction Act.¹ The EEOC accounts for time to be spent biennially on EEO-4 reporting by senior and administrative staff, as well as time spent by computer support specialists, executive administrative staff, and payroll and human resource professionals; the revised estimate also includes attorneys who may consult briefly during the reporting process. The estimated number of respondents included in the biennial EEO-4 data collection is 5,687 State and local governments, as this is the average number of reporting units between 2005 and 2019. These 5,687 respondents will submit an estimated 13,649 reports during each biennial reporting cycle. The estimated hour burden per report will be 7 hours, and the estimated total biennial respondent burden hours will be 95,542. Burden hour cost was calculated using median hourly wage rates for administrative staff and legal counsel, and average hourly wage rates for State and local government staff. The burden hour cost per report will be \$214.77, and the estimated total burden hour cost per

¹ For more information, please see: https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201804-3046-001.

biennial collection will be
\$4,719,509.02 (See Table 1 for
calculations).

\$4,719,509.02 (See Table 1 for
calculations).

TABLE 1—ESTIMATE OF BIENNIAL BURDEN FOR EEO-4 REPORT

	Hourly wage rate ²	Burden hours per government entity	Cost per government entity	Total burden hours	Total burden hour cost ³
	Number of Reporting Units = 5,687			Number of Records Submitted = 13,649	
Chief Executive	\$52.90	0.35	\$18.52	4,777.1	\$88,447.64
Legal Counsel	50.50	0.35	17.68	4,777.1	84,434.89
Computer Support Specialist (IT Professional)	29.75	0.7	20.83	9,554.2	198,965.38
Executive Administrative Staff	27.40	1.4	38.36	19,108.3	732,995.16
Human Resource Specialist	32.59	2.45	79.85	33,439.6	2,669,998.39
Payroll Clerks	22.60	1.75	39.55	23,885.4	944,667.57
Total	N/A	7	214.77	95,542	4,719,509.02

These estimates are based upon filers' use of the EEO-4 online filing system to submit reports. The EEOC has made online electronic submission much easier for respondents required to file the EEO-4 Report and as a result, more respondents are using this electronic filing method. During the 2019 EEO-4 data collection cycle, 4,988 EEO-4 filers completed and certified their submission. Of the 4,988 EEO-4 filers who submitted data in 2019, 4 percent uploaded a data file, 92 percent filed through the online application, and 4 percent submitted paper records. Electronic filing remains the most efficient, accurate, and secure means of reporting for respondents required to submit the EEO-4 report. Accordingly, the EEOC will continue to encourage EEO-4 filers to submit data through online electronic filing and will only accept paper records from filers who have secured permission to submit data via paper submission.

Dated: May 22, 2021.

For the Commission.

Charlotte A. Burrows,
Chair.

[FR Doc. 2021-11228 Filed 5-26-21; 8:45 am]

BILLING CODE 6570-01-P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551-0001, not later than June 11, 2021.

A. Federal Reserve Bank of Dallas
(Karen Smith, Director, Applications)
2200 North Pearl Street, Dallas, Texas
75201-2272:

1. *Lawrence W. Pickett, Dana Doshier DeGravelle, Marilyn Pickett Worsley, Rock W. Worsley, Lauren P. Davis, Pamela J. Pickett, Benjamin Clark*

Burch, and minor children, all of Monroe, Louisiana; Amanda Doshier Arledge, West Monroe, Louisiana; Adam L. Pickett, San Francisco, California; De-Ette Copes and Lonnie L. Copes, both of Delhi, Louisiana; Charles E. Hixon, Jr. and Anne Ruth Hixon, both of Rayville, Louisiana; Bonnie R. Holley and Willie R. Holley, both of Epps, Louisiana; David Wesley Sullivan, Pioneer, Louisiana; and Joshua D. Sullivan, New Orleans, Louisiana; a group acting in concert, to retain voting shares of Capital Bancorp, Inc., and thereby indirectly retain voting shares of Commercial Capital Bank, both of Delhi, Louisiana.

B. Federal Reserve Bank of Minneapolis (Chris P. Wangen, Assistant Vice President), 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. *James T. Robertson, Ramsey, Minnesota; to retain voting shares of Rushford State Bancorp, Inc., and thereby indirectly retain voting shares of Rushford State Bank, both of Rushford, Minnesota.*

Board of Governors of the Federal Reserve System, May 24, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021-11277 Filed 5-26-21; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Notice of Meeting

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice.

² Occupational titles and wages are from the Bureau of Labor Statistics' National Industry-Specific Occupational Employment and Wage Estimates—NAICS 999000—Federal, State, and local Government, excluding state and local schools and hospitals and the U.S. Postal Service: https://www.bls.gov/oes/current/naics3_999000.htm#11-0000. The wages cited are median hourly wages.

³ Burden hour cost is estimated by multiplying the 'Cost per government entity' column by the 'Total burden hours' column.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) announces a Special Emphasis Panel (SEP) meeting on “INTUIT-PC: Improving Nonsurgical Treatment of Urinary Incontinence among women in Primary Care: Dissemination and Implementation of PCOR Evidence (U18).” This SEP meeting will be closed to the public.

DATES: July 15, 2021.

ADDRESSES: Agency for Healthcare Research and Quality, (Video Assisted Review), 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: Jenny Griffith, Committee Management Officer, Office of Extramural Research, Education and Priority Populations, Agency for Healthcare Research and Quality, (AHRQ), 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 427-1557.

SUPPLEMENTARY INFORMATION: A Special Emphasis Panel is a group of experts in fields related to health care research who are invited by AHRQ, and agree to be available, to conduct on an as needed basis, scientific reviews of applications for AHRQ support. Individual members of the Panel do not attend regularly-scheduled meetings and do not serve for fixed terms or a long period of time. Rather, they are asked to participate in particular review meetings which require their type of expertise.

The SEP meeting referenced above will be closed to the public in accordance with the provisions set forth in 5 U.S.C. App. 2, section 10(d), 5 U.S.C. 552b(c)(4), and 5 U.S.C. 552b(c)(6). Grant applications for “INTUIT-PC: Improving Nonsurgical Treatment of Urinary Incontinence among women in Primary Care: Dissemination and Implementation of PCOR Evidence (U18)” are to be reviewed and discussed at this meeting. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Agenda items for this meeting are subject to change as priorities dictate.

Dated: May 24, 2021.

Marquita Cullom,
Associate Director.

[FR Doc. 2021-11241 Filed 5-26-21; 8:45 am]

BILLING CODE 4160-90-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve proposed updates to the approved information collection project “Safety Program in Perinatal Care (SPPC)-II Demonstration Project.” This proposed information collection was previously published in the **Federal Register** on March 5, 2021 and allowed 60 days for public comment. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments on this notice must be received by June 28, 2021.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at doris.lefkowitz@AHRQ.hhs.gov.

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427-1477, or by email at doris.lefkowitz@AHRQ.hhs.gov.

SUPPLEMENTARY INFORMATION:

Proposed Project

Safety Program in Perinatal Care (SPPC)-II Demonstration Project

The SPPC-II *Demonstration Project* has the following goals:

- (1) To implement the integrated Alliance for Innovation on Maternal Health (AIM)-SPPC II program in birthing hospitals in Oklahoma and Texas in coordination with AIM and the respective state PQC (Perinatal Quality Collaborative);
- (2) To assess the implementation of the integrated AIM-SPPC II program in these hospitals; and
- (3) To ascertain the short- and medium-term impact of the integrated AIM-SPPC II program on hospital (*i.e.* perinatal unit) teamwork and communication, patient safety, and key maternal health outcomes.

This study is being conducted by AHRQ through its contractor, Johns

Hopkins University (JHU) and the AIM program, JHU’s subcontractor, pursuant to AHRQ’s statutory authority to conduct and support research on healthcare and on systems for the delivery of such care, including activities with respect to the quality, effectiveness, efficiency, appropriateness and value of healthcare services and with respect to quality measurement and improvement. 42 U.S.C. 299a(a)(1) and (2).

Due to continued pandemic-related impacts on the SPPC-II study population, we propose to update the SPPC-II data collection by (1) restructuring and adding questions to the approved qualitative interview guides to be used with AIM program Team Leads and now frontline health providers in the summer/fall of 2021 to include questions to better understand the perceived implementation context; and (2) adding focus group discussions in the summer/fall of 2022 to assess perceptions of implementation and sustainability of the SPPC-II Toolkit at the hospital level. The total burden hours resulting from these proposed updates to the SPPC-II data collection is 64 hours. The total estimated annual burden hours for SPPC-II are 54,693.

Method of Collection

To achieve the goals of this project the following updates to the data collections will be implemented:

(a) Qualitative, semi-structured interviews with AIM Team Leads and frontline staff will be conducted by phone or via zoom in the summer/fall of 2021 to assess the perceived utility of the training and the perceived implementation context (including barriers, facilitators, and strategies) in the context of a reduced scope for SPPC-II. In 8 hospitals, one-hour interviews with AIM Team Leads (1 per hospital) and 30-minute interviews with frontline staff (4 per hospital) will be conducted. An interview guide developed based on the Consolidated Framework for Implementation Research framework will be used to conduct the interviews, together with a corresponding consent form. The interview guide will be supported by the SPPC-II tier level training specific handouts.

(b) Focus group discussions with AIM Team Leads and frontline staff will be conducted by phone or via zoom in the summer/fall of 2022 to assess perceptions of implementation and sustainability of the SPPC-II Toolkit at the hospital level. We will conduct one 1-hour focus groups with AIM Team Leads and frontline staff in each of the 8 hospitals. An interview guide

developed based on the Consolidated Framework for Implementation Research framework will be used to conduct the interviews, together with a corresponding consent form.

Estimated Annual Respondent Burden

Exhibit 1 shows only the estimated annualized burden hours for the

respondents' time to participate in updates to the information collection of the SPPC–II Demonstration Project.

One-hour qualitative interviews will be conducted with a total of 8 AIM Team Leads and 30-minute qualitative interviews with 32 frontline staff in 8 hospitals. We will also conduct 8 one-

hour focus group discussions with a total of 40 AIM Team Leads and frontline staff in the same hospitals.

The total burden hours resulting from the proposed updates to the SPPC–II data collection is 64 hours. The total annual burden hours are estimated to be 54,693 hours.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
Qualitative semi-structured interviews with AIM Team Leads	8	1	1.00	8
Qualitative semi-structured interviews with frontline staff	32	1	0.50	16
Focus group discussions with AIM Team Leads and frontline staff	40	1	1	40
Total	80	NA	NA	64

Exhibit 2 shows only the hours and cost of updates to the collection. The total cost burden of the updated

collection is estimated to be \$1,421,576.68 annually.

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden hours	Average hourly wage rate *	Total cost burden
Qualitative semi-structured interviews with AIM Team Leads	8	8	\$49.83	\$398.64
Qualitative semi-structured interviews with frontline staff	32	16	49.83	797.28
Focus group discussions with AIM Team Leads and frontline staff	40	40	49.83	1,993.20
Total	80	64		3,189.12

* National Compensation Survey: Occupational wages in the United States May 2017 “U.S. Department of Labor, Bureau of Labor Statistics.” Weighted mean hourly wage for obstetrician-gynecologists (\$113.10; occupation code 29–1064; 30%); nurse-midwives (\$49.83; occupation code 29–1161; 30%); registered nurses (\$35.36; occupation code 29–1161; 20%); and nurse practitioners (\$51.86; occupation code 29–1171; 20%).

Request for Comments

In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3520, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ's health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All

comments will become a matter of public record.

Dated: May 21, 2021.

Marquita Cullom,
Associate Director.

[FR Doc. 2021–11195 Filed 5–26–21; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Supplemental Evidence and Data Request on Evaluation of Mental Health Applications

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Request for supplemental evidence and data submissions.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) is seeking scientific information submissions from the public. Scientific information is being solicited to inform our review on

Evaluation of Mental Health

Applications, which is currently being conducted by the AHRQ's Evidence-based Practice Centers (EPC) Program. Access to published and unpublished pertinent scientific information will improve the quality of this review.

DATES: *Submission Deadline* on or before June 28, 2021.

ADDRESSES:

Email submissions: epc@ahrq.hhs.gov.

Print submissions:

Mailing Address: Center for Evidence and Practice Improvement, Agency for Healthcare Research and Quality, ATTN: EPC SEADs Coordinator, 5600 Fishers Lane, Mail Stop 06E53A, Rockville, MD 20857.

Shipping Address (FedEx, UPS, etc.): Center for Evidence and Practice Improvement, Agency for Healthcare Research and Quality, ATTN: EPC SEADs Coordinator, 5600 Fishers Lane, Mail Stop 06E77D, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Jenae Benns, Telephone: 301–427–1496 or Email: epc@ahrq.hhs.gov.

SUPPLEMENTARY INFORMATION: The Agency for Healthcare Research and Quality has commissioned the Evidence-based Practice Centers (EPC) Program to complete a review of the evidence for *Evaluation of Mental Health Applications*. AHRQ is conducting this technical brief pursuant to Section 902 of the Public Health Service Act, 42 U.S.C. 299a.

The EPC Program is dedicated to identifying as many studies as possible that are relevant to the questions for each of its reviews. In order to do so, we are supplementing the usual manual and electronic database searches of the literature by requesting information from the public (e.g., details of studies conducted). We are looking for studies that report on *Evaluation of Mental Health Applications*, specifically the following:

- Characteristics and minimal standards in terms of appropriateness and effectiveness of available behavioral health applications including adverse events.
- Behavioral health applications assessment frameworks for evaluation/scoring tools.
- The entire research protocol is available online at: <https://effectivehealthcare.ahrq.gov/products/mental-health-apps/protocol>.

This is to notify the public that the EPC Program would find the following information on *Evaluation of Mental Health Applications* helpful:

- A list of completed studies that your organization has sponsored for this indication. In the list, please *indicate whether results are available on ClinicalTrials.gov along with the ClinicalTrials.gov trial number*.
- *For completed studies that do not have results on ClinicalTrials.gov*, a summary, including the following elements: study number, study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, primary and secondary outcomes, baseline characteristics, number of patients screened/eligible/enrolled/lost to follow-up/withdrawn/analyzed, effectiveness/efficacy, and safety results.
- *A list of ongoing studies that your organization has sponsored for this indication*. In the list, please provide the ClinicalTrials.gov trial number or, if the trial is not registered, the protocol for the study including a study number, the study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion

criteria, and primary and secondary outcomes.

■ Description of whether the above studies constitute *ALL Phase II and above clinical trials* sponsored by your organization for this indication and an index outlining the relevant information in each submitted file.

Your contribution is very beneficial to the Program. Materials submitted must be publicly available or able to be made public. Materials that are considered confidential; marketing materials; study types not included in the review; or information on indications not included in the review cannot be used by the EPC Program. This is a voluntary request for information, and all costs for complying with this request must be borne by the submitter.

The draft of this review will be posted on AHRQ's EPC Program website and available for public comment for a period of 4 weeks. If you would like to be notified when the draft is posted, please sign up for the email list at: <https://www.effectivehealthcare.ahrq.gov/email-updates>.

The technical brief will answer the following questions. This information is provided as background. AHRQ is not requesting that the public provide answers to these questions.

Guiding Key Questions (KQs)

1. What characteristics and minimal standards of available behavioral health mobile applications need to be analyzed in existing tools to assess the appropriateness (to various stakeholders) and effectiveness of available apps to include, but not limited to:

- Accessibility including ease of use, health literacy, 508 compliance, digital equity, cost
- App background including funding source, purpose
- Security features and privacy policy such as data ownership/usage
- Clinical foundation and linkage to current evidence-base
- Usability, including interoperability across platforms, stability
- Therapeutic goals, linkage to the provider, crisis warning notification/alert system

2. Identify or develop an assessment framework for evaluation/scoring tools (e.g., websites) and apply the framework to help consumers, family members and peer supports, providers and health systems select behavioral health mobile applications. The framework will take into account current FDA status on the use and classification of risks of apps in healthcare.

Dated: May 21, 2021.

Marquita Cullom,
Associate Director.

[FR Doc. 2021–11186 Filed 5–26–21; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–D–0514]

Postmarket Surveillance Under Section 522 of the Federal Food, Drug, and Cosmetic Act; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the draft guidance entitled “Postmarket Surveillance Under Section 522 of the Federal Food, Drug, and Cosmetic Act.” The existing postmarket surveillance guidance was issued in May 2016 to address certain postmarket surveillance requirements. This draft guidance is intended to update the 2016 guidance to increase transparency to stakeholders on FDA’s approach to the issuance and tracking of these postmarket surveillance orders, and expectations for timely study completion. This draft guidance is not final nor is it in effect at this time.

DATES: Submit either electronic or written comments on the draft guidance by July 26, 2021 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third-party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note

that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

Instructions: All submissions received must include the Docket No. FDA-2011-D-0514 for “Postmarket Surveillance Under Section 522 of the Federal Food, Drug, and Cosmetic Act.” Received comments will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed

except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled “Postmarket Surveillance Under Section 522 of the Federal Food, Drug, and Cosmetic Act” to the Office of Policy, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Nilsa Loyo-Berrios, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G114, Silver Spring, MD 20993-0002, 301-796-6065.

SUPPLEMENTARY INFORMATION:

I. Background

Section 522 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360f) provides FDA with the authority to require manufacturers to conduct postmarket surveillance at the time of approval or clearance or any time thereafter of certain class II or class III devices. This draft guidance document will assist manufacturers of devices subject to section 522 postmarket surveillance orders by providing:

- An overview of section 522 of the FD&C Act;
- information on how to fulfill section 522 obligations, including:
 - When postmarket surveillance should be considered commenced;
 - recommendations for achieving an approved postmarket surveillance plan in a timely manner; and

- recommendations for enrollment schedules to help achieve timely completion of postmarket surveillance;

- recommendations on the format, content, and review of postmarket surveillance plan and report submissions, including revised FDA review times for postmarket surveillance-related submissions; and
- updated surveillance status categories to better reflect progress.

This draft guidance document also aims to increase transparency to stakeholders on FDA’s approach to the issuance and tracking of 522 postmarket surveillance orders, and expectations for timely study completion.

This draft guidance is being issued consistent with FDA’s good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on “Postmarket Surveillance Under Section 522 of the Federal Food, Drug, and Cosmetic Act.” It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at <https://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm>. This guidance document is also available at <https://www.regulations.gov> and at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents>. Persons unable to download an electronic copy of “Postmarket Surveillance Under Section 522 of the Federal Food, Drug, and Cosmetic Act” may send an email request to CDRH-Guidance@fda.hhs.gov to receive an electronic copy of the document. Please use the document number 19042 and complete title to identify the guidance you are requesting.

III. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in the following FDA

regulations and guidance have been

approved by OMB as listed in the following table:

21 CFR part or guidance	Topic	OMB control No.
807, subpart E	Premarket notification	0910–0120
814, subparts A through E	Premarket approval	0910–0231
814, subpart H	Humanitarian Use Device Exemption	0910–0332
“De Novo Classification Process (Evaluation of Automatic Class III Designation)”.	De Novo classification process	0910–0844
822	Postmarket Surveillance of Medical Devices	0910–0449

Dated: May 21, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–11215 Filed 5–26–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2021–D–0373]

Tobacco Product User Fees: Responses to Frequently Asked Questions; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled “Tobacco Product User Fees: Responses to Frequently Asked Questions.” This draft guidance provides information in response to frequently asked questions related to tobacco product user fees assessed and collected under the Federal Food, Drug, and Cosmetic Act (FD&C Act).

DATES: Submit either electronic or written comments on the draft guidance by July 26, 2021 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are

solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

Instructions: All submissions received must include the Docket No. FDA–2021–D–0373 for “Tobacco Product User Fees: Responses to Frequently Asked Questions.” Received comments will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential

with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this draft guidance to the Center for Tobacco Products, Food and Drug Administration, Document Control Center, 10903 New Hampshire Ave., Bldg. 71, Rm. G335, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request or include a Fax number to which the draft guidance may be sent. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the draft guidance.

FOR FURTHER INFORMATION CONTACT: Eric C. Mandle, Center for Tobacco Products, Food and Drug Administration, Document Control Center, 10903 New Hampshire Ave., Bldg. 71, Rm. G335, Silver Spring, MD 20993-0002, email: CTPRegulations@fda.hhs.gov, 1-877-287-1373.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled “Tobacco Product User Fees: Responses to Frequently Asked Questions.” This draft guidance provides information in response to frequently asked questions related to tobacco product user fees assessed and collected under section 919 of the FD&C Act (21 U.S.C. 387s). In particular, this draft guidance provides information regarding the submission of information needed to assess user fees owed by each domestic manufacturer or importer of tobacco products and how FDA determines whether a company owes user fees in each quarterly assessment. The current Form FDA 3852, “Report of Tobacco Produce Removals Subject to Tax for Tobacco Product User Fee Assessments,” discussed in this draft guidance, is available at <https://www.fda.gov/media/88957/download>.

The Family Smoking Prevention and Tobacco Control Act (Pub. L. 111-31) (Tobacco Control Act) was enacted on June 22, 2009, amending the FD&C Act and providing FDA with the authority to regulate tobacco products. Included in the Tobacco Control Act is the requirement that FDA assess and collect user fees.

Section 919(a) of the FD&C Act requires FDA, in accordance with that section, to “assess user fees on, and collect such fees from, each manufacturer and importer of tobacco products subject to” the tobacco product provisions of the FD&C Act (chapter IX of the FD&C Act). Under the calculations required by section 919 of the FD&C Act, the tobacco products that are subject to user fee assessments are cigarettes, snuff, chewing tobacco, roll-your-own tobacco, cigars, and pipe tobacco. The total amount of user fees for each fiscal year is specified in section 919(b)(1) of the FD&C Act, and, under section 919(a), FDA is to assess and collect one-fourth of that total each quarter of the fiscal year. The FD&C Act provides for the total quarterly assessment to be allocated among specified classes of tobacco products. The class allocation is based on each tobacco product class’ volume of tobacco products removed into commerce. Within each class of tobacco

products, an individual domestic manufacturer or importer is assessed a user fee based on its market share for that tobacco product class.

In the **Federal Register** of May 31, 2013 (78 FR 32581), FDA issued a proposed rule to add part 1150 (21 CFR part 1150) to require domestic tobacco product manufacturers and importers to submit to FDA information needed to calculate the amount of user fees to assess each domestic manufacturer and importer under the FD&C Act. In the **Federal Register** of July 10, 2014 (79 FR 39302), FDA finalized portions of the User Fee proposed rule related to cigarettes, snuff, chewing tobacco, and roll-your-own tobacco, which is codified at part 1150. In the **Federal Register** of May 10, 2016 (81 FR 28707), FDA finalized a rule that requires domestic manufacturers and importers of cigars and pipe tobacco to submit information needed to calculate the amount of user fees assessed under the FD&C Act.

FDA is issuing this draft guidance consistent with FDA’s good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on the responses to the frequently asked questions set forth in the guidance. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in part 1150 have been approved under 0910-0749.

III. Electronic Access

Persons with access to the internet may obtain an electronic version of the draft guidance at <https://www.regulations.gov>, <https://www.fda.gov/TobaccoProducts/Labeling/RuleRegulationsGuidance/default.htm>, or <https://www.fda.gov/regulatory-information/search-fda-guidance-documents>.

Dated: May 21, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021-11222 Filed 5-26-21; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2020-Z-2200]

Termination of the Food and Drug Administration’s Unapproved Drugs Initiative; Request for Information Regarding Drugs Potentially Generally Recognized as Safe and Effective; Withdrawal

AGENCY: Food and Drug Administration (FDA), Department of Health and Human Services (HHS).

ACTION: Notice; withdrawal.

SUMMARY: The Department of Health and Human Services (HHS or the Department) is issuing this document to withdraw a legally and factually inaccurate notice and request for information published in the **Federal Register** on November 25, 2020, entitled “Termination of the Food and Drug Administration’s Unapproved Drugs Initiative; Request for Information Regarding Drugs Potentially Generally Recognized as Safe and Effective.” This notice also ends the period for submission of responses to Part II of the November 25, 2020, notice and request for information.

DATES: The notice and the request for information are withdrawn as of May 27, 2021.

FOR FURTHER INFORMATION CONTACT: Anuj Shah, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6224, Silver Spring, MD 20993, 301-796-2246.

SUPPLEMENTARY INFORMATION: On November 25, 2020, HHS published a notice and a request for information in the **Federal Register** entitled “Termination of the Food and Drug Administration’s Unapproved Drugs Initiative; Request for Information Regarding Drugs Potentially Generally Recognized as Safe and Effective” (the HHS Notice) (85 FR 75331). The HHS Notice stated that it was “terminating” the FDA’s Unapproved Drugs Initiative (UDI) effective 30 days from publication of the HHS Notice in the **Federal Register**, by withdrawing FDA’s “Marketed Unapproved Drugs Compliance Policy Guide” (CPG

440.100). The HHS Notice also requested public input on four topics that relate to the statutory exemptions from the definition of “new drug” in the Federal Food, Drug, and Cosmetic Act (FD&C Act). The request for responses stated that: “The Department will consider information submitted by the public in response to Part II of this Notice on a rolling basis, and until further notice.” The responses were directed to be submitted to an HHS email address with a specific subject line.

Because the HHS Notice contained multiple legal and factual inaccuracies, it is hereby withdrawn. Further, no responses or information submitted to the HHS email Import@hhs.gov, in response to the HHS Notice and request for information, on or after May 27, 2021 will be considered by HHS or FDA. All website statements and other informal issuances with respect to the HHS Notice are also hereby withdrawn. The HHS Notice withdrew FDA’s guidance CPG 440.100, but that withdrawal does not represent a change in the legal obligations that apply to new drugs or to FDA’s existing enforcement authority over unapproved new drugs.

Central to the legal and factual inaccuracies in the HHS Notice is its misinterpretation of the term “new drug.” The definition of “drug” in section 201(g)(1) of the FD&C Act (21 U.S.C. 321(g)(1)) includes articles intended for use in the “diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals”; “articles (other than food) intended to affect the structure or any function of the body of man or other animals”; and articles “intended for use as a component” of the foregoing articles. A drug is a “new drug,” and is generally subject to the requirements for “new drugs,” unless the drug is generally recognized by qualified experts as safe and effective (GRASE) for its labeled uses and used to a material extent or for a material time or the drug is grandfathered because it was marketed before 1938 (section 201(p) of the FD&C Act). A separate “grandfather” clause exempts a drug from the “effectiveness” requirements if, before 1962, the drug was: (1) Used or sold commercially in the United States; (2) not a “new drug” as defined by the FD&C Act at that time; and (3) not covered by an effective application. Under section 505(a) of the FD&C Act (21 U.S.C. 355(a)), before any “new drug” may be legally marketed in the United States, it must be the subject of an approved application submitted pursuant to section 505(b) or section 505(j) of the FD&C Act, unless an

exception applies. A biological product (defined in section 351(i) of the Public Health Service Act (PHS Act) (42 U.S.C. 262(i)) with an approved license under section 351 of the PHS Act is not required to have an approved application under section 505 of the FD&C Act.

For decades, FDA has interpreted the word “drug” in the term “new drug” to refer to the entire drug product and not just its active ingredient. This interpretation has significant implications for public health. An active ingredient can have different effects on the body depending on the formulation of the drug and its route of administration (e.g., topical vs. intravenous), among other things.¹ That is why when it reviews an application, FDA carefully evaluates, for each drug product, not only the active ingredient but also information about the drug’s formulation, route of administration, labeling, inactive ingredients, bioavailability, and manufacturing processes. In accordance with this approach, FDA has consistently argued in the courts that the term “drug” in “new drug” means the entire drug product and not only an active ingredient, and courts, including the U.S. Supreme Court, have agreed with FDA’s interpretation. See *U.S. v. Generix Drug Corp.*, 460 U.S. 453, 458–59 (1983) (the FD&C Act’s definition of “new drug” applies to the entire drug product rather than the active ingredient); see also *U.S. v. Premo Pharmaceutical Lab.*, 629 F.2d 785 (2d Cir. 1980). FDA regulations incorporate FDA’s interpretation of “new drug” (see 21 CFR 314.200), and a product-specific

¹ For example, Elixir Sulfanilamide, a liquid version of sulfanilamide (an early antibiotic widely used in the 1930s and 1940s to treat streptococcal infections), was responsible for the deaths of more than 100 people in 1937. The liquid formulation was manufactured using sulfanilamide as the active ingredient in a diethylene glycol-based solution. Had the manufacturer conducted an animal study or a review of then-existing scientific journals, it would have revealed the highly toxic nature of the inactive ingredient diethylene glycol, but Federal law at the time did not require such studies, nor did it require premarket review of the drug by FDA. This tragedy spurred Congress to enact the FD&C Act in 1938, which required that new drugs be approved by FDA for safety before they could be marketed. Another example occurred in 1983, when 38 premature infants died and 43 were seriously injured after being intravenously administered E-Ferol, an unapproved high potency form of vitamin E. Injectable vitamin E drugs for use in premature infants had been marketed since at least 1949; however, E-Ferol was a new formulation, containing higher levels of vitamin E and using a relatively high concentration of two polysorbates as emulsifiers, which subsequent research suggests were likely responsible for the injuries and deaths of the premature infants.

interpretation of “new drug” underpins FDA’s drug regulatory system.

FDA has long employed a risk-based enforcement approach with respect to new drugs marketed without an approved application. In October 2003, the Agency published a draft guidance, entitled “Marketed Unapproved Drugs—Compliance Policy Guide,” to clarify how FDA generally intended to exercise its enforcement discretion regarding illegally marketed unapproved new drugs (October 23, 2003, 68 FR 60702). In June 2006, FDA finalized the 2003 draft guidance in a final guidance entitled “Marketed Unapproved Drugs—Compliance Policy Guide Sec. 440.100, Marketed New Drugs Without Approved NDAs or ANDAs” (CPG 440.100 guidance) (June 9, 2006, 71 FR 33466). The CPG 440.100 guidance described how FDA intended to prioritize regulatory action under its existing enforcement authority regarding currently marketed unapproved new drugs, including that FDA generally intended to apply a risk-based approach.

In 2011, FDA updated the CPG 440.100 guidance to clarify that unapproved new drugs introduced onto the market after September 19, 2011, were subject to enforcement action at any time without regard to the enforcement priorities set out in CPG 440.100 (September 21, 2011, 76 FR 58398). As described in the updated version of the CPG 440.100 guidance, FDA generally intended to encourage manufacturers of unapproved new drugs to submit applications for their products, while continuing to apply a risk-based approach to removing unapproved new drugs from the market and preserving access to medically necessary drugs.

The CPG 440.100 guidance was part of FDA’s UDI, which focuses on addressing the continued illegal marketing in the United States of drug products that lack the required FDA review and approval for safety and efficacy. To address this problem, FDA’s UDI adopts a risk-based approach for removing from the market unapproved new drugs, particularly those that pose serious risks to patients, with the goal of also preserving patient access to medically necessary drugs and encouraging manufacturers of unapproved new drugs to submit applications for their products. The UDI has a two-pronged approach to help assure patient safety. First, the Agency encourages manufacturers of unapproved new drugs to obtain approval to be legally marketed in the United States. Second, FDA works to remove unapproved new drugs from the

market consistent with risk-based enforcement priorities and existing enforcement authorities.

As a result of the UDI, FDA has initiated 45 actions since 2006 (some affecting multiple unapproved new drugs) that have led to hundreds of potentially unsafe drugs being voluntarily removed from the market, including several drugs with significant safety concerns. These drugs were removed from the market in response to FDA **Federal Register** notices announcing that FDA intended to take enforcement action (13 of the actions), warning letters (15 of the actions), or at FDA's informal request through communications such as a teleconference (17 of the actions). In all 45 actions, safety concerns supported removal of the unapproved new drug products from the market, such as serious adverse events, labeling that did not adequately warn healthcare professionals of risks, or potential risks of harm resulting from adulterated drugs produced by facilities with current good manufacturing practice violations.

The following are well-documented examples of significant adverse events associated with unapproved new drugs that resulted in compliance actions to remove an entire class of unapproved new drugs from the market. As noted below, these compliance actions have also spurred manufacturers to seek and obtain FDA approval of safe and effective versions of these drugs:

- *Carbinoxamine-containing products*

- Between 1983 and 2006, FDA became aware of 21 deaths in children under 2 years of age associated with the use of carbinoxamine-containing drugs, including unapproved drugs. FDA had concerns about the risks associated with these products because, although their safety and effectiveness had not been studied in infants and young children, they were promoted for use in this vulnerable age group. As a result, in June 2006, FDA issued a **Federal Register** notice announcing that it intended to take enforcement action against unapproved drug products containing carbinoxamine and those who cause the manufacture of such products.² As of February 2021, six FDA-approved carbinoxamine-containing drug products, including five generic versions, are available on the marketplace and are labeled as contraindicated in children under 2 years old.

- *Quinine*

- Between 1969 and 2006, FDA received 665 adverse events reports, including 93 deaths, associated with unapproved quinine sulfate use. Among the more common types of events with serious outcomes reported to the Agency were cardiac events, renal failure, and events related to overdose. FDA approved its first quinine sulfate product in August 2005, and the approved labeling for quinine sulfate provides extensive warnings to ensure its safe use. After a safe and effective FDA-approved quinine sulfate product became available, in December 2006, FDA issued a **Federal Register** notice announcing that it intended to take enforcement action against unapproved drug products containing quinine (including quinine sulfate and other salts of quinine) and persons who cause the manufacture of such products or their shipment in interstate commerce because these products presented serious safety risks that the unapproved drug labeling did not comprehensively describe.³ As of February 2021, there are five FDA-approved quinine sulfate capsules, including four generic drug products, available in the marketplace.

As noted above, these compliance actions have resulted in potentially unsafe unapproved new drugs being removed from the market as well as FDA approval of safe and effective versions of drug products previously marketed without approval. Approval of formerly unapproved new drugs helps reduce concerns about a potential market disruption or shortage of these drugs, because the manufacturers of approved drugs have invested in a manufacturing process that helps to ensure the drug is produced reliably and consistently. This lowers the risk of quality problems, which are one of the main causes of shortages.⁴ In addition, the approval of previously unapproved new drugs assures the American public that the approved versions of those drugs are safe and effective for their intended uses, manufactured in accordance with Federal quality standards, and bear accurate and complete information in their labeling regarding risks, benefits, and safe use.

On November 25, 2020, HHS published the HHS Notice in the **Federal Register** stating that it was “terminating” the UDI by withdrawing FDA's CPG 440.100 guidance, effective 30 days from the publication date. HHS also issued a request for information

regarding the definition of “new drug” under section 201(p) of the FD&C Act and whether certain drugs might be grandfathered or qualify as GRASE and therefore would not be subject to the new drug approval requirement. We did not find any evidence that HHS consulted with, otherwise involved, or even notified FDA before issuing the HHS Notice. Section 1003(d) of the FD&C Act (21 U.S.C. 393(d)) provides that the Secretary “shall be responsible for executing” the FD&C Act “through the [FDA] Commissioner.” Here, the HHS Notice in withdrawing the CPG 440.100 guidance is clearly an action “executing” the FD&C Act.

The HHS Notice misinterprets the statutory term “new drug.” First, the HHS Notice erroneously suggests that FDA has taken the position that drug substances (*i.e.*, active ingredients) marketed prior to June 25, 1938, could be “grandfathered” under the statute, and therefore, are not “new drugs” subject to FDA's new drug approval process. As explained above, FDA has long interpreted the word “drug” in “new drug” to refer to the entire drug product and not just the active ingredient, and the U.S. Supreme Court has ruled that this is the correct interpretation of that term. Consistent with this product-specific interpretation of “new drug,” FDA has construed the grandfather clause in section 201(p)(1) of the FD&C Act to mean that a drug product cannot be grandfathered if it differs in any respect from the pre-1938 version of the drug product. Second, the HHS Notice erroneously suggests that FDA had interpreted the definition of “new drug” to exclude drug products with active ingredients marketed prior to June 25, 1938, but that FDA failed to acknowledge this interpretation in the CPG 440.100 guidance, as part of the UDI. In fact, the CPG 440.100 guidance did not change FDA's interpretation of “new drug;” the CPG reflected the interpretation that the Agency had applied for decades and that was upheld by the U.S. Supreme Court in 1983.

The HHS Notice also includes other misstatements, including erroneously describing the UDI and FDA's CPG 440.100 guidance as a new policy that should have been adopted through notice-and-comment rulemaking. However, the CPG 440.100 guidance did not change FDA's interpretation of “new drug,” “grandfathered,” or “GRASE.” Instead, it described FDA's enforcement priorities under FDA's existing legal authorities regarding illegally marketed unapproved new drugs. Communicating enforcement policies through guidance documents rather than legislative rules is consistent with both the

³ 71 FR 75557 (December 15, 2006). See <https://www.govinfo.gov/content/pkg/FR-2006-12-15/pdf/06-9713.pdf>.

⁴ FDA, Drug Shortages: Root Causes and Potential Solutions (2019), available at <https://www.fda.gov/media/131130/download>.

² 71 FR 33462 (June 9, 2006). See <https://www.govinfo.gov/content/pkg/FR-2006-06-09/pdf/E6-9033.pdf>.

Administrative Procedure Act (APA; 5 U.S.C. 551 *et seq.*) and FDA's regulations on good guidance practices (§ 10.115 (21 CFR 10.115)). Under the APA, FDA may use guidance documents to "advise the public prospectively of the manner in which the agency proposes to exercise a discretionary power."⁵ Accordingly, FDA's good guidance practice regulations define "guidance documents" to include "documents that relate to . . . enforcement policies." (§ 10.115(b)(2)).

Additionally, the HHS Notice is supported by flawed facts. It cites, for the proposition that the UDI and CPG 440.100 guidance resulted in price increases for certain new drugs, only a single observational study of 26 products, which included pricing estimates that were not inflation-adjusted over the 4-year observational period, which could lead to an overestimation of real price changes.⁶ The HHS Notice also erroneously ties the 2015 price increase for the drug DARAPRIM to the UDI. DARAPRIM was approved as a new drug under the FD&C Act in 1953. Following the 1962 FD&C Act amendments, which required drugs to demonstrate not only safety but efficacy, DARAPRIM was found to be effective, in 1971, as part of FDA's review of all new drugs that had been approved only for safety before 1962. DARAPRIM was then fully approved by FDA as a safe and effective drug. For years after its approval, DARAPRIM was an off-patent, off-exclusivity drug eligible for generic competition, but no drug manufacturer sought and obtained approval of a generic version during this period. It was during this period, in 2015, that the holder of the approved application for DARAPRIM significantly raised the price of the drug. FDA recently approved a generic version of this product on February 28, 2020.⁷

Due to the HHS Notice's legal and factual inaccuracies, including those described above, HHS and FDA believe

it is appropriate to withdraw the HHS Notice at this time. The HHS Notice does not accurately reflect the Department's or FDA's thinking because it is inconsistent with the FD&C Act, FDA regulations, and judicial precedent, among other legal authorities, and is not supported by the facts. In addition, the HHS Notice could result in significant harm to public health by suggesting that unsafe or ineffective drugs could circumvent the drug approval process.

Although the withdrawal of FDA's CPG 440.100 guidance does not change the legal obligations that apply to new drugs, or FDA's existing enforcement authority over unapproved new drugs, we recognize that the withdrawal of the CPG may have created confusion for the public, including regulated industry, as to how FDA intends to prioritize its enforcement resources in this area. FDA therefore plans to issue guidance on this topic consistent with good guidance practices. The guidance will provide appropriate updates regarding FDA's enforcement priorities for marketed unapproved new drugs. In the interim, before such guidance is issued, FDA will continue to exercise its existing general approach to prioritizing regulatory and enforcement action, which involves risk-based prioritization in light of all the facts of a given circumstance. Risk-based enforcement best supports FDA's public health priorities.

FDA's longstanding interpretation of the statutory terms "new drug," "grandfathered," and "GRASE" are unchanged and the HHS Notice did not affect the requirements that apply to new drugs under the statutes FDA administers. The HHS Notice did not, and legally could not, provide a new pathway for the legal marketing of unapproved new drugs. Neither HHS nor FDA has the authority to exempt a product or class of products that are new drugs under the FD&C Act from the new drug approval requirements of the FD&C Act. See *Cutler v. Kennedy*, 475 F. Supp. 838, 856 (D.D.C. 1979); *Hoffman-LaRoche v. Weinberger*, 425 F. Supp. 890, 892–894 (D.D.C. 1975).

Dated: May 17, 2021.

Janet Woodcock,

Acting Commissioner of Food and Drugs.

Dated: May 20, 2021.

Xavier Becerra,

Secretary, Department of Health and Human Services.

[FR Doc. 2021–11257 Filed 5–26–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2021–N–0335]

Authorizations of Emergency Use of Certain Biological Products During the COVID–19 Pandemic; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the issuance of two Emergency Use Authorizations (EUs) (the Authorizations) under the Federal Food, Drug, and Cosmetic Act (FD&C Act) for biological products for use during the COVID–19 pandemic. FDA has issued one Authorization for biological products as requested by Eli Lilly and Company and one Authorization for a biological product as requested by Janssen Biotech, Inc. The Authorizations contain, among other things, conditions on the emergency use of the authorized products. The Authorizations follow the February 4, 2020, determination by the Secretary of Health and Human Services (HHS) that there is a public health emergency that has a significant potential to affect national security or the health and security of U.S. citizens living abroad and that involves a novel (new) coronavirus. The virus, now named SARS–CoV–2, causes the illness COVID–19. On the basis of such determination, the Secretary of HHS declared on March 27, 2020, that circumstances exist justifying the authorization of emergency use of drugs and biological products during the COVID–19 pandemic, pursuant to the FD&C Act, subject to the terms of any authorization issued under that section. The Authorizations, which include an explanation of the reasons for issuance, are reprinted in this document.

DATES: The Authorization for Eli Lilly and Company is effective as of February 9, 2021, and the Authorization for Janssen Biotech, Inc. is effective as of February 27, 2021.

ADDRESSES: Submit written requests for single copies of the EUs to the Office of Counterterrorism and Emerging Threats, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 4338, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request or include a Fax number to which the Authorizations may be sent. See the **SUPPLEMENTARY INFORMATION**

⁵ See the Attorney General's Manual on the APA (1947), at 30 n.3.

⁶ See R. Gupta et al., "The FDA Unapproved Drugs Initiative: An Observational Study of the Consequences for Drug Prices and Shortages in the United States," 23 *Journal of Managed Care & Specialty Pharmacy* 1066 (October 2017) (the Yale Study). Of note, the authors of the Yale Study suggested ways to mitigate unintended consequences of the UDI that did not include terminating the UDI by withdrawing CPG 440.100 guidance or reinterpreting the definition of "new drug."

⁷ FDA continues to maintain efforts to improve the efficiency of the generic drug development, review, and approval process, generally, and it prioritizes the review of submissions for generic drugs for which there are fewer than three approved generic versions for the reference listed drug (RLD) and for which there are no blocking patents or exclusivities on the RLD.

section for electronic access to the Authorizations.

FOR FURTHER INFORMATION CONTACT:

Michael Mair, Office of Counterterrorism and Emerging Threats, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 4340, Silver Spring, MD 20993-0002, 301-796-8510 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Background

Section 564 of the FD&C Act (21 U.S.C. 360bbb-3) allows FDA to strengthen public health protections against biological, chemical, nuclear, and radiological agents. Among other things, section 564 of the FD&C Act allows FDA to authorize the use of an unapproved medical product or an unapproved use of an approved medical product in certain situations. With this EUA authority, FDA can help ensure that medical countermeasures may be used in emergencies to diagnose, treat, or prevent serious or life-threatening diseases or conditions caused by biological, chemical, nuclear, or radiological agents when there are no adequate, approved, and available alternatives.

II. Criteria for EUA Authorization

Section 564(b)(1) of the FD&C Act provides that, before an EUA may be issued, the Secretary of HHS must declare that circumstances exist justifying the authorization based on one of the following grounds: (1) A determination by the Secretary of Homeland Security that there is a domestic emergency, or a significant potential for a domestic emergency, involving a heightened risk of attack with a biological, chemical, radiological, or nuclear agent or agents; (2) a determination by the Secretary of Defense that there is a military emergency, or a significant potential for a military emergency, involving a heightened risk to U.S. military forces, including personnel operating under the authority of title 10 or title 50, U.S. Code, of attack with (A) a biological, chemical, radiological, or nuclear agent or agents; or (B) an agent or agents that may cause, or are otherwise associated with, an imminently life-threatening and specific risk to U.S. military forces;¹ (3) a determination by the Secretary of HHS that there is a public

health emergency, or a significant potential for a public health emergency, that affects, or has a significant potential to affect, national security or the health and security of U.S. citizens living abroad, and that involves a biological, chemical, radiological, or nuclear agent or agents, or a disease or condition that may be attributable to such agent or agents; or (4) the identification of a material threat by the Secretary of Homeland Security pursuant to section 319F-2 of the Public Health Service (PHS) Act (42 U.S.C. 247d-6b) sufficient to affect national security or the health and security of U.S. citizens living abroad.

Once the Secretary of HHS has declared that circumstances exist justifying an authorization under section 564 of the FD&C Act, FDA may authorize the emergency use of a drug, device, or biological product if the Agency concludes that the statutory criteria are satisfied. Under section 564(h)(1) of the FD&C Act, FDA is required to publish in the **Federal Register** a notice of each authorization, and each termination or revocation of an authorization, and an explanation of the reasons for the action. Under section 564(h)(1) of the FD&C Act, revisions to an authorization shall be made available on the internet website of FDA. Section 564 of the FD&C Act permits FDA to authorize the introduction into interstate commerce of a drug, device, or biological product intended for use in an actual or potential emergency when the Secretary of HHS has declared that circumstances exist justifying the authorization of emergency use. Products appropriate for emergency use may include products and uses that are not approved, cleared, or licensed under sections 505, 510(k), 512, or 515 of the FD&C Act (21 U.S.C. 355, 360(k), 360b, and 360e) or section 351 of the PHS Act (42 U.S.C. 262), or conditionally approved under section 571 of the FD&C Act (21 U.S.C. 360ccc). FDA may issue an EUA only if, after consultation with the HHS Assistant Secretary for Preparedness and Response, the Director of the National Institutes of Health, and the Director of the Centers for Disease Control and Prevention (to the extent feasible and appropriate given the applicable circumstances), FDA² concludes: (1) That an agent referred to in a declaration of emergency or threat can cause a serious or life-threatening disease or condition; (2) that, based on the totality of scientific evidence available to FDA, including

data from adequate and well-controlled clinical trials, if available, it is reasonable to believe that: (A) The product may be effective in diagnosing, treating, or preventing (i) such disease or condition; or (ii) a serious or life-threatening disease or condition caused by a product authorized under section 564, approved or cleared under the FD&C Act, or licensed under section 351 of the PHS Act, for diagnosing, treating, or preventing such a disease or condition caused by such an agent; and (B) the known and potential benefits of the product, when used to diagnose, prevent, or treat such disease or condition, outweigh the known and potential risks of the product, taking into consideration the material threat posed by the agent or agents identified in a declaration under section 564(b)(1)(D) of the FD&C Act, if applicable; (3) that there is no adequate, approved, and available alternative to the product for diagnosing, preventing, or treating such disease or condition; (4) in the case of a determination described in section 564(b)(1)(B)(ii), that the request for emergency use is made by the Secretary of Defense; and (5) that such other criteria as may be prescribed by regulation are satisfied.

No other criteria for issuance have been prescribed by regulation under section 564(c)(4) of the FD&C Act.

III. The Authorizations

The Authorizations follow the February 4, 2020, determination by the Secretary of HHS that there is a public health emergency that has a significant potential to affect national security or the health and security of U.S. citizens living abroad and that involves a novel (new) coronavirus. The virus, now named SARS-CoV-2, causes the illness COVID-19. Notice of the Secretary's determination was provided in the **Federal Register** on February 7, 2020 (85 FR 7316). On the basis of such determination, the Secretary of HHS declared on March 27, 2020, that circumstances exist justifying the authorization of emergency use of drugs and biological products during the COVID-19 pandemic, pursuant to section 564 of the FD&C Act, subject to the terms of any authorization issued under that section. Notice of the Secretary's declaration was provided in the **Federal Register** on April 1, 2020 (85 FR 18250). Having concluded that the criteria for issuance of the Authorizations under section 564(c) of the FD&C Act are met, FDA has issued two authorizations for the emergency use of biological products during the COVID-19 pandemic. On February 9, 2021, FDA issued an EUA to Eli Lilly

¹ In the case of a determination by the Secretary of Defense, the Secretary of HHS shall determine within 45 calendar days of such determination, whether to make a declaration under section 564(b)(1) of the FD&C Act, and, if appropriate, shall promptly make such a declaration.

² The Secretary of HHS has delegated the authority to issue an EUA under section 564 of the FD&C Act to the Commissioner of Food and Drugs.

and Company for bamlanivimab and etesevimab, administered together, subject to the terms of the Authorization. On February 27, 2021, FDA issued an EUA to Janssen Biotech, Inc. for the Janssen COVID-19 Vaccine, subject to the terms of the Authorization. The initial Authorizations, which are included below in their entirety after section IV of this document (not including the

authorized versions of the fact sheets and other written materials), provide an explanation of the reasons for issuance, as required by section 564(h)(1) of the FD&C Act. Any subsequent reissuances of these Authorizations can be found on FDA's web page: <https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization>.

IV. Electronic Access

An electronic version of this document and the full text of the Authorizations and are available on the internet at <https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization>.

BILLING CODE 4164-01-P



February 9, 2021

Eli Lilly and Company
Attention: Christine Phillips, PhD, RAC
Advisor Global Regulatory Affairs - US
Lilly Corporate Center
Drop Code 2543
Indianapolis, IN 46285

RE: Emergency Use Authorization 094

Dear Ms. Phillips:

This letter is in response to Eli Lilly and Company's ("Lilly") request that the Food and Drug Administration (FDA) issue an Emergency Use Authorization (EUA) for emergency use of bamlanivimab and etesevimab administered together for the treatment of mild to moderate coronavirus disease 2019 (COVID-19), as described in the Scope of Authorization (Section II) of this letter, pursuant to Section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. §360bbb-3).

On February 4, 2020, pursuant to Section 564(b)(1)(C) of the Act, the Secretary of the Department of Health and Human Services (HHS) determined that there is a public health emergency that has a significant potential to affect national security or the health and security of United States citizens living abroad, and that involves the virus that causes COVID-19.¹ On the basis of such determination, the Secretary of HHS on March 27, 2020, declared that circumstances exist justifying the authorization of emergency use of drugs and biological products during the COVID-19 pandemic, pursuant to Section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. § 360bbb-3), subject to terms of any authorization issued under that section.²

Bamlanivimab and etesevimab are neutralizing IgG1 monoclonal antibodies that bind to distinct but overlapping epitopes within the receptor binding domain of the spike protein of SARS-CoV-2. They are both investigational drugs and are not currently approved for any indication.

Based on the review of the data from the Phase 2/3 BLAZE-1 trial (NCT04427501), an ongoing randomized, double-blind, placebo-controlled clinical trial, and the Phase 2 BLAZE-4 trial (NCT04634409), an ongoing randomized, double-blind, placebo-controlled clinical trial, it is reasonable to believe that bamlanivimab and etesevimab administered together may be effective

¹ U.S. Department of Health and Human Services, *Determination of a Public Health Emergency and Declaration that Circumstances Exist Justifying Authorizations Pursuant to Section 564(b) of the Federal Food, Drug, and Cosmetic Act*, 21 U.S.C. § 360bbb-3, February 4, 2020.

² U.S. Department of Health and Human Services, *Declaration that Circumstances Exist Justifying Authorizations Pursuant to Section 564(b) of the Federal Food, Drug, and Cosmetic Act*, 21 U.S.C. § 360bbb-3, 85 FR 18250 (April 1, 2020).

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for the treatment of mild to moderate COVID-19 in adults and pediatric patients (12 years of age and older weighing at least 40 kg) with positive results of direct SARS-CoV-2 viral testing, and who are at high risk for progressing to severe COVID-19 and/or hospitalization, and that, when used under the conditions described in this authorization, the known and potential benefits of bamlanivimab and etesevimab administered together outweigh the known and potential risks of such products.

Having concluded that the criteria for issuance of this authorization under Section 564(c) of the Act are met, I am authorizing the emergency use of bamlanivimab for treatment of COVID-19, as described in the Scope of Authorization section of this letter (Section II) and subject to the terms of this authorization.

I. Criteria for Issuance of Authorization

I have concluded that the emergency use of bamlanivimab and etesevimab for the treatment of COVID-19 when administered as described in the Scope of Authorization (Section II) meets the criteria for issuance of an authorization under Section 564(c) of the Act, because:

1. SARS-CoV-2 can cause a serious or life-threatening disease or condition, including severe respiratory illness, to humans infected by this virus;
2. Based on the totality of scientific evidence available to FDA, it is reasonable to believe that bamlanivimab and etesevimab administered together may be effective in treating mild to moderate COVID-19 in adults and pediatric patients (12 years of age and older weighing at least 40 kg) with positive results of direct SARS-CoV-2 viral testing, and who are at high risk for progressing to severe COVID-19 and/or hospitalization, and that, when administered as described in the Scope of Authorization (Section II) and used under the conditions described in this authorization, the known and potential benefits of bamlanivimab and etesevimab outweigh the known and potential risks of such product; and
3. There is no adequate, approved, and available alternative to the emergency use of bamlanivimab and etesevimab as described in the Scope of Authorization (Section II) for the treatment of mild to moderate COVID-19 in adults and pediatric patients (12 years of age and older weighing at least 40 kg) with positive results of direct SARS-CoV-2 viral testing, and who are at high risk for progressing to severe COVID-19 and/or hospitalization.³

II. Scope of Authorization

I have concluded, pursuant to Section 564(d)(1) of the Act, that the scope of this authorization is limited as follows:

- Distribution of the authorized bamlanivimab and etesevimab will be controlled by the United States (U.S.) Government for use consistent with the terms and conditions of

³ No other criteria of issuance have been prescribed by regulation under Section 564(c)(4) of the Act.

this EUA. Lilly will supply bamlanivimab and etesevimab to authorized distributors⁴, who will distribute to healthcare facilities or healthcare providers as directed by the U.S. Government, in collaboration with state and local government authorities as needed;

- The bamlanivimab and etesevimab covered by this authorization will be administered together only by healthcare providers to treat mild to moderate COVID-19 in adults and pediatric patients (12 years of age and older weighing at least 40 kg) with positive results of direct SARS-CoV-2 viral testing, and who are at high risk for progressing to severe COVID-19 and/or hospitalization;
- Etesevimab may only be administered together with bamlanivimab⁵;
- Bamlanivimab and etesevimab are not authorized for use in the following patient populations⁶:
 - Adults or pediatric patients who are hospitalized due to COVID-19, or
 - Adults or pediatric patients who require oxygen therapy due to COVID-19, or
 - Adults or pediatric patients who require an increase in baseline oxygen flow rate due to COVID-19 in those patients on chronic oxygen therapy due to underlying non-COVID-19-related comorbidity.
- Bamlanivimab and etesevimab may only be administered together in settings in which health care providers have immediate access to medications to treat a severe infusion reaction, such as anaphylaxis, and the ability to activate the emergency medical system (EMS), as necessary.
- The use of bamlanivimab and etesevimab covered by this authorization must be in accordance with the dosing regimens as detailed in the authorized Fact Sheets.

Product Description

Bamlanivimab and etesevimab are neutralizing IgG1 monoclonal antibodies that bind to distinct but overlapping epitopes within the receptor binding domain of the spike protein of SARS-CoV-

⁴ “Authorized Distributor(s)” are identified by Lilly as an entity or entities allowed to distribute authorized bamlanivimab.

⁵ At the time of the issuance of this EUA, bamlanivimab, a monoclonal antibody therapy, is authorized under a separate EUA as a monotherapy for the treatment of mild to moderate COVID-19 in adults and pediatric patients (12 years of age and older weighing at least 40 kg) with positive results of direct SARS-CoV-2 viral testing, and who are at high risk for progressing to severe COVID-19 and/or hospitalization. (For a listing of FDA EUAs, see FDA’s website at: [Emergency Use Authorization | FDA](#)). Etesevimab, alone, has not been evaluated as a treatment for patients with COVID-19. Etesevimab may only be administered together with bamlanivimab consistent with the terms and conditions of this authorization.

⁶ Treatment with bamlanivimab and etesevimab has not been studied in patients hospitalized due to COVID-19. Monoclonal antibodies, such as bamlanivimab and etesevimab, may be associated with worse clinical outcomes when administered to hospitalized patients with COVID-19 requiring high flow oxygen or mechanical ventilation.

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2. Bamlanivimab injection, 700 mg/20 mL, and etesevimab, 700 mg/20 mL, are sterile, preservative-free clear to opalescent and colorless to slightly yellow to slightly brown solutions to be diluted prior to infusion. One vial of bamlanivimab (20 mL) and two vials of etesevimab (40 mL) are to be added to a prefilled 0.9% sodium chloride infusion bag as described in the healthcare provider fact sheet. The authorized bamlanivimab includes a vial label and/or carton labeling that is clearly marked “For use under Emergency Use Authorization (EUA)”. The authorized etesevimab includes a vial label and/or carton labeling that is clearly marked “For use under Emergency Use Authorization (EUA)” and “MUST ADMINISTER WITH BAMLANIVIMAB.”

Bamlanivimab, injection, 700 mg/20 mL, and etesevimab, injection, 700mg/20 mL vials should be stored in unopened vials under refrigerated temperature at 2°C to 8°C (36°F to 46°F) in the original carton to protect from light until time of use. Diluted bamlanivimab and etesevimab infusion solution can be stored for up to 24 hours at refrigerated temperature (2°C to 8°C [36°F to 46°F]) and up to 7 hours at room temperature (20°C to 25°C [68°F to 77°F]) including infusion time.

Bamlanivimab and etesevimab are authorized for emergency use as described in the Scope of Authorization (Section II) with the following product-specific information required to be made available to healthcare providers and patients, parents, and caregivers, respectively, through Lilly’s website at www.BAMandETE.com:

- Fact Sheet for Health Care Providers: Emergency Use Authorization (EUA) of Bamlanivimab and Etesevimab
- Fact Sheet for Patients, Parents and Caregivers: Emergency Use Authorization (EUA) of Bamlanivimab and Etesevimab for Coronavirus Disease 2019 (COVID-19)

I have concluded, pursuant to Section 564(d)(2) of the Act, that it is reasonable to believe that the known and potential benefits of bamlanivimab and etesevimab when used for the treatment of COVID-19 and used in accordance with this Scope of Authorization (Section II), outweigh its known and potential risks.

I have concluded, pursuant to Section 564(d)(3) of the Act, based on the totality of scientific evidence available to FDA, that it is reasonable to believe that bamlanivimab and etesevimab may be effective for the treatment of COVID-19 when used in accordance with this Scope of Authorization (Section II), pursuant to Section 564(c)(2)(A) of the Act.

Having reviewed the scientific information available to FDA, including the information supporting the conclusions described in Section I above, I have concluded that bamlanivimab and etesevimab (as described in this Scope of Authorization (Section II)) meet the criteria set forth in Section 564(c) of the Act concerning safety and potential effectiveness.

The emergency use of your product under an EUA must be consistent with, and may not exceed, the terms of the Authorization, including the Scope of Authorization (Section II) and the Conditions of Authorization (Section III). Subject to the terms of this EUA and under the circumstances set forth in

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the Secretary of HHS's determination under Section 564(b)(1)(C) described above and the Secretary of HHS's corresponding declaration under Section 564(b)(1), bamlanivimab and etesevimab administered together are authorized to treat mild to moderate COVID-19 illness in adults and pediatric patients (12 years of age and older weighing at least 40 kg) with positive results of direct SARS-CoV-2 viral testing, and who are at high risk for progressing to severe COVID-19 illness and/or hospitalization as described in the Scope of Authorization (Section II) under this EUA, despite the fact that it does not meet certain requirements otherwise required by applicable federal law.

III. Conditions of Authorization

Pursuant to Section 564 of the Act, I am establishing the following conditions on this authorization:

Eli Lilly and Company (Lilly) and Authorized Distributors

- A. Lilly and authorized distributor(s) will ensure that the authorized bamlanivimab and etesevimab are distributed, as directed by the U.S. government, and the authorized labeling (i.e., Fact Sheets) will be made available to healthcare facilities and/or healthcare providers consistent with the terms of this letter.
- B. Lilly and authorized distributor(s) will ensure that appropriate storage and cold chain is maintained until the product is delivered to healthcare facilities and/or healthcare providers.
- C. Lilly and authorized distributor(s) will ensure that the terms of this EUA are made available to all relevant stakeholders (e.g., U.S. government agencies, state and local government authorities, authorized distributors, healthcare facilities, healthcare providers) involved in distributing or receiving authorized bamlanivimab and etesevimab. Lilly will provide to all relevant stakeholders a copy of this letter of authorization and communicate any subsequent amendments that might be made to this letter of authorization and its authorized accompanying materials (i.e., Fact Sheets).
- D. Lilly may request changes to this authorization, including to the authorized Fact Sheets for bamlanivimab and etesevimab. Any request for changes to this EUA must be submitted to the Office of Infectious Diseases/Office of New Drugs/Center for Drug Evaluation and Research. Such changes require appropriate authorization prior to implementation.⁷

⁷ The following types of revisions may be authorized without reissuing this letter: (1) changes to the authorized labeling; (2) non-substantive editorial corrections to this letter; (3) new types of authorized labeling, including new fact sheets; (4) new carton/container labels; (5) expiration dating extensions; (6) changes to manufacturing processes, including tests or other authorized components of manufacturing; (7) new conditions of authorization to require data collection or study; (8) new strengths of the authorized product, new product sources (e.g., of active pharmaceutical ingredient) or of product components. For changes to the authorization, including the authorized labeling, of the type listed in (3), (6), (7), or (8), review and concurrence is required from the Counter-Terrorism and Emergency Coordination Staff/Office of the Center Director/CDER and the Office of Counterterrorism and Emerging Threats/Office of the Chief Scientist.

- E. Lilly may develop instructional and educational materials to facilitate the emergency use of the authorized bamlanivimab and etesevimab (e.g., materials providing information on product administration and/or patient monitoring) under condition D of this EUA.
- F. Lilly will report to FDA serious adverse events and all medication errors associated with the use of the authorized bamlanivimab and etesevimab that are reported to Lilly using either of the following options.

Option 1: Submit reports through the Safety Reporting Portal (SRP) as described on the [FDA SRP](#) web page.

Option 2: Submit reports directly through the Electronic Submissions Gateway (ESG) as described on the [FAERS electronic submissions](#) web page.

Submitted reports under both options should state: “bamlanivimab and etesevimab use for COVID-19 under Emergency Use Authorization (EUA).” For reports submitted under Option 1, include this language at the beginning of the question “Describe Event” for further analysis. For reports submitted under Option 2, include this language at the beginning of the “Case Narrative” field.

- G. All manufacturing facilities will comply with Current Good Manufacturing Practice requirements.
- H. Lilly will retain an independent third party (i.e., not affiliated with Lilly) to conduct a review of the batch records and any underlying data and associated discrepancies of bamlanivimab drug substance manufactured at Lilly Branchburg, NJ.
- For all batches manufactured prior to the effective date of this authorization, these batches can be released while review is ongoing.
 - For all batches manufactured after the effective date of this authorization, the third party review can be performed concurrent to Lilly’s batch release process.

If the independent review finds, prior to release, a discrepancy with significant potential to affect critical quality attributes, the product must not be released unless and until the issue is satisfactorily resolved. Any discrepancies found by the independent review, whether prior to or after release, must be reported to the Agency in a summary report, submitted every 14 calendar days, and include Lilly’s corrective and preventive action plans for each discrepancy, including whether market action is required. The plans must include an appropriate evaluation of each discrepancy’s potential impact on any released drug substance and associated drug product.

- I. Lilly will retain an independent third-party (i.e., not affiliated with Lilly) to conduct laboratory release testing of bamlanivimab drug substance manufactured at Lilly, Branchburg (excluding bioburden and endotoxin testing). Any discrepancies found by the independent laboratory must be reported to the Agency in a summary report, submitted every 14 calendar days, and include Lilly’s corrective and preventive action plans for each

discrepancy. The plans must include an appropriate evaluation of each discrepancy's potential impact on any released drug substance and associated drug product.

- J. Lilly will submit information to the Agency within three working days of receipt of any information concerning any batch of bamlanivimab or etesevimab (whether the batch is distributed or not), as follows: (1) information concerning any incident that causes the product or its labeling to be mistaken for, or applied to, another article; and (2) information concerning any microbiological contamination, or any significant chemical, physical, or other change in deterioration in the product, or any failure of one or more batches of the product to meet the established specifications. Lilly will include in its notification to the Agency whether the batch, or batches, in question will be recalled. If FDA requests that these, or any other batches, at any time, be recalled, Lilly must recall them.
- K. Lilly will not implement any changes to the description of the product, manufacturing process, facilities and equipment, and elements of the associated control strategy that assure process performance and quality of the authorized product without notification to and concurrence by the Agency as described under condition D.
- L. Lilly will manufacture and test bamlanivimab and etesevimab per the process and methods, including in-process sampling and testing and finishing product testing (release and stability) to meet all specifications as detailed in Lilly's EUA request.
- M. Lilly will individually list bamlanivimab and etesevimab with a unique product NDC under the marketing category of Unapproved Drug- Other. Further, each listing will include each establishment where manufacturing is performed for the drug and the type of operation performed at each such establishment.
- N. Through a process of inventory control, Lilly and authorized distributor(s) will maintain records regarding distribution of the authorized bamlanivimab and etesevimab (i.e., lot numbers, quantity, receiving site, receipt date).
- O. Lilly and authorized distributor(s) will make available to FDA upon request any records maintained in connection with this EUA.

Healthcare Facilities to Whom the Authorized Bamlanivimab and Etesevimab Are Distributed and Healthcare Providers Administering the Authorized Bamlanivimab and Etesevimab

- P. Healthcare facilities and healthcare providers will ensure that they are aware of the letter of authorization, and the terms herein, and that the authorized Fact Sheets are made available to healthcare providers and to patients and caregivers, respectively, through appropriate means, prior to administration of bamlanivimab and etesevimab as described in the Scope of Authorization (Section II) under this EUA.
- Q. Healthcare facilities and healthcare providers receiving bamlanivimab and etesevimab will track serious adverse events that are considered to be potentially attributable to the use of bamlanivimab and etesevimab under this authorization and must report these to FDA in

accordance with the Fact Sheet for Healthcare Providers. Complete and submit a MedWatch form (www.fda.gov/medwatch/report.htm), or Complete and submit FDA Form 3500 (health professional) by fax (1-800-FDA-0178) (these forms can be found via link above). Call 1-800-FDA-1088 for questions. Submitted reports should state, “bamlanivimab and etesevimab use for COVID-19 under Emergency Use Authorization (EUA)” at the beginning of the question “Describe Event” for further analysis.

- R. Healthcare facilities and healthcare providers will ensure that appropriate storage and cold chain is maintained until the products are administered consistent with the terms of this letter.
- S. Through a process of inventory control, healthcare facilities will maintain records regarding the dispensed authorized bamlanivimab and etesevimab (i.e., lot numbers, quantity, receiving site, receipt date), product storage, and maintain patient information (e.g., patient name, age, disease manifestation, number of doses administered per patient, other drugs administered).
- T. Healthcare facilities will ensure that any records associated with this EUA are maintained until notified by Lilly and/or FDA. Such records will be made available to Lilly, HHS, and FDA for inspection upon request.
- U. Healthcare facilities and providers will report therapeutics information and utilization data as directed by the U.S. Department of Health and Human Services.

Conditions Related to Printed Matter, Advertising and Promotion

- V. All descriptive printed matter, as well as advertising and promotional material, relating to the use of the bamlanivimab and etesevimab under this authorization shall be consistent with the authorized labeling, as well as the terms set forth in this EUA and the applicable requirements set forth in the Act and FDA regulations.
- W. No descriptive printed matter, as well as advertising or promotional material, relating to the use of bamlanivimab and etesevimab under this authorization may represent or suggest that such products are safe or effective when used for the treatment of mild to moderate COVID-19 in adults and pediatric patients (12 years of age and older weighing at least 40 kg) with positive results of direct SARS-CoV-2 viral testing, and who are at high risk for progressing to severe COVID-19 and/or hospitalization.
- X. All descriptive printed matter, as well as advertising and promotional material, relating to the use of the bamlanivimab and etesevimab under this authorization clearly and conspicuously shall state that:
 - Bamlanivimab and etesevimab have not been approved, but have been authorized for emergency use by FDA to be administered together for the treatment of mild to moderate COVID-19 in adults and pediatric patients (12 years of age and older weighing at least 40 kg) with positive results of direct

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SARS-CoV-2 viral testing, and who are at high risk for progressing to severe COVID-19 and/or hospitalization.

- Bamlanivimab and etesevimab are authorized to be administered together for the treatment of mild to moderate COVID-19 in adults and pediatric patients (12 years of age and older weighing at least 40 kg) with positive results of direct SARS-CoV-2 viral testing, and who are at high risk for progressing to severe COVID-19 and/or hospitalization only for the duration of the declaration that circumstances exist justifying the authorization of the emergency use of the bamlanivimab under Section 564(b)(1) of the Act, 21 U.S.C. § 360bbb-3(b)(1), unless the authorization is terminated or revoked sooner.

IV. Duration of Authorization

This EUA will be effective until the declaration that circumstances exist justifying the authorization of the emergency use of drugs and biological products during the COVID-19 pandemic is terminated under Section 564(b)(2) of the Act or the EUA is revoked under Section 564(g) of the Act.

Sincerely,

/s/

RADM Denise M. Hinton
Chief Scientist
Food and Drug Administration



February 27, 2021

Janssen Biotech, Inc.
Attention: Ms. Ruta Walawalkar
920 Route 202
Raritan, NJ 08869

Dear Ms. Walawalkar:

This letter is in response to a request from Janssen Biotech, Inc. that the Food and Drug Administration (FDA) issue an Emergency Use Authorization (EUA) for emergency use of the Janssen COVID-19 Vaccine for the prevention of Coronavirus Disease 2019 (COVID-19) for individuals 18 years of age and older, as described in the Scope of Authorization (Section II) of this letter, pursuant to Section 564 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act or the Act) (21 U.S.C. 360bbb-3).

On February 4, 2020, pursuant to Section 564(b)(1)(C) of the Act, the Secretary of the Department of Health and Human Services (HHS) determined that there is a public health emergency that has a significant potential to affect national security or the health and security of United States citizens living abroad, and that involves the virus that causes COVID-19.¹ On the basis of such determination, the Secretary of HHS on March 27, 2020, declared that circumstances exist justifying the authorization of emergency use of drugs and biological products during the COVID-19 pandemic, pursuant to Section 564 of the Act, subject to terms of any authorization issued under that section.²

The Janssen COVID-19 Vaccine is for active immunization to prevent COVID-19 caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) in individuals 18 years of age and older. The vaccine contains a recombinant, replication-incompetent human adenovirus serotype 26 (Ad26) vector, encoding the SARS-CoV-2 viral spike (S) glycoprotein, stabilized in its pre-fusion form. It is an investigational vaccine not licensed for any indication.

FDA reviewed safety and efficacy data from an ongoing phase 3 trial which has enrolled 43,783 participants randomized 1:1 to receive Janssen COVID-19 Vaccine or saline control. The trial has enrolled participants 18 years of age and older. FDA's review has considered the safety and effectiveness data as they relate to the request for emergency use authorization. FDA's review of the available safety data from 43,783 participants 18 years of age and older, who were followed

¹ U.S. Department of Health and Human Services, *Determination of a Public Health Emergency and Declaration that Circumstances Exist Justifying Authorizations Pursuant to Section 564(b) of the Federal Food, Drug, and Cosmetic Act*, 21 U.S.C. § 360bbb-3, February 4, 2020.

² U.S. Department of Health and Human Services, *Declaration that Circumstances Exist Justifying Authorizations Pursuant to Section 564(b) of the Federal Food, Drug, and Cosmetic Act*, 21 U.S.C. § 360bbb-3, 85 FR 18250 (April 1, 2020).

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for a median duration of eight weeks after receiving the vaccine or placebo, did not identify specific safety concerns that would preclude issuance of an EUA. FDA's analysis of the efficacy data from 39,321 participants 18 years of age and older who were SARS-CoV-2 seronegative or who had an unknown serostatus at baseline show that the vaccine was 66.9% effective (95% confidence interval (CI): 59.0, 73.4) and 66.1% effective (95% CI: 55.0, 74.8) in preventing moderate to severe/critical COVID-19 occurring at least 14 days and at least 28 days after vaccination, respectively. Based on these data, and review of manufacturing information regarding product quality and consistency, it is reasonable to believe that the Janssen COVID-19 Vaccine may be effective. Additionally, it is reasonable to conclude, based on the totality of the scientific evidence available, that the known and potential benefits of the Janssen COVID-19 Vaccine outweigh its known and potential risks, for the prevention of COVID-19 in individuals 18 years of age and older. Finally, on February 26, 2021, the Vaccines and Related Biological Products Advisory Committee voted in agreement with this conclusion.

Having concluded that the criteria for issuance of this authorization under Section 564(c) of the Act are met, I am authorizing the emergency use of the Janssen COVID-19 Vaccine for the prevention of COVID-19, as described in the Scope of Authorization section of this letter (Section II) and subject to the terms of this authorization.

I. Criteria for Issuance of Authorization

I have concluded that the emergency use of the Janssen COVID-19 Vaccine for the prevention of COVID-19 when administered as described in the Scope of Authorization (Section II) meets the criteria for issuance of an authorization under Section 564(c) of the Act, because:

1. SARS-CoV-2 can cause a serious or life-threatening disease or condition, including severe respiratory illness, to humans infected by this virus;
2. Based on the totality of scientific evidence available to FDA, it is reasonable to believe that the Janssen COVID-19 Vaccine may be effective in preventing COVID-19, and that, when used under the conditions described in this authorization, the known and potential benefits of the Janssen COVID-19 Vaccine when used to prevent COVID-19 outweigh its known and potential risks; and
3. There is no adequate, approved, and available alternative to the emergency use of the Janssen COVID-19 Vaccine to prevent COVID-19.³

II. Scope of Authorization

I have concluded, pursuant to Section 564(d)(1) of the Act, that the scope of this authorization is limited as follows:

³ No other criteria of issuance have been prescribed by regulation under Section 564(c)(4) of the Act.

- Janssen Biotech, Inc. will supply the Janssen COVID-19 Vaccine, either directly or through authorized distributor(s)⁴ to emergency response stakeholders⁵ as directed by the U.S. government, including the Centers for Disease Control and Prevention (CDC) and/or other designee, for use consistent with the terms and conditions of this EUA;
- The Janssen COVID-19 Vaccine covered by this authorization will be administered by vaccination providers⁶ and used only to prevent COVID-19 in individuals ages 18 and older; and
- The Janssen COVID-19 Vaccine may be administered by a vaccination provider without an individual prescription for each vaccine recipient.

Product Description

The Janssen COVID-19 Vaccine is supplied as a suspension in multi-dose vials. The Janssen COVID-19 Vaccine does not contain a preservative.

Each 0.5 mL dose of the Janssen COVID-19 Vaccine is formulated to contain 5×10^{10} virus particles of the Ad26 vector encoding the S glycoprotein of SARS-CoV-2. Each dose of the Janssen COVID-19 Vaccine also includes the following inactive ingredients 2.19 mg sodium chloride, 0.14 mg citric acid monohydrate, 2.02 mg trisodium citrate dihydrate, 0.16 mg

⁴ “Authorized Distributor(s)” are identified by Janssen Biotech, Inc. or, if applicable, by a U.S. government entity, such as the Centers for Disease Control and Prevention (CDC) and/or other designee, as an entity or entities allowed to distribute authorized Janssen COVID-19 Vaccine.

⁵ For purposes of this letter, “emergency response stakeholder” refers to a public health agency and its delegates that have legal responsibility and authority for responding to an incident, based on political or geographical boundary lines (e.g., city, county, tribal, territorial, State, or Federal), or functional (e.g., law enforcement or public health range) or sphere of authority to administer, deliver, or distribute vaccine in an emergency situation. In some cases (e.g., depending on a state or local jurisdiction’s COVID-19 vaccination response organization and plans), there might be overlapping roles and responsibilities among “emergency response stakeholders” and “vaccination providers” (e.g., if a local health department is administering COVID-19 vaccines; if a pharmacy is acting in an official capacity under the authority of the state health department to administer COVID-19 vaccines). In such cases, it is expected that the conditions of authorization that apply to emergency response stakeholders and vaccination providers will all be met.

⁶ For purposes of this letter, “vaccination provider” refers to the facility, organization, or healthcare provider licensed or otherwise authorized by the emergency response stakeholder (e.g., non-physician healthcare professionals, such as nurses and pharmacists pursuant to state law under a standing order issued by the state health officer) to administer or provide vaccination services in accordance with the applicable emergency response stakeholder’s official COVID-19 vaccination and emergency response plan(s) and who is enrolled in the CDC COVID-19 Vaccination Program. For purposes of this letter, “healthcare provider” also refers to a person authorized by the U.S. Department of Health and Human Services (e.g., under the PREP Act Declaration for Medical Countermeasures against COVID-19) to administer FDA-authorized COVID-19 vaccine (e.g., qualified pharmacy technicians and State-authorized pharmacy interns acting under the supervision of a qualified pharmacist). See, e.g., HHS, *Fourth Amendment to the Declaration Under the Public Readiness and Emergency Preparedness Act for Medical Countermeasures Against COVID-19 and Republication of the Declaration*, 85 FR 79190 (December 9, 2020).

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polysorbate-80, 25.5 mg 2-hydroxypropyl- β -cyclodextrin, 2.04 mg ethanol. Each dose may also contain residual amounts of host cell proteins (≤ 0.15 mcg) and/or host cell DNA (≤ 3 ng).

The dosing regimen is a single dose of 0.5 mL.

The manufacture of the authorized Janssen COVID-19 Vaccine is limited to those facilities identified and agreed upon in Janssen's request for authorization.

The Janssen COVID-19 Vaccine vial label and carton labels are clearly marked for "Emergency Use Authorization." The Janssen COVID-19 Vaccine is authorized to be distributed, stored, further redistributed, and administered by emergency response stakeholders when packaged in the authorized manufacturer packaging (i.e., vials and cartons), despite the fact that the vial and carton labels may not contain information that otherwise would be required under the FD&C Act.

The Janssen COVID-19 Vaccine is authorized for emergency use with the following product-specific information required to be made available to vaccination providers and recipients, respectively (referred to as "authorized labeling"):

- Fact Sheet for Healthcare Providers Administering Vaccine (Vaccination Providers): Emergency Use Authorization (EUA) of the Janssen COVID-19 Vaccine to Prevent Coronavirus Disease 2019 (COVID-19)
- Fact Sheet for Recipients and Caregivers: Emergency Use Authorization (EUA) of the Janssen COVID-19 Vaccine to Prevent Coronavirus Disease 2019 (COVID-19) in Individuals 18 Years of Age and Older

I have concluded, pursuant to Section 564(d)(2) of the Act, that it is reasonable to believe that the known and potential benefits of the Janssen COVID-19 Vaccine, when used to prevent COVID-19 and used in accordance with this Scope of Authorization (Section II), outweigh its known and potential risks.

I have concluded, pursuant to Section 564(d)(3) of the Act, based on the totality of scientific evidence available to FDA, that it is reasonable to believe that the Janssen COVID-19 Vaccine may be effective in preventing COVID-19 when used in accordance with this Scope of Authorization (Section II), pursuant to Section 564(c)(2)(A) of the Act.

Having reviewed the scientific information available to FDA, including the information supporting the conclusions described in Section I above, I have concluded that the Janssen COVID-19 Vaccine (as described in this Scope of Authorization (Section II)) meets the criteria set forth in Section 564(c) of the Act concerning safety and potential effectiveness.

The emergency use of the Janssen COVID-19 Vaccine under this EUA must be consistent with, and may not exceed, the terms of the Authorization, including the Scope of Authorization (Section II) and the Conditions of Authorization (Section III). Subject to the terms of this EUA and under the circumstances set forth in the Secretary of HHS's determination under Section 564(b)(1)(C)

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described above and the Secretary of HHS's corresponding declaration under Section 564(b)(1), the Janssen COVID-19 Vaccine is authorized to prevent COVID-19 in individuals 18 years of age and older as described in the Scope of Authorization (Section II) under this EUA, despite the fact that it does not meet certain requirements otherwise required by applicable federal law.

III. Conditions of Authorization

Pursuant to Section 564 of the Act, I am establishing the following conditions on this authorization:

Janssen Biotech, Inc. and Authorized Distributor(s)

- A. Janssen Biotech, Inc. and authorized distributor(s) will ensure that the authorized Janssen COVID-19 Vaccine is distributed, as directed by the U.S. government, including CDC and/or other designee, and the authorized labeling (i.e., Fact Sheets) will be made available to vaccination providers, recipients, and caregivers consistent with the terms of this letter.
- B. Janssen Biotech, Inc. and authorized distributor(s) will ensure that appropriate storage and cold chain is maintained until delivered to emergency response stakeholders' receipt sites.
- C. Janssen Biotech, Inc. will ensure that the terms of this EUA are made available to all relevant stakeholders (e.g., emergency response stakeholders, authorized distributors, and vaccination providers) involved in distributing or receiving the authorized Janssen COVID-19 Vaccine. Janssen Biotech, Inc. will provide to all relevant stakeholders a copy of this letter of authorization and communicate any subsequent amendments that might be made to this letter of authorization and its authorized labeling.
- D. Janssen Biotech, Inc. may develop and disseminate instructional and educational materials (e.g., video regarding vaccine handling, storage/cold-chain management, preparation, disposal) that are consistent with the authorized emergency use of the vaccine as described in the letter of authorization and authorized labeling, without FDA's review and concurrence, when necessary to meet public health needs during an emergency. Any instructional and educational materials that are inconsistent with the authorized labeling are prohibited.

- E. Janssen Biotech, Inc. may request changes to this authorization, including to the authorized Fact Sheets for the Janssen COVID-19 Vaccine. Any request for changes to this EUA must be submitted to the Office of Vaccines Research and Review (OVRR)/Center for Biologics Evaluation and Research (CBER). Such changes require appropriate authorization prior to implementation.⁷
- F. Janssen Biotech, Inc. will report to Vaccine Adverse Event Reporting System (VAERS):
- Serious adverse events (irrespective of attribution to vaccination);
 - Cases of Multisystem Inflammatory Syndrome in adults; and
 - Cases of COVID-19 that result in hospitalization or death, that are reported to Janssen Biotech, Inc.
- These reports should be submitted to VAERS as soon as possible but no later than 15 calendar days from initial receipt of the information by Janssen Biotech, Inc.
- G. Janssen Biotech, Inc. must submit to Investigational New Drug application (IND) number 22657 periodic safety reports at monthly intervals in accordance with a due date agreed upon with the Office of Biostatistics and Epidemiology (OBE)/CBER, beginning after the first full calendar month after authorization. Each periodic safety report is required to contain descriptive information which includes:
- A narrative summary and analysis of adverse events submitted during the reporting interval, including interval and cumulative counts by age groups, special populations (e.g., pregnant women), and adverse events of special interest.
 - A narrative summary and analysis of vaccine administration errors, whether or not associated with an adverse event, that were identified since the last reporting interval
 - Newly identified safety concerns in the interval; and
 - Actions taken since the last report because of adverse experiences (for example, changes made to Healthcare Providers Administering Vaccine (Vaccination Providers) Fact Sheet, changes made to studies or studies initiated).
- H. No changes will be implemented to the description of the product, manufacturing process, facilities, or equipment without notification to and concurrence by the Agency.
- I. All manufacturing facilities will comply with Current Good Manufacturing Practice requirements.

⁷ The following types of revisions may be authorized without reissuing this letter: (1) changes to the authorized labeling; (2) non-substantive editorial corrections to this letter; (3) new types of authorized labeling, including new fact sheets; (4) new carton/container labels; (5) expiration dating extensions; (6) changes to manufacturing processes, including tests or other authorized components of manufacturing; (7) new conditions of authorization to require data collection or study. All changes to the authorization require review and concurrence from OVRR. For changes to the authorization, including the authorized labeling, of the type listed in (3), (6), or (7), review and concurrence is also required from the Preparedness and Response Team (PREP)/Office of the Center Director (OD)/CBER and the Office of Counterterrorism and Emerging Threats/Office of the Chief Scientist.

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- J. Janssen Biotech, Inc. will submit to the EUA file Certificates of Analysis (CoA) for each drug product lot at least 48 hours prior to vaccine distribution. The CoA will include the established specifications and specific results for each quality control test performed on the final drug product lot.
- K. Janssen Biotech, Inc. will submit to the EUA file quarterly manufacturing reports that include a listing of all Drug Substance and Drug Product lots produced after issuance of this authorization. This report must include lot number, manufacturing site, date of manufacture, and lot disposition, including those lots that were quarantined for investigation or those lots that were rejected. Information on the reasons for lot quarantine or rejection must be included in the report. The first report is due June 1, 2021.
- L. Janssen Biotech, Inc. and authorized distributor(s) will maintain records regarding release of Janssen COVID-19 Vaccine for distribution (i.e., lot numbers, quantity, release date).
- M. Janssen Biotech, Inc. and authorized distributor(s) will make available to FDA upon request any records maintained in connection with this EUA.
- N. Janssen Biotech, Inc. will conduct post-authorization observational studies to evaluate the association between Janssen COVID-19 Vaccine and a pre-specified list of adverse events of special interest, along with deaths and hospitalizations, and severe COVID-19. The study population should include individuals administered the authorized Janssen COVID-19 Vaccine under this EUA in the general U.S. population (18 years of age and older), populations of interest such as healthcare workers, pregnant women, immunocompromised individuals, subpopulations with specific comorbidities. The studies should be conducted in large scale databases with an active comparator. Janssen Biotech, Inc. will provide protocols and status update reports to the IND 22657 with agreed-upon study designs and milestone dates.

Emergency Response Stakeholders

- O. Emergency response stakeholders will identify vaccination sites to receive authorized Janssen COVID-19 Vaccine and ensure its distribution and administration, consistent with the terms of this letter and CDC's COVID-19 Vaccination Program.
- P. Emergency response stakeholders will ensure that vaccination providers within their jurisdictions are aware of this letter of authorization, and the terms herein and any subsequent amendments that might be made to the letter of authorization, instruct them about the means through which they are to obtain and administer the vaccine under the EUA, and ensure that the authorized labeling [i.e., Fact Sheet for Healthcare Providers Administering Vaccine (Vaccination Providers) and Fact Sheet for Recipients and Caregivers] is made available to vaccination providers through appropriate means (e.g., e-mail, website).

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- Q. Emergency response stakeholders receiving authorized Janssen COVID-19 Vaccine will ensure that appropriate storage and cold chain is maintained.

Vaccination Providers

- R. Vaccination providers will administer the vaccine in accordance with the authorization and will participate and comply with the terms and training required by CDC's COVID-19 Vaccination Program.
- S. Vaccination providers will provide the Fact Sheet for Recipients and Caregivers to each individual receiving vaccination.
- T. Vaccination providers administering the Janssen COVID-19 Vaccine must report the following information associated with the administration of the Janssen COVID-19 Vaccine of which they become aware to VAERS in accordance with the Fact Sheet for Healthcare Providers Administering Vaccine (Vaccination Providers):
- Vaccine administration errors whether or not associated with an adverse event
 - Serious adverse events (irrespective of attribution to vaccination)
 - Cases of Multisystem Inflammatory Syndrome in adults
 - Cases of COVID-19 that result in hospitalization or death

Complete and submit reports to VAERS online at <https://vaers.hhs.gov/reportevent.html>. The VAERS reports should include the words "Janssen COVID-19 Vaccine EUA" in the description section of the report. More information is available at vaers.hhs.gov or by calling 1-800-822-7967. To the extent feasible, report to Janssen Biotech, Inc. by contacting 1-800-565-4008 or by providing a copy of the VAERS form to Janssen Biotech, Inc.; Fax: 215-293-9955, or by email JNJvaccineAE@its.jnj.com.

- U. Vaccination providers will conduct any follow-up requested by the U.S. government, including CDC, FDA, or other designee, regarding adverse events to the extent feasible given the emergency circumstances.
- V. Vaccination providers will monitor and comply with CDC and/or emergency response stakeholder vaccine management requirements (e.g., requirements concerning obtaining, tracking, and handling vaccine) and with requirements concerning reporting of vaccine administration data to CDC.
- W. Vaccination providers will ensure that any records associated with this EUA are maintained until notified by FDA. Such records will be made available to CDC, and FDA for inspection upon request.

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Conditions Related to Printed Matter, Advertising, and Promotion

- X. All descriptive printed matter, advertising, and promotional material, relating to the use of the Janssen COVID-19 Vaccine shall be consistent with the authorized labeling, as well as the terms set forth in this EUA, and meet the requirements set forth in section 502(a) and (n) of the FD&C Act and FDA implementing regulations.
- Y. All descriptive printed matter, advertising, and promotional material relating to the use of the Janssen COVID-19 Vaccine clearly and conspicuously shall state that:
- This product has not been approved or licensed by FDA, but has been authorized for emergency use by FDA, under an EUA to prevent Coronavirus Disease 2019 (COVID-19) for use in individuals 18 years of age and older; and
 - The emergency use of this product is only authorized for the duration of the declaration that circumstances exist justifying the authorization of emergency use of the medical product under Section 564(b)(1) of the FD&C Act unless the declaration is terminated or authorization revoked sooner.

IV. Duration of Authorization

This EUA will be effective until the declaration that circumstances exist justifying the authorization of the emergency use of drugs and biological products during the COVID-19 pandemic is terminated under Section 564(b)(2) of the Act or the EUA is revoked under Section 564(g) of the Act.

Sincerely,

/s/

RADM Denise M. Hinton
Chief Scientist
Food and Drug Administration

Enclosures

Dated: May 21, 2021.

Lauren K. Roth,
Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021-11234 Filed 5-26-21; 8:45 am]

BILLING CODE 4164-01-C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2020-D-1136]

Guidance Documents Related to Coronavirus Disease 2019; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of FDA guidance documents related to the

Coronavirus Disease 2019 (COVID-19) public health emergency (PHE). This notice of availability (NOA) is pursuant to the process that FDA announced, in the **Federal Register** of March 25, 2020, for making available to the public COVID-19-related guidances. The guidances identified in this notice address issues related to the COVID-19 PHE and have been issued in accordance with the process announced in the March 25, 2020, notice. The guidances have been implemented without prior comment, but they remain subject to comment in accordance with the Agency's good guidance practices.

DATES: The announcement of the guidances is published in the **Federal Register** on May 27, 2021.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

Instructions: All submissions received must include the name of the guidance document that the comments address and the docket number for the guidance (see table 1). Received comments will be placed in the docket(s) and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed

except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

You may submit comments on any guidance at any time (see § 10.115(g)(5) (21 CFR 10.115(g)(5))).

Submit written requests for single copies of these guidances to the address noted in table 1. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT:

Kimberly Thomas, Center for Drug Evaluation and Research (CDER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6220, Silver Spring, MD 20993-0002, 301-796-2357.

SUPPLEMENTARY INFORMATION:

I. Background

On January 31, 2020, as a result of confirmed cases of COVID-19, and after consultation with public health officials as necessary, the Secretary of Health and Human Services (HHS), pursuant to the authority under section 319 of the Public Health Service Act (42 U.S.C. 247d), determined that a PHE exists and has existed since January 27, 2020, nationwide.¹ On March 13, 2020, there was a Presidential declaration that the COVID-19 outbreak in the United States constitutes a national emergency, beginning March 1, 2020.²

¹ Secretary of Health and Human Services, “Determination that a Public Health Emergency Exists” (originally issued on January 31, 2020, and subsequently renewed), available at: <https://www.phe.gov/emergency/news/healthactions/phe/Pages/default.aspx>.

² Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak (March 13, 2020), available at: <https://trumpwhitehouse.archives.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>. On February 24, 2021,

In the **Federal Register** of March 25, 2020 (85 FR 16949) (the March 25, 2020, notice) (available at <https://www.govinfo.gov/content/pkg/FR-2020-03-25/pdf/2020-06222.pdf>), FDA announced procedures for making available FDA guidances related to the COVID-19 PHE. These procedures, which operate within FDA’s established good guidance practices regulations, are intended to allow FDA to rapidly disseminate Agency recommendations and policies related to COVID-19 to industry, FDA staff, and other stakeholders. The March 25, 2020, notice stated that due to the need to act quickly and efficiently to respond to the COVID-19 PHE, FDA believes that prior public participation will not be feasible or appropriate before FDA implements COVID-19-related guidances. Therefore, FDA will issue COVID-19-related guidances for immediate implementation without prior public comment (see section 701(h)(1)(C) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(h)(1)(C)) and § 10.115(g)(2)). The guidances are available on FDA’s web pages entitled “COVID-19-Related Guidance Documents for Industry, FDA Staff, and Other Stakeholders” (available at <https://www.fda.gov/emergency-preparedness-and-response/mcm-issues/covid-19-related-guidance-documents-industry-fda-staff-and-other-stakeholders>) and “Search for FDA Guidance Documents” (available at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents>).

The March 25, 2020, notice further stated that, in general, rather than publishing a separate NOA for each COVID-19-related guidance, FDA intends to publish periodically a consolidated NOA announcing the availability of certain COVID-19-related guidances that FDA issued during the relevant period, as included in table 1. This notice announces COVID-19-related guidances that are posted on FDA’s website.

there was a Presidential Declaration continuing the national emergency concerning the COVID-19 pandemic beyond March 1, 2021. See Continuation of the National Emergency Concerning the Coronavirus Disease 2019 (COVID-19) Pandemic (February 24, 2021), available at <https://www.federalregister.gov/documents/2021/02/26/2021-04173/continuation-of-the-national-emergency-concerning-the-coronavirus-disease-2019-covid-19-pandemic>.

II. Availability of COVID-19-Related Guidance Documents

announcing the availability of the following COVID-19-related guidances:

Pursuant to the process described in the March 25, 2020, notice, FDA is

TABLE 1—GUIDANCES RELATED TO THE COVID-19 PUBLIC HEALTH EMERGENCY

Docket No.	Center	Title of guidance	Contact information to request single copies
FDA-2020-D-1136	CDER	Development of Abbreviated New Drug Applications During the COVID-19 Pandemic—Questions and Answers Guidance for Industry (April 2021).	<i>druginfo@fda.hhs.gov</i> . Please include the docket number FDA-2020-D-1136 and complete title of the guidance in the request.
FDA-2020-D-1136	CDER	Remote Interactive Evaluations of Drug Manufacturing and Bioresearch Monitoring Facilities During the COVID-19 Public Health Emergency Guidance for Industry (April 2021).	<i>druginfo@fda.hhs.gov</i> . Please include the docket number FDA-2020-D-1136 and complete title of the guidance in the request.

Although these guidances have been implemented immediately without prior comment, FDA will consider all comments received and revise the guidances as appropriate (see § 10.115(g)(3)).

These guidances are being issued consistent with FDA's good guidance practices regulation (§ 10.115). The guidances represent the current thinking of FDA. They do not establish any rights

for any person and are not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

III. Paperwork Reduction Act of 1995**CDER Guidances**

While these guidances contain no collection of information, they do refer to previously approved FDA collections

of information (listed in table 2). Therefore, clearance by OMB under the PRA (44 U.S.C. 3501–3521) is not required for these guidances. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in the following FDA regulations and guidances have been approved by OMB as listed in the following table:

TABLE 2—CDER GUIDANCES AND COLLECTIONS

COVID-19 guidance title	CFR cite referenced in COVID-19 guidance	Another guidance title referenced in COVID-19 guidance	OMB control No(s).
Development of Abbreviated New Drug Applications During the COVID-19 Pandemic—Questions and Answers Guidance for Industry (April 2021).		—Manufacturing, Supply Chain, and Drug and Biological Product Inspections During COVID-19 Public Health Emergency Questions and Answers. —Circumstances that Constitute Delaying, Denying, Limiting, or Refusing a Drug Inspection.	0910-0001, 0910-0338, 0910-0139.
Remote Interactive Evaluations of Drug Manufacturing and Bioresearch Monitoring Facilities During the COVID-19 Public Health Emergency Guidance for Industry (April 2021).	21 CFR 211.170, 21 CFR 314.3, 21 CFR 314.50, 21 CFR 314.94, 21 CFR 314.101, 21 CFR 314.105, 21 CFR 314.107, 21 CFR 320.25, 21 CFR 320.31, 21 CFR 320.38, 21 CFR 320.63.	—ANDAs: Stability Testing of Drug Substances and Products, Questions and Answers. —Referencing Approved Drug Products in ANDA Submissions. —Protecting Participants in Bioequivalence Studies for Abbreviated New Drug Applications During the COVID-19 Public Health Emergency. —Safety Reporting Requirements for INDs and BA/BE Studies. —Controlled Correspondence Related to Generic Drug Development. —Formal Meetings Between FDA and ANDA Applicants of Complex Products Under GDUFA. —Conduct of Clinical Trials of Medical Products During the COVID-19 Pandemic. —ANDAs: Stability Testing of Drug Substances and Products. —ANDAs: Stability Testing of Drug Substances and Products, Questions and Answers.	0910-0001, 0910-0014, 0910-0797, 0910-0119 0910-0581, 0910-0733, 0910-0672.

IV. Electronic Access

Persons with access to the internet may obtain COVID-19-related guidances at:

- FDA web page entitled “COVID-19-Related Guidance Documents for Industry, FDA Staff, and Other

Stakeholders,” available at <https://www.fda.gov/emergency-preparedness-and-response/mcm-issues/covid-19-related-guidance-documents-industry-fda-staff-and-other-stakeholders>;

- FDA web page entitled “Search for FDA Guidance Documents” available at

<https://www.fda.gov/regulatory-information/search-fda-guidance-documents>; or

- <https://www.regulations.gov>.

Dated: May 21, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021-11217 Filed 5-26-21; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2005-D-0027]

Procedures for Handling Post-Approval Studies Imposed by Premarket Approval Application Order; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the draft guidance entitled “Procedures for Handling Post-Approval Studies Imposed by Premarket Approval Application Order.” The existing post-approval studies final guidance, entitled “Procedures for Handling Post-Approval Studies Imposed by PMA Order,” was issued in June 2009. This draft guidance is intended to update the 2009 guidance to assist stakeholders with understanding post-approval study requirements imposed as a condition of approval of a premarket approval application (PMA). This draft guidance is not final nor is it in effect at this time.

DATES: Submit either electronic or written comments on the draft guidance by July 26, 2021 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or

confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

Instructions: All submissions received must include the Docket No. FDA-2005-D-0027 for “Procedures for Handling Post-Approval Studies Imposed by Premarket Approval Application Order.” Received comments will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as

“confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download from the internet. See the

SUPPLEMENTARY INFORMATION section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled “Procedures for Handling Post-Approval Studies Imposed by Premarket Approval Application Order” to the Office of Policy, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Nilsa Loyo-Berrios, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G114, Silver Spring, MD 20993-0002, 301-796-6065.

SUPPLEMENTARY INFORMATION:

I. Background

To provide reasonable assurance, or the continued assurance, of safety and effectiveness of an approved device, FDA may require a post-approval study (PAS) as a condition of approval under 21 CFR 814.82(a)(2) and (a)(9). A PAS is usually a clinical or non-clinical study, as specified in the PMA approval order, and is typically intended to gather specific data to address questions about the postmarket performance of or experience with an approved medical device. As described in “Balancing Premarket and Postmarket Data Collection for Devices Subject to Premarket Approval,” FDA may

consider it acceptable to collect certain data in the postmarket setting, rather than premarket under certain circumstances when FDA has uncertainty regarding certain benefits or risks of the device, but the degree of uncertainty is acceptable in the context of the overall benefit-risk profile of the device at the time of premarket approval. The purpose of this draft guidance document is to assist stakeholders with understanding PAS requirements imposed as a condition of a PMA by providing:

- Procedural information;
- recommendations concerning the format, content, and review of PAS-related submissions; and
- updates to the final guidance entitled “Procedures for Handling Post-Approval Studies Imposed by PMA Order” dated June 2009, including:
 - Recommendations to help facilitate FDA’s review of a PAS protocol in a timely manner;
 - recommendations for study timelines including enrollment milestones and study completion;
 - revised definitions to PAS status categories that we believe better reflect progress of the PAS; and

- revised FDA review time goals for PAS-related submissions.

This draft guidance is being issued consistent with FDA’s good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on “Procedures for Handling Post-Approval Studies Imposed by Premarket Approval Application Order.” It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at <https://www.fda.gov/medical-devices/device-advice-comprehensive-regulatory-assistance/guidance-documents-medical-devices-and-radiation-emitting-products>. This guidance is also available at <https://www.regulations.gov> and at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents>.

www.fda.gov/regulatory-information/search-fda-guidance-documents. Persons unable to download an electronic copy of “Procedures for Handling Post-Approval Studies Imposed by Premarket Approval Application Order” may send an email request to CDRH-Guidance@fda.hhs.gov to receive an electronic copy of the document. Please use the document number 19043 and complete title to identify the guidance you are requesting.

III. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in the following FDA regulations have been approved by OMB as listed in the following table:

21 CFR part	Topic	OMB control No.
814, subparts A through E	Premarket approval	0910–0231
814, subpart H	Humanitarian use devices; Humanitarian device exemption	0910–0332

Dated: May 21, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–11216 Filed 5–26–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Solicitation of Nominations for Membership To Serve on the Advisory Committee on Organ Transplantation

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Request for nominations.

SUMMARY: HRSA is seeking nominations of qualified candidates to be considered for appointment as members of the Advisory Committee on Organ Transplantation (ACOT or Committee). ACOT provides advice and recommendations to the Secretary of HHS (Secretary) on matters pertaining to

organ donation, procurement, allocation, and transplantation; maximizing the number of deceased donor organs available for transplantation; supporting the safety of living organ donation proposed policies of the Organ Procurement and Transplantation Network (OPTN) and OPTN operations; and the latest advances in the science of transplantation.

Authority: In accordance with 42 CFR 121.12, the Secretary established ACOT pursuant to 42 U.S.C. 217a. The Committee is governed by the Federal Advisory Committee Act (FACA) (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory committees.

DATES: Written nominations for membership on the ACOT will be received on a continuous basis.

ADDRESSES: Nomination packages must be submitted to the Executive Secretary, ACOT, Healthcare Systems Bureau, HRSA, Room 08W67, 5600 Fishers Lane, Rockville, Maryland 20857, or via email to: ACOTHRSA@hrsa.gov.

FOR FURTHER INFORMATION CONTACT: Shelley Grant, Executive Secretary, ACOT, at (301) 443–8036 or email

sgrant@hrsa.gov. A copy of the ACOT charter and list of current members may be obtained by accessing the ACOT website at <https://www.organdonor.gov/about-dot/acot.html>.

SUPPLEMENTARY INFORMATION: In accordance with the Amended Final Rule of the OPTN (42 CFR part 121), the ACOT was established pursuant to 42 U.S.C. 217a and, in accordance with Public Law 92–463, was first chartered on September 1, 2000. The ACOT meets up to three times during the fiscal year.

Nominations: HRSA is requesting nominations for voting members to serve as Special Government Employees (SGEs) on ACOT. The Secretary appoints ACOT members with the expertise needed to fulfill the duties of the Advisory Committee. Nominees sought are individuals knowledgeable in such fields as deceased and living organ donation, health care public policy, transplantation medicine and surgery, critical care medicine, and other medical specialties involved in the identification and referral of donors, non-physician transplant professions, nursing, epidemiology, immunology, law and bioethics, behavioral sciences,

economics, and statistics, as well as representatives of transplant candidates, transplant recipients, living organ donors, and family members of deceased and living organ donors. Interested applicants may self-nominate or be nominated by another individual or organization.

Individuals selected for appointment to the Committee will be invited to serve for a term up to 4 years. Members appointed as SGEs receive a stipend and reimbursement for per diem and travel expenses incurred for attending ACOT meetings and/or conducting other business on behalf of the ACOT, as authorized by 5 U.S.C. 5703 of FACA for persons employed intermittently in government service.

The following information must be included in the package of materials submitted for each individual being nominated for consideration: (1) A letter of nomination stating the name, affiliation, and contact information for the nominee, the basis for the nomination (*i.e.*, what specific attributes, perspectives, and/or skills does the individual possess that would benefit the workings of ACOT), and the nominee's field(s) of expertise; (2) a biographical sketch of the nominee; (3) the name, address, daytime telephone number, and email address at which the nominator can be contacted; and (4) a current copy of the nominee's curriculum vitae. Nomination packages may be submitted directly by the individual being nominated or by the person/organization recommending the candidate.

HHS endeavors to ensure that the membership of ACOT is fairly balanced in terms of points of view represented and that individuals from a broad representation of geographic areas, gender, and ethnic and minority groups, as well as individuals with disabilities, are considered for membership. Appointments shall be made without discrimination on the basis of age, ethnicity, gender, sexual orientation, or cultural, religious, or socioeconomic status.

Individuals who are selected to be considered for appointment will be required to provide detailed information regarding their financial holdings, consultancies, and research grants or contracts. Disclosure of this information is required for HRSA ethics officials to determine whether there is a conflict between the SGE's public duties as a member of ACOT and their private interests, including an appearance of a loss of impartiality as defined by federal laws and regulations, and to identify

any required remedial action needed to address the potential conflict.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2021-11209 Filed 5-26-21; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Solicitation of Nominations for Membership To Serve on the Advisory Council on Blood Stem Cell Transplantation

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Request for nominations.

SUMMARY: HRSA is seeking nominations of qualified candidates to be considered for appointment as members of the Advisory Council on Blood Stem Cell Transplantation (ACBSCT or Council). ACBSCT shall advise the Secretary of HHS (Secretary), through the HRSA Administrator, on the activities of the C.W. Bill Young Cell Transplantation Program and the National Cord Blood Inventory Program (Program).

Authority: The Council was established to implement a statutory requirement of the Stem Cell Therapeutic and Research Act of 2005 (Pub. L. 109-129). The Council is governed by the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory committees.

DATES: Written nominations for membership on ACBSCT will be received continuously.

ADDRESSES: Nomination packages must be submitted to the Executive Secretary, ACBSCT, Healthcare Systems Bureau, HRSA, Room 08W60, 5600 Fishers Lane, Rockville, Maryland 20857, or sent via email to: ACBSCTHRSA@hrsa.gov.

FOR FURTHER INFORMATION CONTACT:

Shelley Grant, Executive Secretary, ACBSCT, at (301) 443-8036 or email sgrant@hrsa.gov. A copy of the ACBSCT charter and a list of current members may be obtained by accessing the ACBSCT website at https://bloodcell.transplant.hrsa.gov/about/advisory_council/index.html.

SUPPLEMENTARY INFORMATION: ACBSCT was established pursuant to Public Law 109-129 as amended by Public Law 111-264; 42 U.S.C. 274k; Section 379 of the Public Health Service Act. In accordance with Public Law 92-463, the

ACBSCT was chartered on December 19, 2006. ACBSCT meets up to three times during the fiscal year.

ACBSCT shall, as requested by the Secretary, discuss and make recommendations regarding the Program. It shall provide a consolidated, comprehensive source of expert, unbiased analysis and recommendations to the Secretary on the latest advances in the science of blood stem cell transplantation. ACBSCT shall advise, assist, consult, and make recommendations, at the request of the Secretary, on (1) broad Program policy in areas such as the necessary size and composition of the adult donor pool available through the Program and the composition of the National Cord Blood Inventory, (2) requirements regarding informed consent for cord blood donation, (3) accreditation requirements for cord blood banks, (4) the scientific factors that define a cord blood unit as high quality, (5) public and professional education to encourage the ethical recruitment of genetically diverse donors and ethical donation practices, (6) criteria for selecting the appropriate blood stem source for transplantation, (7) program priorities; (8) research priorities, and (9) the scope and design of the Stem Cell Therapeutic Outcomes Database.

At the request of the Secretary, ACBSCT shall also review and advise on issues relating more broadly to the field of blood stem cell transplantation, such as regulatory policy pertaining to the compatibility of international regulations, and actions that may be taken by state and federal governments and public and private insurers to increase donation and access to transplantation. ACBSCT shall also make recommendations regarding research on emerging therapies using cells from bone marrow and cord blood. The Council may meet up to three times during the fiscal year.

Nominations: HRSA is requesting nominations for voting members to serve as Special Government Employees (SGEs) on ACBSCT. The Council shall consist of up to 25 members who are SGEs and 6 ex-officio, non-voting members. The Secretary appoints ACBSCT SGEs with the expertise needed to fulfill the duties of the Council. HRSA is seeking nominees who are outstanding authorities and representatives of marrow donor centers and marrow transplant centers; representatives of cord blood banks and participating birthing hospitals; recipients of bone marrow transplants; recipients of cord blood transplants; persons who require such transplants; family members of such a recipient or

family members of a patient who has requested the assistance of the Program in searching for an unrelated donor of bone marrow or cord blood; persons with expertise in bone marrow and cord blood transplantation; persons with expertise in typing, matching, and transplant outcome data analysis; persons with expertise in the social sciences; basic scientists with expertise in the biology of adult stem cells; ethicists, hematology, and transfusion medicine researchers with expertise in adult blood stem cells; persons with expertise in cord blood processing; and members of the general public to serve as members. Interested applicants may self-nominate or be nominated by another individual or organization.

Individuals selected for appointment to ACBSCT will be invited to serve for a term of 2 years, and are eligible to serve as many as 3 consecutive 2-year terms. Members appointed as SGEs receive a stipend and reimbursement for per diem and travel expenses incurred for attending ACBSCT meetings and/or conducting other business on behalf of ACBSCT, as authorized by 5 U.S.C. 5703 of the FACA for persons employed intermittently in government service.

The following information must be included in the package of materials submitted for each individual being nominated for consideration: (1) A letter of nomination stating the name, affiliation, and contact information for the nominee, the basis for the nomination (*i.e.*, what specific attributes, perspectives, and/or skills does the individual possess that would benefit the workings of ACBSCT), and the nominee's field(s) of expertise; (2) a biographical sketch of the nominee; (3) the name, address, daytime telephone number, and email address at which the nominator can be contacted; and (4) a current copy of the nominee's curriculum vitae. Nomination packages may be submitted directly by the individual being nominated or by the person/organization recommending the candidate.

HHS endeavors to ensure that the membership of ACBSCT is fairly balanced in terms of points of view represented and that individuals from a broad representation of geographic areas, gender, and ethnic and minority groups, as well as individuals with disabilities, are considered for membership. Appointments shall be made without discrimination on the basis of age, ethnicity, gender, sexual orientation, or cultural, religious, or socioeconomic status.

Individuals selected to be considered for appointment will be required to provide detailed information regarding

their financial holdings, consultancies, and research grants or contracts. Disclosure of this information is required for HRSA ethics officials to determine whether there is a conflict between the SGE's public duties as a member of ACBSCT and their private interests, including an appearance of a loss of impartiality as defined by federal laws and regulations, and to identify any required remedial action needed to address the potential conflict.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2021-11213 Filed 5-26-21; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Program Project Applications (P01 Clinical Trial Not Allowed).

Date: June 23, 2021.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3E71A, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Patricia A. Gonzales Hurtado, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3E71A, Rockville, MD 20852, 240-627-3556, Patricia.Gonzales@nih.gov.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Program Project Applications (P01 Clinical Trial Not Allowed).

Date: June 28, 2021.

Time: 9:30 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3E71A, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Patricia A. Gonzales Hurtado, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3E71A, Rockville, MD 20852, 240-627-3556, Patricia.Gonzales@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 21, 2021.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021-11208 Filed 5-26-21; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Agency Emergency Information Collection Clearance Request for Public Comment

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995 to provide opportunity for public comment on proposed data collection projects, the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments on the information collection request must be received on or before 10 days of this published notice.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted within 10 days. You may send your comments electronically to <http://www.regulations.gov>. Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) that are accepting comments.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection

plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Ms. Mikia P. Currie, Office of Policy for Extramural Research Administration, 6705 Rockledge Drive, Suite 350, Bethesda, Maryland 20892, or call a non-toll-free number 301-435-0941 or Email your request, including your address to

ProjectClearanceBranch@mail.nih.gov. Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires: Written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: Audience Feedback to Inform Ongoing Messaging and Strategies for "Combat COVID"

Type of Collection: Emergency.

OMB No. 0925-NEW—Federal COVID Response

Abstract: The Federal COVID Response (FCR) Team is a cross-agency

partnership that includes the U.S. Department of Health and Human Services (HHS), including the National Institutes of Health (NIH) Office of the Director, Centers for Disease Control and Prevention (CDC), the U.S. Food and Drug Administration (FDA), the Biomedical Advanced Research and Development Authority (BARDA), and the U.S. Department of Defense (DOD). The FCR Team oversees the "Combat COVID" initiative—a multifaceted effort to provide the general public and healthcare providers with the latest evidence-based information on COVID-19 treatments and the Accelerating COVID-19 Therapeutic Interventions and Vaccines (ACTIV) clinical trials (including the *combatcovid.hhs.gov* website). The NIH is especially interested in recruiting participants from groups who have historically been underrepresented in clinical trials. Together with their contractor, the FCR Team is working to:

- Address participation barriers and raise awareness of ACTIV clinical trials, and
- Ensure the general public's and health care provider's needs are met as it pertains to evidence-based information on these trials.

The purpose of the information collection is to collect routine feedback from the Combat COVID Initiative's two target audiences (the general public and healthcare providers) to identify evolving needs and better disseminate relevant information relates to COVID-19 treatment and ACTIV clinical trial

resources. Because the COVID-19 treatment landscape continues to evolve and audience needs continue to change, it is critical for the FCR Team to collect routine feedback from the general public (especially from groups who have not historically been well-represented in clinical trials) and healthcare providers to identify these evolving needs. By understanding evolving needs, the FCR team will be able to properly develop and broadly disseminate relevant COVID-19 treatment and ACTIV clinical trial resources. This effort will require ongoing data collection over the next 20 months (through the end of December 2022).

Data collected through this effort will be used to inform the development and broad dissemination of Combat COVID resources, including new or enhanced messages, materials and/or web pages (*combatcovid.hhs.gov*).

The team will employ two strategies to collect this routine audience feedback:

1. **DATA COLLECTION STRATEGY 1:** Monthly 60-minute virtual audience feedback teams sessions (focus groups, in-depth interviews, online bulletin boards) for rapid testing of new Combat COVID messages, concepts, ideas, resources, web pages, and materials.

2. **DATA COLLECTION STRATEGY 2:** 15-minute custom web surveys to understand target audiences' needs and awareness of Combat COVID over time, and to inform ongoing messages and strategies.

ESTIMATED ANNUALIZED BURDEN TABLE

Type of respondent	Number of respondents	Number responses per respondent	Average burden per response (in hours)	Total burden hours
Consumer Audience Feedback Team Screener (Attachment 1)	120	1	5/60	10
HCP Audience Feedback Team Screener (Attachment 2)	40	1	5/60	3
Consumer Audience Feedback Activity (Attachments 3 & 5)	60	12	1	720
HCP Audience Feedback Activity (Attachments 4 & 5)	20	12	1	240
Benchmark & Follow-Up Web Surveys—Consumer Audience (Attachment 6)	2,000	5	15/60	2,500
Benchmark & Follow-Up Web Survey—HCP Audience (Attachment 6)	300	5	15/60	375
Total	2,540	12,620		3848

Dated: May 20, 2021.

Lawrence A. Tabak,

Principal Deputy Director, National Institutes of Health.

[FR Doc. 2021-11255 Filed 5-26-21; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as

amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning

individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Cohort Studies To Improve Our Understanding of Influenza Immunity, Vaccine Response and Effectiveness in Older Adults (65 years and older) (U01 Clinical Trial Not Allowed).

Date: July 9, 2021.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G42, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Sandip Bhattacharyya, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G43, Rockville, MD 20852, (240) 292-0189, sandip.bhattacharyya@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 21, 2021.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021-11211 Filed 5-26-21; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: The Cancer Drug Development and Therapeutics (CDDT).

Date: June 24–25, 2021.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Lilia Topol, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6192, MSC 7804, Bethesda, MD 20892, 301-451-0131, ltopol@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Interventions and Mechanisms for Addiction.

Date: June 28, 2021.

Time: 9:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Mark P. Rubert, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301-806-6596, rubertm@csr.nih.gov.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Cancer, Heart, and Sleep Epidemiology: A Study Section.

Date: June 28–29, 2021.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Denise Wiesch, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3138, MSC 7770, Bethesda, MD 20892, (301) 437-3478, wieschd@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neurobehavior, Developmental Psychopathology, Autism and Stress.

Date: June 29, 2021.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Anna L. Riley, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7759, Bethesda, MD 20892, 301-435-2889, rileyann@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Disease Prevention and Management, Risk Reduction and Health Behavior Change.

Date: June 29–30, 2021.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Michael J. McQuestion, Ph.D., Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7808, Bethesda, MD 20892, (301) 480-1276, mike.mcquestion@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Cancer Health Disparities.

Date: June 29–30, 2021.

Time: 9:00 a.m. to 8:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sulagna Banerjee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 612.309.2479, sulagna.banerjee@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowship: Infectious Disease and Immunology B.

Date: June 29–30, 2021.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Uma Basavanna, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301-435-1199, uma.basavanna@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cardiovascular and Surgical Devices.

Date: June 29–30, 2021.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Willard Wilson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20817, 301-867-5309, willard.wilson@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; The Blood-Brain Barrier, Neurovascular Systems and CNS Therapeutics.

Date: June 29, 2021.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Linda MacArthur, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4187, Bethesda, MD 20892, 301-537-9986, macarthurlh@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Nutrition for Precision Health.

Date: June 29, 2021.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Pamela Jeter, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 10J08, Bethesda, MD 20892, (301) 435-2591, pamela.jeter@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 21, 2021.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021-11207 Filed 5-26-21; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Language and Communication Study Section.

Date: June 21-22, 2021.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Andrea B. Kelly, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7770, Bethesda, MD 20892, (301) 455-1761, kellya2@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cardiovascular Sciences.

Date: June 24-25, 2021.

Time: 9:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kirk Edward Dineley, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 806E, Bethesda, MD 20892, (301) 867-5309, dineleyke@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Innovative Immunology Research.

Date: June 29, 2021.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Shinako Takada, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301-402-9448, shinako.takada@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Immune Responses and Vaccines to Microbial Infections.

Date: June 30-July 1, 2021.

Time: 9:30 a.m. to 7:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Barna Dey, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, Bethesda, MD 20892, 301-451-2796, bdey@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Bioengineering, Cellular and Circuit Neuroscience.

Date: June 30, 2021.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jyothi Arikath, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5215, Bethesda, MD 20892, (301) 435-1042, arikkathj2@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA-RM-21-009 Cellular Senescence Network: Technology Development and Application (UG3/UH3).

Date: June 30, 2021.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Thomas Beres, Ph.D., Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 5201, MSC 7840, Bethesda, MD 20892, 301-435-1175, berestm@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Infectious Disease and Host-Pathogen Interactions.

Date: June 30, 2021.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: David C. Chang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 451-0290, changdac@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 21, 2021.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021-11205 Filed 5-26-21; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Early Phase Clinical Trial Units (EPCTU); Task Area A—Administrative and Overall Clinical Operations Support and Concept Development (N01).

Date: June 24, 2021.

Time: 9:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of

Health, 5601 Fishers Lane, Room 3G62 Rockville, MD 20892 (Virtual Meeting).

Contact Person: Eleazar Cohen, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G62, Rockville, MD 20852, (240) 669-5081, ecohen@niaid.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 21, 2021.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021-11206 Filed 5-26-21; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Early Phase Clinical Trial Units (EPCTU): Task Area D/Sample Task Order D (N01).

Date: June 25, 2021.

Time: 9:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G62A, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Eleazar Cohen, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G62A, Rockville, MD 20852, (240) 669-5081, ecohen@niaid.nih.gov.

Name of Committee: National Institute of Allergy and Infectious Diseases Special

Emphasis Panel; Early Phase Clinical Trial Units (EPCTU): Task Area E/Sample Task Order E (N01).

Date: June 28, 2021.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G62A, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Eleazar Cohen, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G62A, Rockville, MD 20852, (240) 669-5081, ecohen@niaid.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 21, 2021.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021-11212 Filed 5-26-21; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HOMELAND SECURITY

[Docket Number DHS-2021-0023]

Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Department of Homeland Security (DHS).

ACTION: 60-Day notice and request for comments; extension without change of a currently approved Collection, 1601-0014.

SUMMARY: The Department of Homeland Security, 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.

DATES: Comments are encouraged and will be accepted until July 26, 2021. This process is conducted in accordance with 5 CFR 1320.1

ADDRESSES: You may submit comments, identified by docket number Docket # DHS-2021-0023, 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 Docket # DHS-2021-0023. All comments received will be posted without change to <http://www.regulations.gov>.

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: Executive Order 12862 directs Federal agencies to provide service to the public that matches or exceeds the best service available in the private sector. In order to work continuously to ensure that our programs are effective and meet our customers' needs, Department of Homeland Security (hereafter "the Agency") seeks to obtain OMB approval of a generic clearance to collect qualitative feedback on our service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions but are not statistical surveys that yield quantitative results that can be generalized to the population of study.

This collection of information is necessary to enable the Agency to garner customer and stakeholder feedback in an efficient, timely manner, in accordance with our commitment to improving service delivery. The information collected from our customers and stakeholders will help ensure that users have an effective, efficient, and satisfying experience with the Agency's programs. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Improving agency programs requires ongoing assessment of service delivery, by which we mean systematic review of the operation of a program compared to a set of explicit or implicit standards, as a means of contributing to the continuous improvement of the program. The Agency will collect, analyze, and interpret information gathered through this generic clearance to identify strengths and weaknesses of current services and make improvements in service delivery based on feedback. The solicitation of feedback will target areas such as: Timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses

will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on the Agency's services will be unavailable.

The Agency will only submit a collection for approval under this generic clearance if it meets the following conditions:

- Information gathered will be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency (if released, procedures outlined in Question 16 will be followed);
- Information gathered will not be used for the purpose of substantially informing influential policy decisions;¹
- Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study;
- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are non-controversial and do not raise issues of concern to other Federal agencies;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future; and
- With the exception of information needed to provide remuneration for participants of focus groups and cognitive laboratory studies, personally identifiable information (PII) is collected only to the extent necessary and is not retained.

If these conditions are not met, the Agency will submit an information collection request to OMB for approval through the normal PRA process.

To obtain approval for a collection that meets the conditions of this generic clearance, a standardized form will be submitted to OMB along with supporting documentation (e.g., a copy of the comment card). The submission will have automatic approval, unless OMB identifies issues within 5 business days.

The types of collections that this generic clearance covers include, but are not limited to:

- Customer comment cards/complaint forms
- Small discussion groups
- Focus Groups of customers, potential customers, delivery partners, or other stakeholders
- Cognitive laboratory studies, such as those used to refine questions or assess usability of a website;
- Qualitative customer satisfaction surveys (e.g., post-transaction surveys; opt-out web surveys)
- In-person observation testing (e.g., website or software usability tests)

The Agency has established a manager/managing entity to serve for this generic clearance and will conduct an independent review of each information collection to ensure compliance with the terms of this clearance prior to submitting each collection to OMB.

If appropriate, agencies will collect information electronically and/or use online collaboration tools to reduce burden.

Small business or other small entities may be involved in these efforts, but the Agency will minimize the burden on them of information collections approved under this clearance by sampling, asking for readily available information, and using short, easy-to-complete information collection instruments.

Without these types of feedback, the Agency will not have timely information to adjust its services to meet customer needs.

If a confidentiality pledge is deemed useful and feasible, the Agency will only include a pledge of confidentiality that is supported by authority established in statute or regulation, that is supported by disclosure and data security policies that are consistent with the pledge, and that does not unnecessarily impede sharing of data with other agencies for compatible confidential use. If the agency includes a pledge of confidentiality, it will include a citation for the statute or regulation supporting the pledge.

There is no change in the information being collected. There is no change to the burden associated with this collection.

The Office of Management and Budget is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Analysis

Agency: Department of Homeland Security, (DHS).

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Number: 1600-0014.

Frequency: On Occasion.

Affected Public: Private Sector.

Number of Respondents: 184,902.

Estimated Time per Respondent: 1 Hour.

Total Burden Hours: 300,000.

Robert Dorr,

Executive Director, Business Management Directorate.

[FR Doc. 2021-10994 Filed 5-26-21; 8:45 am]

BILLING CODE 9112-FL-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R8-NWRS-2021-N011;
FXRS12610800000-212-FF08RSDC00]

Tijuana Estuary Tidal Restoration Program II, Phase I (TETRP II Phase I)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The U.S. Fish and Wildlife Service's Tijuana Slough National Wildlife Refuge, along with the California Department of Parks and Recreation's Border Field State Park, propose to act in partnership to prepare a joint draft environmental impact statement/environmental impact report to evaluate the impacts on the human environment related to restoring coastal wetlands within the Tijuana River National Estuarine Research Reserve at the southwestern corner of San Diego County, California. We are providing this notice to open a public scoping period and announce our intent to

¹ As defined in OMB and agency Information Quality Guidelines, "influential" means that "an agency can reasonably determine that dissemination of the information will have or does have a clear and substantial impact on important public policies or important private sector decisions."

conduct public scoping meetings in accordance with the requirements of the National Environmental Policy Act, and its implementing regulations.

DATES: To ensure consideration in our reviews, we are requesting submission of new information no later than July 12, 2021.

The draft environmental impact statement/environmental impact report is scheduled for release in October 2021. The final environmental impact statement is scheduled for completion by March 2022, with the record of decision expected to be issued in April 2022.

ADDRESSES: You may submit written comments and materials by one of the following methods:

- *U.S. Mail:* Brian Collins, USFWS, San Diego NWR Complex, 1080 Gunpowder Point Drive, Chula Vista, CA 91910.
- *Email:* fw8plancomments@fws.gov; please include "TETRP NOI" in the email subject line.

FOR FURTHER INFORMATION CONTACT:

Brian Collins, Refuge Manager, at brian_collins@fws.gov or 760-431-9440 extension 273. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The U.S. Fish and Wildlife Service's (Service) Tijuana Slough National Wildlife Refuge and the California Department of Parks and Recreation's Border Field State Park propose to prepare a draft environmental impact statement/environmental impact report to evaluate the effects of restoring 80 to 85 acres (ac) of coastal wetlands within the Tijuana Estuary, north of Monument Road and south of the existing tidal inlet, in southwestern San Diego County. We are requesting comments concerning the scope of the analysis and identification of relevant information and studies.

Purpose and Need for the Proposed Action

The purpose of the Tijuana Estuary Tidal Restoration Program II, Phase I (TETRP II Phase I) project is to restore native coastal habitats and functions to a portion of the southern arm of the Tijuana Estuary consistent with the recommendations presented in the Tijuana Estuary—Friendship Marsh Restoration Feasibility Study prepared in 2008. The need for the proposed action is to reverse ongoing degradation of coastal resources essential to the long-term survival of listed species, migratory birds, fish, and other aquatic

resources, while also increasing the estuary's tidal prism to improve water quality and maintain continuous tidal exchange through the tidal inlet.

Preliminary Proposed Action and Alternatives

Two action alternatives and the no action alternative will be evaluated in the draft environmental impact statement/environmental impact report. Both action alternatives would reconfigure a portion of the southern arm of the Tijuana Estuary to establish coastal wetlands supported by an extensive system of tidal channels intended to increase the estuary's tidal prism and enhance estuarine function within the system. The project site would be excavated to establish elevations with appropriate inundation frequencies to support specific coastal wetland habitat types. Suitable excavated material would be beneficially used to establish and/or reconfigure transitional areas located along the southern edge of the restoration area and/or the barrier dunes to the west, increasing resiliency to sea-level rise. Additionally, some of the excavated material may be suitable for nearshore disposal.

Alternative 1 (Maximum Tidal Prism) is currently identified as the proposed action. This alternative, which would restore approximately 85 ac of coastal habitat, would maximize deeper intertidal habitats, by expanding tidal channels and intertidal mudflat.

Alternative 2 (Reduced Impact Alternative), which would restore approximately 80 ac of coastal habitat, has been designed to preserve existing native plant communities, including high salt marsh and transition zone throughout the project site. The primary tidal connection to Alternative 2 is the existing South Beach Slough, which would be deepened to increase tidal flows into the proposed restoration site.

The primary differences between the two action alternatives include the amount of intertidal mudflat restored versus salt marsh habitat; the total acreage of restored versus preserved habitats; and the number of connections to existing tidal channels.

Under the No Action Alternative, restoration of the estuary would not be implemented. No sediment or vegetation would be removed and no establishment of habitat for the enhancement of biological and hydrological functions within the project site would occur.

Summary of Expected Impacts

Based on our initial evaluation of the proposed action and alternatives, the

following impacts would be expected: Conversion of existing upland habitat to coastal wetlands; replacement of high salt marsh habitat with low salt marsh habitat; short-term disturbance to listed and sensitive avian species; temporary increases in dust and other air pollutants during construction; changes to the area's existing fluvial hydrology; temporary impacts to water quality during excavation; temporary and permanent changes to existing public access; and temporary increases in construction traffic on the roadways within the Tijuana River Valley.

Anticipated Permits and Authorizations

The following permits and other authorizations are anticipated to be required:

- U.S. Army Corps of Engineers Clean Water Act (CWA) section 404 Nationwide Permit 27 and others, if appropriate;
- San Diego Regional Water Quality Control Board CWA section 401 water quality certification;
- California Coastal Commission consistency determination in compliance with section 930.34 *et seq.* of the National Oceanic and Atmospheric Administration (NOAA) federal consistency regulations for actions on Refuge lands and a coastal development permit for actions on Border Field State Park;
- Refuge special use permit to the California Department of Parks and Recreation for construction access and activities on Refuge lands;
- Consultation pursuant to section 7 of the Federal Endangered Species Act with the Service and National Marine Fisheries Service;
- Consultation with Tribes and the State Historic Preservation Officer pursuant to section 106 of the National Historic Preservation Act;
- Consultations with NOAA Fisheries for essential fish habitat under the Magnuson-Stevens Fishery Conservation and Management Act, and for marine mammals pursuant to the Marine Mammal Protection Act.

Schedule for the Decision-Making Process

Processing of the environmental impact statement from the public scoping stage to the signing of the record of decision, is expected to take approximately 1 year. Subsequent actions will involve the processing of all required permits needed to implement restoration, which is not expected to occur until additional funding is identified for project implementation.

Public Scoping Process

This notice of intent initiates the 45-day scoping process, which guides the development of the draft environmental impact statement/environmental impact report. The scoping process is designed to elicit comments from the public, public agencies, Tribal governments, and other interested parties on the scope of the draft environmental impact statement. All interested parties are encouraged to provide written comments and to participate in upcoming public scoping meetings. The details about upcoming public scoping meetings will be posted on the Tijuana Slough National Wildlife Refuge website at www.fws.gov/refuge/Tijuana_Slough/what_we_do/resource_management.html (click on "TETRP II Phase I"). Requests to be contacted about scheduled scoping opportunities should be submitted via any of the contact methods provided under **ADDRESSES** or **FOR FURTHER INFORMATION CONTACT**, above.

Request for Identification of Potential Alternatives, Information, and Analyses Relevant to the Proposed Action

The Service requests comments concerning the scope of the analysis and identification of relevant information and studies. All interested parties are invited to provide input related to the identification of potential alternatives, information, and analyses relevant to the Proposed Action in writing or during the public scoping meeting. All written comments should be submitted via any of the methods provided under **ADDRESSES**.

Lead and Cooperating Agencies

The Service is the lead agency for the environmental impact statement, and the U.S. Army Corps of Engineers will participate as a cooperating agency. The California Department of Parks and Recreation will serve as the lead State agency for those components of the project that are under the jurisdiction of the State of California.

Decision Maker

The Decision Maker is the Service's Regional Director for the Department of the Interior Region 8.

Nature of Decision To Be Made

The Regional Director, after considering the analysis and information provided in the final environmental impact statement, as well as the comments received throughout the review process, will select the alternative that best achieves the purpose and need for the intended

action. The decision, which will be documented in the record of decision, will also consider the consistency of the action with agency policies, regulations, and applicable laws, and the contribution the action will make towards achieving the purposes for which the Tijuana Slough National Wildlife Refuge was established, while also contributing to the mission and goals of the National Wildlife Refuge System.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

This document is published under the authority of the National Environmental Policy Act regulations pertaining to the publication of a notice of intent to issue an environmental impact statement (40 CFR 1501.9(d)).

Martha Maciel,

Acting Regional Director, Sacramento, California.

[FR Doc. 2021-11251 Filed 5-26-21; 8:45 am]

BILLING CODE 4333-15-P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX21LR000F60100; OMB Control Number 1028-0053]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Nonferrous Metals Surveys

AGENCY: U.S. Geological Survey (USGS), Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Geological Survey (USGS) are proposing to renew an Information Collection.

DATES: Interested persons are invited to submit comments on or before June 28, 2021.

ADDRESSES: Send your comments on this Information Collection Request

(ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at OIRA_Submission@omb.eop.gov; or via facsimile to (202) 395-5806. Please provide a copy of your comments to U.S. Geological Survey, Information Collections Officer, 12201 Sunrise Valley Drive, MS 159, Reston, VA 20192; or by email to gs-info_collections@usgs.gov. Please reference OMB Control Number 1028-0053 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Elizabeth S. Sangine by email at escottsangine@usgs.gov, or by telephone at 703-648-7720. You may also view the ICR at <https://www.reginfo.gov/public/do/PRAMain>.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity 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.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on October 29, 2020, 85 FR 68592. We did not receive any public comments in response to that notice.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comments addressing the following issues: (1) Is the collection necessary to the proper functions of the USGS; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the USGS enhance the quality, utility, and clarity of the information to be collected; and (5) how might the USGS minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. 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: Respondents to these forms supply the USGS with domestic production and consumption data for 22 ores, concentrates, and metals, some of which are considered strategic and critical to assist in determining National Defense Stockpile goals. These data and derived information will be published as chapters in Minerals Yearbooks, monthly Mineral Industry Surveys, annual Mineral Commodity Summaries, and special publications, for use by Government agencies, industry education programs, and the general public.

Title of Collection: Nonferrous Metals Surveys.

OMB Control Number: 1028–0053.

Form Number: Various, 27 forms.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Business or Other-For-Profit Institutions: U.S. nonfuel minerals producers and consumers of nonferrous metals and related materials.

Total Estimated Number of Annual Respondents: 1,488.

Total Estimated Number of Annual Responses: 4,934.

Estimated Completion Time per Response: For each form, we will include an average burden time ranging from 20 minutes to 90 minutes.

Total Estimated Number of Annual Burden Hours: 3,575.

Respondent's Obligation: Voluntary.

Frequency of Collection: Monthly, Quarterly, or Annually.

Total Estimated Annual Nonhour Burden Cost: There are no “nonhour cost” burdens associated with this IC.

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 authorities for this action are the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the National Materials and Minerals Policy, Research and Development Act of 1980 (30 U.S.C. 1601 *et seq.*), the National Mining and Minerals Policy Act of 1970 (30 U.S.C. 21(a)), the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 *et seq.*), and the Defense Production Act (50 U.S.C. 2061 *et seq.*).

Michael Magyar,

Associate Director, National Minerals Information Center, U.S. Geological Survey.

[FR Doc. 2021–11268 Filed 5–26–21; 8:45 am]

BILLING CODE 4338–11–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Power Inverters and Converters, Vehicles Containing the Same, and Components Thereof, DN 3548*; and the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov.

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at <https://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Arigna Technology Limited on May 21, 2021. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain power inverters and converters, vehicles containing the same, and components thereof. The complainant names as respondents: Volkswagen AG, Germany; Volkswagen Group of America, Inc. of Herndon, VA; Audi AG of Germany; Audi of America, LLC of Herndon, VA; Bentley Motors Limited of England; Bentley Motors, Inc. of Reston, VA;

Automobili Lamborghini America, LLC of Herndon, VA; Automobili Lamborghini S.p.A. of Italy; Porsche AG of Germany; Porsche Cars North America, Inc. of Atlanta, GA; Daimler AG of Germany; Mercedes-Benz USA, LLC of Sandy Springs, GA; Bayerische Motoren Werke AG of Germany; BMW of North America, LLC of Woodcliff, NJ; General Motors Company of Detroit, MI; and General Motors LLC of Detroit, MI. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon respondent alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

- (i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;
- (ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;
- (iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;
- (iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and
- (v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any

written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number ("Docket No. 3548") in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, Electronic Filing Procedures¹). Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, <https://edis.usitc.gov>.) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at EDIS3Help@usitc.gov.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract

personnel,² solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.³

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: May 24, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021-11254 Filed 5-26-21; 8:45 am]

BILLING CODE 7020-02-P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Submission for OMB Review, Comment Request, Proposed Collection: 2022–2024 IMLS Museums Empowered Notice of Funding Opportunity

AGENCY: Institute of Museum and Library Services, National Foundation for the Arts and the Humanities.

ACTION: Submission for OMB Review, comment request.

SUMMARY: The Institute of Museum and Library Services announces the following information collection has been submitted to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The purpose of this Notice is to solicit comments about this assessment process, instructions, and data collections.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before June 26, 2021.

OMB is particularly interested in comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the 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 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).

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this Notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection request by selecting "Institute of Museum and Library Services" under "Currently Under Review;" then check "Only Show ICR for Public Comment" checkbox. Once you have found this information collection request, select "Comment," and enter or upload your comment and information. Alternatively, please mail your written comments to Office of Information and Regulatory Affairs, Attn.: OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503, or call (202) 395-7316.

FOR FURTHER INFORMATION CONTACT:

Mark Isaksen, Supervisory Grants Management Specialist, Office of Museum Services, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW, Suite 4000, Washington, DC 20024-2135. Mr. Isaksen can be reached by telephone at 202-653-4667, or by email at misaksen@imls.gov. Office hours are from 8:30 a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays. Persons who are deaf or hard of hearing (TTY users) can contact IMLS via Federal Relay at 800-877-8339.

SUPPLEMENTARY INFORMATION: The Institute of Museum and Library Services (IMLS) is the primary source of federal support for the nation's libraries and museums. We advance, support, and empower America's museums, libraries, and related organizations through grant making, research, and

¹ Handbook for Electronic Filing Procedures: https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.

² All contract personnel will sign appropriate nondisclosure agreements.

³ Electronic Document Information System (EDIS): <https://edis.usitc.gov>.

policy development. To learn more, visit www.ims.gov.

Current Actions: This action is to renew the forms and instructions for the Notice of Funding Opportunities for the next three years. The 60-Day Notice was published in the **Federal Register** on January 8, 2021 (86 FR 1538). No comments were received.

Agency: Institute of Museum and Library Services.

Title of Collection: 2022–2024 IMLS Museums Empowered Notice of Funding Opportunity.

OMB Control Number: 3137–0107.

Agency Number: 3137.

Affected Public: Museums that meet the IMLS Museums for America institutional eligibility criteria.

Total Estimated Number of Annual Responses: 75.

Frequency of Response: Once per year.

Average Hours per Response: 40.

Total Estimated Number of Annual Burden Hours: 3,000.

Total Annual Cost Burden: \$88,920.00.

Total Annual Federal Costs: \$9,785.96.

Dated: May 24, 2021.

Kim Miller,

Senior Grants Management Specialist,
Institute of Museum and Library Services.

[FR Doc. 2021–11220 Filed 5–26–21; 8:45 am]

BILLING CODE 7036–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Submission for OMB Review, Comment Request, Proposed Collection: 2022–2024 IMLS National Leadership Grants for Museums and IMLS Museums for America Program Notices of Funding Opportunity

AGENCY: Institute of Museum and Library Services, National Foundation for the Arts and the Humanities.

ACTION: Submission for OMB review, comment request.

SUMMARY: The Institute of Museum and Library Services announces the following information collection has been submitted to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly

understood, and the impact of collection requirements on respondents can be properly assessed. The purpose of this Notice is to solicit comments about this assessment process, instructions, and data collections.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before June 26, 2021.

OMB is particular interested in comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the 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 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).

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this Notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection request by selecting “Institute of Museum and Library Services” under “Currently Under Review;” then check “Only Show ICR for Public Comment” checkbox. Once you have found this information collection request, select “Comment,” and enter or upload your comment and information. Alternatively, please mail your written comments to Office of Information and Regulatory Affairs, Attn.: OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503, or call (202) 395–7316.

FOR FURTHER INFORMATION CONTACT: Helen Wechsler, Supervisory Grants Management Specialist, Office of Museum Services, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW, Suite 4000, Washington, DC 20024–2135. Ms. Wechsler can be reached by telephone at 202–653–4779,

or by email at hwechsler@imls.gov. Office hours are from 8:30 a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays. Persons who are deaf or hard of hearing (TTY users) can contact IMLS via Federal Relay at 800–877–8339.

SUPPLEMENTARY INFORMATION: The Institute of Museum and Library Services (IMLS) is the primary source of federal support for the nation's libraries and museums. We advance, support, and empower America's museums, libraries, and related organizations through grant making, research, and policy development. To learn more, visit www.ims.gov.

Current Actions: This action is to renew the forms and instructions for the Notice of Funding Opportunities for the next three years. The 60-Day Notice was published in the **Federal Register** on January 8, 2021 (86 FR 1534). No comments were received.

Agency: Institute of Museum and Library Services.

Title of Collection: 2022–2024 IMLS National Leadership Grants for Museums and IMLS Museums for America Program Notices of Funding Opportunity.

OMB Control Number: 3137–0094.

Agency Number: 3137.

Affected Public: Museum organization applicants.

Total Estimated Number of Annual Responses: 455.

Frequency of Response: Once per year.

Average Hours per Response: 45.

Total Estimated Number of Annual Burden Hours: 20,475.

Total Annual Cost Burden: \$606,879.00.

Total Annual Federal Costs: \$59,295.48.

Dated: May 24, 2021.

Kim Miller,

Senior Grants Management Specialist,
Institute of Museum and Library Services.

[FR Doc. 2021–11221 Filed 5–26–21; 8:45 am]

BILLING CODE 7036–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Submission for OMB Review, Comment Request, Proposed Collection: 2022–2024 IMLS Museum Grants for African American History and Culture Program and IMLS Native American/Native Hawaiian Museum Services Program Notices of Funding Opportunity

AGENCY: Institute of Museum and Library Services, National Foundation for the Arts and the Humanities.

ACTION: Submission for OMB review, comment request.

SUMMARY: The Institute of Museum and Library Services announces the following information collection has been submitted to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The purpose of this Notice is to solicit comments about this assessment process, instructions, and data collections.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before June 26, 2021.

OMB is particularly interested in comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the 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 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).

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this Notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection request by selecting "Institute of Museum and Library Services" under "Currently Under Review;" then check "Only Show ICR for Public Comment" checkbox. Once you have found this information collection request, select "Comment," and enter or upload your comment and information. Alternatively, please mail your written comments to Office of Information and Regulatory Affairs, Attn.: OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503, or call (202) 395-7316.

FOR FURTHER INFORMATION CONTACT: For IMLS Museum Grants for African American History and Culture Program, contact Mark Isaksen, Supervisory Grants Management Specialist, Office of Museum Services, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW, Suite 4000, Washington, DC 20024–2135. Mr. Isaksen can be reached by telephone at 202–653–4667, or by email at misaksen@imls.gov. For IMLS Native American/Native Hawaiian Museum Services Program, contact Mark Feitl, Senior Program Officer, Office of Museum Services, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW, Suite 4000, Washington, DC 20024–2135. Mr. Feitl can be reached by telephone at 202–653–4635, or by email at mfeitl@imls.gov. Office hours are from 8:30 a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays. Persons who are deaf or hard of hearing (TTY users) can contact IMLS via Federal Relay at 800–877–8339.

SUPPLEMENTARY INFORMATION: The Institute of Museum and Library Services (IMLS) is the primary source of federal support for the nation's libraries and museums. We advance, support, and empower America's museums, libraries, and related organizations through grant making, research, and policy development. To learn more, visit www.imls.gov.

Current Actions: This action is to renew the forms and instructions for the Notice of Funding Opportunities for the next three years. The 60-Day Notice was published in the **Federal Register** on January 8, 2021 (86 FR 1541). No comments were received.

Agency: Institute of Museum and Library Services.

Title of Collection: 2022–2024 IMLS Museum Grants for African American History and Culture Program and IMLS Native American/Native Hawaiian Museum Services Program Notices of Funding Opportunity.

OMB Control Number: 3137–0095.

Agency Number: 3137.

Affected Public: Eligible museum organizations; Historically Black Colleges and Universities; Federally recognized Native American tribes; non-profits that primarily serve Native Hawaiians.

Total Estimated Number of Annual Responses: 95.

Frequency of Response: Annually.

Average Hours per Response: 35.

Total Estimated Number of Annual Burden Hours: 3,325.

Total Annual Cost Burden: \$98,553.

Total Annual Federal Costs: \$14,763.74.

Dated: May 24, 2021.

Kim Miller,

*Senior Grants Management Specialist,
Institute of Museum and Library Services.*

[FR Doc. 2021–11218 Filed 5–26–21; 8:45 am]

BILLING CODE 7036–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Submission for OMB Review, Comment Request, Proposed Collection: 2022–2024 IMLS Inspire! Grants for Small Museums Notice of Funding Opportunity

AGENCY: Institute of Museum and Library Services, National Foundation for the Arts and the Humanities.

ACTION: Submission for OMB review, comment request.

SUMMARY: The Institute of Museum and Library Services announces the following information collection has been submitted to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The purpose of this Notice is to solicit comments about this assessment process, instructions, and data collections.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before June 26, 2021.

OMB is particular interested in comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the 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 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).

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this Notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection request by selecting "Institute of Museum and Library Services" under "Currently Under Review;" then check "Only Show ICR for Public Comment" checkbox. Once you have found this information collection request, select "Comment," and enter or upload your comment and information. Alternatively, please mail your written comments to Office of Information and Regulatory Affairs, Attn.: OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503, or call (202) 395-7316.

FOR FURTHER INFORMATION CONTACT: Reagan Moore, Senior Program Officer, Office of Museum Services, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW, Suite 4000, Washington, DC 20024-2135. Ms. Moore can be reached by telephone at 202-653-4637, or by email at rmoore@imls.gov. Office hours are from 8:30 a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays. Persons who are deaf or hard of hearing (TTY users) can contact IMLS via Federal Relay at 800-877-8339.

SUPPLEMENTARY INFORMATION: The Institute of Museum and Library Services (IMLS) is the primary source of federal support for the nation's libraries and museums. We advance, support, and empower America's museums, libraries, and related organizations through grant making, research, and policy development. To learn more, visit www.imls.gov.

Current Actions: This action is to renew the forms and instructions for the Notice of Funding Opportunities for the next three years. The 60-Day Notice was published in the **Federal Register** on January 8, 2021 (86 FR 1537). One comment was received.

Agency: Institute of Museum and Library Services.

Title of Collection: 2022-2024 IMLS Inspire! Grants for Small Museums Notice of Funding Opportunity.

OMB Control Number: 3137-0111.

Agency Number: 3137.

Affected Public: Eligible museum organizations.

Total Estimated Number of Annual Responses: 230.

Frequency of Response: Once per year.

Average Hours per Response: 35.

Total Estimated Number of Annual Burden Hours: 8,050.

Total Annual Cost Burden: \$238,602.00.

Total Annual Federal Costs: \$29,501.71.

Dated: May 24, 2021.

Kim Miller,

Senior Grants Management Specialist,
Institute of Museum and Library Services.

[FR Doc. 2021-11219 Filed 5-26-21; 8:45 am]

BILLING CODE 7036-01-P

OFFICE OF PERSONNEL MANAGEMENT

Comment Request for Review of a Revised Information Collection: Organizational Surveys

AGENCY: Office of Personnel Management.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget (OMB) a request for review of a currently approved collection, Organizational Surveys. OPM is requesting approval of Organizational Assessment Surveys, Supplemental OPM Federal Employee Viewpoint Surveys, Exit Surveys, New Leaders Onboarding Assessments, New Employee Surveys, Training Needs

Assessment Surveys, and custom Program Evaluation surveys as a part of this collection. Approval of the organizational surveys is necessary to collect information on Federal agency and program performance, climate, engagement, and leadership effectiveness.

DATES: Comments are encouraged and will be accepted until June 28, 2021.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to oira_submission@omb.eop.gov or faxed to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to oira_submission@omb.eop.gov or faxed to (202) 395-6974.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995, (Pub. L. 104-13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104-106), OPM is soliciting comments for this collection. The information collection was previously published in the **Federal Register** on April 26, 2021 at 86 FRN 11803 allowing for a 60-day public comment period. No comments were received for this information collection (OMB No. 3206-0252). The purpose of this notice is to allow an additional 30-days for public comments.

Comments are particularly invited on:

1. Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Whether our estimate of the public burden of this collection is accurate, and based on valid assumptions and methodology; and

3. Ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of the appropriate technological collection techniques or other forms of information technology.

OPM's Human Resources Strategy and Evaluation Solutions performs assessment and related consultation activities for Federal agencies on a

reimbursable basis. The assessments are authorized by various statutes and regulations: Section 4702 of Title 5, U.S.C.; E.O. 12862; E.O. 13715; Section 1128 of the National Defense Authorization Act for Fiscal Year 2004, Public Law 108–136; 5 U.S.C. 1101 note, 1103(a)(5), 1104, 1302, 3301, 3302, 4702, 7701 note; E.O. 13197, 66 FR 7853, 3 CFR 748 (2002); E.O. 10577, 12 FR 1259, 3 CFR, 1954–1958 Comp., p. 218; and Section 4703 of Title 5, United States Code.

This collection request includes surveys we currently use and plan to use during the next three years to measure agency performance, climate, engagement, and leadership effectiveness. OMB No. 3206–0252 covers a broad range of surveys all focused on improving organizational performance. Non-Federal respondents will almost never receive more than one of these surveys. All of these surveys consist of Likert-type, mark-one, and mark-all-that-apply items, and may include a small number of open-ended comment items. Organizational Assessment Surveys (OAS) typically include a customized set of 50–150 standard items pulled from an item bank of nearly 500 items and a small set of 5–10 custom items developed to meet the agency’s specific needs. OPM’s Human Resources Strategy and Evaluation Solutions administers a supplemental OPM Federal Employee Viewpoint Survey (Supplemental OPM FEVS), a type of organizational assessment survey, to employee groups not covered by the official OPM FEVS administration. Exit Surveys consist of approximately 100 items that assess reasons why employees decided to leave their organization. Customization is possible. The New Leaders Onboarding Assessment (NLOA) is a combined assessment consisting of approximately 100 items, including items measuring organizational climate, employee engagement, and leadership. New Employee Surveys consist of approximately 100 items that assess satisfaction with the hiring, orientation, and socialization of new employees. Training Needs Assessment Surveys consist of approximately 100 items that assess an agency’s climate for training and employees’ training preferences. Program Evaluation surveys evaluate the effectiveness of government initiatives, programs, and offices. Program Evaluation surveys are always customized to assess specific program elements. Program Evaluation surveys may contain from 20 to 200 items, with an average of approximately 100 items. The surveys included under OMB No.

3206–0252 are almost always administered electronically.

Analysis

Agency: Human Resources Strategy and Evaluation Solutions, Office of Personnel Management.

Title: Organizational Surveys.

OMB: 3206–0252.

Frequency: On occasion.

Affected Public: Government contractors and individuals.

Number of Respondents: approximately 78,780.

Estimated Time per Respondent: 10.62 minutes.

Total Burden Hours: 13,944 hours.

Office of Personnel Management.

Alexys Stanley,

Director, Office of Privacy and Information Management.

[FR Doc. 2021–11177 Filed 5–26–21; 8:45 am]

BILLING CODE 6325–43–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91962; File No. SR–NYSEArca–2021–37]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To List and Trade Shares of the First Trust SkyBridge Bitcoin ETF Trust Under NYSE Arca Rule 8.201–E

May 21, 2021.

Pursuant to Section 19(b)(1) ¹ of the Securities Exchange Act of 1934 (the “Act”) ² and Rule 19b–4 thereunder, ³ notice is hereby given that, on May 6, 2021, NYSE Arca, Inc. (“NYSE Arca” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the following under NYSE Arca Rule 8.201–E: First Trust SkyBridge Bitcoin ETF Trust (the “Trust”). The proposed change is available on the Exchange’s website at www.nyse.com, at the principal office of

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b–4.

the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Under NYSE Arca Rule 8.201–E, the Exchange may propose to list and/or trade pursuant to unlisted trading privileges “Commodity-Based Trust Shares.” ⁴ The Exchange proposes to list and trade shares of the Trust (the “Shares”) pursuant to NYSE Arca Rule 8.201–E. ⁵

The sponsor of the Trust is First Trust Advisors L.P. (the “Sponsor” or “Advisor”). The sub-adviser for the trust is SkyBridge Capital II, LLC (the “Sub-Advisor”). The trustee for the Trust is Delaware Trust Company (the “Trustee”). The Bank of New York Mellon is the transfer agent of the Trust (in such capacity, the “Transfer Agent”) and the administrator of the Trust (in such capacity, the “Administrator”). The bitcoin custodian for the Trust is NYDIG Trust Company LLC (the “Bitcoin Custodian”).

The Trust is a Delaware statutory trust, organized on March 12, 2021, that operates pursuant to a trust agreement between the Advisor and the Trustee (the “Trust Agreement”). The Trust has no fixed termination date.

Background

As discussed in further detail below, ⁶ bitcoin is a digital asset based on the decentralized, open source protocol of

⁴ Commodity-Based Trust Shares are securities issued by a trust that represent investors’ discrete identifiable and undivided beneficial ownership interest in the commodities deposited into the Trust.

⁵ On March 19, 2021, the Trust filed a registration statement on Form S–1 under the Securities Act of 1933 (15 U.S.C. 77a) (the “Securities Act”) (File No. 333–254529) and amended such registration statement on May 6, 2021 (the “Registration Statement”).

⁶ See “The Bitcoin Industry and Market,” *infra*.

the peer-to-peer computer network launched in 2009 that governs the creation, movement, and ownership of bitcoin and hosts the public ledger, or “blockchain,” on which all bitcoin transactions are recorded (the “Bitcoin Network” or “Bitcoin”). The decentralized nature of the Bitcoin Network allows parties to transact directly with one another based on cryptographic proof instead of relying on a trusted third party. The protocol also lays out the rate of issuance of new bitcoin within the Bitcoin Network, a rate that is reduced by half approximately every four years with an eventual hard cap of 21 million. It is generally understood that the combination of these two features—a systemic hard cap of 21 million bitcoin and the ability to transact trustlessly with anyone connected to the Bitcoin Network—gives bitcoin its value.⁷

The first rule filing proposing to list an exchange-traded product to provide exposure to bitcoin in the U.S. was submitted by the Cboe BZX Exchange, Inc. on June 30, 2016.⁸ At that time, blockchain technology, and digital assets that utilized it, were relatively new to the broader public. The market cap of all bitcoin in existence at that time was approximately \$10 billion. No registered offering of digital asset securities or shares in an investment vehicle with exposure to bitcoin or any other cryptocurrency had yet been conducted, and the regulated infrastructure for conducting a digital asset securities offering had not begun to develop.⁹ Similarly, regulated U.S. bitcoin futures contracts did not exist. The Commodity Futures Trading Commission (the “CFTC”) had determined that bitcoin is a commodity,¹⁰ but had not engaged in

significant enforcement actions in the space. The New York Department of Financial Services (“NYDFS”) adopted its final BitLicense regulatory framework in 2015, but had only approved four entities to engage in activities relating to virtual currencies (whether through granting a BitLicense or a limited-purpose trust charter) as of June 30, 2016.¹¹ While the first over-the-counter bitcoin fund launched in 2013, public trading was limited and the fund had only \$60 million in assets.¹² There were very few, if any, traditional financial institutions engaged in the space, whether through investment or providing services to digital asset companies. In January 2018, the Staff of the Commission noted in a letter to the Investment Company Institute and SIFMA that it was not aware, at that time, of a single custodian providing fund custodial services for digital assets.¹³

As of the first quarter of 2021, the digital assets financial ecosystem, including bitcoin, has progressed significantly. The development of a regulated market for digital asset securities has significantly evolved, with market participants having conducted registered public offerings of both digital asset securities¹⁴ and shares in investment vehicles holding bitcoin futures.¹⁵ Additionally, licensed and regulated service providers have

emerged to provide fund custodial services for digital assets, among other services. For example, in December 2020, the Commission adopted a conditional no-action position permitting certain special purpose broker-dealers to custody digital asset securities under Rule 15c3–3 under the Exchange Act;¹⁶ in September 2020, the Staff of the Commission released a no-action letter permitting certain broker-dealers to operate a non-custodial Alternative Trading System (“ATS”) for digital asset securities, subject to specified conditions;¹⁷ in October 2019, the Staff of the Commission granted temporary relief from the clearing agency registration requirement to an entity seeking to establish a securities clearance and settlement system based on distributed ledger technology;¹⁸ and multiple transfer agents who provide services for digital asset securities have registered with the Commission.¹⁹

Beyond the Commission’s purview, the regulatory landscape has also changed significantly since 2016, and cryptocurrency markets have grown and evolved as well. The market for bitcoin is approximately 100 times larger, having recently reached a market cap of over \$1 trillion. As of February 27, 2021, bitcoin’s market cap is greater than companies such as Facebook, Inc., Berkshire Hathaway Inc., and JP Morgan Chase & Co. The number of verified users at Coinbase, the largest U.S.-based bitcoin exchange, has grown to over 56 million.²⁰ CFTC-regulated bitcoin futures (“Bitcoin Futures”) represented approximately \$28 billion in notional trading volume on the Chicago

‘commodity’ to include, among other things, ‘all services, rights, and interests in which contracts for future delivery are presently or in the future dealt in.’ 7 U.S.C. 1a(9). The definition of a ‘commodity’ is broad. See, e.g., *Board of Trade of City of Chicago v. SEC*, 677 F.2d 1137, 1142 (7th Cir. 1982). Bitcoin and other virtual currencies are encompassed in the definition and properly defined as commodities.”

¹¹ A list of virtual currency businesses that are entities regulated by the NYDFS is available on the NYDFS website. See https://www.dfs.ny.gov/apps_and_licensing/virtual_currency_businesses/regulated_entities.

¹² See Bitcoin Investment Trust Form S–1, dated May 27, 2016, available at: <https://www.sec.gov/Archives/edgar/data/1588489/000095012316017801/15884891.htm> (data as of March 31, 2016 according to publicly available filings).

¹³ See Letter from Dalia Blass, Director, Division of Investment Management, U.S. Securities and Exchange Commission to Paul Schott Stevens, President & CEO, Investment Company Institute and Timothy W. Cameron, Asset Management Group—Head, Securities Industry and Financial Markets Association (January 18, 2018), available at: <https://www.sec.gov/divisions/investment/noaction/2018/cryptocurrency-011818.htm>.

¹⁴ See Prospectus Supplement filed pursuant to Rule 424(b)(1) for INX Tokens (Registration No. 333–233363), available at: https://www.sec.gov/Archives/edgar/data/1725882/000121390020023202/ea125858-424b1_inxlimited.htm.

¹⁵ See Prospectus filed by Stone Ridge Trust VI on behalf of NYDIG Bitcoin Strategy Fund Registration, available at: <https://www.sec.gov/Archives/edgar/data/1764894/000119312519309942/d693146d497.htm>.

¹⁶ See Securities Exchange Act Release No. 90788, 86 FR 11627 (February 26, 2021) (File Number S7–25–20) (Custody of Digital Asset Securities by Special Purpose Broker-Dealers).

¹⁷ See Letter from Elizabeth Baird, Deputy Director, Division of Trading and Markets, U.S. Securities and Exchange Commission to Kris Dailey, Vice President, Risk Oversight & Operational Regulation, Financial Industry Regulatory Authority (September 25, 2020), available at: <https://www.sec.gov/divisions/marketreg/mr-noaction/2020/finra-ats-role-in-settlement-of-digital-asset-security-trades-09252020.pdf>.

¹⁸ See Letter from Jeffrey S. Mooney, Associate Director, Division of Trading and Markets, U.S. Securities and Exchange Commission to Charles G. Cascarilla & Daniel M. Burstein, Paxos Trust Company, LLC (October 28, 2019), available at: <https://www.sec.gov/divisions/marketreg/mr-noaction/2019/paxos-trust-company-102819-17a.pdf>.

¹⁹ See, e.g., Form TA–1/A filed by Tokensoft Transfer Agent LLC (CIK: 0001794142) on January 8, 2021, available at: https://www.sec.gov/Archives/edgar/data/1794142/000179414219000001/xslFTA1X01/primary_doc.xml.

²⁰ See, e.g., “Riding Bitcoin Surge, Coinbase Active Users Grew by 117% in Q1 2021; Revenue Tops \$1.8B” (April 6, 2021), available at: <https://www.coindesk.com/coinbase-q1-earnings-report-monthly-active-users>.

⁷ For additional information about bitcoin and the Bitcoin Network, see <https://bitcoin.org/en/getting-started>.

⁸ See Order Setting Aside Action by Delegated Authority and Disapproving a Proposed Rule Change, as Modified by Amendments No. 1 and 2, to List and Trade Shares of the Winklevoss Bitcoin Trust, Securities Exchange Act Release No. 83723 (July 26, 2018), 83 FR 37579 (August 1, 2018) (the “Winklevoss II Order”). This proposal was subsequently disapproved by the Commission. See *id.*

⁹ Digital assets that are securities under U.S. law are referred to throughout this proposal as “digital asset securities.” All other digital assets, including bitcoin, are referred to interchangeably as “cryptocurrencies” or “virtual currencies.” The term “digital assets” refers to all digital assets, including both digital asset securities and cryptocurrencies, together.

¹⁰ See “In the Matter of Coinflip, Inc.” (“Coinflip”) (CFTC Docket 15–29 (September 17, 2015)) (order instituting proceedings pursuant to Sections 6(c) and 6(d) of the CEA, making findings and imposing remedial sanctions), in which the CFTC stated: “Section 1a(9) of the CEA defines

Mercantile Exchange (the “CME”) in December 2020 compared to \$737 million, \$1.4 billion, and \$3.9 billion in total trading in December 2017, December 2018, and December 2019, respectively. Bitcoin Futures traded over \$1.2 billion per day in December 2020 and represented \$1.6 billion in open interest compared to \$115 million in December 2019.²¹ The CFTC has exercised its regulatory jurisdiction in bringing a number of enforcement actions related to bitcoin and against trading platforms that offer cryptocurrency trading.²² The U.S. Office of the Comptroller of the Currency (the “OCC”) has made clear that federally-chartered banks are able to provide custody services for cryptocurrencies and other digital assets.²³ The OCC recently granted conditional approval of two charter conversions by state-chartered trust companies to national banks, both of which provide cryptocurrency custody services.²⁴ NYDFS has granted no fewer than twenty-five BitLicenses, including to established public payment companies like PayPal Holdings, Inc. and Square, Inc., and limited purpose trust charters to entities providing cryptocurrency custody services. The U.S. Treasury Financial Crimes Enforcement Network (“FinCEN”) has released extensive guidance regarding the applicability of the Bank Secrecy Act (“BSA”) and implementing regulations to virtual currency businesses,²⁵ and has proposed rules

imposing requirements on entities subject to the BSA that are specific to the technological context of virtual currencies.²⁶ In addition, the Treasury’s Office of Foreign Assets Control (“OFAC”) has brought enforcement actions over apparent violations of the sanctions laws in connection with the provision of wallet management services for digital assets.²⁷

In addition to the regulatory developments laid out above, more traditional financial market participants appear to be embracing cryptocurrency: Large insurance companies,²⁸ investment banks,²⁹ asset managers,³⁰ credit card companies,³¹ university endowments,³² pension funds,³³ and

Certain Business Models Involving Convertible Virtual Currencies), available at: <https://www.fincen.gov/sites/default/files/2019-05/FinCEN%20Guidance%20CVC%20FINAL%20508.pdf>.

²⁶ See U.S. Department of the Treasury Press Release: “The Financial Crimes Enforcement Network Proposes Rule Aimed at Closing Anti-Money Laundering Regulatory Gaps for Certain Convertible Virtual Currency and Digital Asset Transactions” (December 18, 2020), available at: <https://home.treasury.gov/news/press-releases/sm1216>.

²⁷ See U.S. Department of the Treasury Enforcement Release: “OFAC Enters Into \$98,830 Settlement with BitGo, Inc. for Apparent Violations of Multiple Sanctions Programs Related to Digital Currency Transactions” (December 30, 2020), available at: https://home.treasury.gov/system/files/126/20201230_bitgo.pdf.

²⁸ On December 10, 2020, Massachusetts Mutual Life Insurance Company (MassMutual) announced that it had purchased \$100 million in bitcoin for its general investment account. See MassMutual Press Release “Institutional Bitcoin provider NYDIG announces minority stake purchase by MassMutual” (December 10, 2020), available at: <https://www.massmutual.com/about-us/news-and-press-releases/press-releases/2020/12/institutional-bitcoin-provider-nydig-announces-minority-stake-purchase-by-massmutual>.

²⁹ See, e.g., “Morgan Stanley to Offer Rich Clients Access to Bitcoin Funds” (March 17, 2021) available at: <https://www.bloomberg.com/news/articles/2021-03-17/morgan-stanley-to-offer-rich-clients-access-to-bitcoin-funds>.

³⁰ See, e.g., “BlackRock’s Rick Rieder says the world’s largest asset manager has ‘started to dabble’ in bitcoin” (February 17, 2021), available at: <https://www.cnbc.com/2021/02/17/blackrock-has-started-to-dabble-in-bitcoin-says-rick-rieder.html> and “Guggenheim’s Scott Minerd Says Bitcoin Should Be Worth \$400,000” (December 16, 2020), available at: <https://www.bloomberg.com/news/articles/2020-12-16/guggenheim-s-scott-minerd-says-bitcoin-should-be-worth-400-000>.

³¹ See, e.g., “Visa Moves to Allow Payment Settlements Using Cryptocurrency” (March 29, 2021), available at: <https://www.reuters.com/business/autos-transportation/exclusive-visa-moves-allow-payment-settlements-using-cryptocurrency-2021-03-29/>.

³² See, e.g., “Harvard and Yale Endowments Among Those Reportedly Buying Crypto” (January 25, 2021), available at: <https://www.bloomberg.com/news/articles/2021-01-26/harvard-and-yale-endowments-among-those-reportedly-buying-crypto>.

³³ See, e.g., “Virginia Police Department Reveals Why its Pension Fund is Betting on Bitcoin” (February 14, 2019), available at: <https://finance.yahoo.com/news/virginia-police-department-reveals-why-194558505.html>.

even historically bitcoin skeptical fund managers³⁴ are allocating to bitcoin. The largest over-the-counter bitcoin fund previously filed a Form 10 registration statement, which the Staff of the Commission reviewed and which took effect automatically, and is now a reporting company.³⁵ Established companies like Tesla, Inc.,³⁶ MicroStrategy Incorporated,³⁷ and Square, Inc.,³⁸ among others, have recently announced substantial investments in bitcoin in amounts as large as \$1.5 billion (Tesla) and \$425 million (MicroStrategy).

Despite these developments, access for U.S. retail investors to gain exposure to bitcoin via a transparent and regulated exchange-traded vehicle remains limited. As investors and advisors increasingly utilize exchange-traded product (“ETP”) to manage diversified portfolios (including equities, fixed income securities, commodities, and currencies) quickly, easily, relatively inexpensively, tax-efficiently, and without having to hold directly any of the underlying assets, options for bitcoin exposure for U.S. investors remain limited to: (i) Investing in over-the-counter bitcoin funds (“OTC Bitcoin Funds”) that are subject to high premium/discount volatility (and high management fees) to the advantage of more sophisticated investors that are able to purchase shares at net asset value (“NAV”) directly with the issuing trust; (ii) facing the technical risk, complexity, and generally high fees associated with buying and storing bitcoin directly; or (iii) purchasing shares of operating companies that they believe will provide proxy exposure to

³⁴ See, e.g., “Bridgewater: Our Thoughts on Bitcoin” (January 28, 2021) available at: <https://www.bridgewater.com/research-and-insights/our-thoughts-on-bitcoin> and “Paul Tudor Jones says he likes bitcoin even more now, rally still in the ‘first inning’” (October 22, 2020), available at: <https://www.cnbc.com/2020/10/22/paul-tudor-jones-says-he-likes-bitcoin-even-more-now-rally-still-in-the-first-inning.html>.

³⁵ See Letter from Division of Corporation Finance, Office of Real Estate & Construction to Barry E. Silbert, Chief Executive Officer, Grayscale Bitcoin Trust (January 31, 2020), available at: <https://www.sec.gov/Archives/edgar/data/1588489/000000000020000953/file1.pdf>.

³⁶ See Form 10-K submitted by Tesla, Inc. for the fiscal year ended December 31, 2020 at 23: https://www.sec.gov/ix?doc=/Archives/edgar/data/1318605/000156459021004599/tsla-10k_20201231.htm.

³⁷ See Form 10-Q submitted by MicroStrategy Incorporated for the quarterly period ended September 30, 2020 at 8: https://www.sec.gov/ix?doc=/Archives/edgar/data/1050446/000156459020047995/mstr-10q_20200930.htm.

³⁸ See Form 10-Q submitted by Square, Inc. for the quarterly period ended September 30, 2020 at 51: <https://www.sec.gov/ix?doc=/Archives/edgar/data/1512673/000151267320000012/sq-20200930.htm>.

²¹ All statistics and charts included in this proposal with respect to the CME are sourced from <https://www.cmegroup.com/trading/bitcoin-futures.html>. In addition, as further discussed below, the Sponsor believes the CME represents a regulated market of significant size for purposes of addressing the Commission’s concerns about potential manipulation of the bitcoin market.

²² The CFTC’s annual report for Fiscal Year 2020 (which ended on September 30, 2020) noted that the CFTC “continued to aggressively prosecute misconduct involving digital assets that fit within the CEA’s definition of commodity” and “brought a record setting seven cases involving digital assets.” See CFTC FY2020 Division of Enforcement Annual Report, available at: https://www.cftc.gov/media/5321/DOE_FY2020_AnnualReport_120120/download. Additionally, the CFTC filed on October 1, 2020, a civil enforcement action against the owner/operators of the BitMEX trading platform, which was one of the largest bitcoin derivative exchanges. See CFTC Release No. 8270–20 (October 1, 2020), available at: <https://www.cftc.gov/PressRoom/PressReleases/8270-20>.

²³ See OCC News Release 2021–2 (January 4, 2021), available at: <https://www.occ.gov/news-issuances/news-releases/2021/nr-occ-2021-2.html>.

²⁴ See OCC News Release 2021–6 (January 13, 2021), available at: <https://www.occ.gov/news-issuances/news-releases/2021/nr-occ-2021-6.html> and OCC News Release 2021–19 (February 5, 2021), available at: <https://www.occ.gov/news-issuances/news-releases/2021/nr-occ-2021-19.html>.

²⁵ See FinCEN Guidance FIN–2019–G001 (May 9, 2019) (Application of FinCEN’s Regulations to

bitcoin with limited disclosure about the associated risks. Meanwhile, investors in many other countries, including Canada, are able to use more traditional exchange listed and traded products to gain exposure to bitcoin, disadvantaging U.S. investors and leaving them with riskier, more expensive, and less regulated means of getting bitcoin exposure.³⁹

For example, the Purpose Bitcoin ETF, a retail physical bitcoin ETP recently launched in Canada, reportedly reached \$421.8 million in assets under management (“AUM”) in two days, and has achieved \$993 million in assets as of April 14, 2021, demonstrating the demand for a North American market listed bitcoin ETP. The Sponsor believes that the demand for the Purpose Bitcoin ETF is driven primarily by investors’ desire to have a regulated and accessible means of exposure to bitcoin. The Purpose Bitcoin ETF also offers a class of units that is U.S. dollar denominated, which could appeal to U.S. investors. Without an approved bitcoin ETP in the U.S. as a viable alternative, the Sponsor believes U.S. investors will seek to purchase these shares in order to get access to bitcoin exposure, leaving them without the protections of U.S. securities laws. Given the separate regulatory regime and the potential difficulties associated with any international litigation, such an arrangement would create more risk exposure for U.S. investors than they would otherwise have with a U.S. exchange listed ETP. With the addition of more bitcoin ETPs in non-U.S. jurisdictions expected to grow, the Sponsor anticipates that such risks will only continue to grow.

In addition, several funds registered under the Investment Company Act of 1940 (the “1940 Act”) have effective registration statements that contemplate bitcoin exposure through a variety of means, including through investments in bitcoin futures contracts⁴⁰ and

through OTC Bitcoin Funds.⁴¹ As of the date of this filing, it is anticipated that other 1940 Act funds will soon begin to pursue bitcoin through other means, including through put options on bitcoin futures contracts and investments in privately offered pooled investment vehicles that invest in bitcoin.⁴² In previous statements, the Staff of the Commission has acknowledged how such funds can satisfy their concerns regarding custody, valuation, and manipulation.⁴³ The funds that have already invested in bitcoin instruments have no reported issues regarding custody, valuation, or manipulation of the instruments held by these funds. While these funds do offer investors some means of exposure to bitcoin, the current offerings fall short of giving investors an accessible, regulated product that provides concentrated exposure to bitcoin.

OTC Bitcoin Funds and Investor Protection

Recently, U.S. investor exposure to bitcoin through OTC Bitcoin Funds has grown into the tens of billions of dollars. With that growth, so too has grown the potential risk to U.S. investors. As described below, premium and discount volatility, high fees, insufficient disclosures, and technical hurdles are exposing U.S. investors to risks that could potentially be eliminated through access to a bitcoin ETP. The Sponsor understands the Commission’s previous focus on potential manipulation of a bitcoin ETP in prior disapproval orders, but believes that such concerns have been sufficiently mitigated and may be outweighed by the growing and quantifiable investor protection concerns related to OTC Bitcoin Funds. Accordingly, the Sponsor believes that this proposal (and other comparable proposals) represents an opportunity for U.S. investors to gain exposure to bitcoin in a regulated and transparent exchange-traded vehicle that limits risks by: (i) Reducing premium and discount volatility; (ii) reducing management fees through meaningful competition; (iii) reducing risks associated with investing in operating companies that are

imperfect proxies for bitcoin exposure; and (iv) providing an alternative to custodial spot bitcoin.

OTC Bitcoin Funds and Premium/Discount Volatility

OTC Bitcoin Funds are generally designed to provide exposure to bitcoin in a manner similar to the Shares. However, unlike the Shares, OTC Bitcoin Funds are unable to freely offer creation and redemption in a way that incentivizes market participants to keep their shares trading in line with their NAV⁴⁴ and, as a result, shares of OTC Bitcoin Funds frequently trade at a price that is out of line with the value of their assets held. Historically, OTC Bitcoin Funds have traded at a significant premium to NAV.⁴⁵

Trading at a premium or a discount is not unique to OTC Bitcoin Funds and is not in itself problematic, but the size of such premiums/discounts and volatility thereof highlight the key differences in operations and market structure of OTC Bitcoin Funds as compared to ETPs. Combined with the significant increase in AUM for OTC Bitcoin Funds over the past year, the size and volatility of premiums and discounts for OTC Bitcoin Funds have given rise to significant and quantifiable investor protection issues, as further described below. In fact, the largest OTC Bitcoin Fund has grown to \$35.0 billion in AUM as of February 19, 2021⁴⁶ and has historically traded at a premium of between roughly five and forty percent,

⁴⁴ Because OTC Bitcoin Funds are not listed on an exchange, they are also not subject to the same transparency and regulatory oversight by a listing exchange as the Shares would be. In the case of the Trust, the existence of a surveillance-sharing agreement between the Exchange and the Bitcoin Futures market results in increased investor protections as compared to OTC Bitcoin Funds.

⁴⁵ The inability to trade in line with NAV may at some point result in OTC Bitcoin Funds trading at a discount to their NAV, which has occurred more recently with respect to one prominent OTC Bitcoin Fund. While that has not historically been the case, and it is not clear whether such discounts will continue, such a prolonged, significant discount scenario would give rise to nearly identical potential issues related to trading at a premium.

⁴⁶ Compare to an AUM of approximately \$2.6 billion on February 26, 2020, the date on which the Commission issued the most recent disapproval order for a bitcoin ETP. See Order Disapproving a Proposed Rule Change, as Modified by Amendment No. 1, to Amend NYSE Arca Rule 8.201-E (Commodity-Based Trust Shares) and to List and Trade Shares of the United States Bitcoin and Treasury Investment Trust Under NYSE Arca Rule 8.201-E, Securities Exchange Act Release No. 88284 (February 26, 2020), 85 FR 12595 (March 3, 2020) (SR-NYSEArca-2019-39) (the “Wilshire Phoenix Order”). While the price of one bitcoin has increased approximately 400% in the intervening period, the total AUM has increased by approximately 1240%, indicating that the increase in AUM is attributable to more than just price appreciation in bitcoin.

³⁹ Securities regulators in a number of other countries have either approved or otherwise allowed the listing and trading of bitcoin ETPs. Specifically, these funds (with their respective approximate AUMs as of April 14, 2021) include the Purpose Bitcoin ETF (\$993,000,000), VanEck Vectors Bitcoin ETN (\$209,000,000), WisdomTree Bitcoin ETP (\$407,000,000), Bitcoin Tracker One (\$1,380,000,000), BTCetf bitcoin ETP (\$1,410,000,000), 21Shares Bitcoin ETP (\$362,000,000), 21Shares Bitcoin Suisse ETP (\$30,000,000), CoinShares Physical Bitcoin ETP (\$396,000,000).

⁴⁰ See, e.g., Stone Ridge Trust VI (File No. 333-234055); BlackRock Global Allocation Fund, Inc. (File No. 33-22462); and BlackRock Funds V (File No. 333-224371).

⁴¹ See, e.g., Amplify Transformational Data Sharing ETF (File No. 333-207937); and ARK Innovation ETF (File No. 333-191019).

⁴² See Stone Ridge Trust, Post-Effective Amendment No. 74 to Registration Statement on Form N-1A (File No. 333-184477), available at: <https://www.sec.gov/Archives/edgar/data/1559992/000119312521072856/d129263d485apos.htm>.

⁴³ See Dalia Blass, “Keynote Address—2019 ICI Securities Law Developments Conference” (December 3, 2019), available at: <https://www.sec.gov/news/speech/blass-keynote-address-2019-ici-securities-law-developments-conference>.

though it has seen premiums at times above one hundred percent.⁴⁷ Recently, however, it has traded at a discount. As of March 24, 2021, the discount was approximately 14%,⁴⁸ representing around \$4.9 billion less in market value than the bitcoin actually held by the fund. If premium/discount numbers move back to the middle of its historical range to a 20% premium (which historically could occur at any time and overnight), it would represent a swing of approximately \$11.9 billion in value unrelated to the value of bitcoin held by the fund and if the premium returns to the upper end of its typical range, that number increases to \$18.9 billion. These numbers are only associated with a single OTC Bitcoin Fund—as more and more OTC Bitcoin Funds come to market and more investor assets flood into them to get access to bitcoin exposure, the potential dollars at risk will only increase.

The risks associated with volatile premiums/discounts for OTC Bitcoin Funds raise significant investor protection issues in several ways. First, investors may be buying shares of a fund for a price that is not reflective of the per share value of the fund's underlying assets. Even operating within the normal premium range, it is possible for an investor to buy shares of an OTC Bitcoin Fund only to have those shares quickly lose 10% or more in dollar value without any movement of the price of bitcoin. That is to say—the price of bitcoin could have stayed exactly the same from market close on one day to market open the next, yet the value of the shares held by the investor decreased only because of the fluctuation of the premium/discount. As more investment vehicles, including mutual funds and ETFs, seek to gain exposure to bitcoin, the easiest option for a buy and hold strategy is often an OTC Bitcoin Fund, meaning that even investors that do not directly buy OTC Bitcoin Funds can be disadvantaged by extreme premiums (or discounts) and premium volatility.

The second issue is related to the first and explains how the premium in OTC Bitcoin Funds essentially creates a transfer of value from retail investors to more sophisticated investors. Generally speaking, only accredited investors are able to purchase shares from the issuing

fund, which means that they are able to purchase shares directly with the fund at NAV (in exchange for either cash or bitcoin) without having to pay the premium or sell into the discount. While there are often minimum holding periods for shares required by law, an investor that is allowed to purchase directly from the fund is able to hedge their bitcoin exposure as needed to satisfy the holding requirements and collect on the premium or discount opportunity.

As noted above, the existence of a premium or discount and the premium/discount collection opportunity is not unique to OTC Bitcoin Funds and does not in itself warrant the approval of an exchange traded product.⁴⁹ What makes this situation unique is that such significant and persistent premiums and discounts can exist in a product with over \$35 billion in assets under management,⁵⁰ that billions of retail investor dollars are constantly under threat of premium/discount volatility,⁵¹ and that premium/discount volatility is generally captured by more sophisticated investors on a riskless basis. While the Sponsor appreciates the Commission's focus on potential manipulation of a bitcoin ETP in prior disapproval orders and believes those concerns are adequately addressed in this filing, the Sponsor submits that current circumstances warrant that the Commission also consider the direct, quantifiable investor protection issue in determining whether to approve this proposal, particularly when the Trust, as a bitcoin ETP, is designed to reduce the likelihood of significant and prolonged premiums and discounts with its open-ended nature as well as the ability of market participants (*i.e.*, market makers and authorized participants) to create and redeem on a daily basis. Furthermore, the risk of manipulation of a bitcoin ETP is also

present in and potentially magnified by OTC Bitcoin Funds.

Spot and Proxy Exposure

Exposure to bitcoin through an ETP also presents certain advantages for retail investors compared to buying spot bitcoin directly. The most notable advantage is the use of the Bitcoin Custodian to custody the Trust's bitcoin assets. The Sponsor has carefully selected the Bitcoin Custodian, a third-party custodian that carries insurance covering both hot and cold storage and is chartered as a limited purpose trust company under the New York Banking Law,⁵² due to its manner of holding the Trust's bitcoin. Among other things, the Bitcoin Custodian will use “cold” (offline) storage to hold private keys and meet a certain degree of cybersecurity measures and operational best practices.⁵³ By contrast, an individual retail investor holding bitcoin through a cryptocurrency exchange lacks these protections. Typically, retail exchanges hold most, if not all, retail investors' bitcoin in “hot” (internet-connected) storage and do not make any commitments to indemnify retail investors or to observe any particular cybersecurity standard. Meanwhile, a retail investor holding spot bitcoin directly in a self-hosted wallet may suffer from inexperience in private key management (*e.g.*, insufficient password protection, lost key, etc.), which could cause them to lose some or all of their bitcoin holdings. In the Bitcoin Custodian, the Trust has engaged a regulated and licensed entity highly experienced in bitcoin custody, with dedicated, trained employees and procedures to manage the private keys to the Trust's bitcoin, and which is

⁵² New York state trust companies are subject to rigorous oversight similar to other types of entities, such as nationally chartered banking entities, that hold customer assets. Like national banks, they must obtain specific approval of their primary regulator for the exercise of their fiduciary powers. Moreover, limited purpose trust companies engaged in the custody of digital assets are subject to even more stringent requirements than national banks which, following initial approval of trust powers, generally can exercise those powers broadly without further approval of the OCC. In contrast, NYDFS requires in their approval orders that limited purpose trust companies obtain separate approval for all material changes in business.

⁵³ In addition to enforcing specific regulatory reporting requirements, NYDFS consistently exercises its broad authority to examine trust companies for compliance with law, risk management and general safety and soundness considerations, including to assess items such as the internal controls, client records and segregation of assets topics that are typically important to the ability of an entity to act as a qualified custodian. In this regard, the Bitcoin Custodian is subject to annual examination, with specific attention to its internal controls and risk management systems.

⁴⁷ See “Traders Piling Into Overvalued Crypto Funds Risk a Painful Exit” (February 4, 2021), available at: <https://www.bloomberg.com/news/articles/2021-02-04/bitcoin-one-big-risk-when-investing-in-crypto-funds>.

⁴⁸ This discount is compared to another OTC Bitcoin Product which had a premium of over 60% on the same day, with a premium of over 200% a few days earlier.

⁴⁹ For example, similar premiums/discounts and premium/discount volatility exist for other non-bitcoin cryptocurrency related over-the-counter funds, but the size and investor interest in those funds does not give rise to the same investor protection concerns that exist for OTC Bitcoin Funds.

⁵⁰ At \$35 billion in AUM, the largest OTC Bitcoin Fund would be among the top 40 largest out of roughly 2,400 U.S. listed ETPs.

⁵¹ In two recent incidents, the premium dropped from 28.28% to 12.29% from the close on 3/19/20 to the close on 3/20/20 and from 38.40% to 21.05% from the close on 5/13/19 to the close on 5/14/19. Similarly, over the period of 12/21/20 to 1/21/21, the premium went from 40.18% to 2.79%. While the price of bitcoin appreciated significantly during this period and NAV per share increased by 41.25%, the price per share increased by only 3.58%.

accountable for failures.⁵⁴ In addition, retail investors will be able to hold the Shares in traditional brokerage accounts which provide SIPC protection if a brokerage firm fails. Thus, with respect to custody of the Trust's bitcoin assets, the Trust presents advantages from an investment protection standpoint for retail investors compared to owning spot bitcoin directly.

Finally, as described in the Background section above, a number of operating companies engaged in unrelated businesses—such as Tesla (a car manufacturer) and MicroStrategy (an enterprise software company)—have recently announced investments as large as \$1.5 billion in bitcoin.⁵⁵ Without access to bitcoin exchange-traded products, retail investors seeking investment exposure to bitcoin may end up purchasing shares in these

companies in order to gain the exposure to bitcoin that they seek.⁵⁶ In fact, mainstream financial news networks have written a number of articles providing investors with guidance for obtaining bitcoin exposure through publicly traded companies (such as MicroStrategy, Tesla, and bitcoin mining companies, among others) instead of dealing with the complications associated with buying spot bitcoin in the absence of a bitcoin ETP.⁵⁷ Such operating companies, however, are imperfect bitcoin proxies and provide investors with partial bitcoin exposure paired with a host of additional risks associated with whichever operating company they decide to purchase. Additionally, the disclosures provided by the aforementioned operating companies with respect to risks relating to their bitcoin holdings are generally substantially smaller than the registration statement of a bitcoin ETP, including the Registration Statement, typically amounting to a few sentences of narrative description and a handful of risk factors.⁵⁸ In other words, investors

seeking bitcoin exposure through publicly traded companies are gaining only partial exposure to bitcoin, without the full benefit of the risk disclosures and associated investor protections that come from the securities registration process.

Bitcoin Futures

CME began offering trading in Bitcoin Futures in 2017. Each contract represents five bitcoin and is based on the CME CF Bitcoin Reference Rate (the “CME CF BRR”).⁵⁹ The contracts trade and settle like other cash-settled commodity futures contracts. Nearly every measurable metric related to Bitcoin Futures has trended consistently up since launch and/or accelerated upward in the past year. For example, there was approximately \$28 billion in trading in Bitcoin Futures in December 2020 compared to \$737 million, \$1.4 billion, and \$3.9 billion in total trading in December 2017, December 2018, and December 2019, respectively. Bitcoin Futures traded over \$1.2 billion per day on the CME in December 2020 and represented \$1.6 billion in open interest compared to \$115 million in December 2019. This general upward trend in trading volume and open interest is captured in the following chart.

tokens in an effort to affect the price of the company's publicly traded common stock. See https://www.sec.gov/oiea/investor-alerts-and-bulletins/ia_icorelatedclaims

⁵⁷ See, e.g., “7 public companies with exposure to bitcoin” (February 8, 2021) available at: <https://finance.yahoo.com/news/7-public-companies-with-exposure-to-bitcoin-154201525.html>; and “Want to get in the crypto trade without holding bitcoin yourself? Here are some investing ideas” (February 19, 2021) available at: <https://www.cnn.com/2021/02/19/ways-to-invest-in-bitcoin-without-holding-the-cryptocurrency-yourself.html>.

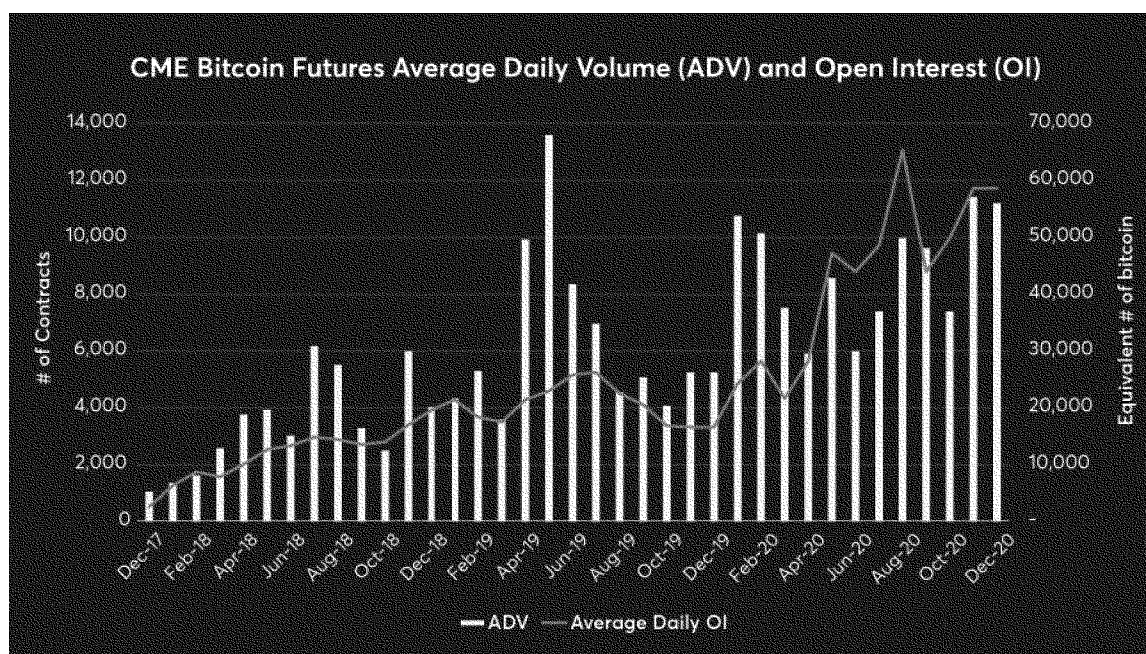
⁵² New York state trust companies are subject to rigorous oversight similar to other types of entities, such as nationally chartered banking entities, that hold customer assets. Like national banks, they must obtain specific approval of their primary regulator for the exercise of their fiduciary powers. Moreover, limited purpose trust companies engaged in the custody of digital assets are subject to even more stringent requirements than national banks which, following initial approval of trust powers, generally can exercise those powers broadly without further approval of the OCC. In contrast, NYDFS requires in their approval orders that limited purpose trust companies obtain separate approval for all material changes in business.

⁵³ In addition to enforcing specific regulatory reporting requirements, NYDFS consistently exercises its broad authority to examine trust companies for compliance with law, risk management and general safety and soundness considerations, including to assess items such as the internal controls, client records and segregation of assets topics that are typically important to the ability of an entity to act as a qualified custodian. In this regard, the Bitcoin Custodian is subject to annual examination, with specific attention to its internal controls and risk management systems.

⁵⁴ The Sponsor notes that the Sub-Advisor of the Trust advises a 1940 Act-registered fund that invests substantially in a private bitcoin fund to which NYDIG Trust Company LLC serves as bitcoin custodian. Pursuant to that investment, the Sub-Advisor has previously conducted substantial due diligence on the capabilities of the Bitcoin Custodian. See SkyBridge Multi-Adviser Hedge Fund Portfolios LLC (File No. 333-232584).

⁵⁵ See notes 35–37 [sic], *supra*. MicroStrategy recently completed a \$900 million convertible note offering for the purpose of acquiring bitcoin. See https://www.microstrategy.com/en/investor-relations/press/microstrategy-announces-pricing-of-offering-of-convertible-senior-notes_02-17-2021.

⁵⁶ In August 2017, the Commission's Office of Investor Education and Advocacy warned investors about situations where companies were publicly announcing events relating to digital coins or



Similarly, the number of large open interest holders⁶⁰ has continued to increase even as the price of bitcoin has risen, as have the number of unique accounts trading Bitcoin Futures.

Operation of the Trust

According to the Registration Statement, the Trust will hold only bitcoins and is expected from time to time to issue Creation Units (as defined below) in exchange for deposits of bitcoins and to distribute bitcoins in connection with redemptions of Creation Units. The Shares represent units of fractional undivided beneficial interest in, and ownership of, the Trust.

The activities of the Trust will be limited to (1) issuing Creation Units in exchange for bitcoins deposited by the Authorized Participants (as defined below) with the Bitcoin Custodian as consideration, (2) transferring actual bitcoins as necessary to cover the Advisor's investment management fee and selling bitcoins as necessary to pay Trust expenses, (3) transferring actual bitcoins in exchange for Creation Units surrendered for redemption by the Authorized Participants, (4) causing the Advisor to sell bitcoins on the termination of the Trust, and (5) engaging in all administrative and custodial procedures necessary to accomplish such activities in accordance with the provisions of the Trust Agreement.

The Trust will not be actively managed. It will not engage in any activities designed to obtain a profit from, or to ameliorate losses caused by, changes in the market prices of bitcoins.

Investment Objective

According to the Registration Statement, the investment objective of the Trust is for the Shares to reflect the performance of the value of bitcoin less the Trust's liabilities and expenses. The Trust will not seek to reflect the performance of any benchmark or index. In order to pursue its investment objective, the Trust will seek to purchase and sell such number of bitcoin so that the total value of the bitcoin held by the Trust is as close to 100% of the net assets of the Trust, as is reasonably practicable to achieve.

The Bitcoin Industry and Market Bitcoin

Bitcoin is the digital asset that is native to, and created and transmitted through the operations of, the peer-to-peer Bitcoin Network, a decentralized network of computers that operates on cryptographic protocols. No single entity owns or operates the Bitcoin Network, the infrastructure of which is collectively maintained by a decentralized user base. The Bitcoin Network allows people to exchange tokens of value, called bitcoin, which are recorded on a public transaction ledger known as the Blockchain. Bitcoin can be used to pay for goods and services, or it can be converted to fiat currencies, such as the U.S. dollar, at rates determined on bitcoin trading

platforms or in individual end-user-to-end-user transactions under a barter system. Although nascent in use, bitcoin may be used as a medium of exchange, unit of account or store of value.

The Bitcoin Network is decentralized and does not require governmental authorities or financial institution intermediaries to create, transmit, or determine the value of bitcoin. In addition, no party may easily censor transactions on the Bitcoin Network. As a result, the Bitcoin Network is often referred to as decentralized and censorship resistant.

The value of bitcoin is determined by the supply of and demand for bitcoin. New bitcoin are created and rewarded to the parties providing the Bitcoin Network's infrastructure ("miners") in exchange for their expending computational power to verify transactions and add them to the Blockchain. The Blockchain is effectively a decentralized database that includes all blocks that have been solved by miners, and it is updated to include new blocks as they are solved. Each bitcoin transaction is broadcast to the Bitcoin Network and, when included in a block, recorded in the Blockchain. As each new block records outstanding bitcoin transactions, and outstanding transactions are settled and validated through such recording, the Blockchain represents a complete, transparent, and unbroken history of all transactions of the Bitcoin Network.

Bitcoin Network

The first step in directly using the Bitcoin Network for transactions is to

⁵⁸ See, e.g., Tesla 10-K for the year ended December 31, 2020, which mentions bitcoin just nine times: https://www.sec.gov/ix?doc=/Archives/edgar/data/1318605/000156459021004599/tsla-10k_20201231.htm.

download specialized software referred to as a “bitcoin wallet.” A user’s bitcoin wallet can run on a computer or smartphone and can be used both to send and to receive bitcoin. Within a bitcoin wallet, a user can generate one or more unique “bitcoin addresses,” which are conceptually similar to bank account numbers. After establishing a bitcoin address, a user can send or receive bitcoin from his or her bitcoin address to another user’s address. Sending bitcoin from one bitcoin address to another is similar in concept to sending a bank wire from one person’s bank account to another person’s bank account, provided, however, that such transactions are not managed by an intermediary and erroneous transactions generally may not be reversed or remedied once sent.

The amount of bitcoin associated with each bitcoin address, as well as each bitcoin transaction to or from such address, is transparently reflected in the Blockchain and can be viewed by websites that operate as “blockchain explorers.” Copies of the Blockchain exist on thousands of computers on the Bitcoin Network. A user’s bitcoin wallet will either contain a copy of the blockchain or be able to connect with another computer that holds a copy of the blockchain. The innovative design of the Bitcoin Network protocol allows each Bitcoin user to trust that their copy of the Blockchain will generally be updated consistent with each other user’s copy.

When a Bitcoin user wishes to transfer bitcoin to another user, the sender must first have the recipient’s Bitcoin address. The sender then uses his or her Bitcoin wallet software to create a proposed transaction to be added to the Blockchain. The proposal would reduce the amount of bitcoin allocated to the sender’s address and increase the amount allocated recipient’s address, in each case by the amount of bitcoin desired to be transferred. The proposal is completely digital in nature, similar to a file on a computer, and it can be sent to other computers participating in the Bitcoin Network; however, the use of “unspent transaction outputs” that are verified cryptographically prevents the ability to duplicate or counterfeit bitcoin.

Bitcoin Transactions

A bitcoin transaction contains the sender’s bitcoin address, the recipient’s bitcoin address, the amount of bitcoin to be sent, a transaction fee, and the sender’s digital signature. Bitcoin transactions are secured by cryptography known as public-private key cryptography, represented by the

bitcoin addresses and digital signature in a transaction’s data file. Each Bitcoin Network address, or wallet, is associated with a unique “public key” and “private key” pair, both of which are lengthy alphanumeric codes, derived together and possessing a unique relationship.

The public key is visible to the public and analogous to the Bitcoin Network address. The private key is a secret and may be used to digitally sign a transaction in a way that proves the transaction has been signed by the holder of the public-private key pair, without having to reveal the private key. A user’s private key must be kept in accordance with appropriate controls and procedures to ensure it is used only for legitimate and intended transactions. If an unauthorized third person learns of a user’s private key, that third person could forge the user’s digital signature and send the user’s bitcoin to any arbitrary bitcoin address, thereby stealing the user’s bitcoin. Similarly, if a user loses his private key and cannot restore such access (*e.g.*, through a backup), the user may permanently lose access to the bitcoin contained in the associated address.

The Bitcoin Network incorporates a system to prevent double-spending of a single bitcoin. To prevent the possibility of double-spending a single bitcoin, each validated transaction is recorded, time stamped and publicly displayed in a “block” in the Blockchain, which is publicly available. Thus, the Bitcoin Network provides confirmation against double-spending by memorializing every transaction in the Blockchain, which is publicly accessible and downloaded in part or in whole by all users of the Bitcoin Network software program. Any user may validate, through their Bitcoin wallet or a blockchain explorer, that each transaction in the Bitcoin Network was authorized by the holder of the applicable private key, and Bitcoin Network mining software consistent with reference software requirements typically validates each such transaction before including it in the Blockchain. This cryptographic security ensures that bitcoin transactions may not generally be counterfeited, although it does not protect against the “real world” theft or coercion of use of a Bitcoin user’s private key, including the hacking of a Bitcoin user’s computer or a service provider’s systems.

A Bitcoin transaction between two parties is settled when recorded in a block added to the Blockchain. Validation of a block is achieved by confirming the cryptographic hash value included in the block’s solution and by the block’s addition to the longest

confirmed Blockchain on the Bitcoin Network. For a transaction, inclusion in a block on the Blockchain constitutes a “confirmation” of a Bitcoin transaction. As each block contains a reference to the immediately preceding block, additional blocks appended to and incorporated into the Blockchain constitute additional confirmations of the transactions in such prior blocks, and a transaction included in a block for the first time is confirmed once against double-spending. The layered confirmation process makes changing historical blocks (and reversing transactions) exponentially more difficult the further back one goes in the Blockchain.

To undo past transactions in a block recorded on the Blockchain, a malicious actor would have to exert tremendous computer power in re-solving each block in the Blockchain starting with and after the target block and broadcasting all such blocks to the Bitcoin Network. The Bitcoin Network is generally programmed to consider the longest Blockchain containing solved and valid blocks to be the most accurate Blockchain. In order to undo multiple layers of confirmation and alter the Blockchain, a malicious actor must resolve all of the old blocks sought to be regenerated and be able to continuously add new blocks to the Blockchain at a speed that would have to outpace that of all of the other miners on the Bitcoin Network, who would be continuously solving for and adding new blocks to the Blockchain.

Custody of the Trust’s Bitcoins

According to the Registration Statement, all bitcoins exist and are stored on the Blockchain, the decentralized transaction ledger of the Bitcoin Network. The Blockchain records most transactions (including mining of new bitcoins) for all bitcoins in existence, and in doing so verifies the location of each bitcoin (or fraction thereof) in a particular digital wallet. The Trust’s Bitcoin Account⁶¹ will be maintained by the Bitcoin Custodian, and cold storage mechanisms are used for the Vault Account by the Bitcoin Custodian. Each digital wallet of the Trust may be accessed using its corresponding private key. The Bitcoin Custodian’s custodial operations will

⁶¹ According to the Registration Statement, the “Bitcoin Account” is defined as the Vault Account and Wallet Account and any associated subaccounts of either. The “Vault Account” is defined as one or more cold storage accounts in the name of the Advisor and of the Trust held for the safekeeping of the Trust’s bitcoins. The “Wallet Account” is defined as one or more wallets in the name of the Advisor and of the Trust held for deposit and withdrawal of bitcoins.

maintain custody of the private keys that have been deposited in cold storage at its various vaulting premises. The locations of the vaulting premises may change regularly and will be kept confidential by the Bitcoin Custodian for security purposes.

The term “cold storage” refers to a safeguarding method by which the private keys corresponding to bitcoins stored on a digital wallet are removed from any computers actively connected to the internet. Cold storage of private keys may involve keeping such wallet on a non-networked computer or electronic device or storing the public key and private keys relating to the digital wallet on a storage device (for example, a USB thumb drive) or printed medium (for example, papyrus or paper) and deleting the digital wallet from all computers. A digital wallet may receive deposits of bitcoins but may not send bitcoins without use of the bitcoins’ corresponding private keys. In order to send bitcoin from a digital wallet in which the private keys are kept in cold storage, either the private keys must be retrieved from cold storage and entered them into a bitcoin software program to sign the transaction, or the unsigned transaction must be sent to the “cold” server in which the private keys are held for signature by the private keys. At that point, the user of the digital wallet can transfer its bitcoins.

The Trust’s Bitcoin Custodian will custody of all of the Trust’s bitcoin. Custody of bitcoin typically involves the generation, storage, and utilization of private keys. These private keys are used to effect transfer transactions, *i.e.*, transfers of bitcoin from an address associated with the private key to another address. While private keys must be used to send bitcoin, private keys do not need to be used or shared in order to receive a bitcoin transfer; every private key has an associated public key, and an address derived from that public key that can be freely shared, to which counterparties can transfer bitcoin. The Bitcoin Network has a public ledger, meaning that anybody with access to the address can see the balance of digital assets in that address.

The Bitcoin Custodian will carefully consider the design of the physical, operational, and cryptographic systems for secure storage of the Trust’s private keys in an effort to lower the risk of loss or theft.

The Bitcoin Custodian will use a multi-factor security system under which actions by multiple individuals working together are required to access the private keys necessary to transfer such digital assets and ensure the Trust’s exclusive ownership. The

multifactor security system generates private keys using a FIPS 140–2-certified random number generator to ensure the keys’ uniqueness.

Before these keys are used, the Bitcoin Custodian will validate that the public addresses associated with these keys have no associated digital asset balances. The software used for key generation and verification will be tested by the Bitcoin Custodian and reviewed by third-party advisors from the security community with specific expertise in computer security and applied cryptography. The private keys will be stored in an encrypted manner using a FIPS 140–2-certified security module held in redundant secure, geographically dispersed locations with high levels of physical security, including robust physical barriers to entry, electronic surveillance, and continuously roving patrols. The operational procedures of these facilities and of the Bitcoin Custodian will be reviewed by third-party advisors with specific expertise in physical security. The devices that store the keys will never be connected to the internet or any other public or private distributed network (colloquially known as “cold storage”). Only specific individuals will be authorized to participate in the custody process, and no individual acting alone will be able to access or use any of the private keys. In addition, no combination of the executive officers of the Advisor, the Sub-Advisor, or the investment professionals managing the Trust, acting alone or together, will be able to access or use any of the private keys that hold the Trust’s bitcoin.

The Trust may engage third-party custodians or vendors besides the Bitcoin Custodian to provide custody and security services for all or a portion of its bitcoin and/or cash, and the Advisor will pay the custody fees and any other expenses associated with any such third-party custodian or vendor.

The Bitcoin Custodian will be authorized to accept, on behalf of the Trust, deposits of bitcoins from Authorized Participant Self-Administered Accounts (as defined below) held with the Bitcoin Custodian and transfer such bitcoins into the Bitcoin Account. Deposits of bitcoins will be immediately available to the Trust to the extent such bitcoins have not already been transferred to the Vault Account. Generally, bitcoins transferred to the Bitcoin Account will be directly deposited into digital wallets for which the keys are already in cold storage.

The process of accessing and withdrawing bitcoins from the Trust for a redemption of a Creation Unit will follow the same general procedure as

depositing bitcoins with the Trust for a creation of a Creation Unit, only in reverse.

The Trust generally will not hold cash or cash equivalents. However, the Trust may hold cash and cash equivalents on a temporary basis to pay extraordinary expenses. The Trust has entered into a cash custody agreement with the Bank of New York Mellon under which the Bank of New York Mellon acts as custodian of the Trust’s cash and cash equivalents.

Calculation of the Trust’s NAV

According to the Registration Statement, the net asset value (“NAV”) of the Trust will be determined in accordance with Generally Accepted Accounting Principles (“GAAP”) as the total value of bitcoin held by the Trust, plus any cash or other assets, less any liabilities including accrued but unpaid expenses. The NAV per Share will be determined by dividing the NAV of the Trust by the number of Shares outstanding.

The NAV of the Trust will be determined as of 4:00 p.m. Eastern time (“E.T.”) on each Business Day.⁶² The Trust’s daily activities will generally not be reflected in the NAV determined for the Business Day on which the transactions are effected (the trade date), but rather on the following Business Day.

According to the Registration Statement, under normal circumstances, the Trust will use the CF Bitcoin US Settlement Price (the “Reference Rate”) to calculate the Trust’s NAV. The Reference Rate is not affiliated with the Sponsor and was created and is administered by CF Benchmarks Ltd. (the “BRR Administrator”), an independent entity, to facilitate financial products based on bitcoin. The Reference Rate is designed based on the IOSCO Principals for Financial Benchmarks and serves as a once-a-day benchmark rate of the U.S. dollar price of bitcoin (USD/BTC), calculated as of 4:00 p.m. E.T. The Reference Rate is based on materially the same methodology (except calculation time) as the CME CF BRR, which was first introduced on November 14, 2016 and is the rate on which bitcoin futures contracts are cash-settled in U.S. dollars at the CME. The Reference Rate aggregates the trade flow of several bitcoin exchanges, during an observation window between 3:00 p.m. and 4:00 p.m. E.T. into the U.S. dollar price of one bitcoin at 4:00 p.m. E.T. The current constituent bitcoin

⁶² “Business Day” is defined as each day that the Shares trade on the Exchange.

exchanges of the Reference Rate are Bitstamp, Coinbase, Gemini, itBit, and Kraken (the “Constituent Platforms”).

The Reference Rate is calculated based on the “Relevant Transactions” (as defined below) of all Constituent Platforms, as follows:⁶³

1. All Relevant Transactions are added to a joint list, recording the trade price and size for each transaction.
2. The list is partitioned into a number of equally-sized time intervals.
3. For each partition separately, the volume-weighted median⁶⁴ trade price is calculated from the trade prices and sizes of all Relevant Transactions, *i.e.*, across all Constituent Platforms.
4. The Reference Rate is then determined by the equally-weighted average of the volume-weighted medians of all partitions.

The Reference Rate does not include any futures prices in its methodology. A “Relevant Transaction” is any cryptocurrency versus U.S. dollar spot trade that occurs during the observation window between 3:00 p.m. and 4:00 p.m. E.T. on a Constituent Platform in the BTC/USD pair that is reported and disseminated by a Constituent Platform through its publicly available API and observed by the Benchmark Administrator, CF Benchmarks Ltd.

If the Reference Rate is unavailable, the Trust’s bitcoin will be valued as determined in good faith pursuant to policies and procedures approved by the Advisor’s valuation committee (“fair value pricing”). In these circumstances, the Trust will determine fair value in a manner that seeks to reflect the market value of the investment at the time of valuation based on consideration of any information or factors the Advisor’s valuation committee deems appropriate, as further described below. The Advisor’s valuation committee will be responsible for overseeing the implementation of the Trust’s valuation procedures and fair value determinations. For purposes of determining the fair value of bitcoin, the valuation committee may consider, without limitation: (i) Indications or quotes from brokers; (ii) valuations provided by a third-party pricing agent; (iii) internal models that take into consideration different factors determined to be relevant by the Advisor; or (iv) any combination of the above.

The Advisor has adopted a policy pursuant to which the Trust will value

its assets other than bitcoin and liabilities. Under this policy, the Advisor will use fair value standards according to GAAP. Generally, the fair value of an asset that is traded on a market is measured by reference to the orderly transactions on an active market. Among all active markets with orderly transactions, the market that is used to determine the fair value of an asset is the principal market (with exceptions described in more detail below), which is either the market on which the Trust actually transacts, or if there is sufficient evidence, the market with the most trading volume and level of activity for the asset. Where there is no active market with orderly transactions for an asset, the Advisor’s valuation committee will follow policies and procedures described in more detail below to determine the fair value.

While the Trust will publish its NAV every day the Exchange is open, the Trust’s operations will not rely to any significant extent on its valuation procedures. The Trust’s only regular recurring expense is the Investment Management Fee, which is both calculated by reference to and paid in bitcoin. Payment for Creation Units by Authorized Participants may only be made in-kind in bitcoin, and redemption proceeds are similarly only paid in bitcoin. While the Trust may from time to time incur certain extraordinary, non-recurring expenses that must be paid in U.S. Dollars or other fiat currency, such events would only impact the amount of bitcoin represented by a Share of the Trust. Accordingly, while other proposed bitcoin ETPs rely on a benchmark or other reference rate to value their assets and liabilities and determine the amount of cash necessary to purchase or redeem Creation Units (or their equivalent), the Trust will not rely on any such conversion rate, as it is designed to transact only in bitcoin in nearly all circumstances. The Trust’s calculation of its NAV is intended to assist investors in valuing their Shares, and the Trust’s ability to transact only in bitcoin further insulates the Trust from activities designed to manipulate the price of the bitcoin held by the Trust.

The Structure and Operation of the Trust Satisfies Commission Requirements for Bitcoin-Based Exchange Traded Products

In disapproving prior proposals to list and trade shares of various bitcoin trusts and bitcoin-based trust issued receipts, the Commission noted that such proposals did not adequately demonstrate that they were designed to

prevent fraudulent and manipulative acts and practices and to protect investors and the public interest, consistent with Section 6(b)(5) of the Act.⁶⁵ The Commission does not apply a “cannot be manipulated” standard, but instead seeks to examine whether a proposal meets the requirements of the Act.⁶⁶ The Commission has explained that a proposal could satisfy the requirements of the Act in the first instance by demonstrating that the listing exchange has entered into a comprehensive surveillance-sharing agreement (“CSSA”) with a regulated market of significant size relating to the underlying assets.⁶⁷ The Commission has also recognized that a listing exchange would not necessarily need to enter into a CSSA with a regulated significant market if the underlying commodity market inherently possessed a unique resistance to manipulation beyond the protections that are utilized by traditional commodity or securities markets or if the listing exchange could demonstrate that there were sufficient “other means to prevent fraudulent and manipulative acts and practices.”⁶⁸

As described below, the Sponsor believes the structure and operation of the Trust are designed to prevent fraudulent and manipulative acts and practices, to protect investors and the

⁶⁵ See, e.g., Order Disapproving a Proposed Rule Change, as Modified by Amendments No. 1 and 2, to BZX Rule 14.11(e)(4), Commodity-Based Trust Shares, To List and Trade Shares Issued by the Winklevoss Bitcoin Trust, Securities Exchange Act Release No. 80206 (March 10, 2017), 82 FR 14076 (March 16, 2017) (SR-BatsBZX-2016-30) (the “Winklevoss I Order”); the Winklevoss II Order; Order Disapproving a Proposed Rule Change, as Modified by Amendment No. 1, Relating to the Listing and Trading of Shares of the Bitwise Bitcoin ETF Trust Under NYSE Arca Rule 8.201-E, Securities Exchange Act Release No. 87267 (October 9, 2019), 84 FR 55382 (October 16, 2019) (SR-NYSEArca-2019-01) (the “Bitwise Order”); the Wilshire Phoenix Order; Order Disapproving a Proposed Rule Change to List and Trade the Shares of the ProShares Bitcoin ETF and the ProShares Short Bitcoin ETF, Securities Exchange Act Release No. 83904 (August 22, 2018), 83 FR 43934 (August 28, 2018) (SR-NYSEArca-2017-139); Order Disapproving a Proposed Rule Change Relating to Listing and Trading of the Direxion Daily Bitcoin Bear 1X Shares, Direxion Daily Bitcoin 1.25X Bull Shares, Direxion Daily Bitcoin 1.5X Bull Shares, Direxion Daily Bitcoin 2X Bull Shares, and Direxion Daily Bitcoin 2X Bear Shares Under NYSE Arca Rule 8.200-E, Securities Exchange Act Release No. 83912 (August 22, 2018), 83 FR 43912 (August 28, 2018) (SR-NYSEArca-2018-02); Order Disapproving a Proposed Rule Change to List and Trade the Shares of the GraniteShares Bitcoin ETF and the GraniteShares Short Bitcoin ETF, Securities Exchange Act Release No. 83913 (August 22, 2018), 83 FR 43923 (August 28, 2018) (SR-ChoeBZX-2018-01) (the “GraniteShares Order”).

⁶⁶ See Winklevoss II Order, 84 FR 37582.

⁶⁷ See Wilshire Phoenix Order, 85 FR 12596-97.

⁶⁸ See Winklevoss II Order, 84 FR 37580, 37582-91; Bitwise Order, 84 FR 55383, 55385-406; Wilshire Phoenix Order, 85 FR 12597.

⁶³ See <https://docs-cfbenchmarks.s3.amazonaws.com/CME+CF+Reference+Rates+Methodology.pdf>.

⁶⁴ A volume-weighted median differs from a standard median in that a weighting factor, in this case trade size, is factored into the calculation.

public interest, and to respond to the specific concerns that the Commission has identified with respect to potential fraud and manipulation in the context of a bitcoin ETP. Further, as the Commission has previously acknowledged, trading in a bitcoin-based ETP on a national securities exchange, as compared to trading in an unregulated bitcoin spot market, may provide additional protection to investors.⁶⁹ The Sponsor also believes that listing of the Trust's Shares on the Exchange will provide investors with such an opportunity to obtain exposure to bitcoin within a regulated environment.

Surveillance Sharing Agreements With a Market of Significant Size

1. The Presence of Surveillance Sharing Agreements

In previous orders rejecting the listing of Bitcoin ETFs, the Commission noted its concerns that the bitcoin market could be subject to manipulation.⁷⁰ In these orders, the Commission cited numerous precedents⁷¹ in which listing proposals were approved based on findings that the particular market was either inherently resistant to manipulation or that the listing exchange had entered into a surveillance sharing agreement with a market of significant size.⁷² The

Commission noted that, for commodity-trust ETPs “there has been in every case at least one significant, regulated market for trading futures in the underlying commodity—whether gold, silver, platinum, palladium or copper—and the ETP listing exchange has entered into surveillance-sharing agreements with, or held Intermarket Surveillance Group (the “ISG”) membership in common with, that market.”⁷³

The CME⁷⁴ is a member of the ISG, the purpose of which is “to provide a framework for the sharing of information and the coordination of regulatory efforts among exchanges trading securities and related products to address potential intermarket manipulations and trading abuses.”⁷⁵ Membership of a relevant futures exchange in ISG is sufficient to meet the surveillance-sharing requirement.⁷⁶

The Commission has previously noted that the existence of a surveillance-sharing agreement by itself is not sufficient for purposes of meeting the requirements of Section 6(b)(5); the surveillance-sharing agreement must be with a market of significant size.⁷⁷ The Commission has also provided an example of how it interprets the terms “significant market” and “market of significant size,” though that definition is meant to be illustrative and not exclusive: “the terms ‘significant market’ and ‘market of significant size’ . . . include a market (or group of markets) as to which (a) there is a reasonable likelihood that a person attempting to manipulate the ETP would also have to trade on that market to successfully manipulate the ETP so that a surveillance sharing agreement would assist the ETP listing market in

detecting and deterring misconduct and (b) it is unlikely that trading in the ETP would be the predominant influence on prices in that market.”⁷⁸

For the following reasons, the Sponsor maintains that the CME, either alone as the sole market for bitcoin futures or as a group of markets together with the Constituent Platforms, is a “market of significant size” that satisfies both elements of the example provided by the Commission.

(a) Reasonable Likelihood That a Person Manipulating the ETP Would Have To Trade on the Market

The first element of a “significant market” or “market of significant size” is a reasonable likelihood that a person attempting to manipulate the ETP would also have to trade on that market (or group of markets) to successfully manipulate the ETP, such that a surveillance sharing agreement would assist the ETP listing market in detecting and deterring misconduct. The Commission has stated that establishing a lead-lag relationship between the bitcoin futures market and the spot market is central to understanding whether it is reasonably likely that a would-be manipulator of the ETP would need to trade on the bitcoin futures market to successfully manipulate prices on those spot platforms that feed into the proposed ETP's pricing mechanism.⁷⁹

The Sponsor believes that the CME meets the first element in several ways. First, it is the primary market for bitcoin futures, and compares favorably with other markets that were deemed to be markets of significant size in precedents. One particularly salient group of precedents are prior orders approving the listing of ETPs that invest in gold bullion, since the gold market exhibits a number of similarities with the market for bitcoin. The Sponsor maintains that, like bitcoin, the primary markets for gold bullion are unstructured OTC markets⁸⁰ and the futures market.

Specifically, the Sponsor notes that the CME is similarly situated to the COMEX division of NYMEX with

⁶⁹ See GraniteShares Order, 83 FR 43931. See also Hester M. Peirce, U.S. Sec. Exch. Comm'n, Dissent of Commissioner Hester M. Peirce to Release No. 34–83723 (July 26, 2018), available at: <https://www.sec.gov/news/public-statement/peirce-dissent-34-83723> (“An ETP based on bitcoin would offer investors indirect exposure to bitcoin through a product that trades on a regulated securities market and in a manner that eliminates some of the frictions and worries of buying and holding bitcoin directly. If we were to approve the ETP at issue here, investors could choose whether to buy it or avoid it.”).

⁷⁰ See Winklevoss I Order and Winklevoss II Order. The Sponsor represents that some of the concerns raised are that a significant portion of bitcoin trading occurs on unregulated platforms and that there is a concentration of a significant number of bitcoin in the hands of a small number of holders. However, these facts are not unique to bitcoin and are true of a number of commodity and other markets. For instance, some gold bullion trading takes place on unregulated OTC markets and a significant percentage of gold is held by a relative few (according to estimates of the World Gold Council, approximately 22% of total above ground gold stocks are held by private investors and 17% are held by foreign governments; by comparison, 13.61% of bitcoin are held by the 86 largest bitcoin addresses, some of which are known to be cold storage addresses of large centralized cryptocurrency trading platforms). See <https://www.gold.org/goldhub/data/above-ground-stocks> for gold data cited in this note and <https://bitinfocharts.com/top-100-richest-bitcoin-addresses.html> for Bitcoin data.

⁷¹ For an extensive listing of such precedents, see Winklevoss I Order, 82 FR 14083 n. 96.

⁷² The Exchange to date has not entered into surveillance sharing agreements with any

cryptocurrency platform. However, the CME, which calculates the CME CF BRR, and which has offered contracts for bitcoin futures products since 2017, is, as noted below, a member of the ISG. In addition, each Constituent Platform has entered into a data sharing agreement with CME. See <https://docs-cfbenchmarks.s3.amazonaws.com/CME+CF+Constituent+Exchanges+Criteria.pdf>.

⁷³ See Winklevoss II Order, 84 FR 37594.

⁷⁴ The CME is regulated by the CFTC, which has broad reaching anti-fraud and anti-manipulation authority including with respect to the bitcoin market since bitcoin has been designated as a commodity by the CFTC. See A CFTC Primer on Virtual Currencies (October 17, 2017), available at: <https://www.cftc.gov/sites/default/files/idc/groups/public/documents/file/labcfprimercurrencies100417.pdf> (the “CFTC Primer on Virtual Currencies”) (“The CFTC's jurisdiction is implicated when a virtual currency is used in a derivatives contract or if there is fraud or manipulation involving a virtual currency traded in interstate commerce.”). See also 7 U.S.C. 7(d)(3) (“The board of trade shall list on the contract market only contracts that are not readily susceptible to manipulation.”).

⁷⁵ See <https://isgportal.org/overview>.

⁷⁶ See, e.g., Winklevoss II Order, 84 FR 37594.

⁷⁷ See, e.g., *id.* at 37589–90.

⁷⁸ *Id.* at 37594; see also GraniteShares Order, 83 FR 43930 n. 85 and accompanying text.

⁷⁹ See Wilshire Phoenix Order, 85 FR 12612.

⁸⁰ “The OTC market has no formal structure and no open-outcry meeting place.” Order Granting Approval of Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendments No. 1 and No. 2 Thereto to the Proposed Rule Change by the New York Stock Exchange, Inc. Regarding Listing and Trading of streetTRACKS® Gold Shares, Securities Exchange Act Release No. 50603 (October 28, 2004), 69 FR 64614 (November 5, 2004) (SR–NYSE–2004–22) (the “streetTRACKS Order”).

respect to gold ETPs.⁸¹ As with the OTC gold market, it is not possible to enter into an information sharing agreement with the OTC bitcoin market.⁸² When the Commission has approved the listing of gold ETPs and other commodity-trust ETPs, rather than requiring surveillance sharing agreements with the relevant OTC markets, it has recognized surveillance sharing agreements between the listing exchange and “regulated markets for trading futures on the underlying commodity,”⁸³ given the understanding that the manipulation of the market for a commodity often involves the futures market for that commodity.⁸⁴

The Sponsor also believes that the CME meets the first element because its Bitcoin Futures are cash settled by reference to a final settlement price based on the CME CF BRR. Anyone attempting to manipulate the CME CF BRR would need to place numerous large sized trades on any of the Constituent Platforms that are used to calculate the CME CF BRR,⁸⁵ and the resulting manipulative trading patterns would be detectable by the BRR Administrator and the CME.⁸⁶ In addition, any platform that is accepted by the CME to become part of the constituent trading platforms that are used to calculate the CME CF BRR, including the Constituent Platforms, (1) must enter into a data sharing agreement with the CME, (2) must cooperate with inquiries and investigations of regulators and the BRR Administrator and (3) must submit each of its clients

to its Know-Your-Customer procedures.⁸⁷ As a result, the CME and the Exchange would be able, in the case of any suspicious trades, to discover all material trade information, including the identities of the customers placing the trades.

The Sponsor also maintains that any would-be manipulator of bitcoin prices would be reasonably likely to do so through the Bitcoin Futures market in order to take advantage of the leverage inherent in trading futures contracts. The inherent leverage in Bitcoin Futures would allow a potential manipulator to attempt a manipulation scheme with far less upfront capital than it would need to achieve the same results in the spot market. As the spot bitcoin market has grown tremendously since the issuance of the Wilshire Phoenix Order, it would be critical for a would-be manipulator to efficiently use its capital to have the desired effect, and a would-be manipulator would certainly recognize that the chances of successfully deploying its scheme are increased exponentially if it can affect the Bitcoin Futures market (and thus the bitcoin spot market) by posting only the minimum margin required the Bitcoin Futures exchange.⁸⁸ Accordingly, because the Bitcoin Futures market is in effect the “cheapest” route to manipulate bitcoin, it is highly likely such manipulators would attempt to do so there rather than any spot market.

Finally, the Sponsor maintains that a would-be manipulator of bitcoin would be required to execute trades on

multiple exchanges simultaneously in order to successfully move the global price of bitcoin due to the decentralized nature of the Bitcoin Network. The Sponsor thus believes that bitcoin manipulators would be much more likely to attempt to manipulate a limited number of futures markets rather than attempt simultaneous executions on potentially dozens of different exchanges. Even if a would-be manipulator does attempt to manipulate bitcoin across platforms, such a scheme would also necessarily include some attempt to manipulate the price of bitcoin futures, including the CME.

(b) Predominant Influence on Prices in Spot and Bitcoin Futures

The second feature of a “significant market” or “market of significant size” in the Commission’s example is that the market is one in which it is unlikely that trading in the ETP would be the predominant influence on prices in that market. The Sponsor believes that trading in the Shares would not be the predominant force on prices in the Bitcoin Futures market (or spot market) for a number of reasons, including the significant volume in the Bitcoin Futures market, the size of bitcoin’s market cap (approximately \$1 trillion), and the significant liquidity available in the spot market.

Since the Wilshire Phoenix Order was issued, there has been significant growth in Bitcoin Futures across each of trading volumes and open interest as reflected in the chart below:

CHICAGO MERCANTILE EXCHANGE BITCOIN FUTURES

	February 26, 2020	April 7, 2021
Trading Volume	\$433,000,000	\$4,321,000,000
Open Interest	238,000,000	2,582,000,000

The growth of the Bitcoin Futures has coincided with similar growth in the bitcoin spot market. The market for Bitcoin Futures is rapidly approaching the size of markets for other commodity

interests, including interests in metals, agricultural and petroleum products. Accordingly, as the Bitcoin Futures market continues to develop and more closely resemble other commodity

futures markets, it can be reasonably expected that the relationship between the Bitcoin Futures market and bitcoin spot market will behave similarly to other future/spot market relationships,

⁸¹ Other applicants have made similar arguments in their respective filings. See Notice of Filing of Proposed Rule Change To List and Trade Shares of SolidX Bitcoin Shares Issued by the VanEck SolidX Bitcoin Trust, Under BZX Rule 14.11(e)(4), Commodity-Based Trust, Securities Exchange Act Release No. 85119 (February 13, 2019), 84 FR 5140 (February 20, 2019) (SRChoeBZX-2019-004), n. 11.

⁸² “It is not possible, however, to enter into an information sharing agreement with the OTC gold market.” streetTRACKS Order, 69 FR 64619. See also Order Granting Approval of Proposed Rule Change and Amendment Nos. 2, 3 and 4 and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 5 by the American Stock Exchange LLC Relating to the Listing and Trading of the iShares® COMEX Gold Trust, Securities

Exchange Act Release No. 51058 (January 19, 2005), 70 FR 3749 (January 26, 2005) (SR-Amex-2004-38); Notice of Filing of Proposed Rule Change Relating to Listing and Trading of Shares of ETFS Palladium Trust, Securities Exchange Act Release No. 60971 (November 9, 2009), 74 FR 59283 (November 17, 2009) (SRNYSEArca-2009-94).

⁸³ See Winklevoss II Order, 84 FR 37591.

⁸⁴ See, e.g., Frank Easterbrook, *Monopoly, Manipulation, and the Regulation of Futures Markets*, 59 J. of Bus. S103, S103-S127 (1986); William D. Harrington, *The Manipulation of Commodity Futures Prices*, 55 St. Johns L. Rev. 240, 240-275 (2012); Robert C. Lower, *Disruptions of the Futures Market: A Comment on Dealing With Market Manipulation*, 8 Yale J. on Reg. 391, 391-402 (1991).

⁸⁵ Because the CME CF BRR is based solely on the price data from the Constituent Platforms, manipulating the CME CF BRR must necessarily entail manipulating the price data at one or more Constituent Platforms.

⁸⁶ The BRR Calculation Agent receives trading data from the Constituent Platforms through its Automatic Programming Interface. See CME-CF Practice Standards, available at: <https://www.cfbenchmarks.com/indices/BRR>.

⁸⁷ See <https://docs-cfbenchmarks.s3.amazonaws.com/CME+CF+Constituent+Exchanges+Criteria.pdf>.

⁸⁸ As of April 12, 2021, the initial margin required in connection with CME Bitcoin Futures for the April 2021 contract ranges from 42% to 38%.

including periods where a lead-lag relationship between the Bitcoin Futures market and bitcoin spot market exists.

In addition, the spot market for bitcoin is also very liquid. According to data from CoinRoutes from February 2021, the cost to buy or sell \$5 million worth of bitcoin averages roughly 10 basis points with a market impact of 30 basis points.⁸⁹ For a \$10 million market order, the cost to buy or sell is roughly 20 basis points with a market impact of 50 basis points. Stated another way, a market participant could enter a market buy or sell order for \$10 million of bitcoin and only move the market 0.5%. More strategic purchases or sales (such as using limit orders and executing through OTC bitcoin trade desks) would likely have less obvious impact on the market—which is consistent with MicroStrategy, Tesla, and Square being able to collectively purchase billions of dollars in bitcoin. The Sponsor believes that the combination of Bitcoin Futures' important role in price discovery, the overall size of the bitcoin market, and the ability of market participants, including authorized participants creating and redeeming in-kind with the Trust, to buy or sell large amounts of bitcoin without significant market impact will help prevent the Shares from becoming the predominant force on pricing in either the bitcoin spot or Bitcoin Futures markets.

The results from a study conducted by CF Benchmarks simulating to determine the extent of "slippage" (*i.e.*, the difference between the expected price of a trade and the price at which the trade was actually executed) offer further evidence that trading in the Shares is unlikely to be the predominant influence in the bitcoin spot market.⁹⁰ The CF Benchmarks Analysis simulated the purchase of 50 bitcoins a day for 686 days (an amount chosen specifically to replicate hypothetical trades by an ETP) and found that the maximum amount of slippage on a particular day was 0.3%, with the remainder of values between 0% and 0.15%. Thus, according to CF Benchmarks, the slippage in this study could be described as having been largely negligible or, at most, minor during the observation period.

⁸⁹ These statistics are based on samples of bitcoin liquidity in USD (excluding stablecoins or Euro liquidity) based on executable quotes on Coinbase Pro, Gemini, Bitstamp, Kraken, LMAX Exchange, BinanceUS, and OKCoin during February 2021.

⁹⁰ See CF Benchmarks, "An Analysis of the Suitability of the CME CF BRR for the Creation of Regulated Financial Products," December 2020 (the "CF Benchmarks Analysis"), available at: <https://docs.send.com/view/kizk7arazaba6jxf>.

Other Means To Prevent Fraudulent and Manipulative Acts and Practices

As noted above, the Commission also permits a listing exchange to demonstrate that "other means to prevent fraudulent and manipulative acts and practices" are sufficient to justify dispensing with the requisite surveillance-sharing agreement. The Sponsor believes that the significant liquidity in the spot market and the impact of market orders on the overall price of bitcoin have made attempts to move the price of bitcoin increasingly expensive over the past year, curtailing potential fraud or manipulation in connection with bitcoin pricing. In January 2020, for example, the cost to buy or sell \$5 million worth of bitcoin averaged roughly 30 basis points (compared to 10 basis points in February 2021) with a market impact of 50 basis points (compared to 30 basis points in February 2021).⁹¹ For a \$10 million market order, the cost to buy or sell was roughly 50 basis points (compared to 20 basis points in February 2021) with a market impact of 80 basis points (compared to 50 basis points in February 2021). As the liquidity in the bitcoin spot market increases, it follows that the impact of \$5 million and \$10 million orders will continue to decrease the overall impact in spot price.

Additionally, the Sponsor believes that offering only in-kind creation and redemption will provide unique protections against potential attempts to manipulate the Shares. While the Sponsor believes that the Reference Rate used to value the Trust's bitcoin is itself resistant to manipulation based on the methodology described above, the fact that creations and redemptions are only available in-kind makes the manipulability of the Reference Rate significantly less important. Specifically, because the Trust will not accept cash to buy bitcoin in order to create or redeem Shares, the price that the Sponsor uses to value the Trust's bitcoin is not particularly important.⁹² When authorized participants create Shares with the Trust, they need to deliver a certain number of bitcoin per Share (regardless of the valuation used) and when they redeem Shares, they can similarly expect to receive a certain number of bitcoin per Share. As a result, even if the price used to value the

⁹¹ These statistics are based on samples of bitcoin liquidity in USD (excluding stablecoins or Euro liquidity) based on executable quotes on Coinbase Pro, Gemini, Bitstamp, Kraken, LMAX Exchange, BinanceUS, and OKCoin during February 2021.

⁹² The Investment Management Fee, which is the Trust's only normal recurring expense is both paid and calculated in bitcoin.

Trust's bitcoin has been manipulated (which the Sponsor believes is unlikely given the resistance afforded by the independent Reference Rate methodology), the ratio of bitcoin per Share does not change and the Trust will either accept (for creations) or distribute (for redemptions) the same number of bitcoin regardless of the value. This structure not only mitigates the risk associated with potential manipulation, but also discourages and disincentivizes manipulation of the Reference Rate because there is little financial incentive to do so.

Creation and Redemption of Shares

According to the Registration Statement, the Trust will issue and redeem Shares on an ongoing basis in one or more Creation Units. A Creation Unit will consist of a block of 50,000 Shares. The creation and redemption of Creation Units will be effected in in-kind transactions based on the quantity of bitcoin attributable to each Share.

The quantity of bitcoin required to create each Creation Unit (the "Creation Unit Deposit") may change from day to day. On each day that the Exchange is open for regular trading, the Administrator will determine the quantity of bitcoin constituting the Creation Unit Deposit and may make adjustments as appropriate to reflect accrued expenses. Each Business Day, the Administrator will communicate the final Creation Unit Deposit for that same Business Day and an estimated Creation Unit Deposit for the next Business Day.

The number of outstanding Shares is expected to increase and decrease from time to time as a result of the creation and redemption of Creation Units. The creation and redemption of Creation Units require the delivery to the Trust, or the distribution by the Trust, of the number of bitcoins represented by the Creation Units being created or redeemed. The creation and redemption of a Creation Unit will be made only in exchange for the delivery to the Trust, or the distribution by the Trust, of the number of whole and fractional bitcoins represented by each Creation Unit being created or redeemed, the number of which is determined by dividing the number of bitcoins owned by the Trust at 4:00 p.m. E.T on the trade date of a creation or redemption order, as adjusted for the number of whole and fractional bitcoins constituting accrued but unpaid fees and expenses of the Trust, by the number of Shares outstanding at such time and multiplying such quotient by 50,000.

Authorized Participants are the only persons that may place orders to create and redeem Creation Units. An

Authorized Participant must (i) be a registered broker-dealer, (ii) enter into a Participant Agreement with the Advisor and the Bitcoin Custodian, and (iii) own a bitcoin wallet address that is recognized by the Bitcoin Custodian as belonging to the Authorized Participant (an "Authorized Participant Self-Administered Account"). Authorized Participants may act for their own accounts or as agents for broker-dealers, custodians, and other securities market participants that wish to create or redeem Creation Units. Shareholders who are not Authorized Participants will only be able to redeem their Common Shares through an Authorized Participant.

Creation Procedures

On any Business Day, an Authorized Participant may place an order with the Transfer Agent to create one or more Creation Units. Purchase orders must be placed prior to 4:00 p.m. E.T. or the close of regular trading on the Exchange, whichever is earlier. The day on which a valid order is received by the Transfer Agent is considered the purchase order date.

By placing a purchase order, an Authorized Participant agrees to facilitate the deposit of bitcoin with the Trust. The total deposit of bitcoin required to create each Creation Unit is an amount of bitcoin that is in the same proportion to the total assets of the Trust (net of accrued but unpaid fees and expenses) on the date the purchase order is properly received as the number of Shares to be created under the purchase order is to the total number of Shares outstanding on the date the order is received.

Following an Authorized Participant's purchase order, the Bitcoin Account must be credited with the required bitcoin by the end of the Business Day following the purchase order date. Upon receipt of the bitcoin deposit amount in the Trust's Bitcoin Account, the Bitcoin Custodian will notify the Transfer Agent, the Authorized Participant, and the Advisor that the bitcoin has been deposited. The Transfer Agent will then direct the Depository Trust Company ("DTC") to credit the number of Shares created to the Authorized Participant's DTC account.

Redemption Procedures

According to the Registration Statement, on any Business Day, an Authorized Participant may place an order with the Transfer Agent to redeem one or more Creation Units. Authorized Participants may only redeem Creation Units and cannot redeem any Shares in an amount less than a Creation Unit.

Redemption orders must be placed prior to 4:00 p.m. E.T. or the close of regular trading on the Exchange, whichever is earlier. A redemption order will be effective on the date it is received by the Transfer Agent ("Redemption Order Date").

The redemption distribution from the Trust consists of a transfer of bitcoin to the redeeming Authorized Participant corresponding to the number of Shares being redeemed. The redemption distribution due from the Trust will be delivered once the Transfer Agent notifies the Bitcoin Custodian and the Advisor that the Authorized Participant has delivered the Shares represented by the Creation Units to be redeemed to the Transfer Agent's DTC account. If the Transfer Agent's DTC account has not been credited with all of the Shares of the Creation Units to be redeemed, the redemption distribution will be delayed until such time as the Transfer Agent confirms receipt of all such Shares.

Once the Transfer Agent notifies the Bitcoin Custodian and the Advisor that the Shares have been received in the Transfer Agent's DTC account, the Advisor will instruct the Bitcoin Custodian to transfer the redemption distribution from the Trust's Bitcoin Account to the Authorized Participant.

The redemption distribution from the Trust will consist of a transfer to the redeeming Authorized Participant of an amount of bitcoin that is determined in the same manner as the determination of Creation Unit Deposits, as discussed above. The redemption distribution due from the Trust will be delivered to the Authorized Participant on the first Business Day following the Redemption Order Date if, by 9:00 a.m. E.T. on such Business Day, the Transfer Agent's DTC account has been credited with the Creation Units to be redeemed. If the Transfer Agent's DTC account has not been credited with all of the Creation Units to be redeemed by such time, the redemption distribution will also be delayed.

Availability of Information

The Trust's website (<https://www.ftportfolios.com>) will include quantitative information on a per Share basis updated on a daily basis, including (i) the current NAV per Share daily and the prior business day's NAV and the reported closing price; (ii) the mid-point of the bid-ask price⁹³ in relation to the NAV as of the time the NAV is calculated ("Bid-Ask Price")

⁹³ The bid-ask price of the Trust is determined using the highest bid and lowest offer on the Consolidated Tape as of the time of calculation of the closing day NAV.

and a calculation of the premium or discount of such price against such NAV; and (iii) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid-Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters (or for the life of the Trust, if shorter). In addition, on each business day the Trust's website will provide pricing information for the Shares.

The Trust's website, as well as one or more major market data vendors, will provide an intra-day indicative value ("IIV") per Share updated every 15 seconds, as calculated by the Exchange or a third party financial data provider during the Exchange's Core Trading Session (9:30 a.m. to 4:00 p.m., E.T.).⁹⁴ The IIV will be calculated by using the prior day's closing NAV per Share as a base and updating that value during the NYSE Arca Core Trading Session to reflect changes in the value of the Trust's NAV during the trading day.

The IIV disseminated during the NYSE Arca Core Trading Session should not be viewed as an actual real-time update of the NAV, which will be calculated only once at the end of each trading day. The IIV will be widely disseminated on a per Share basis every 15 seconds during the NYSE Arca Core Trading Session by one or more major market data vendors. In addition, the IIV will be available through on-line information services.

The NAV for the Trust will be calculated by the Sponsor once a day and will be disseminated daily to all market participants at the same time. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the Consolidated Tape Association ("CTA").

Quotation and last sale information for bitcoin will be widely disseminated through a variety of major market data vendors, including Bloomberg and Reuters. In addition, the complete real-time price (and volume) data for bitcoin is available by subscription from Reuters and Bloomberg. The spot price of bitcoin is available on a 24-hour basis from major market data vendors, including Bloomberg and Reuters. Information relating to trading, including price and volume information, in bitcoin will be available from major market data vendors and from the exchanges on which bitcoin are traded. The normal trading hours for

⁹⁴ The IIV on a per Share basis disseminated during the Core Trading Session should not be viewed as a real-time update of the NAV, which is calculated once a day.

bitcoin exchanges are 24-hours per day, 365-days per year.

The Sponsor will publish the NAV per Share on the Trust's website as soon as practicable after its determination. The Trust will provide website disclosure of its NAV daily. The website disclosure of the Trust's NAV will occur at the same time as the disclosure by the Sponsor of the NAV to Authorized Participants so that all market participants are provided such information at the same time. Therefore, the same information will be provided on the public website as well as in electronic files provided to Authorized Participants. Accordingly, each investor will have access to the current NAV of the Trust through the Trust's website, as well as from one or more major market data vendors.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4:00 a.m. to 8:00 p.m., E.T. in accordance with NYSE Arca Rule 7.34–E (Early, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Rule 7.6–E, the minimum price variation (“MPV”) for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is \$0.01, with the exception of securities that are priced less than \$1.00, for which the MPV for order entry is \$0.0001.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Rule 8.201–E. The trading of the Shares will be subject to NYSE Arca Rule 8.201–E(g), which sets forth certain restrictions on Equity Trading Permit Holders (“ETP Holders”) acting as registered Market Makers in Commodity-Based Trust Shares to facilitate surveillance. The Exchange represents that, for initial and continued listing, the Trust will be in compliance with Rule 10A–3⁹⁵ under the Act, as provided by NYSE Arca Rule 5.3–E. A minimum of 100,000 Shares of the Trust will be outstanding at the commencement of trading on the Exchange.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of

the Trust.⁹⁶ Trading in Shares of the Trust will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.

The Exchange may halt trading during the day in which an interruption to the dissemination of the IIV occurs. If the interruption to the dissemination of the IIV persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. In addition, if the Exchange becomes aware that the NAV with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants.

Surveillance

The Exchange represents that trading in the Shares of the Trust will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.⁹⁷ The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares from such markets and other entities. In addition, the Exchange may obtain information

regarding trading in the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a CSSA.⁹⁸ The Exchange is also able to obtain information regarding trading in the Shares in connection with such ETP Holders' proprietary or customer trades which they effect through ETP Holders on any relevant market.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

All statements and representations made in this filing regarding (a) the description of the portfolios of the Trust, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in this rule filing shall constitute continued listing requirements for listing the Shares on the Exchange.

The Sponsor has represented to the Exchange that it will advise the Exchange of any failure by the Trust to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5–E(m).

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.⁹⁹

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 8.201–E. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities

⁹⁶ See NYSE Arca Rule 7.12–E.

⁹⁷ FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

⁹⁸ For a list of the current members of ISG, see www.isgportal.org. The Exchange notes that not all components of the Trust may trade on markets that are members of ISG or with which the Exchange has in place a CSSA.

⁹⁹ 15 U.S.C. 78f(b)(5).

⁹⁵ 17 CFR 240.10A–3.

laws. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares with other markets that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares from such markets. In addition, the Exchange may obtain information regarding trading in the Shares from markets that are members of ISG or with which the Exchange has in place a CSSA. Also, pursuant to NYSE Arca Rule 8.201–E(g), the Exchange is able to obtain information regarding trading in the Shares and the underlying bitcoin or any bitcoin derivative through ETP Holders acting as registered Market Makers, in connection with such ETP Holders' proprietary or customer trades through ETP Holders which they effect on any relevant market.

The Exchange also believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest because investing in the Trust will provide investors with exposure to bitcoin in a manner that is more efficient and convenient than the purchase of stand-alone bitcoin, while also mitigating some of the volatility risk typically associated with the purchase of stand-alone bitcoin. As discussed above, the Trust will use the Reference Rate to determine the value of its bitcoin assets and its NAV. While bitcoin is listed and traded on a number of markets and platforms, the Reference Rate is determined exclusively based on its Constituent Platforms, and therefore, use of the Reference Rate would mitigate the effects of potential manipulation of the bitcoin market. Additionally, the capital necessary to maintain a significant presence on any Constituent Platform would make manipulation of the Reference Rate unlikely. Bitcoin trades in a well-arbitrated and distributed market. The linkage between the bitcoin markets and the presence of arbitrageurs in those markets means that the manipulation of the price of bitcoin on any Constituent Platform would likely require overcoming the liquidity supply of such arbitrageurs who are potentially eliminating any cross-market pricing differences. The proposed rule change is also designed to prevent fraudulent and manipulative acts and practices based on the function of the CME, either alone as the sole market for bitcoin futures or as a group of markets together with the Constituent Platforms, as a "market of significant size" consistent with the

Commission's guidance with respect to surveillance sharing agreements. As discussed above, the CME is the primary market for bitcoin futures, is designed to detect and resist potentially manipulative trading activity, and, as a member of ISG, can provide the Exchange with information to assist in detecting and deterring potential fraud or manipulation.

The proposed rule change is also designed to promote just and equitable principles of trade and to protect investors and the public interest in that there is a considerable amount of bitcoin price and market information available on public websites and through professional and subscription services. Investors may obtain, on a 24-hour basis, bitcoin pricing information based on the spot price for bitcoin from various financial information service providers. The closing price and settlement prices of bitcoin are readily available from the bitcoin exchanges and other publicly available websites. In addition, such prices are published in public sources, or on-line information services such as Bloomberg and Reuters. The NAV per Share will be calculated daily and made available to all market participants at the same time. The Trust will provide website disclosure of its NAV daily. One or more major market data vendors will disseminate for the Trust on a daily basis information with respect to the most recent NAV per Share and Shares outstanding. In addition, if the Exchange becomes aware that the NAV with respect to the Shares is not disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the CTA. The IIV will be widely disseminated on a per Share basis every 15 seconds during the NYSE Arca Core Trading Session (normally 9:30 a.m., E.T., to 4:00 p.m., E.T.) by one or more major market data vendors. In addition, the IIV will be available on the Trust's website and through on-line information services. The Exchange represents that the Exchange may halt trading during the day in which an interruption to the dissemination of the IIV occurs. If the interruption to the dissemination of the IIV persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that

it will facilitate the listing and trading of an additional type of exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a CSSA. In addition, as noted above, investors will have ready access to information regarding the Trust's NAV, IIV, and quotation and last sale information for the Shares.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional type of exchange-traded product, which will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NYSEArca-2021-37 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEArca-2021-37. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEArca-2021-37 and should be submitted on or before June 17, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰⁰

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2021-11172 Filed 5-26-21; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-91963; File No. SR-EMERALD-2021-18]

Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt a New Historical Market Data Product To Be Known as the Open-Close Report

May 21, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 10, 2021, MIAX Emerald, LLC ("MIAX Emerald" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt a new historical market data product to be known as the Open-Close Report.

The text of the proposed rule change is available on the Exchange's website at <http://www.miaxoptions.com/rule-filings/emerald> at MIAX Emerald's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt a new historical market data product to be known as the Open-Close Report, which

will be available to all Members and Non-Members.³ The proposed Open-Close Report would be described in Exchange Rule 531(b)(1) and is based on market data products currently available on most other options exchanges.⁴

The Exchange proposes to offer the Open-Close Report, which will be a volume summary of trading activity on the Exchange at the option level by origin (Priority Customer, Non-Priority Customer, Firm, Broker-Dealer, and Market Maker⁵), side of the market (buy or sell), contract volume, and transaction type (opening or closing). The Priority Customer, Non-Priority Customer, Firm, Broker-Dealer, and Market Maker volume is further broken down into trade size buckets (less than 100 contracts, 100-199 contracts, greater than 199 contracts). The Open-Close Report is proprietary Exchange trade data and does not include trade data from any other exchange. It is also a historical data product and not a real-time data feed. The Open-Close Report would be described under proposed Exchange Rule 531(b)(1).⁶

Specifically, the Open-Close Report would include the following data:

- Aggregate number of buy and sell transactions in the affected series;
- Aggregate volume traded electronically on the Exchange in the affected series;
- Aggregate number of trades effected on the Exchange to open a position;⁷

³ The term "Member" means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed "members" under the Exchange Act. See Exchange Rule 100.

⁴ See Securities Exchange Act Release Nos. 89497 (August 6, 2020), 85 FR 48747 (August 12, 2020) (SR-ChoeBZX-2020-059); 89498 (August 6, 2020), 85 FR 48735 (August 12, 2020) (SR-Choe-EDGX-2020-36); 85817 (May 9, 2019), 84 FR 21863 (May 15, 2019) (SR-CBOE-2019-026); 89496 (August 6, 2020), 85 FR 48743 (August 12, 2020) (SR-C2-2020-010); 89596 (August 17, 2020), 85 FR 51833 (August 21, 2020) (SR-C2-2020-012); 62887 (September 10, 2010), 75 FR 57092 (September 17, 2010) (SR-Phlx-2010-121); 65587 (October 18, 2011), 76 FR 65765 (October 24, 2011) (SR-NASDAQ-2011-144); 61317 (January 8, 2010), 75 FR 2915 (January 19, 2010) (SR-ISE-2009-103); 62887 (September 10, 2010), 75 FR 57092 (September 17, 2010) (SR-Phlx-2010-121); 65587 (October 18, 2011), 76 FR 65765 (October 24, 2011) (SR-NASDAQ-2011-144); and 81632 (September 15, 2017), 82 FR 44235 (September 21, 2017) (SR-GEMX-2017-42).

⁵ See Exchange Rule 100 for the definitions of the terms Priority Customer, Non-Priority Customer, Firm, Broker-Dealer, and Market Maker.

⁶ The Exchange also proposes to amend the title of Exchange Rule 531 to include "Market Data Products."

⁷ The Open-Close Report would provide subscribers with the aggregate number of "opening purchase transactions" in the affected series. An opening purchase transaction is an Exchange options transaction in which the purchaser's intention is to create or increase a long position in the series of options involved in such transaction.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

¹⁰⁰ 17 CFR 200.30-3(a)(12).

- Aggregate number of trades effected on the Exchange to close a position;⁸
- Origin of the orders and quotes involved in trades on the Exchange in the affected series during a particular trading session, specifically aggregated in the following categories of participants: Priority Customer, Non-Priority Customer, Firm, Broker-Dealer, and Market Maker.

The Exchange anticipates a wide variety of market participants to purchase the Open-Close Report, including, but not limited to, individual customers, buy-side investors, and investment banks. The Open-Close Report would provide subscribers data that should enhance their ability to analyze option trade and volume data, and to create and test trading models and analytical strategies. The Exchange believes that Open-Close Report will be a valuable tool that subscribers can use to gain comprehensive insight into the trading activity in a particular option series. The proposed report is a completely voluntary product, in that the Exchange is not required by any rule or regulation to make this data available and that potential subscribers may purchase it only if they voluntarily choose to do so. The Exchange will establish a monthly subscriber fee for the Open-Close Report by way of a separate proposed rule change, which the Exchange will submit prior to the launch of the Open-Close Report.

The Exchange proposes to offer two versions of the Open-Close Report. One will contain historical data from the previous trading day and will be available after the end of the trading day, generally on a T+1 basis. The other version will include “snapshots” taken every 10 minutes throughout the trading day and would be available within five minutes of the conclusion of each 10-minute period.

The Open-Close Report would also provide subscribers with the aggregate number of “opening writing transactions.” An opening writing transaction is an Exchange options transaction in which the seller’s (writer’s) intention is to create or increase a short position in the series of options involved in such transaction.

⁸ The Open-Close Report will provide subscribers with the aggregate number of “closing purchase transactions” in the affected series. A closing purchase transaction is an Exchange options transaction in which the purchaser’s intention is to reduce or eliminate a short position in the series of options involved in such transaction. The Open-Close Report would also provide subscribers with the aggregate number of “closing sale transactions.” A closing sale transaction is an Exchange options transaction in which the seller’s intention is to reduce or eliminate a long position in the series of options involved in such transaction.

End of Day Report

The end of day product would include the aggregate data described above representing the entire trading session. It would be calculated during an overnight process after the close of trading on the Exchange and would be available to subscribers for download the following morning at approximately 7:00 a.m., ET.

Intra-Day Report

The Exchange also proposed to offer an intraday Open-Close Report that would also include aggregated data described above, but would be produced and updated every 10 minutes during the trading day. Data would be captured in “snapshots” taken every 10 minutes throughout the trading day and would be available to subscribers within five minutes of the conclusion of each 10-minute period. For example, subscribers to the intraday product would receive the first calculation of intraday data no later than 9:45 a.m. ET, which represents data captured from 9:30 a.m. to 9:40 a.m. Subscribers will receive the next update by 9:55 a.m., representing the data previously provided aggregated with data captured up to 9:50 a.m., and so forth. Each update will represent combined data captured from the current “snapshot” and all previous “snapshots” and thus will provide open-close data on an aggregate basis. The intraday Open-Close Report will provide a volume summary of trading activity on the Exchange at the option level by origin (Priority Customer, Non-Priority Customer, Firm, Broker-Dealer, and Market Maker), side of the market (buy or sell), and transaction type (opening or closing). All volume will be further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts).

The Exchange believes the proposed intraday Open-Close Report may also provide helpful trading information regarding investor sentiment that may allow market participants to make better trading decisions throughout the day and may be used to create and test trading models and analytical strategies and provides comprehensive insight into trading on the Exchange. For example, intraday open data may allow a market participant to identify new interest or possible risks throughout the trading day, while intraday closing data may allow a market participant to identify fading interests in a security.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with

Section 6(b) of the Act⁹ in general, and furthers the objectives of Section 6(b)(5) of the Act¹⁰ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and that it is not designed to permit unfair discrimination among customers, brokers, or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (“SROs”) and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. Particularly, the Open-Close Report further broadens the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. The data product also promotes increased transparency through the dissemination of the Open-Close Report’s data. The proposed rule change would benefit investors by providing access to the Open-Close Report, which may promote better informed trading throughout the trading day. Particularly, information regarding opening and closing activity across different option series during the trading day may indicate investor sentiment, which may allow market participants to make better informed trading decisions throughout the day. Subscribers to the data may also be able to enhance their ability to analyze option trade and volume data and create and test trading models and analytical strategies. The Exchange believes the Open-Close Report provides a valuable tool that subscribers can use to gain comprehensive insight into the trading activity in a particular series, but also emphasizes such data is not necessary for trading.

Moreover, other exchanges also offer a substantially identical data product.¹¹ Specifically, NASDAQ OMX PHLX (“PHLX”) and the NASDAQ Stock Market LLC (“NASDAQ”) offer the PHLX Options Trade Outline (“PHOTO”) and NASDAQ Options Trade Outline (“NOTO”), respectively. The Cboe Exchange, Inc. (“Cboe”), Cboe C2 Exchange, Inc. (“C2”), Cboe BZX Exchange, Inc. (“BZX”), and Cboe EDGX

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

¹¹ See *supra* note 4.

Exchange, Inc. ("EDGX") all offer the market data products called the End of Day and Intraday Open-Close Data. The Phlx, Nasdaq, Cboe, C2, BZX, and EDGX products provide substantially the same information as that included in the proposed Open-Close Report. Like the proposed product, the data is provided to subscribers in the other exchange's market data products after the end of the trading and cumulatively every 10 minutes and provided within five minutes of the conclusion of each 10-minute period.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes that the proposal will promote competition by permitting the Exchange to offer a data product similar to those offered by other competitor options exchanges.¹² The Exchange is proposing to introduce the Open-Close Report in order to keep pace with changes in the industry and evolving customer needs, and believes this proposed rule change would contribute to robust competition among national securities exchanges. As noted, most other options exchanges offer a market data product that is similar to the Open-Close Report.¹³ As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges. Therefore, the Exchange does not believe the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act¹⁴ and Rule 19b-4(f)(6)¹⁵ thereunder. Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant

burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁶ and Rule 19b-4(f)(6)¹⁷ thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)¹⁸ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁹ the Commission may designate a shorter time if such action is consistent with protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative on June 1, 2021, the anticipated date upon which the Exchange expects to start to offer the Open-Close Report. In support of its waiver request, the Exchange notes that other exchanges offer a substantially identical data product.²⁰ The Commission believes that, as described above, the Exchange's proposal does not raise any new or novel issues. Therefore, the Commission believes that waving the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission designates the proposed rule change to be operative on June 1, 2021.²¹

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and

arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-EMERALD-2021-18 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-EMERALD-2021-18. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-EMERALD-2021-18 and should be submitted on or before June 17, 2021.

¹⁶ 15 U.S.C. 78s(b)(3)(A).

¹⁷ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁸ 17 CFR 240.19b-4(f)(6).

¹⁹ 17 CFR 240.19b-4(f)(6).

²⁰ See *supra* note 11 and accompanying text.

²¹ For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹² *Id.*

¹³ *Id.*

¹⁴ 15 U.S.C. 78(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f)(6).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²²

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2021-11173 Filed 5-26-21; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-91965; File No. SR-MIAX-2021-18]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt a New Historical Market Data Product To Be Known as the Open-Close Report

May 21, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 10, 2021, Miami International Securities Exchange, LLC (“MIAX Options” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to adopt a new historical market data product to be known as the Open-Close Report.

The text of the proposed rule change is available on the Exchange’s website at <http://www.miaxoptions.com/rule-filings/> at MIAX Options’ principal office, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The

Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt a new historical market data product to be known as the Open-Close Report, which will be available to all Members and Non-Members.³ The proposed Open-Close Report would be described in Exchange Rule 531(b)(1) and is based on market data products currently available on most other options exchanges.⁴

The Exchange proposes to offer the Open-Close Report, which will be a volume summary of trading activity on the Exchange at the option level by origin (Priority Customer, Non-Priority Customer, Firm, Broker-Dealer, and Market Maker⁵), side of the market (buy or sell), contract volume, and transaction type (opening or closing). The Priority Customer, Non-Priority Customer, Firm, Broker-Dealer, and Market Maker volume is further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The Open-Close Report is proprietary Exchange trade data and does not include trade data from any other exchange. It is also a historical data product and not a real-time data feed. The Open-Close Report would be described under proposed Exchange Rule 531(b)(1).

Specifically, the Open-Close Report would include the following data:

- Aggregate number of buy and sell transactions in the affected series;

³ The term “Member” means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed “members” under the Exchange Act. See Exchange Rule 100.

⁴ See Securities Exchange Act Release Nos. 89497 (August 6, 2020), 85 FR 48747 (August 12, 2020) (SR-CboeBZX–2020–059); 89498 (August 6, 2020), 85 FR 48735 (August 12, 2020) (SR-Cboe-EDGX–2020–36); 85817 (May 9, 2019), 84 FR 21863 (May 15, 2019) (SR-CBOE–2019–026); 89496 (August 6, 2020), 85 FR 48743 (August 12, 2020) (SR-C2–2020–010); 89596 (August 17, 2020), 85 FR 51833 (August 21, 2020) (SR-C2–2020–012); 62887 (September 10, 2010), 75 FR 57092 (September 17, 2010) (SR-Phlx–2010–121); 65587 (October 18, 2011), 76 FR 65765 (October 24, 2011) (SR-NASDAQ–2011–144); 61317 (January 8, 2010), 75 FR 2915 (January 19, 2010) (SR-ISE–2009–103); 62887 (September 10, 2010), 75 FR 57092 (September 17, 2010) (SR-Phlx–2010–121); 65587 (October 18, 2011), 76 FR 65765 (October 24, 2011) (SR-NASDAQ–2011–144); and 81632 (September 15, 2017), 82 FR 44235 (September 21, 2017) (SR-GEMX–2017–42).

⁵ See Exchange Rule 100 for the definitions of the terms Priority Customer, Non-Priority Customer, Firm, Broker-Dealer, and Market Maker.

• Aggregate volume traded electronically on the Exchange in the affected series;

- Aggregate number of trades effected on the Exchange to open a position;⁶
- Aggregate number of trades effected on the Exchange to close a position;⁷
- Origin of the orders and quotes involved in trades on the Exchange in the affected series during a particular trading session, specifically aggregated in the following categories of participants: Priority Customer, Non-Priority Customer, Firm, Broker-Dealer, and Market Maker.

The Exchange anticipates a wide variety of market participants to purchase the Open-Close Report, including, but not limited to, individual customers, buy-side investors, and investment banks. The Open-Close Report would provide subscribers data that should enhance their ability to analyze option trade and volume data, and to create and test trading models and analytical strategies. The Exchange believes that Open-Close Report will be a valuable tool that subscribers can use to gain comprehensive insight into the trading activity in a particular option series. The proposed report is a completely voluntary product, in that the Exchange is not required by any rule or regulation to make this data available and that potential subscribers may purchase it only if they voluntarily choose to do so. The Exchange will establish a monthly subscriber fee for the Open-Close Report by way of a separate proposed rule change, which the Exchange will submit prior to the launch of the Open-Close Report.

The Exchange proposes to offer two versions of the Open-Close Report. One will contain historical data from the

⁶ The Open-Close Report would provide subscribers with the aggregate number of “opening purchase transactions” in the affected series. An opening purchase transaction is an Exchange options transaction in which the purchaser’s intention is to create or increase a long position in the series of options involved in such transaction. The Open-Close Report would also provide subscribers with the aggregate number of “opening writing transactions.” An opening writing transaction is an Exchange options transaction in which the seller’s (writer’s) intention is to create or increase a short position in the series of options involved in such transaction.

⁷ The Open-Close Report will provide subscribers with the aggregate number of “closing purchase transactions” in the affected series. A closing purchase transaction is an Exchange options transaction in which the purchaser’s intention is to reduce or eliminate a short position in the series of options involved in such transaction. The Open-Close Report would also provide subscribers with the aggregate number of “closing sale transactions.” A closing sale transaction is an Exchange options transaction in which the seller’s intention is to reduce or eliminate a long position in the series of options involved in such transaction.

²² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

previous trading day and will be available after the end of the trading day, generally on a T+1 basis. The other version will include “snapshots” taken every 10 minutes throughout the trading day and would be available within five minutes of the conclusion of each 10 minute period.

End of Day Report

The end of day product would include the aggregate data described above representing the entire trading session. It would be calculated during an overnight process after the close of trading on the Exchange and would be available to subscribers for download the following morning at approximately 7:00 a.m., ET.

Intra-Day Report

The Exchange also proposed to offer an intraday Open-Close Report that would also include aggregated data described above, but would be produced and updated every 10 minutes during the trading day. Data would be captured in “snapshots” taken every 10 minutes throughout the trading day and would be available to subscribers within five minutes of the conclusion of each 10 minute period. For example, subscribers to the intraday product would receive the first calculation of intraday data no later than 9:45 a.m. ET, which represents data captured from 9:30 a.m. to 9:40 a.m. Subscribers will receive the next update by 9:55 a.m., representing the data previously provided aggregated with data captured up to 9:50 a.m., and so forth. Each update will represent combined data captured from the current “snapshot” and all previous “snapshots” and thus will provide open-close data on an aggregate basis. The intraday Open-Close Report will provide a volume summary of trading activity on the Exchange at the option level by origin (Priority Customer, Non-Priority Customer, Firm, Broker-Dealer, and Market Maker), side of the market (buy or sell), and transaction type (opening or closing). All volume will be further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts).

The Exchange believes the proposed intraday Open-Close Report may also provide helpful trading information regarding investor sentiment that may allow market participants to make better trading decisions throughout the day and may be used to create and test trading models and analytical strategies and provides comprehensive insight into trading on the Exchange. For example, intraday open data may allow a market participant to identify new

interest or possible risks throughout the trading day, while intraday closing data may allow a market participant to identify fading interests in a security.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act⁸ in general, and furthers the objectives of Section 6(b)(5) of the Act⁹ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and that it is not designed to permit unfair discrimination among customers, brokers, or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (“SROs”) and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. Particularly, the Open-Close Report further broadens the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. The data product also promotes increased transparency through the dissemination of the Open-Close Report’s data. The proposed rule change would benefit investors by providing access to the Open-Close Report, which may promote better informed trading throughout the trading day. Particularly, information regarding opening and closing activity across different option series during the trading day may indicate investor sentiment, which may allow market participants to make better informed trading decisions throughout the day. Subscribers to the data may also be able to enhance their ability to analyze option trade and volume data and create and test trading models and analytical strategies. The Exchange believes the Open-Close Report provides a valuable tool that subscribers can use to gain comprehensive insight into the trading activity in a particular series, but also emphasizes such data is not necessary for trading.

Moreover, other exchanges also offer a substantially identical data product.¹⁰ Specifically, NASDAQ OMX PHLX

(“PHLX”) and the NASDAQ Stock Market LLC (“NASDAQ”) offer the PHLX Options Trade Outline (“PHOTO”) and NASDAQ Options Trade Outline (“NOTO”), respectively. The Cboe Exchange, Inc. (“Cboe”), Cboe C2 Exchange, Inc. (“C2”), Cboe BZX Exchange, Inc. (“BZX”), and Cboe EDGX Exchange, Inc. (“EDGX”) all offer the market data products called the End of Day and Intraday Open-Close Data. The Phlx, Nasdaq, Cboe, C2, BZX, and EDGX products provide substantially the same information as that included in the proposed Open-Close Report. Like the proposed product, the data is provided to subscribers in the other exchange’s market data products after the end of the trading and cumulatively every 10 minutes and provided within five minutes of the conclusion of each 10 minute period.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes that the proposal will promote competition by permitting the Exchange to offer a data product similar to those offered by other competitor options exchanges.¹¹ The Exchange is proposing to introduce the Open-Close Report in order to keep pace with changes in the industry and evolving customer needs, and believes this proposed rule change would contribute to robust competition among national securities exchanges. As noted, most other options exchanges offer a market data product that is similar to the Open-Close Report.¹² As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges. Therefore, the Exchange does not believe the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ See *supra* note 4.

¹¹ *Id.*

¹² *Id.*

19(b)(3)(A) of the Act¹³ and Rule 19b-4(f)(6)¹⁴ thereunder. Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁵ and Rule 19b-4(f)(6)¹⁶ thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)¹⁷ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁸ the Commission may designate a shorter time if such action is consistent with protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative on June 1, 2021, the anticipated date upon which the Exchange expects to start to offer the Open-Close Report. In support of its waiver request, the Exchange notes that other exchanges offer a substantially identical data product.¹⁹ The Commission believes that, as described above, the Exchange's proposal does not raise any new or novel issues. Therefore, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission designates the proposed rule change to be operative on June 1, 2021.²⁰

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the

Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-MIAX-2021-18 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-MIAX-2021-18. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-MIAX-2021-18 and should be submitted on or before June 17, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²¹

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021-11175 Filed 5-26-21; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-91964; File No. SR-PEARL-2021-24]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt a New Historical Market Data Product To Be Known as the Open-Close Report

May 21, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 10, 2021, MIAX PEARL, LLC ("MIAX Pearl") or the "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to adopt a new historical market data product to be known as the Open-Close Report.

The text of the proposed rule change is available on the Exchange's website at <http://www.miaxoptions.com/rule-filings/pearl> at MIAX Pearl's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of

¹³ 15 U.S.C. 78(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f)(6).

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁷ 17 CFR 240.19b-4(f)(6).

¹⁸ 17 CFR 240.19b-4(f)(6).

¹⁹ See *supra* note 10 and accompanying text.

²⁰ For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

²¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt a new historical market data product for options to be known as the Open-Close Report, which will be available to all Members and Non-Members.³ The proposed Open-Close Report would be described in new Exchange Rule 531(b)(1) and is based on market data products currently available on most other options exchanges.⁴

The Exchange proposes to offer the Open-Close Report, which will be a volume summary of trading activity on the Exchange at the option level by origin (Priority Customer, Non-Priority Customer, Firm, Broker-Dealer, and Market Maker⁵), side of the market (buy or sell), contract volume, and transaction type (opening or closing). The Priority Customer, Non-Priority Customer, Firm, Broker-Dealer, and Market Maker volume is further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts). The Open-Close Report is proprietary Exchange trade data and does not include trade data from any other exchange. It is also a historical data product and not a real-time data feed. The Open-Close Report would be described under proposed Exchange Rule 531(b)(1).

Specifically, the Open-Close Report would include the following data:

- Aggregate number of buy and sell transactions in the affected series;

- Aggregate volume traded electronically on the Exchange in the affected series;

- Aggregate number of trades effected on the Exchange to open a position;⁶
- Aggregate number of trades effected on the Exchange to close a position;⁷
- Origin of the orders and quotes involved in trades on the Exchange in the affected series during a particular trading session, specifically aggregated in the following categories of participants: Priority Customer, Non-Priority Customer, Firm, Broker-Dealer, and Market Maker.

The Exchange anticipates a wide variety of market participants to purchase the Open-Close Report, including, but not limited to, individual customers, buy-side investors, and investment banks. The Open-Close Report would provide subscribers data that should enhance their ability to analyze option trade and volume data, and to create and test trading models and analytical strategies. The Exchange believes that Open-Close Report will be a valuable tool that subscribers can use to gain comprehensive insight into the trading activity in a particular option series. The proposed report is a completely voluntary product, in that the Exchange is not required by any rule or regulation to make this data available and that potential subscribers may purchase it only if they voluntarily choose to do so. The Exchange will establish a monthly subscriber fee for the Open-Close Report by way of a separate proposed rule change, which the Exchange will submit prior to the launch of the Open-Close Report.

The Exchange proposes to offer two versions of the Open-Close Report. One will contain historical data from the

previous trading day and will be available after the end of the trading day, generally on a T+1 basis. The other version will include “snapshots” taken every 10 minutes throughout the trading day and would be available within five minutes of the conclusion of each 10 minute period.

End of Day Report

The end of day product would include the aggregate data described above representing the entire trading session. It would be calculated during an overnight process after the close of trading on the Exchange and would be available to subscribers for download the following morning at approximately 7:00 a.m., ET.

Intra-Day Report

The Exchange also proposed to offer an intraday Open-Close Report that would also include aggregated data described above, but would be produced and updated every 10 minutes during the trading day. Data would be captured in “snapshots” taken every 10 minutes throughout the trading day and would be available to subscribers within five minutes of the conclusion of each 10 minute period. For example, subscribers to the intraday product would receive the first calculation of intraday data no later than 9:45 a.m. ET, which represents data captured from 9:30 a.m. to 9:40 a.m. Subscribers will receive the next update by 9:55 a.m., representing the data previously provided aggregated with data captured up to 9:50 a.m., and so forth. Each update will represent combined data captured from the current “snapshot” and all previous “snapshots” and thus will provide open-close data on an aggregate basis. The intraday Open-Close Report will provide a volume summary of trading activity on the Exchange at the option level by origin (Priority Customer, Non-Priority Customer, Firm, Broker-Dealer, and Market Maker), side of the market (buy or sell), and transaction type (opening or closing). All volume will be further broken down into trade size buckets (less than 100 contracts, 100–199 contracts, greater than 199 contracts).

The Exchange believes the proposed intraday Open-Close Report may also provide helpful trading information regarding investor sentiment that may allow market participants to make better trading decisions throughout the day and may be used to create and test trading models and analytical strategies and provides comprehensive insight into trading on the Exchange. For example, intraday open data may allow a market participant to identify new

³ The term “Member” means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed “members” under the Exchange Act. See Exchange Rule 100.

⁴ See Securities Exchange Act Release Nos. 89497 (August 6, 2020), 85 FR 48747 (August 12, 2020) (SR–CboeBZX–2020–059); 89498 (August 6, 2020), 85 FR 48735 (August 12, 2020) (SR–Cboe–EDGX–2020–36); 85817 (May 9, 2019), 84 FR 21863 (May 15, 2019) (SR–CBOE–2019–026); 89496 (August 6, 2020), 85 FR 48743 (August 12, 2020) (SR–C2–2020–010); 89596 (August 17, 2020), 85 FR 51833 (August 21, 2020) (SR–C2–2020–012); 62887 (September 10, 2010), 75 FR 57092 (September 17, 2010) (SR–Phlx–2010–121); 65587 (October 18, 2011), 76 FR 65765 (October 24, 2011) (SR–NASDAQ–2011–144); 61317 (January 8, 2010), 75 FR 2915 (January 19, 2010) (SR–ISE–2009–103); 62887 (September 10, 2010), 75 FR 57092 (September 17, 2010) (SR–Phlx–2010–121); 65587 (October 18, 2011), 76 FR 65765 (October 24, 2011) (SR–NASDAQ–2011–144); and 81632 (September 15, 2017), 82 FR 44235 (September 21, 2017) (SR–GEMX–2017–42).

⁵ See Exchange Rule 100 for the definitions of the terms Priority Customer, Non-Priority Customer, Firm, Broker-Dealer, and Market Maker.

⁶ The Open-Close Report would provide subscribers with the aggregate number of “opening purchase transactions” in the affected series. An opening purchase transaction is an Exchange options transaction in which the purchaser’s intention is to create or increase a long position in the series of options involved in such transaction. The Open-Close Report would also provide subscribers with the aggregate number of “opening writing transactions.” An opening writing transaction is an Exchange options transaction in which the seller’s (writer’s) intention is to create or increase a short position in the series of options involved in such transaction.

⁷ The Open-Close Report will provide subscribers with the aggregate number of “closing purchase transactions” in the affected series. A closing purchase transaction is an Exchange options transaction in which the purchaser’s intention is to reduce or eliminate a short position in the series of options involved in such transaction. The Open-Close Report would also provide subscribers with the aggregate number of “closing sale transactions.” A closing sale transaction is an Exchange options transaction in which the seller’s intention is to reduce or eliminate a long position in the series of options involved in such transaction.

interest or possible risks throughout the trading day, while intraday closing data may allow a market participant to identify fading interests in a security.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act⁸ in general, and furthers the objectives of Section 6(b)(5) of the Act⁹ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and that it is not designed to permit unfair discrimination among customers, brokers, or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations ("SROs") and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. Particularly, the Open-Close Report further broadens the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. The data product also promotes increased transparency through the dissemination of the Open-Close Report's data. The proposed rule change would benefit investors by providing access to the Open-Close Report, which may promote better informed trading throughout the trading day. Particularly, information regarding opening and closing activity across different option series during the trading day may indicate investor sentiment, which may allow market participants to make better informed trading decisions throughout the day. Subscribers to the data may also be able to enhance their ability to analyze option trade and volume data and create and test trading models and analytical strategies. The Exchange believes the Open-Close Report provides a valuable tool that subscribers can use to gain comprehensive insight into the trading activity in a particular series, but also emphasizes such data is not necessary for trading.

Moreover, other exchanges also offer a substantially identical data product.¹⁰ Specifically, NASDAQ OMX PHLX

("PHLX") and the NASDAQ Stock Market LLC ("NASDAQ") offer the PHLX Options Trade Outline ("PHOTO") and NASDAQ Options Trade Outline ("NOTO"), respectively. The Cboe Exchange, Inc. ("Cboe"), Cboe C2 Exchange, Inc. ("C2"), Cboe BZX Exchange, Inc. ("BZX"), and Cboe EDGX Exchange, Inc. ("EDGX") all offer the market data products called the End of Day and Intraday Open-Close Data. The Phlx, Nasdaq, Cboe, C2, BZX, and EDGX products provide substantially the same information as that included in the proposed Open-Close Report. Like the proposed product, the data is provided to subscribers in the other exchange's market data products after the end of the trading and cumulatively every 10 minutes and provided within five minutes of the conclusion of each 10 minute period.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes that the proposal will promote competition by permitting the Exchange to offer a data product similar to those offered by other competitor options exchanges.¹¹ The Exchange is proposing to introduce the Open-Close Report in order to keep pace with changes in the industry and evolving customer needs, and believes this proposed rule change would contribute to robust competition among national securities exchanges. As noted, most other options exchanges offer a market data product that is similar to the Open-Close Report.¹² As a result, the Exchange believes this proposed rule change permits fair competition among national securities exchanges. Therefore, the Exchange does not believe the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section

19(b)(3)(A) of the Act¹³ and Rule 19b-4(f)(6)¹⁴ thereunder. Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁵ and Rule 19b-4(f)(6)¹⁶ thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)¹⁷ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁸ the Commission may designate a shorter time if such action is consistent with protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative on June 1, 2021, the anticipated date upon which the Exchange expects to start to offer the Open-Close Report. In support of its waiver request, the Exchange notes that other exchanges offer a substantially identical data product.¹⁹ The Commission believes that, as described above, the Exchange's proposal does not raise any new or novel issues. Therefore, the Commission believes that waving the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission designates the proposed rule change to be operative on June 1, 2021.²⁰

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the

¹³ 15 U.S.C. 78(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f)(6).

¹⁵ 15 U.S.C. 78s(b)(3)(A).

¹⁶ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁷ 17 CFR 240.19b-4(f)(6).

¹⁸ 17 CFR 240.19b-4(f)(6).

¹⁹ See *supra* note 10 and accompanying text.

²⁰ For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ See *supra* note 4.

¹¹ *Id.*

¹² *Id.*

Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-PEARL-2021-24 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-PEARL-2021-24. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-PEARL-2021-24 and should be submitted on or before June 17, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²¹

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021-11174 Filed 5-26-21; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16991 and #16992; West Virginia Disaster Number WV-00055]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of West Virginia

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of West Virginia (FEMA-4605-DR), dated 05/20/2021.

Incident: Severe Storms and Flooding.
Incident Period: 02/27/2021 through 03/04/2021.

DATES: Issued on 05/20/2021.

Physical Loan Application Deadline Date: 07/19/2021.

Economic Injury (EIDL) Loan Application Deadline Date: 02/22/2022.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 05/20/2021, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Boone, Kanawha, Lincoln, Logan, Mingo, Wayne

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Non-Profit Organizations with Credit Available Elsewhere ...	2.000
Non-Profit Organizations without Credit Available Elsewhere	2.000

²¹ 17 CFR 200.30-3(a)(12).

	Percent
<i>For Economic Injury:</i>	
Non-Profit Organizations without Credit Available Elsewhere	2.000

The number assigned to this disaster for physical damage is 16991 6 and for economic injury is 16992 0.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2021-11225 Filed 5-26-21; 8:45 am]

BILLING CODE 8026-03-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16989 and #16990; West Virginia Disaster Number WV-00053]

Presidential Declaration of a Major Disaster for the State of West Virginia

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of West Virginia (FEMA-4605-DR), dated 05/20/2021.

Incident: Severe Storms and Flooding.
Incident Period: 02/27/2021 through 03/04/2021.

DATES: Issued on 05/20/2021.

Physical Loan Application Deadline Date: 07/19/2021.

Economic Injury (EIDL) Loan Application Deadline Date: 02/22/2022.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 05/20/2021, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Cabell, Kanawha, Mingo, Wayne.

Contiguous Counties (Economic Injury Loans Only):

West Virginia: Boone, Clay, Fayette, Jackson, Lincoln, Logan, Mason,

McDowell, Nicholas, Putnam,
Raleigh, Roane, Wyoming,
Kentucky: Boyd, Lawrence, Martin,
Pike.
Ohio: Gallia, Lawrence.
Virginia: Buchanan.
The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners with Credit Available Elsewhere	2.500
Homeowners without Credit Available Elsewhere	1.250
Businesses with Credit Available Elsewhere	6.000
Businesses without Credit Available Elsewhere	3.000
Non-Profit Organizations with Credit Available Elsewhere ...	2.000
Non-Profit Organizations without Credit Available Elsewhere	2.000
<i>For Economic Injury:</i>	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	3.000
Non-Profit Organizations without Credit Available Elsewhere	2.000

The number assigned to this disaster for physical damage is 16989 6 and for economic injury is 16990 0.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2021-11224 Filed 5-26-21; 8:45 am]

BILLING CODE 8026-03-P

DEPARTMENT OF STATE

[Public Notice: 11430]

U.S. Advisory Commission on Public Diplomacy Notice of Meeting

The U.S. Advisory Commission on Public Diplomacy (ACPD) will hold a virtual public meeting from 12:00 p.m. until 1:30 p.m., Thursday, June 17, 2021. The meeting will focus on public diplomacy responses to China's influence strategies. A panel of experts on China's information and public diplomacy initiatives will discuss challenges and opportunities for PD practitioners in responding to China's state-sponsored influence operations.

This meeting is open to the public, including the media and members and staff of governmental and non-governmental organizations. To obtain the web conference link and password please register here: [https://www.eventbrite.com/e/public-diplomacy-responses-to-chinas-](https://www.eventbrite.com/e/public-diplomacy-responses-to-chinas-influence-strategies-tickets-153520669455)

[influence-strategies-tickets-153520669455](https://www.eventbrite.com/e/public-diplomacy-responses-to-chinas-influence-strategies-tickets-153520669455). To request reasonable accommodation, please email ACPD Program Assistant Kristy Zamary at ZamaryKK@state.gov. Please send any request for reasonable accommodation no later than June 8, 2021. Requests received after that date will be considered, but might not be possible to fulfill. Attendees should plan to enter the web conference waiting room by 11:50 a.m. to allow for a prompt start.

Since 1948, the ACPD has been charged with appraising activities intended to understand, inform, and influence foreign publics and to increase the understanding of, and support for, these same activities. The ACPD conducts research that provides honest assessments of public diplomacy efforts, and disseminates findings through reports, white papers, and other publications. It also holds public symposiums that generate informed discussions on public diplomacy issues and events. The Commission reports to the President, Secretary of State, and Congress and is supported by the Office of the Under Secretary of State for Public Diplomacy and Public Affairs.

For more information on the U.S. Advisory Commission on Public Diplomacy, please visit <https://www.state.gov/bureaus-offices/under-secretary-for-public-diplomacy-and-public-affairs/united-states-advisory-commission-on-public-diplomacy/>, or contact Executive Director Vivian S. Walker at WalkerVS@state.gov or Senior Advisor Shawn Baxter at BaxterGS@state.gov.

Kristina K. Zamary,
Department of State.

[FR Doc. 2021-11246 Filed 5-26-21; 8:45 am]

BILLING CODE 4710-45-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36490]

OmniTRAX Holdings Combined, Inc., and HGS Railway Holdings, Inc.—Control Exemption—Savannah Industrial Transportation, LLC

OmniTRAX Holdings Combined, Inc. (OmniTRAX), and HGS Railway Holdings, Inc. (HGS) (collectively, Applicants), both noncarriers, filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to control Savannah Industrial Transportation, LLC (SIT), a noncarrier currently controlled by OmniTRAX, once SIT is authorized to commence common carrier operations.

This notice of exemption is related to a concurrently filed petition for exemption in *Savannah Industrial*

Transportation, LLC—Operation Exemption—in Effingham County, Ga., Docket No. FD 36489. In that proceeding, SIT seeks an exemption under 49 U.S.C. 10502(a) to commence common carrier operations on certain trackage that it leased from the track owner, Savannah Industrial Logistics, LLC, another noncarrier holding of OmniTRAX.¹ If that petition is approved, SIT will operate as a common carrier over certain trackage in Rincon, Effingham County, Ga., extending from a connection with Norfolk Southern Railway Company (NSR) near NSR milepost 16.6 to a connection with CSX Transportation, Inc. (CSXT), near CSXT milepost S484.0, a distance of approximately 11,404 feet.

Applicants state that they will control SIT upon SIT's becoming a Class III rail carrier. According to Applicants, OmniTRAX and HGS are under joint managerial and operational control.² Applicants state that OmniTRAX currently controls 20 Class III railroads and HGS currently controls two Class III railroads.³ The properties of the rail carriers controlled by OmniTRAX and HGS are located in the following states: Alabama, California, Colorado, Florida, Georgia, Illinois, Kansas, Maryland, Nebraska, New Jersey, Ohio, Oklahoma, Texas, Virginia, Washington, and West Virginia. Applicants certify that the proposed transaction does not involve an interchange commitment.

Applicants state that: (1) The line over which SIT seeks authority to operate does not connect with the lines of any of the existing rail carriers controlled by OmniTRAX or by HGS, (2) the proposed transaction is not part of a series of anticipated transactions that would connect the line with any other railroads in the OmniTRAX or HGS

¹ According to the verified notice, while SIT is currently controlled solely by OmniTRAX, if SIT's petition to commence common carrier operations in Docket No. FD 36489 is granted, OmniTRAX and HGS seek to control SIT jointly. (Notice 4.)

² See *OmniTRAX Holdings Combined, Inc.—Control Exemption—The Winchester & W. R.R.*, FD 36338 (STB served Aug. 22, 2019).

³ Specifically, OmniTRAX currently controls: Alabama & Tennessee River Railway, LLC; Brownsville & Rio Grande International Railway, LLC; Central Texas & Colorado River Railway, LLC; Chicago Rail Link, L.L.C.; Cleveland & Cuyahoga Railway, LLC; Fulton County Railway, LLC; Georgia & Florida Railway, LLC; Georgia Woodlands Railroad, L.L.C.; Great Western Railway of Colorado, L.L.C.; Illinois Railway, LLC; Kettle Falls International Railway, LLC; Manufacturers' Junction Railway, L.L.C.; Nebraska, Kansas & Colorado Railway, LLC; Newburgh & South Shore Railroad, LLC; Northern Ohio & Western Railway, L.L.C.; Panhandle Northern Railroad, L.L.C.; Peru Industrial Railroad, LLC; Sand Springs Railway Company; Stockton Terminal and Eastern Railroad; and Winchester & Western Railroad Company. HGS currently controls HGS-ATN, LLC and HGS-FCR, LLC.

corporate families; and (3) the transaction does not involve a Class I rail carrier. Therefore, the proposed transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2).

The earliest this transaction may be consummated is June 10, 2021, the effective date of the exemption (30 days after the verified notice was filed). The verified notice states that the parties do not intend to consummate the transaction until such time as SIT consummates the transaction that is the subject of its petition for exemption in Docket No. FD 36489.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. However, 49 U.S.C. 11326(c) does not provide for labor protection for transactions under 49 U.S.C. 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here because all the carriers involved are Class III carriers.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than June 3, 2021 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36490, should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, a copy of each pleading must be served on Applicants' representative, Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606-2832.

According to Applicants, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at www.stb.gov.

Decided: May 24, 2021.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Kenyatta Clay,
Clearance Clerk.

[FR Doc. 2021-11235 Filed 5-26-21; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[FAA-2021-0481]

NextGen Advisory Committee; Notice of Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: This notice announces a meeting of the NextGen Advisory Committee (NAC).

DATES: The meeting will be held virtually only, on June 21, 2021, from 1:00 p.m.–5:00 p.m. EDT. Requests to attend the meeting virtually and request for accommodations for a disability must be received by June 7, 2021. If you wish to make a public statement during the meeting, you must submit a written copy of your remarks by June 7, 2021. Requests to submit written materials, to be reviewed by NAC Members before the meeting, must be received no later than June 7, 2021.

ADDRESSES: The meeting will be a virtual meeting only. Virtual meeting information will be provided upon registration. Information on the NAC, including copies of previous meeting minutes, is available on the NAC internet website at https://www.faa.gov/about/office_org/headquarters_offices/ang/nac/. Members of the public interested in attending must send the required information listed in the **SUPPLEMENTAL INFORMATION** to 9-AWA-ANG-NACRegistration@faa.gov.

FOR FURTHER INFORMATION CONTACT: Greg Schwab, NAC Coordinator, U.S. Department of Transportation, at gregory.schwab@faa.gov or 202-267-1201. Any requests or questions not regarding attendance registration should be sent to the person listed in this section.

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of Transportation established the NAC under agency authority in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, Public Law 92-463, 5 U.S.C. App. 2, to provide independent advice and recommendations to the FAA, and to respond to specific taskings received directly from the FAA. The NAC recommends consensus-driven advice for FAA consideration relating to Air Traffic Management System modernization.

II. Agenda

At the meeting, the agenda will cover the following topics:

- NAC Chairman's Report
 - FAA Report
 - NAC Subcommittee Chairman's Report
 - Risk and Mitigations update for the following focus areas: Multiple Runway Operations, Data Communications, Performance Based Navigation, Surface and Data Sharing, and Northeast Corridor
 - NAC Chairman Closing Comments
- The detailed agenda will be posted on the NAC internet website at least one week in advance of the meeting.

III. Public Participation

This virtual meeting will be open to the public on a first-come, first served basis. Members of the public who wish to attend are asked to register via email by submitting their full legal name, country of citizenship, contact information (telephone number and email address), and name of your industry association, or applicable affiliation. Please email this information to the email address listed in the **ADDRESSES** section. When registration is confirmed, registrants will be provided the virtual meeting information/teleconference call-in number and passcode. Callers are responsible for paying associated long-distance charges (if any).

Note: Only NAC Members, members of the public who have registered to make a public statement, and briefers will have the ability to speak. All other attendees will be able to listen only.

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, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Five minutes will be allotted for oral comments from members of the public joining the meeting. This time may be extended if there is a significant number of members of the public wishing to provide an oral comment. To accommodate as many speakers as possible, the time for each commenter may be limited. Individuals wishing to reserve speaking time during the meeting must submit a request at the time of registration, as well as the name, address, and organizational affiliation of the proposed speaker. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, FAA may conduct a lottery to

determine the speakers. Speakers are required to submit a copy of their prepared remarks for inclusion in the meeting records and for circulation to NAC members to the person listed under the heading **FOR FURTHER INFORMATION CONTACT**. All prepared remarks submitted on time will be accepted and considered as part of the meeting's record.

Members of the public may submit written statements for inclusion in the meeting records and circulation to the NAC members. Written statements need to be submitted to the person listed under the heading **FOR FURTHER INFORMATION CONTACT**. Comments received after the due date listed in the **DATES** section, will be distributed to the members but may not be reviewed prior to the meeting. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, this 24 day of May 2021.

Gregory E. Schwab,

Division Manager, NextGen Stakeholder Collaboration Division, ANG-M1, Office of the Assistant Administrator for NextGen, Federal Aviation Administration.

[FR Doc. 2021-11229 Filed 5-26-21; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA-2012-0033]

Notice of Intent To Grant a Buy America Waiver to the California Department of Transportation (Caltrans) and the Illinois Department of Transportation (IDOT) To Purchase Up to 615 Workstation Tables

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of intent to grant FRA Buy America Waiver.

SUMMARY: FRA is issuing this notice to advise the public that it intends to grant Caltrans' and IDOT's request for a waiver from FRA's Buy America requirement, so that Siemens USA, the design, manufacturing, and delivery contractor, may purchase and install up to 615 non-domestic workstation tables that comply with certain design and safety standards for their single-level passenger railcars replacement project. Meeting these standards is required under the Passenger Rail Investment and Improvement Act of 2008 (PRIIA), and FRA's grant agreement with Caltrans and IDOT.

DATES: Written comments on FRA's determination to grant a Buy America waiver to Caltrans and IDOT should be provided to FRA on or before June 1, 2021.

ADDRESSES: Please submit your comments to the U.S. Government electronic docket site at <http://www.regulations.gov>, in docket number: FRA-2012-0033.

Note: All submissions received, including any personal information therein, will be posted without change or alteration to <http://www.regulations.gov>.

For more information, you may review DOT's complete Privacy Act Statement published in the **Federal Register** on April 11, 2000 (65 FR 19477).

FOR FURTHER INFORMATION CONTACT: Faris Mohammed, Attorney-Advisor, Office of Chief Counsel, telephone: (202) 493-7064, email: Faris.Mohammed@dot.gov.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to provide the public with information related to FRA's intent to grant a waiver to Caltrans and IDOT from FRA's Buy America requirement, pursuant to 49 U.S.C. 22905(a)(2), to allow the use of up to 615 non-domestic workstation tables.

Background

Caltrans and IDOT were awarded five separate grants from FRA to purchase rolling stock, including single-level passenger railcars, for use in intercity passenger rail service (Project). Caltrans and IDOT entered into a contract with Sumitomo Corporation of Americas (SCOA) to produce and deliver the railcars; SCOA entered into a subcontract with Siemens USA to manufacture the railcars. Siemens contracted with Baker Bellfield, a company headquartered in the United Kingdom (UK), to manufacture in the United States 615 workstation tables for the Project.

Like other European suppliers that Siemens has brought to the U.S. rail market, Baker Bellfield has committed to locate its production facility near the Siemens manufacturing facility in Sacramento, California. Baker Bellfield has already signed a lease for a property. Following localization, tables manufactured by Baker Bellfield at its facility in Sacramento would comply with FRA's Buy America requirements and would be installed in the FRA-funded passenger railcars.

Baker Bellfield intended to begin manufacturing the tables at its planned U.S. facility the week of March 9, 2020. However, due to complications relating

to the coronavirus disease 2019 (COVID-19) pandemic (e.g., travel restrictions and restrictions on operating non-essential businesses), Baker Bellfield has been unable to open its Sacramento manufacturing facility on schedule. To meet contractual delivery schedules, Siemens proposes purchasing up to 615 tables made by Baker Bellfield in its UK-based facility, which do not comply with FRA's Buy America requirements. Once COVID-19 restrictions are lifted, Baker Bellfield intends to complete localization.

On July 23, 2020, Caltrans and IDOT requested a waiver¹ from FRA's Buy America requirement for up to 238 workstation tables. Due to delays related to the continuing pandemic, Caltrans and IDOT increased the request to 615. For the reasons stated below, FRA grants a non-availability waiver to Caltrans and IDOT.

Buy America Requirement

With certain exceptions, FRA's Buy America Act requires that "the steel, iron, and manufactured goods used in the project are produced in the United States." 49 U.S.C. 22905(a)(1). FRA's requirements apply without regard to the source of funds.

If Caltrans and IDOT do not receive a waiver, they may not acquire goods for use in the Project that are not consistent with Section 22905(a)(1), even if they do not propose to use Federal funds. However, FRA may waive this requirement if it determines:

(A) Applying [FRA's Buy America requirements] would be inconsistent with the public interest; (B) the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality; (C) rolling stock or power train equipment cannot be bought and delivered in the United States within a reasonable time; or (D) including domestic material will increase the cost of the overall project by more than 25 percent.

In addition to the Buy America statute, FRA's action is subject to Executive Order 14005 *Ensuring the Future is Made in All of America by All of America's Workers*, 86 FR 7475 (January 28, 2021). Consistent with Executive Order 14005, FRA evaluated the waiver request, and sought input from the public, to determine whether Caltrans and IDOT had sought to maximize the use of goods, products, and materials produced in the United States.

¹ The Caltrans and IDOT waiver request is available at: <https://railroads.dot.gov/elibrary/calidot-workstation-table-buy-america-waiver-request>.

Findings

In a letter to FRA, dated July 23, 2020, Caltrans and IDOT described the need for workstation tables, the steps taken to identify domestically sourced tables, and the harm that would result in the absence of a waiver. FRA evaluated the information provided and made the following findings.

A. COVID-19 Pandemic

As described in the request, the non-availability giving rise to the need for a waiver is due to effects from the COVID-19 pandemic. Prior to March 2020, Siemens entered into a contract with Baker Bellfield, a U.K.-based manufacturer, to establish a manufacturing facility in Sacramento, California so that Baker Bellfield could manufacture Buy-America-compliant workstation tables for the Project. However, due to restrictions relating to the COVID-19 pandemic, Baker Bellfield is not able to localize in time to meet the Project's production schedule. Thus, Siemens increased its initial request from 238 to 615 workstation tables from Baker Bellfield's facility in the U.K. to meet the production schedule. These tables would not be compliant with FRA's Buy America requirement and would require a waiver.

B. There is No Domestic Source of Workstation Tables That Meet the PRIIA Specification

In accordance with the Passenger Rail Investment and Improvement Act of 2008, and the FRA grant agreement, the single-level railcars must comply with the 305-003 Rev A Single Level Passenger Car Technical Specification (PRIIA Specification).

SCOA and Siemens conducted an intensive search of domestic suppliers who could either meet the PRIIA Specification with an existing design or develop a completely new table. However, they could not find a domestic table supplier with the proven passenger rail interior component modeling and structural simulation expertise and who could produce a workstation table that met the PRIIA Specification. While Siemens initially identified a domestic source for workstation tables, which were previously installed in railcars for another project, after testing and modeling, Siemens determined the tables could not be configured to meet the required safety and design standards. Ultimately, Baker Bellfield's workstation tables are the only workstation tables that demonstrated passing simulated results and are

expected to comply with the PRIIA Specification when configured for use in the Siemens railcar. Therefore, Siemens developed a plan to locate a Baker Bellfield facility in Sacramento, California, to produce the workstation tables. The workstation tables manufactured at the Baker Bellfield facility in Sacramento would have complied with FRA's Buy America requirement.

However, due to the COVID-19 pandemic, Baker Bellfield's localization efforts have been delayed. To address the current non-availability of compliant workstation tables, and to avoid potential further delays in the railcar delivery, Siemens proposes to purchase up to 615 tables from Baker Bellfield's facility in the UK to meet production and delivery schedules.

To keep production lines running, Caltrans and IDOT accepted delivery of incomplete railcars. The incomplete cars cannot enter revenue service because they do not have workstation tables. Currently, the incomplete cars are being stored by Caltrans or IDOT, as applicable, until PRIIA-compliant workstation tables are available. As a result, Caltrans and IDOT have incurred costs to store the railcars and may incur additional costs, such as extending the lease of the existing fleet. However, if the waiver is granted, Siemens can quickly install the Baker Bellfield tables and the cars can enter revenue service.

As soon as it is able, Baker Bellfield will complete localization of its facility in Sacramento, California, which will create a new domestic supply of workstation tables for use in future projects.

C. Harm Would Result if a Waiver Is Not Granted

According to Caltrans and IDOT, if a waiver is not granted, the vehicles now being manufactured could not be used for revenue service and would need to be stored at Caltrans and IDOT commissioning sites, waiting for the availability of new tables. The cost of storage is variable, becoming higher as the number of cars needing storage increases and the remaining storage spaces decrease. For IDOT, costs are estimated to be \$39,000 (subject to site selection and owner's confirmation) for storage of up to 40 IDOT Venture cars per year. At the ACE facility in Stockton, California, the San Joaquin Regional Rail Commission will charge Siemens \$250 per day per railcar for storage of cars not in revenue service. These costs do not include the costs for delayed manufacturing, retrofitting existing cars, delays to revenue service, and lost warranty time. If Caltrans and

IDOT are unable to store the railcars, Siemens would stop production of the railcars as it does not have capacity to store the railcars onsite. If FRA denied the request, Siemens would not be able to deliver single-level cars that meet the required specifications until after the pandemic-related restrictions are removed, significantly delaying the Project. Caltrans and IDOT would also incur significant costs related to the delay and storage of the railcars.

Approving the waiver would help mitigate the negative effects of the COVID-19 pandemic by quickly installing workstation tables in railcars that can be put into revenue operations, which will maximize passenger safety, minimize implementation impacts and overall costs, and mitigate schedule issues for delivery and revenue service availability. In addition, allowing the use of the Baker Bellfield tables would allow the Caltrans and IDOT procurement to maintain its priority position in Siemens' production schedule, and allow the Project to remain on schedule. Caltrans and IDOT provided additional information to FRA that domestically-sourced subcomponents were used in the Project. Generally, FRA does not require the use of domestic subcomponents, and the use of domestic subcomponents increases the overall amount of domestic material used in the Project. On the basis of this information, FRA concludes this action is consistent with the policy in Executive Order 14005 to maximize "the use of goods, products, and materials produced in, and services offered in, the United States." FRA further concludes that denying the requested waiver would not increase the use of goods, products, and materials produced in the United States.

Determination

FRA has determined a "non-availability" waiver is appropriate under 49 U.S.C. 22905(a)(2)(B) for up to 615 workstation tables, because workstation tables meeting the PRIIA Specification are not currently "produced in a sufficient and reasonably available amount or are not of a satisfactory quality." FRA bases this determination on the following:

- There is currently no domestic source of workstation tables that meet the PRIIA Specification when configured for the Caltrans and IDOT railcars and domestic tables cannot be delivered within a reasonable time.
- But for the COVID-19 pandemic, Siemens would have used workstation tables that complied with FRA's Buy America requirement.

• On December 31, 2020, FRA provided public notice of the Caltrans and IDOT waiver request and a 15-day opportunity for comment. FRA also emailed the notice to over 6,000 recipients that requested Buy America notices through “GovDelivery.” FRA did not receive any comments.

This waiver only applies to Siemens’s acquisition and installation of up to 615 workstation tables for use in the Project.

FRA is providing notice of such finding and an opportunity for public comment after which this waiver will become effective.

Issued in Washington, DC.

Amitabha Bose,

Deputy Administrator.

[FR Doc. 2021–11269 Filed 5–26–21; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

FY 2021 Competitive Funding Opportunity: Public Transportation on Indian Reservations Program; Tribal Transit Program

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of funding opportunity.

SUMMARY: The Federal Transit Administration (FTA) announces the opportunity to apply for \$10 million in competitive grants for the Fiscal Year (FY) 2021 Public Transportation on Indian Reservations (Tribal Transit) Program. As required by Federal public transportation law, funds will be awarded competitively for any purpose eligible under FTA’s Formula Grants for Rural Areas Program, 49 U.S.C. 5311, including planning, capital, and operating assistance for tribal public transit services in rural areas. FTA may award additional funding that is made available to the program prior to the announcement of project selections.

DATES: Complete proposals must be submitted electronically through the [GRANTS.GOV](https://www.grants.gov) “APPLY” function by 11:59 p.m. Eastern time on August 25, 2021. Any applicant intending to apply should initiate the process of registering on the [GRANTS.GOV](https://www.grants.gov) site immediately to ensure completion of registration before the submission deadline. Instructions for applying can be found on FTA’s website at <http://www.transit.dot.gov/howtoapply> and in the “FIND” module of [GRANTS.GOV](https://www.grants.gov). The funding opportunity ID is FTA–2021–003–TR. Mail and fax submissions will not be accepted.

FOR FURTHER INFORMATION CONTACT:

Jacarl Melton, Office of Program Management, (202) 366–2269, or email TribalTransit@dot.gov. A TDD is available at 1–800–877–8339 (TDD/FIRS).

SUPPLEMENTARY INFORMATION:

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A. Program Description

Federal public transportation law (49 U.S.C. 5311(c)(1)(A)) authorizes FTA to award competitive grants “under such terms and conditions as may be established by the Secretary” to Indian tribes for any purpose eligible under FTA’s Formula Grants for Rural Areas Program, 49 U.S.C. 5311, including planning, capital, and operating assistance. Tribes may apply for this funding directly.

The Tribal Transit Program (Federal Assistance Listing: 20.509) supports FTA’s strategic goals and objectives through the timely and efficient investment in public transportation. This program also supports the President’s Build Back Better initiative to mobilize American ingenuity to build a modern infrastructure and an equitable, clean energy future. In addition, the Tribal Transit Program and this NOFO will advance the goals of the January 20, 2021 Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.

Competitive funds distributed to Indian tribes under the Tribal Transit Program do not replace or reduce funds that Indian tribes receive from States through FTA’s Formula Grants for Rural Areas Program. Specific project eligibility under this competitive allocation is described in Section C of this notice.

B. Federal Award Information

Federal public transportation law (49 U.S.C. 5338(a)(2)(F), 49 U.S.C. 5311(c)(1)) authorizes \$5 million in FY 2021 for competitive grants under the Tribal Transit Program. The Consolidated Appropriations Act, 2021, (Pub. L. 116–260), appropriated the authorized amount for grants under this program. The American Rescue Plan Act of 2021 (Pub. L. 117–2) appropriated an additional \$5 million for grants under

this program. There is a \$25,000 cap on planning grant awards, and FTA has discretion to cap capital and operating awards. Additional funds made available prior to project selection may be allocated to eligible projects.

In FY 2020, the program received applications for 30 eligible projects requesting a total of \$9.4 million. Twenty-five projects were funded at a total of \$7.7 million.

FTA will grant pre-award authority to incur costs for selected projects beginning on the date FY 2021 project selections are announced on FTA’s website. Funds are available for obligation for two fiscal years after the fiscal year in which the competitive awards are announced. Funds are available only for projects that have not incurred costs prior to the announcement of project selections.

C. Eligibility Information

1. Eligible Applicants

Eligible applicants include Federally-recognized Indian tribes or Alaska Native villages, groups, or communities as identified by the U.S. Department of the Interior (DOI) Bureau of Indian Affairs (BIA). As evidence of Federal recognition, an Indian tribe may submit a copy of the most up-to-date **Federal Register** notice published by BIA: Entities Recognized and Eligible to Receive Service from the United States Bureau of Indian Affairs. To be an eligible recipient, an Indian tribe must have the requisite legal, financial, and technical capabilities to receive and administer Federal funds under this program. Additionally, applicants must be located and provide service in a rural area with a population of less than 50,000. A service area can include some portions of urban areas, as long as the tribal transit service serves rural areas. An applicant must be registered in the System for Award Management (SAM) database and maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by FTA.

2. Cost Sharing or Matching

There is no local match requirement for operating, capital, or planning projects under this program. All projects will be awarded at a 100 percent Federal share, unless the applicant chooses to provide a local match at its own discretion. If choosing to provide a local match, the proposal should include a description of the Indian tribe’s financial commitment.

If desired by the applicant, tribes may use any local match eligible under

Chapter 53, including cash from non-Government sources other than revenues from providing public transportation services; revenues derived from the sale of advertising and concessions; amounts received under a service agreement with a State or local social service agency or private social service organization; revenues generated from value capture financing mechanisms; funds from an undistributed cash surplus; replacement or depreciation cash fund or reserve; new capital; or in-kind contributions. Transportation development credits or in-kind match may be used for local match if identified and documented in the application.

3. Eligible Projects

Eligible projects include public transportation planning, capital, or operating expenses. Unlike in prior years, all eligible applicants may apply for operating assistance.

Public transportation includes regular, continuing shared-ride surface transportation services open to the public or open to a segment of the public defined by age, disability, or low income. FTA will award grants to eligible Indian tribes proposing projects serving rural areas. Applicants must submit one proposal for each project. Specific types of projects include: Capital investment for start-ups, replacement, or expansion needs; operating assistance; and planning projects up to \$25,000. Indian tribes applying for capital replacement or expansion needs must demonstrate a sustainable source of operating funds for existing or expanded services.

D. Application and Submission Information

1. Address To Request Application Package

Applications must be submitted electronically through *GRANTS.GOV*. General information for submitting applications through *GRANTS.GOV* can be found at www.fta.dot.gov/howtoapply along with specific instructions for the forms and attachments required for submission. Mail and fax submissions will not be accepted. A complete proposal submission consists of two forms: The SF-424 Application for Federal Assistance (available at *GRANTS.GOV*) and the supplemental form for the FY 2021 Tribal Transit Program (downloaded from *GRANTS.GOV* or the FTA website at <https://www.transit.dot.gov/tribal-transit>). Failure to submit the information as requested can delay review or disqualify the application.

2. Content and Form of Application Submission

(i) Proposal Submission

Applications must be submitted electronically through *GRANTS.GOV*. General information for submitting applications through *GRANTS.GOV* can be found at www.fta.dot.gov/howtoapply along with specific instructions for the forms and attachments required for submission. Mail and fax submissions will not be accepted. A complete proposal submission consists of two forms: The SF-424 Application for Federal Assistance (available at *GRANTS.GOV*) and the supplemental form for the FY 2021 Tribal Transit Program (downloaded from *GRANTS.GOV* or the FTA website at <https://www.transit.dot.gov/tribal-transit>). Failure to submit the information as requested can delay review or disqualify the application. A complete proposal submission will consist of at least two files: (1) The SF-424 Mandatory form (downloaded from *GRANTS.GOV*); and (2) the Tribal Transit supplemental form found on the FTA website at <http://www.transit.dot.gov>. The Tribal Transit supplemental form provides guidance and a consistent format for applicants to respond to the criteria outlined in this NOFO. The supplemental form and any supporting documents must be attached to the "Attachments" section of the SF-424. The application must include responses to all sections of the SF-424 Application for Federal Assistance and the supplemental form, unless indicated as optional. The information on the supplemental form will be used to determine applicant and project eligibility for the program, and to evaluate the proposal against the selection criteria described in part E of this notice.

FTA will only accept one supplemental form per SF-424 submission. Applicants may attach additional supporting information to the SF-424 submission, including but not limited to letters of support, project budgets, fleet status reports, or excerpts from relevant planning documents. Supporting documentation must be described and referenced by file name in the appropriate response section of the supplemental form, or it may not be reviewed.

Information such as applicant name, Federal amount requested, local match amount, description of areas served, etc. may be requested in varying degrees of detail on both the SF-424 and Supplemental Form. Applicants must fill in all fields unless stated otherwise on the forms. Applicants should not

place N/A or "refer to attachment" in lieu of typing in responses in the field sections. If information is copied into the supplemental form from another source, applicants should verify that pasted text is fully captured on the supplemental form and has not been truncated by the character limits built into the form. Applicants should use both the "Check Package for Errors" and the "Validate Form" validation buttons on both forms to check all required fields on the forms, and ensure that the Federal and local amounts specified are consistent.

Complete instructions on the application process can be found at <http://www.transit.dot.gov>. Important: FTA urges applicants to submit their project proposals at least 72 hours prior to the due date to allow time to receive the validation message and to correct any problems that may have caused a rejection notification. FTA will not accept submissions after the stated submission deadline. *GRANTS.GOV* scheduled maintenance and outage times are announced on the *GRANTS.GOV* website at <http://www.GRANTS.GOV>. The deadline will not be extended due to scheduled maintenance or outages.

Applicants are encouraged to begin the process of registration on the *GRANTS.GOV* site well in advance of the submission deadline. Registration is a multi-step process which may take several weeks to complete before an application can be submitted. Registered applicants may still be required to take steps to keep their registration up to date before submissions can be made successfully: (1) Registration in the SAM is renewed annually; and (2) persons making submissions on behalf of the Authorized Organization Representative (AOR) must be authorized in *GRANTS.GOV* by the AOR to make submissions. Applicants must submit one proposal for each project.

(ii) Application Content

The SF-424 Mandatory Form and the Supplemental Form will prompt applicants for the required information, including:

a. Name of Federally recognized tribe and, if appropriate, the specific tribal agency submitting the application.

b. Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number if available.

c. Contact information including: Contact name, title, address, phone number, and email address.

d. Description of public transportation services, including areas currently served by the tribe, if any.

e. Name of person(s) authorized to apply on applicant's behalf must accompany the proposal (attach a signed transmittal letter).

f. Complete Project Description:

Indicate the category for which funding is requested (*i.e.*, project type: Capital, operating, or planning), and then indicate the project purpose (*i.e.*, start-up, expansion, or replacement). Describe the proposed project and what it will accomplish (*e.g.*, number and type of vehicles, routes, service area, schedules, type of services, fixed route or demand responsive, safety aspects), route miles (if fixed route), ridership numbers expected (actual if an existing system, estimated if a new system), major origins and destinations, population served, and whether the tribe provides the service directly or contracts for services, and note vehicle maintenance plans.

g. **Project Timeline:** Include significant milestones such as date of contract for purchase of vehicles, actual or expected delivery date of vehicles; facility project phases (*e.g.*, environmental reviews, design, construction); or dates for completion of planning studies. If applying for operating funding for new services, indicate the period of time that funds would be used to operate the system (*e.g.*, one year). This section should also include any needed timelines for tribal council project approvals, if applicable.

h. **Budget:** Provide a detailed budget for each proposed purpose, noting the Federal amount requested and any additional funds that will be used. An Indian tribe may use up to fifteen percent of a grant award for capital projects for specific project-related planning and administration, and the indirect cost rate may not exceed ten percent (if necessary, add as an attachment) of the total amount requested/awarded. Indian tribes must also provide their annual operating budget as an attachment or under the "Financial Commitment and Operating Capacity" section of the supplemental form.

i. **Technical, Legal, Financial Capacity:** Applicants must be able to demonstrate adequate technical, legal, and financial capacity to be considered for funding. Every proposal MUST describe this capacity to implement the proposed project.

1. **Technical Capacity:** Provide examples of management of other Federal projects, including previously funded FTA projects and/or similar types of projects for which funding is being requested. Describe the resources available to implement the proposed transit project.

2. **Legal Capacity:** Provide documentation or other evidence to demonstrate status as a federally recognized Indian tribe. Further, demonstrate evidence of an authorized representative with authority to bind the applicant and execute legal agreements with FTA. If applying for capital or operating funds, identify whether appropriate Federal or State operating authority exists.

3. **Financial Capacity:** Provide documentation or other evidence demonstrating current adequate financial systems to receive and manage a Federal grant. Fully describe: (1) All financial systems and controls; (2) other sources of funds currently managed; and (3) the long-term financial capacity to maintain the proposed or existing transit services.

3. Unique Entity Identifier and System for Award Management (SAM)

Each applicant is required to: (1) Be registered in SAM before submitting an application; (2) provide a valid unique entity identifier in its application; and (3) continue to maintain an active SAM registration with current information at all times during which the applicant has an active Federal award or an application or plan under consideration by FTA. These requirements do not apply if the applicant has an exemption approved by FTA under Federal grants and agreements law (2 CFR 25.110(d)). FTA may not make an award until the applicant has complied with all applicable unique entity identifier and SAM requirements. If an applicant has not fully complied with the requirements by the time FTA is ready to make an award, FTA may determine that the applicant is not qualified to receive an award and use that determination as a basis for making a Federal award to another applicant. Non-Federal entities that have received a Federal award are required to report certain civil, criminal, or administrative proceedings to SAM (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) to ensure registration information is current and comply with federal requirements. Applicants should reference 2 CFR 200.113, for more information.

FTA may not make an award until the applicant has complied with all applicable unique entity identifier and SAM requirements. If an applicant has not fully complied with the requirements by the time FTA is ready to make an award, FTA may determine that the applicant is not qualified to receive an award and use that determination as a basis for making a

Federal award to another applicant. SAM registration takes approximately 3–5 business days, but FTA recommends allowing ample time, up to several weeks, for completion of all steps. For additional information on obtaining a unique entity identifier, please visit www.sam.gov.

4. Submission Dates and Times

Project proposals must be submitted electronically through GRANTS.GOV by 11:59 p.m. Eastern time on August 25, 2021. Mail and fax submissions will not be accepted. Proposals submitted after the deadline will only be considered under extraordinary circumstances not under the applicant's control. Applications are time and date stamped by GRANTS.GOV upon successful submission.

Within 48 hours after submitting an electronic application, the applicant should receive an email message from GRANTS.GOV with confirmation of successful transmission to GRANTS.GOV. If a notice of failed validation or incomplete materials is received, the applicant must address the reason for the failed validation, as described in the email notice, and resubmit before the submission deadline. If making a resubmission for any reason, include all original attachments regardless of which attachments were updated and check the box on the supplemental form indicating this is a resubmission.

5. Funding Restrictions

Funds must be used only for the specific purposes requested in the application. Funds under this NOFO cannot be used to reimburse projects for otherwise eligible expenses incurred prior to an FTA award under this program. Refer to Section C.3., Eligible Projects, for information on activities that are allowable in this grant program. Allowable direct and indirect expenses must be consistent with the Governmentwide Uniform Administrative Requirements and Cost Principles (2 CFR part 200) and FTA Circular 5010.

6. Other Submission Requirements

Applicants are encouraged to identify scaled funding options in case insufficient funding is available to fund a project at the full requested amount. If an applicant indicates that a project is scalable, the applicant must provide an appropriate minimum funding amount that will fund an eligible project that achieves the objectives of the program and meets all relevant program requirements. The applicant must provide a clear explanation of how the

project budget would be affected by a reduced award. FTA may award a lesser amount regardless of whether a scalable option is provided.

All applications must be submitted via the *GRANTS.GOV* website. FTA does not accept applications on paper, by fax machine, email, or other means. For information on application submission requirements, please see Section D.1., Address to Request Application.

E. Application Review Information

1. Criteria

Proposals for capital and operating assistance projects will be evaluated primarily on the responses provided in the supplemental form. Additional information may be provided to support the responses; however, any additional documentation must be directly referenced on the supplemental form, including the file name where the additional information can be found. Applications will be evaluated based on the quality and extent to which the following evaluation criteria are addressed.

(i.) Planning and Local/Regional Prioritization

Applications will be evaluated based on the degree to which the applicant: (1) Describes how the proposed project was developed; (2) demonstrates that a sound basis for the project exists; and (3) demonstrates that the applicant is ready to implement the project if funded. Information may vary depending upon how the planning process for the project was conducted and what is being requested. Planning and local/regional prioritization should:

- a. Describe the planning document and/or the planning process conducted to identify the proposed project;
- b. Provide a detailed project description, including the proposed service, vehicle and facility needs, and other pertinent characteristics of the proposed or existing service implementation;
- c. Identify existing transportation services in and near the proposed service area, and document in detail whether the proposed project will provide opportunities to coordinate service with existing transit services, including human service agencies, intercity bus services, or other public transit providers;
- d. Discuss the level of support by the community and/or tribal government for the proposed project;
- e. Describe how the mobility and client-access needs of tribal human services agencies were considered in the planning process;

f. Describe what opportunities for public participation were provided in the planning process and how the proposed transit service or existing service has been coordinated with transportation provided for the clients of human services agencies, with intercity bus transportation in the area, or with any other rural public transit providers;

g. Describe how the proposed service complements rather than duplicates any currently available services;

h. If the Tribe is already providing transit service, describe if this project is included in the Tribe's transit asset management plan;

i. Describe the implementation schedule for the proposed project, including time period, staffing, and procurement; and

j. Describe any other planning or coordination efforts not mentioned above.

(ii.) Project Readiness

Applications will be evaluated on the degree to which the applicant describes readiness to implement the project. The project readiness factor involves assessing whether:

a. The project qualifies for a categorical exclusion (see 23 CFR 771.118), or the required environmental work has been initiated or completed, for construction projects requiring an environmental assessment or environmental impact statement under, among others, the National Environmental Policy Act of 1969, as amended;

b. Project implementation plans are complete, including initial design of facilities projects;

c. Project funds can be obligated and the project can be implemented quickly, if selected; and

d. The applicant demonstrates the ability to carry out the proposed project successfully.

(iii.) Demonstration of Need

Applications will be evaluated based on the degree to which the applicant identifies the need for transit resources. In addition to project-specific criteria, FTA will consider the project's impact on service delivery and whether the project represents a one-time or periodic need that cannot reasonably be funded from FTA program formula allocations or State and/or local resources. FTA will evaluate how the proposal demonstrates the transit needs of the Indian tribe as well as how the proposed transit improvements or the new service will address identified transit needs. Proposals should include information such as destinations and services not

currently accessible by transit; needs for access to jobs or health care; safety enhancements; special needs of elders or individuals with disabilities; behavioral health care needs of youth; income-based community needs; or other mobility needs. If an applicant received a planning grant in previous fiscal years, the proposal should indicate the status of the planning study and how the proposed project relates to that study.

Applicants applying for capital expansion or replacement projects should also address the following factors in their proposal. If the proposal is for capital funding associated with an expansion or expanded service, the applicant should describe how current or growing demand for the service necessitates the expansion (and therefore, more capital) and/or the degree to how the project is addressing a current capacity constraint. Capital replacement projects should include information about the age, condition, and performance of the asset to be replaced by the proposed project and/or how the replacement may be necessary to maintain the transit system in a state of good repair.

(iv.) Demonstration of Benefits

Applications will be evaluated based on the degree to which the applicant identifies expected or, in the case of existing service, achieved project benefits. FTA is particularly interested in how these investments will improve the quality of life for the tribe and surrounding communities in which it is located. Applicants should describe how the transportation service or capital investment will provide greater access to employment opportunities, educational centers, healthcare, or other needs that impact the quality of life for the community, and how it is expected to improve the environment. Possible examples include: Increased or sustained ridership and daily trips; improved service; elimination of gaps in service; improved operations and coordination; increased reliability; and other applicable community benefits related to health care, education, the economy, or the environment. Benefits can be demonstrated by identifying the population of tribal members and non-tribal members in the proposed project service area and estimating the number of daily one-way trips the proposed transit service will provide or the actual number of individual riders served. Applicants are encouraged to consider qualitative and quantitative benefits to the Indian tribe and to the surrounding communities that are meaningful to them.

Using the information provided under this criterion, FTA will rate proposals based on the quality and extent to which they discuss the following four factors:

- a. The project's ability to improve transit efficiency or increase ridership;
- b. Whether the project will improve or maintain mobility, or eliminate gaps in service for the Indian tribe;
- c. Whether the project will improve or maintain access to important destinations and services;
- d. Any other qualitative benefits, such as greater access to jobs, education, and health care services, and environmental considerations.

(v.) Financial Commitment and Technical, Legal, Financial and Operating Capacity

Provision of a local match for the FY 2021 Tribal Transit Program is not required. Applications that include a local match will not be evaluated more favorably than those that do not. However, FTA is interested in ensuring that projects that receive funding are sustainable.

Applications must identify the source of local match (if any is included) and any other funding sources used by the Indian tribe to support proposed transit services, including human service transportation funding, the Federal Highway Administration's Tribal Transportation Program funding, or other FTA programs. If applicable, the applicant also should describe how prior year Tribal Transit Program funds were spent to date to support the service. Additionally, Indian tribes applying to operate new services should provide a sustainable funding plan that demonstrates how it intends to maintain operations.

If applicable, FTA will consider any other resources the Indian tribe will contribute to the project, including in-kind contributions, commitments of support from local businesses, donations of land or equipment, and human resources. The proposal should describe to what extent the new project or funding for existing service leverages other funding. Based upon the information provided, the proposals will be rated on the extent to which the proposal demonstrates that:

- a. Tribal Transit Program funding does not replace existing funding;
- b. The Indian tribe will provide non-financial support to the project;
- c. The Indian tribe is able to demonstrate a sustainable funding plan; and
- d. Project funds are used in coordination with other services for efficient utilization of funds.

(vi.) Evaluation Criteria for Planning Proposals

For planning grants, the proposal must describe the need for and a general scope of the proposed study. Applications will be evaluated based on the degree to which the applicant addresses the following:

- a. The tribe's long-term commitment to transit; and
- b. The method used to implement the proposed study and/or further tribal transit.

2. Review and Selection Process

An FTA technical evaluation committee will review proposals under the project evaluation criteria. Members of the technical evaluation committee and other involved FTA staff reserve the right to screen the applications, and seek clarification about any statement in an application. After consideration of the findings of the technical evaluation committee, the FTA Administrator will determine the final selection and amount of funding for each project. Geographic diversity and the applicant's receipt and management of other Federal transit funds may be considered in FTA's award decisions.

After applying the above criteria, in support of the President's January 20, 2021 Executive Order on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis and the President's January 27, 2021 Executive Order on Tackling the Climate Crisis at Home and Abroad, and to assist in promoting environmental justice, the FTA Administrator will give priority consideration to applications that are expected to create significant community benefits relating to the environment.

3. FAPIIS Check

Prior to making an award, FTA is required to review and consider any information about the applicant that is in the Federal Awardee Performance and Integrity Information Systems accessible through SAM. An applicant may review and comment on any information about itself that a Federal awarding agency previously entered. FTA will consider any comments by the applicant, in addition to the other information in the designated integrity and performance system, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in the Office of Management and Budget's Uniform Requirements for Federal Awards (2 CFR 200.206).

F. Federal Award Administration Information

1. Federal Award Notice

FTA will publish a list of the selected projects, including Federal dollar amounts and award recipients, on FTA's website. Project recipients should contact their FTA Regional Offices and tribal liaison for information about setting up grants in FTA's Transit Award Management System (TrAMS). At the time the project selections are announced, FTA will extend pre-award authority for the selected projects. There is no blanket pre-award authority for these projects before announcement.

There is no minimum or maximum grant award amount for operating and capital projects. Planning projects do not have a minimum grant award amount but will not receive an award of more than \$25,000.

FTA intends to fund as many meritorious projects as possible. Only proposals from eligible recipients for eligible activities will be considered for funding. Due to funding limitations, applicants that are selected for funding may receive less than the amount originally requested. In those cases, applicants must be able to demonstrate that the proposed projects are still viable and can be completed with the amount awarded.

Successful proposals will be awarded through FTA's TrAMS as grant agreements. The appropriate FTA Regional Office and tribal liaison will manage project agreements.

2. Administrative and National Policy Requirements

a. Pre-Award Authority

FTA will issue specific guidance to recipients regarding pre-award authority at the time of selection. FTA does not provide pre-award authority for competitive funds until projects are selected, and even then, there are Federal requirements that must be met before costs are incurred. For more information about FTA's policy on pre-award authority, please see the most recent Apportionment Notice at <https://www.transit.dot.gov>.

b. Grant Requirements

Except as otherwise provided in this NOFO, Tribal Transit Program grants are subject to the requirements of 49 U.S.C. 5311(c)(1) as described in the latest FTA Circular 9040 for the Formula Grants for Rural Areas Program. If the Department determines that a recipient has failed to comply with applicable Federal requirements, the Department may terminate the award of funds and

disallow previously incurred costs, requiring the recipient to reimburse any expended award funds. All recipients must also follow the Award Management Requirements (FTA Circular 5010). Technical assistance regarding these requirements is available from each FTA regional office.

c. Buy America

FTA requires that all capital procurements meet FTA's Buy America requirements (49 U.S.C. 5323(j) and 49 CFR part 661), which require that all iron, steel, or manufactured products be produced in the United States. Federal public transportation law provided for a phased increase in the domestic content for rolling stock between FY 2016 and FY 2020. For FY 2020 and beyond, the cost of components and subcomponents produced in the United States must be more than 70 percent of the cost of all components. There is no change to the requirement that final assembly of rolling stock must occur in the United States. FTA issued guidance on the implementation of the phased increase in domestic content on September 1, 2016 (81 FR 60278). Applicants should read the policy guidance carefully to determine the applicable domestic content requirement for their project. Any proposal that will require a waiver must identify in the application the items for which a waiver will be sought. Applicants should not proceed with the expectation that waivers will be granted.

d. Disadvantaged Business Enterprise

FTA requires that its recipients receiving planning, capital, and/or operating assistance that will award prime contracts exceeding \$250,000 in FTA funds in a Federal fiscal year comply with Department of Transportation Disadvantaged Business Enterprise (DBE) program regulations (49 CFR part 26). Applicants should expect to include any funds awarded, excluding those to be used for vehicle procurements, in setting their overall DBE goal. Note, however, that projects including vehicle procurements remain subject to the DBE program regulations. The rule requires that, prior to bidding on any FTA-assisted vehicle procurement, entities that manufacture vehicles, or perform post-production alterations or retrofitting, must submit a DBE program plan and goal methodology to FTA. Further, to the extent that a vehicle remanufacturer is responding to a solicitation for new or remanufactured vehicles with a vehicle to which the remanufacturer has provided post-production alterations or retrofitting (e.g., replacing major components such as an engine to

provide a "like new" vehicle), the vehicle remanufacturer is considered a transit vehicle manufacturer and must also comply with the DBE regulations.

FTA will then issue a transit vehicle manufacturer (TVM) concurrence/certification letter. Grant recipients must verify each entity's compliance with these requirements before accepting its bid. A list of compliant, certified TVMs is posted on FTA's web page at <https://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/eligible-transit-vehicle-manufacturers>. Please note that this list is nonexclusive, and recipients must contact FTA before accepting bids from entities not listed on this web-posting. Recipients may also establish project-specific DBE goals for vehicle procurements. FTA will provide additional guidance as grants are awarded. For more information on DBE requirements, please contact Scheryl Portee, Office of the Chief Counsel, 202-366-0840, email: scheryl.portee@dot.gov.

e. Standard Assurances

The applicant assures that it will comply with all applicable Federal statutes, regulations, executive orders, directives, FTA circulars, and other Federal administrative requirements in carrying out any project supported by the FTA grant. The applicant acknowledges that it is under a continuing obligation to comply with the terms and conditions of the grant agreement issued for its project with FTA. The applicant understands that Federal laws, regulations, policies, and administrative practices might be modified from time to time and may affect the implementation of the project. The applicant agrees that the most recent Federal requirements will apply to the project, unless FTA issues a written determination otherwise. The applicant must submit the Certifications and Assurances before receiving a grant if it does not have current certifications on file.

3. Reporting

The post-award reporting requirements include submission of the Federal Financial Report (FFR) and Milestone Progress Report in TrAMS, and FTA's National Transit Database (NTD) reporting as appropriate (see FTA Circular 9040). Reports to TrAMS and NTD are due annually. Applicants should include any goals, targets, and indicators referenced in their application to the project in the Executive Summary of the TrAMS application.

As part of completing the annual certifications and assurances required of FTA grant recipients, a successful applicant must report on the suspension or debarment status of itself and its principals. If the award recipient's active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of an award made pursuant to this Notice, the recipient must comply with the Recipient Integrity and Performance Matters reporting requirements described in Appendix XII to 2 CFR part 200.

G. Federal Awarding Agency Contacts

For further information concerning this notice, please contact Jacarl Melton, Office of Program Management, (202) 366-2269, or email: TribalTransit@dot.gov. A TDD is available at 1-800-877-8339 (TDD/FIRS).

H. Other Information

This program is not subject to Executive Order 12372, "Intergovernmental Review of Federal Programs." FTA will consider applications for funding only from eligible recipients for eligible projects listed in Section C of this Notice.

Additionally, to assist tribes with understanding requirements under the Tribal Transit Program, FTA has conducted Tribal Transit Technical Assistance Workshops. FTA has expanded its technical assistance to tribes receiving funds under this program. Through the Tribal Transit Technical Assistance Assessments Initiative, FTA collaborates with Tribal Transit Leaders to review processes and identify areas in need of improvement, and then assists to offer solutions to address these needs—all in a supportive and mutually beneficial manner that results in technical assistance. FTA has completed over fifty assessments to date. These assessments include discussions of compliance areas pursuant to the Master Agreement, a site visit, promising practices reviews, and technical assistance from FTA and its contractors. These workshops and assessments have received excellent feedback from Tribal Transit Leaders and provided FTA with invaluable opportunities to learn more about Tribal Transit Leaders' perspectives and better honor the sovereignty of tribal nations.

FTA will post information about upcoming workshops to its website and will disseminate information about the assessments through its regional offices. Contact information for FTA's regional

offices can be found on FTA's website at www.transit.dot.gov.

Applicants may also receive technical assistance by contacting their FTA regional Tribal Liaison. A list of Tribal Liaisons is available on FTA's website at www.transit.dot.gov.

If awarded, grant funding made available through this program may be included in a Tribal Transportation Self-Governance funding agreement if there is an existing Self-Governance compact in place between the Tribe and the U.S. Department of Transportation. If funds are transferred to a Tribal Self-Governance funding agreement, the funds will be subject to the requirements and provisions of the Tribal Transportation Self-Governance Program regulation at 49 CFR part 29 and may be used only for the purpose for which they were awarded.

Nuria I. Fernandez,
Deputy Administrator.

[FR Doc. 2021-11197 Filed 5-26-21; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Andrea M. Gacki, Director, tel.: 202-622-2480; Associate Director for Global Targeting, tel.: 202-622-2420; Assistant Director for Licensing, tel.: 202-622-2480; Assistant Director for Regulatory Affairs, tel.: 202-622-4855; or the Assistant Director for Sanctions Compliance & Evaluation, tel.: 202-622-2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional

information concerning OFAC sanctions programs are available on OFAC's website (www.treasury.gov/ofac).

Notice of OFAC Actions

On May 20, 2021, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following person are blocked under the relevant sanctions authorities listed below.

Individual

AL-GHAMARI, Muhammad Abd Al-Karim (a.k.a. AL-GHAMARI, Muhammad 'Abd-al-Karim Ahmad Husayn; a.k.a. AL-GHOMMARI, Muhammad; a.k.a. GHOMMARI, Muhammad; a.k.a. "Sayyid Hashim"), Yemen; DOB 1979; alt. DOB 1984; POB Izla Dhaen, Wahha District, Hajjar Governorate, Yemen; nationality Yemen; Gender Male (individual) [YEMEN].

Designated pursuant to section 1(a) of Executive Order 13611 of May 16, 2012, "Blocking Property of Persons Threatening the Peace, Security, or Stability of Yemen," 3 CFR, 2001 Comp., p. 786, 77 FR 29533 (E.O. 13611), for having engaged in acts that directly or indirectly threaten the peace, security, or stability of Yemen, such as acts that obstruct the implementation of the agreement of November 23, 2011, between the Government of Yemen and those in opposition to it, which provides for a peaceful transition of power in Yemen, or that obstruct the political process in Yemen.

Dated: May 20, 2021.

Bradley T. Smith,

Acting Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2021-11260 Filed 5-26-21; 8:45 am]

BILLING CODE 4810-AL-P

DEPARTMENT OF THE TREASURY

Monitoring Availability and Affordability of Auto Insurance; Assessing Potential Evolution of the Auto Insurance Market

AGENCY: Federal Insurance Office, Departmental Offices, Department of the Treasury.

ACTION: Request for information.

SUMMARY: The Federal Insurance Office (FIO) of the U.S. Department of the Treasury (Treasury) is issuing this Request for Information (RFI) to solicit input regarding FIO's future work relating to monitoring the availability and affordability of automobile (auto) insurance. Building upon its prior work, FIO will undertake a holistic analysis of the domestic personal auto insurance business, focusing on: (1) Affordability of coverage and disparities in premium pricing, with particular attention to traditionally-underserved communities and the impact of non-driving factors;

and (2) market evolution and structural shifts in the conduct of the business, including the effects of technology and the use of big data, as well as changes related to the COVID-19 pandemic. Additionally, FIO seeks feedback on updating its prior work on auto insurance, including its January 2017 *Study on the Affordability of Personal Automobile Insurance* (2017 FIO Affordability Study).

DATES: Submit written comments on or before July 26, 2021.

ADDRESSES: Submit comments electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>, in accordance with the instructions on that site, or by mail to the Federal Insurance Office, Attn: Alex Hart, Room 1410 MT, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220. Because postal mail may be subject to processing delays, it is recommended that comments be submitted electronically. If submitting comments by mail, please submit an original version with two copies. Comments should be captioned "FIO Auto Insurance Study." In general, Treasury will post all comments to www.regulations.gov without change, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers. All comments, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT:

From the Federal Insurance Office: Alex Hart, Senior Insurance Regulatory Policy Analyst, 202-213-6850, Alex.Hart@Treasury.gov; Daniel McKnight, Policy Advisor, 202-631-1979, Daniel.Mcknight@treasury.gov, or Andrew Shaw, Senior Policy Advisor, (202) 304-4532, Andrew.Shaw2@Treasury.gov. Persons who have difficulty hearing or speaking may access these numbers via TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:

I. Background

The Personal Auto Insurance Market

The U.S. personal auto insurance sector is a significant part of the U.S. economy, both in terms of its aggregate size and its impact on individual consumers and their economic well-being. In 2020, this line of business accounted for approximately \$247 billion of direct premiums written, or

about 35% of the domestic property & casualty (P&C) insurance sector's total premiums of \$711 billion. Auto ownership is associated with greater opportunity for economic well-being, such as better access to employment opportunities.¹ All U.S. states except for New Hampshire require a driver or owner of a motor vehicle to have auto liability insurance or financial security, which may be satisfied by auto liability insurance, when registering or while operating a motor vehicle. However, in 2019 nearly 13% of drivers in the United States were uninsured.²

The domestic personal auto insurance business has been evolving throughout the 21st century. New consumer preferences and recent technological innovations—including the increased use of big data and artificial intelligence—have led to changes in nearly all aspects of the business, including availability of products, pricing, underwriting, distribution, claims adjudication and processing, and risk management. Additionally, developments in the sharing economy (such as ride-sharing and delivery services) and automation are likely to further reshape the business in the future. The COVID-19 pandemic accelerated some of these changes, such as an increased consumer preference for usage-based insurance and telematics, which could permanently alter the sector.

FIO's Previous Work on Auto Insurance

Title V of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 established FIO within Treasury and authorizes FIO to, among other things, monitor the extent to which traditionally underserved communities and consumers, minorities, and low- and moderate-income (LMI) persons have access to affordable insurance products regarding all lines of insurance other than health insurance.³

In 2014 and 2015, FIO issued two public notices soliciting comments relating to monitoring the affordability

of personal auto insurance for traditionally underserved communities and consumers, minorities, and LMI persons (collectively, "Affected Persons").⁴ FIO then issued a notice in 2016 detailing a proposed methodology for examining the affordability of personal auto insurance (2016 FIO Notice).⁵ The 2016 FIO Notice also indicated that FIO would use available data from the Census Bureau, statistical agents, and certain states for an initial affordability study, the 2017 FIO Affordability Study.⁶ In addition, FIO indicated that for a subsequent study in 2017 following the 2017 FIO Affordability Study, FIO would request large auto insurers (*i.e.*, those having a statutory surplus greater than \$500 million and annually collecting more than \$500 million of premium for personal auto insurance) to voluntarily provide to the statistical agents with which the insurers typically work the following information: (i) ZIP Code-level premium data; (ii) for liability coverage at the financial responsibility limit; and (iii) for the voluntary market.⁷ Although FIO did not proceed with this voluntary data call to large auto insurers, it has continued to monitor auto insurance market developments, as noted in its recent Annual Reports.⁸ Additionally, FIO's Federal Advisory Committee on Insurance (FACI) has considered issues related to personal auto insurance.⁹

The 2017 FIO Affordability Study sought to provide quantifiable information on auto insurance affordability for Affected Persons. The data examined by FIO for the 2017 FIO Affordability Study did not include all U.S. auto insurance policies. Instead, it was based on ZIP Code-level premium data that was voluntarily provided by several U.S. states and a statistical agent.¹⁰ The 2017 FIO Affordability Study calculated and reported data

based on an Affordability Index, which is the ratio of the average annual written personal auto liability premium in the voluntary market to the median household income (based on U.S. Census Bureau data) for U.S. Postal Service ZIP Codes in which Affected Persons were 50% or more of the population. The 2017 FIO Affordability Study indicated that approximately 18.6 million Americans live where auto insurance costs more than 2% of median household income.

Recent Attention on Auto Insurance

In 2020, the House Appropriations Committee recommended that FIO "examine the impact of non-driving related factors, such as a consumer's credit history, homeownership status, census tract, marital status, professional occupation, and educational attainment, on the affordability of auto insurance premiums for traditionally underserved communities."¹¹ President Biden also noted differences in personal auto insurance pricing in a televised Town Hall meeting on February 16, 2021.¹²

FIO's Upcoming Analysis of Auto Insurance

Building upon its past work, FIO is issuing this RFI as part of a holistic analysis of the domestic personal auto insurance business, focusing on the following key themes:

- (1) Affordability of coverage and premium pricing disparities—with particular attention to traditionally underserved communities and considering the impact of non-driving factors—including an analysis of available data and an update of FIO's past work on auto insurance, and
- (2) market evolution and structural shifts in the conduct of business, including the effects of technology and the use of big data, as well as changes related to the COVID-19 pandemic.

II. Request for Comments

FIO invites comments on the following questions:

Data Analysis

1. Please provide your views on FIO updating its 2017 FIO Affordability Study. How could the 2017 FIO

¹ FIO's previous work on auto insurance affordability discusses these issues in greater depth. See Federal Insurance Office, U.S. Department of the Treasury, *Study on the Affordability of Automobile Insurance* (2017), https://home.treasury.gov/system/files/311/FINAL%20Auto%20Affordability%20Study_web.pdf.

² Insurance Research Council, "One in Eight Drivers Uninsured," news release, March 21, 2021, <https://www.insurance-research.org/sites/default/files/downloads/UM%20NR%20032221.pdf>.

³ FIO Act, 31 U.S.C. 313(a), (c)(1)(B). Title V also designates the Secretary as advisor to the President on "major domestic and international prudential policy issues in connection with all lines of insurance except health insurance." *Id.* at sec. 321(a)(9).

⁴ 79 FR 19969 (Apr. 10, 2014), 80 FR 38277 (Jul. 2, 2015).

⁵ 81 FR 45372 (July 13, 2016).

⁶ 81 FR at 45381.

⁷ 81 FR at 45381.

⁸ See, e.g., Federal Insurance Office, U.S. Department of the Treasury, *Annual Report on the Insurance Industry* (2020), 26–27, 31–32, 35, <https://home.treasury.gov/system/files/311/2020-FIO-Annual-Report.pdf>.

⁹ See, e.g., Federal Advisory Committee on Insurance, *Minutes of the Federal Advisory Committee on Insurance* (September 29, 2020), <https://home.treasury.gov/system/files/311/FACI-Minutes-9-20.pdf>.

¹⁰ With some state-specific exceptions, P&C insurers generally are required by state law to send premium, claims, and loss data to statistical agents, who then compile the data for state insurance departments. The states, in turn, use the reported information to ensure that insurance rates meet statutory standards and to monitor the insurance market.

¹¹ U.S. House of Representatives Committee on Appropriations, *Report together with Minority Views to Accompany H.R. 7668* (116th Congress, 2nd Session), <https://www.congress.gov/116/crpt/hrpt456/CRPT-116hrpt456.pdf>.

¹² President Joseph R. Biden, Jr., "Remarks by President Biden in a CNN Town Hall with Anderson Cooper," (remarks, CNN Town Hall, Milwaukee, WI, February 16, 2021), <https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/02/17/remarks-by-president-biden-in-a-cnn-town-hall-with-anderson-cooper/>.

Affordability Study methodology and reporting be improved? What time period should be covered in an updated study? Should FIO update the study on a periodic basis, and if so, how frequently?

2. What data should FIO use to update the 2017 FIO Affordability Study? For example, should FIO proceed with the proposed data collection outlined in the 2016 FIO Notice (*i.e.*, a request for voluntary production of ZIP Code-level premium data limited to large insurers that have a statutory surplus greater than \$500 million and that annually collect more than \$500 million of premium for personal auto insurance)? Why or why not? What alternate criteria, if any, would you propose if FIO administers a data collection?

3. Some recent auto insurance affordability analyses have leveraged rating databases to study how quoted policy pricing varies based on demographic and geographic inputs. Should FIO consider an analysis of affordability using premium quotations? Why or why not? If yes, what data sources are available?

4. Are there other quantitative approaches that FIO could take to effectively study auto insurance affordability? If yes, what are the approaches and their corresponding, available data sources?

Non-Driving Related Factors in Personal Auto Insurance Underwriting and Pricing

5. What should be the role of non-driving related factors (such as a consumer credit history, homeownership status, census tract, marital status, professional occupation, and educational attainment) in personal auto insurance underwriting and pricing?

6. How should FIO assess the use of such non-driving related factors? What principles should be used to distinguish between appropriate and inappropriate use of non-driving related factors in personal auto insurance underwriting and pricing? What metrics could FIO use to assess the impact of non-driving related factors on the affordability and accessibility of auto insurance? What data sources are available to help assess these factors?

Structural Market Changes in Personal Auto Insurance

7. What drivers of change (*e.g.*, specific technology advances, consumer preferences, the entrance of auto manufacturers in underwriting and issuing insurance policies, etc.) are currently having, or likely to have, significant effects on the structure of the

personal auto insurance business? Please describe these likely impacts and why they are occurring.

8. What responses to the COVID-19 pandemic—whether by consumers, the insurance industry, or insurance regulators—have the greatest likelihood of leading to long-term structural change in auto insurance? How can FIO evaluate the potential long-term or permanent effects of the pandemic on the personal auto insurance business?

9. What are the biggest challenges and opportunities for the personal auto insurance business resulting from current and anticipated structural changes? How are ongoing structural changes affecting underwriting and pricing practices?

10. Please describe how big data is being used in the personal auto insurance business. What are the benefits and risks to both consumers and insurers in the use of big data, particularly as it relates to auto insurance underwriting and pricing?

11. Please provide your views on how FIO can quantify structural changes to the personal auto insurance market and their potential effects.

General

12. Please provide any additional comments or information on other issues or topics that may be relevant to FIO's work on personal auto insurance, the 2017 FIO Affordability Study, or other related matters.

Steven Seitz,

Director, Federal Insurance Office.

[FR Doc. 2021-11167 Filed 5-26-21; 8:45 am]

BILLING CODE 4810-AK-P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Internal Revenue Service Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments must be received on or before June 28, 2021.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Copies of the submissions may be obtained from Molly Stasko by emailing PRA@treasury.gov, calling (202) 622-8922, or viewing the entire information collection request at www.reginfo.gov.

SUPPLEMENTARY INFORMATION:

Internal Revenue Service (IRS)

1. *Title:* Employee Representative's Quarterly Railroad Tax Return.

OMB Control Number: 1545-0002.

Type of Review: Extension of a currently approved collection.

Description: Employee representatives file Form CT-2 quarterly to report compensation on which railroad retirement taxes are due. The IRS uses this information to ensure that employee representatives have paid the correct tax. Form CT-2 also transmits the tax payment.

Form Number: IRS Form CT-2.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 112.

Frequency of Response: Quarterly.

Estimated Total Number of Annual Responses: 112.

Estimated Time per Respondent: 1 hour 11 minutes.

Estimated Total Annual Burden Hours: 132 hours.

2. *Title:* Cancellation of Debt.

OMB Control Number: 1545-1424.

Type of Review: Extension of a currently approved collection.

Description: Form 1099-C is used by Federal government agencies, financial institutions, and credit unions to report the cancellation or forgiveness of a debt of \$600 or more, as required by section 6050P of the Internal Revenue Code. The IRS uses the form to verify compliance with the reporting rules and to verify that the debtor has included the proper amount of canceled debt in income on his or her income tax return. These regulations under section 6050P of the Internal Revenue Code (Code), relating to the rule in § 1.6050P-1(b)(2)(iv) that the 36-month non-payment testing period is an identifiable event triggering an information reporting obligation on Form 1099-C for discharge of indebtedness by certain entities.

Form Number: IRS Form 1099-C.
Regulation Project Number: TD 9793.
Affected Public: Businesses and other for-profit organizations; and not-for-profit institutions.

Estimated Number of Respondents: 6,540,900.

Frequency of Response: On occasion.
Estimated Total Number of Annual Responses: 6,540,900.

Estimated Time per Response: 13 minutes.

Estimated Total Annual Burden Hours: 1,438,998 hours.

3. *Title:* Electronic Filing of Form W-4.

OMB Control Number: 1545-1435.

Type of Review: Extension of a currently approved collection.

Description: Information is required by the Internal Revenue Service to verify compliance with regulation section 31.3402(f)(2)-1(g)(1), which requires submission to the Service of certain withholding exemption certificates. The affected respondents are employers that choose to make electronic filing of Forms W-4 available to their employees.

Regulation Project Number: TD 8706.

Affected Public: Businesses and other for-profit organizations; not-for-profit institutions; and State, Local or Tribal governments.

Estimated Number of Respondents: 2,000.

Frequency of Response: On occasion.
Estimated Total Number of Annual Responses: 160,000.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 40,000 hours.

4. *Title:* Limited Payability Claim Against the United States for Proceeds of An Internal Revenue Refund Check.

OMB Control Number: 1545-2024.

Type of Review: Extension of a currently approved collection.

Description: Form 13818, *Limited Payability Claim Against the United States for the Proceeds of an Internal Revenue Refund Check*, is sent to the payee (taxpayer). This form is designed to provide taxpayers a method to file a claim for a replacement check when the original check is over 12 months old.

Form Number: IRS Form 13818.

Affected Public: Individual or Households; and Businesses and other for-profit organizations.

Estimated Number of Respondents: 6,000.

Frequency of Response: On occasion.
Estimated Total Number of Annual Responses: 6,000.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 6,000 hours.

5. *Title:* S Corporation Guidance under Section 958 (Rules for Determining Stock Ownership) and Guidance Regarding the Treatment of Qualified Improvement Property under the Alternative Depreciation System for Purposes of the QBAI Rules for FDII and GILTI.

OMB Control Number: 1545-2291.

Type of Review: Extension of a currently approved collection.

Description: The Treasury Department and the IRS published final regulations (TD 9866) in the **Federal Register** (84 FR 29288) under § 951A (final regulations). The final regulations adopted “aggregate treatment” with respect to income inclusion amounts arising from section 951A (the global intangible low tax income inclusion or GILTI) for partnerships. Under aggregate treatment, for purposes of determining the GILTI inclusion amount of any partner of a domestic partnership, each partner is treated as proportionately owning the stock of a controlled foreign corporation (CFC) owned by the partnership within the meaning of § 958(a) in the same manner as if the domestic partnership were a foreign partnership. Because only a U.S. person that is a U.S. shareholder can have a GILTI inclusion amount, a partner that is not a U.S. shareholder of a partnership-owned CFC does not have a GILTI inclusion amount determined by reference to the partnership-owned CFC. Section 1.951A-1(e)(1) applies to taxable years of foreign corporations beginning after December 31, 2017, and to taxable years of U.S. shareholders in which or with which such taxable years of foreign corporations’ end. There are no changes being made to the regulations at this time.

Regulation Project Number: TD 9986 and Notice 2020-69.

Affected Public: Individual or Households.

Estimated Number of Respondents: 3,688.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 3,688.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 1,844 hours.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: May 24, 2021.

Molly Skasko,

Treasury PRA Clearance Officer.

[FR Doc. 2021-11210 Filed 5-26-21; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Notification of Foreign Tax Redeterminations

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments must be received on or before June 28, 2021.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Copies of the submissions may be obtained from Molly Skasko by emailing PRA@treasury.gov, calling (202) 622-8922, or viewing the entire information collection request at www.reginfo.gov.

SUPPLEMENTARY INFORMATION:

Internal Revenue Service (IRS)

Title: Foreign Tax Credit; Notification of Foreign Tax Redeterminations.

OMB Control Number: 1545-1056.

Type of Review: Extension of a currently approved collection.

Description: The regulation relates to a taxpayer’s obligation under section 905(c) of the Internal Revenue Code to file notification of a foreign tax redetermination, to make adjustments to a taxpayer’s pools of foreign taxes and earnings and profits, and the imposition of the civil penalty for failure to file such notice or report such adjustments.

Regulatory Project Number: REG-209020-86.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 13,000.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 13,000.

Estimated Time per Response: 4.153 hours.

Estimated Total Annual Burden Hours: 54,000 hours.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: May 21, 2021.

Molly Stasko,

Treasury PRA Clearance Officer.

[FR Doc. 2021–11176 Filed 5–26–21; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0067]

Agency Information Collection Activity Under OMB Review: (VA Form 21–4502)

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. 2900–0067”.

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. 2900–0067” in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 38 U.S.C. 3901–3904.

Title: Application for Automobile or Other Conveyance and Adaptive Equipment (Under 38 U.S.C. 3901–3904) (VA Form 21–4502).

OMB Control Number: 2900–0067.

Type of Review: Reinstatement of a previously approved collection.

Abstract: VA Form 21–4502 is used by veterans and servicepersons to apply for automobile and adaptive equipment benefits. Without the information

solicited by this form, VA would be unable to determine eligibility, and benefits would not be properly paid.

No substantive changes have been made to this form. The respondent burden has increased due to the estimated number of receivables averaged over the past two years.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 86 FR 51 on March 18, 2021, page 14800.

Affected Public: Individuals or Households.

Estimated Annual Burden: 411.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 1,645.

By direction of the Secretary.

Dorothy Glasgow,

VA PRA Clearance Officer (Alternate), Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2021–11227 Filed 5–26–21; 8:45 am]

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H.R. 941/P.L. 117-15
Timely ReAuthorization of
Necessary Stem-cell Programs

Lends Access to Needed
Therapies Act of 2021 (May
26, 2021; 135 Stat. 277)
Last List May 26, 2021

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