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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA-565]

Schedules of Controlled Substances: Placement of cyclopentyl fentanyl, isobutyryl fentanyl, para-chloroisobutyryl fentanyl, para-methoxybutyryl fentanyl, and valeryl fentanyl in Schedule I; Correction

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final rule; correcting amendment.

SUMMARY: The Drug Enforcement Administration is correcting a final rule that appeared in the **Federal Register** on November 25, 2020. The document issued an action placing five fentanyl-related substances (cyclopentyl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylcyclopentanecarboxamide), isobutyryl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylisobutyramide), *para*-chloroisobutyryl fentanyl (*N*-(4-chlorophenyl)-*N*-(1-phenethylpiperidin-4-yl)isobutyramide), *para*-methoxybutyryl fentanyl (*N*-(4-methoxyphenyl)-*N*-(1-phenethylpiperidin-4-yl)butyramide), and valeryl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylpentanamide), including their

isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, permanently in schedule I of the Controlled Substances Act, specifically to the opiates list under DEA regulations. The published document assigned incorrect paragraph numbers to all five substances, and inadvertently removed four other substances from the listed opiates.

DATES: *Effective date:* March 31, 2021.

FOR FURTHER INFORMATION CONTACT: Terrence L. Boos, Drug and Chemical Evaluation Section, Diversion Control Division, Drug Enforcement Administration; Telephone: (571) 362-3249.

SUPPLEMENTARY INFORMATION: On November 25, 2020, the Drug Enforcement Administration (DEA) permanently placed five fentanyl-related substances (cyclopentyl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylcyclopentanecarboxamide), isobutyryl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylisobutyramide), *para*-chloroisobutyryl fentanyl (*N*-(4-chlorophenyl)-*N*-(1-phenethylpiperidin-4-yl)isobutyramide), *para*-methoxybutyryl fentanyl (*N*-(4-methoxyphenyl)-*N*-(1-phenethylpiperidin-4-yl)butyramide), and valeryl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylpentanamide) in schedule I of the Controlled Substances Act (CSA), specifically to the opiates list under 21 CFR 1308.11(b). 85 FR 75231. The final rule incorrectly assigned paragraph numbers 22, 40, 56, and 59 under paragraph (b) to cyclopentyl fentanyl, isobutyryl fentanyl, *para*-chloroisobutyryl fentanyl, and *para*-methoxybutyryl fentanyl, respectively, overriding previously assigned paragraph numbers for four listed

opiates crotonyl fentanyl, ketobemidone, *para*-fluorofentanyl, and phenampromide (*i.e.*, (b)(22), (40), (56), and (59)). In addition, the final rule incorrectly added valeryl fentanyl as a new paragraph (b)(75) instead of (b)(76). This document updates the numbering of all listed opiates in paragraph (b), and specifically corrects the paragraph numbers for cyclopentyl fentanyl, isobutyryl fentanyl, *para*-chloroisobutyryl fentanyl, *para*-methoxybutyryl fentanyl, and valeryl fentanyl, and reassigns paragraph numbers for crotonyl fentanyl, ketobemidone, *para*-fluorofentanyl, and phenampromide. It bears emphasis that DEA still considers the four substances (crotonyl fentanyl, ketobemidone, *para*-fluorofentanyl, and phenampromide) to have been schedule I substances during the time period from the issuance of the November 25, 2020, final rule to this correction, despite these inadvertent numbering errors.¹

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

For the reasons set out above, 21 CFR part 1308 is amended as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ 1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), 956(b), unless otherwise noted.

■ 2. In § 1308.11(b), revise the table to read as follows:

§ 1308.11 Schedule I.

*	*	*	*	*
(b)	*	*	*	

(1) Acetyl- <i>alpha</i> -methylfentanyl (<i>N</i> -[1-(1-methyl-2-phenethyl)-4-piperidinyl]- <i>N</i> -phenylacetamide)	9815
(2) Acetylmethadol	9601
(3) Acetyl fentanyl (<i>N</i> -(1-phenethylpiperidin-4-yl)- <i>N</i> -phenylacetamide)	9821
(4) Acryl fentanyl (<i>N</i> -(1-phenethylpiperidin-4-yl)- <i>N</i> -phenylacrylamide; also known as acryloylfentanyl)	9811
(5) AH-7921 (3,4-dichloro- <i>N</i> -[(1-dimethylamino)cyclohexylmethyl]benzamide)	9551
(6) Allylprodine	9602
(7) Alphacetylmethadol (except <i>levo</i> -alphacetylmethadol also known as <i>levo-alpha</i> -acetylmethadol, levomethadyl acetate, or LAAM)	9603
(8) Alphameprodine	9604
(9) Alphamethadol	9605

¹ Under the CSA, a controlled substance may only be removed from the schedules, or transferred to another schedule, where DEA expressly does so by a scheduling action issued in accordance with 21

U.S.C. 811 and published in the **Federal Register**. DEA took no such action with respect to crotonyl fentanyl, ketobemidone, *para*-fluorofentanyl, and phenampromide. Accordingly, the scheduling

status of these four substances was never altered by the final rule that appeared in the **Federal Register** on November 25, 2020.

(10) <i>alpha</i> -Methylfentanyl (<i>N</i> -[1-(<i>alpha</i> -methyl- <i>beta</i> -phenyl)ethyl-4-piperidyl]propionanilide; 1-(1-methyl-2-phenylethyl)-4-(<i>N</i> -propanilido)piperidine)	9814
(11) <i>alpha</i> -Methylthiofentanyl (<i>N</i> -[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]- <i>N</i> -phenylpropanamide)	9832
(12) Benzethidine	9606
(13) Betacetylmethadol	9607
(14) <i>beta</i> -Hydroxyfentanyl (<i>N</i> -[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]- <i>N</i> -phenylpropanamide)	9830
(15) <i>beta</i> -Hydroxy-3-methylfentanyl (<i>N</i> -[1-(2-hydroxy-2-phenylethyl)-3-methyl-4-piperidinyl]- <i>N</i> -phenylpropanamide)	9831
(16) <i>beta</i> -Hydroxythiofentanyl (<i>N</i> -[1-[2-hydroxy-2-(thiophen-2-yl)ethyl]piperidin-4-yl]- <i>N</i> -phenylpropionamide)	9836
(17) Betameprodine	9608
(18) Betamethadol	9609
(19) Betaprodine	9611
(20) Butyryl fentanyl (<i>N</i> -(1-phenethylpiperidin-4-yl)- <i>N</i> -phenylbutyramide)	9822
(21) Clonitazene	9612
(22) Crotonyl fentanyl ((<i>E</i>)- <i>N</i> -(1-phenethylpiperidin-4-yl)- <i>N</i> -phenylbut-2-enamide)	9844
(23) Cyclopentyl fentanyl (<i>N</i> -(1-phenethylpiperidin-4-yl)- <i>N</i> -phenylcyclopentanecarboxamide)	9847
(24) Cyclopropyl fentanyl (<i>N</i> -(1-phenethylpiperidin-4-yl)- <i>N</i> -phenylcyclopropanecarboxamide)	9845
(25) Dextromoramide	9613
(26) Diampromide	9615
(27) Diethylthiambutene	9616
(28) Difenoxin	9168
(29) Dimenoxadol	9617
(30) Dimepheptanol	9618
(31) Dimethylthiambutene	9619
(32) Dioxaphetyl butyrate	9621
(33) Dipipanone	9622
(34) Ethylmethylthiambutene	9623
(35) Etonitazene	9624
(36) Etoxidine	9625
(37) 4-Fluoroisobutyryl fentanyl (<i>N</i> -(4-fluorophenyl)- <i>N</i> -(1-phenethylpiperidin-4-yl)isobutyramide; also known as <i>para</i> -fluoroisobutyryl fentanyl)	9824
(38) Furanyl fentanyl (<i>N</i> -(1-phenethylpiperidin-4-yl)- <i>N</i> -phenylfuran-2-carboxamide)	9834
(39) Furethidine	9626
(40) Hydroxypethidine	9627
(41) Isobutyryl fentanyl (<i>N</i> -(1-phenethylpiperidin-4-yl)- <i>N</i> -phenylisobutyramide)	9827
(42) Ketobemidone	9628
(43) Levomoramide	9629
(44) Levophenacetylmorphan	9631
(45) Methoxyacetyl fentanyl (2-methoxy- <i>N</i> -(1-phenethylpiperidin-4-yl)- <i>N</i> -phenylacetamide)	9825
(46) 3-Methylfentanyl (<i>N</i> -[3-methyl-1-(2-phenylethyl)-4-piperidyl]- <i>N</i> -phenylpropanamide)	9813
(47) 3-Methylthiofentanyl (<i>N</i> -[3-methyl-1-(2-thienylethyl)-4-piperidinyl]- <i>N</i> -phenylpropanamide)	9833
(48) Morpheridine	9632
(49) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine)	9661
(50) MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine)	9560
(51) Noracetylmethadol	9633
(52) Norlevorphanol	9634
(53) Normethadone	9635
(54) Norpipanone	9636
(55) Ocfentanil (<i>N</i> -(2-fluorophenyl)-2-methoxy- <i>N</i> -(1-phenethylpiperidin-4-yl)acetamide)	9838
(56) <i>ortho</i> -Fluorofentanyl (<i>N</i> -(2-fluorophenyl)- <i>N</i> -(1-phenethylpiperidin-4-yl)propionamide; also known as 2-fluorofentanyl)	9816
(57) <i>para</i> -Chloroisobutyryl fentanyl (<i>N</i> -(4-chlorophenyl)- <i>N</i> -(1-phenethylpiperidin-4-yl)isobutyramide)	9826
(58) <i>para</i> -Fluorobutyryl fentanyl (<i>N</i> -(4-fluorophenyl)- <i>N</i> -(1-phenethylpiperidin-4-yl)butyramide)	9823
(59) <i>para</i> -Fluorofentanyl (<i>N</i> -(4-fluorophenyl)- <i>N</i> -[1-(2-phenylethyl)-4-piperidinyl]propanamide)	9812
(60) <i>para</i> -Methoxybutyryl fentanyl (<i>N</i> -(4-methoxyphenyl)- <i>N</i> -(1-phenethylpiperidin-4-yl)butyramide)	9837
(61) PEPAP (1-(2-phenylethyl)-4-phenyl-4-acetoxypiperidine)	9663
(62) Phenadoxone	9637
(63) Phenampromide	9638
(64) Phenomorphan	9647
(65) Phenoperidine	9641
(66) Piritramide	9642
(67) Proheptazine	9643
(68) Properidine	9644
(69) Propiram	9649
(70) Racemoramide	9645
(71) Tetrahydrofuranyl fentanyl (<i>N</i> -(1-phenethylpiperidin-4-yl)- <i>N</i> -phenyltetrahydrofuran-2-carboxamide)	9843
(72) Thiofentanyl (<i>N</i> -phenyl- <i>N</i> -[1-(2-thienyl)ethyl-4-piperidinyl]propanamide)	9835
(73) Tilidine	9750
(74) Trimeperidine	9646
(75) U-47700 (3,4-dichloro- <i>N</i> -[2-(dimethylamino)cyclohexyl]- <i>N</i> -methylbenzamide)	9547
(76) Valeryl fentanyl (<i>N</i> -(1-phenethylpiperidin-4-yl)- <i>N</i> -phenylpentanamide)	9840

* * * * *

D. Christopher Evans,*Acting Administrator.*

[FR Doc. 2021-06596 Filed 3-30-21; 8:45 am]

BILLING CODE 4410-09-P

DEPARTMENT OF JUSTICE**Drug Enforcement Administration****21 CFR Part 1308**

[Docket No. DEA-491]

Schedules of Controlled Substances: Extension of Temporary Placement of 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144 in Schedule I of the Controlled Substances Act**AGENCY:** Drug Enforcement Administration, Department of Justice.**ACTION:** Temporary rule; temporary scheduling order; extension.

SUMMARY: The Acting Administrator of the Drug Enforcement Administration is issuing this order to extend the temporary schedule I status of ethyl 2-(1-(5-fluoropentyl)-1*H*-indazole-3-carboxamido)-3,3-dimethylbutanoate (trivial name: 5F-EDMB-PINACA); methyl 2-(1-(5-fluoropentyl)-1*H*-indole-3-carboxamido)-3,3-dimethylbutanoate (trivial name: 5F-MDMB-PICA); *N*-(adamantan-1-yl)-1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamide (trivial names: FUB-AKB48; FUB-APINACA; AKB48 *N*-(4-fluorobenzyl)); 1-(5-fluoropentyl)-*N*-(2-phenylpropan-2-yl)-1*H*-indazole-3-carboxamide (trivial names: 5F-CUMYL-PINACA; SGT-25); and (1-(4-fluorobenzyl)-1*H*-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone (trivial name: FUB-144), and their optical, positional, and geometric isomers, salts, and salts of isomers. The schedule I status of 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144 currently is in effect until April 16, 2021. This temporary order will extend the temporary scheduling of 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144 for one year or until the permanent scheduling action for these substances is completed, whichever occurs first.

DATES: This order, which extends the temporary scheduling order that DEA previously issued for these substances (84 FR 15505, April 16, 2019), is effective April 16, 2021, and expires on April 16, 2022. If DEA publishes a final rule making this scheduling action permanent, this order will expire on the

effective date of that rule, if the effective date is earlier than April 16, 2022.

FOR FURTHER INFORMATION CONTACT:

Terrence L. Boos, Drug and Chemical Evaluation Section, Drug Enforcement Administration; Telephone: (571) 362-3249.

SUPPLEMENTARY INFORMATION:**Background and Legal Authority**

On April 16, 2019, the former Acting Administrator of the Drug Enforcement Administration (DEA) published a temporary scheduling order in the **Federal Register** (84 FR 15505) placing ethyl 2-(1-(5-fluoropentyl)-1*H*-indazole-3-carboxamido)-3,3-dimethylbutanoate (trivial name: 5F-EDMB-PINACA); methyl 2-(1-(5-fluoropentyl)-1*H*-indole-3-carboxamido)-3,3-dimethylbutanoate (trivial name: 5F-MDMB-PICA); *N*-(adamantan-1-yl)-1-(4-fluorobenzyl)-1*H*-indazole-3-carboxamide (trivial names: FUB-AKB48; FUB-APINACA; AKB48 *N*-(4-fluorobenzyl)); 1-(5-fluoropentyl)-*N*-(2-phenylpropan-2-yl)-1*H*-indazole-3-carboxamide (trivial names: 5F-CUMYL-PINACA; SGT-25); and (1-(4-fluorobenzyl)-1*H*-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone (trivial name: FUB-144) in schedule I of the Controlled Substances Act (CSA) pursuant to the temporary scheduling provisions of 21 U.S.C. 811(h). That order was effective on the date of publication, and was based on findings by the former Acting Administrator of DEA that the temporary scheduling of these substances was necessary to avoid an imminent hazard to the public safety pursuant to subsection (h)(1). Subsection (h)(2) requires that the temporary control of these substances expire two years from the effective date of the scheduling order, *i.e.*, on April 16, 2021. However, this same subsection also provides that during the pendency of proceedings under 21 U.S.C. 811(a)(1) with respect to the substance, the temporary scheduling¹ of that substance may be extended for up to one year. Proceedings for the scheduling of a substance under 21 U.S.C. 811(a) may be initiated by the Attorney General (delegated to the Administrator of DEA pursuant to 28 CFR 0.100) on his own motion, at the request of the Secretary of Health and Human Services (HHS),²

¹ Though DEA has used the term "final order" with respect to temporary scheduling orders in the past, this notice adheres to the statutory language of 21 U.S.C. 811(h), which refers to a "temporary scheduling order." No substantive change is intended.

² The Secretary of HHS has delegated to the Assistant Secretary for Health of HHS the authority to make domestic drug scheduling recommendations.

or on the petition of any interested party.

The Acting Administrator of DEA, on his own motion, has initiated proceedings under 21 U.S.C. 811(a)(1) to permanently schedule 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144. DEA is simultaneously publishing a notice of proposed rulemaking for the placement of 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144 in schedule I elsewhere in this issue of the **Federal Register**. If that proposed rule is finalized, DEA will publish a final rule in the **Federal Register** to make permanent the schedule I status of these substances.

Pursuant to 21 U.S.C. 811(h)(2), the Acting Administrator orders that the temporary scheduling of 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144, and their optical, positional, and geometric isomers, salts, and salts of isomers, be extended for one year, or until the permanent scheduling proceeding is completed, whichever occurs first.

Regulatory Matters

The CSA provides for an expedited temporary scheduling action where the Attorney General, as delegated to the Administrator of DEA, may, by order, place a substance in schedule I if such action is necessary to avoid an imminent hazard to the public safety. 21 U.S.C. 811(h). That same subsection also provides that the temporary scheduling of a substance shall expire at the end of two years from the date of the issuance of such temporary scheduling order, except that the Attorney General may, during the pendency of proceedings under 21 U.S.C. 811(a)(1) to permanently schedule the substance, extend the temporary scheduling for up to one year.

To the extent that subsection 811(h) directs that temporary scheduling actions be issued by order and sets forth the procedures by which such orders are to be issued and extended, DEA believes that the notice and comment requirements of section 553 of the Administrative Procedure Act, 5 U.S.C. 553, do not apply to this extension of the temporary scheduling action. The specific language chosen by Congress indicates an intention for DEA to proceed through the issuance of an order instead of proceeding by rulemaking. Given that Congress specifically requires the Attorney General to follow rulemaking procedures for other kinds of scheduling actions, see 21 U.S.C. 811(a), it is

noteworthy that, in subsection 811(h), Congress authorized the issuance of temporary scheduling actions by order rather than by rule. In the alternative, even if this action were subject to 5 U.S.C. 553, the Acting Administrator finds that there is good cause to forgo the notice and comment and the delayed effective date requirements of such section, as any further delays in the process for extending the temporary scheduling order would be impracticable and contrary to the public interest in view of the manifest urgency to avoid an imminent hazard to the public safety that these substances would present if scheduling expired, for the reasons expressed in the temporary scheduling order (84 FR 15505, April 16, 2019). Further, DEA believes that this order extending the temporary scheduling action is not a “rule” as defined by 5 U.S.C. 601(2), and, accordingly, is not subject to the requirements of the Regulatory Flexibility Act. The requirements for the preparation of an initial regulatory flexibility analysis in 5 U.S.C. 603(a) are not applicable where, as here, DEA is not required by 5 U.S.C. 553 or any other law to publish a general notice of proposed rulemaking.

Additionally, this action is not a significant regulatory action as defined by Executive Order (E.O.) 12866 (Regulatory Planning and Review) section 3(f), and the principles reaffirmed in E.O. 13563 (Improving Regulation and Regulatory Review), and, accordingly, this action has not been reviewed by the Office of Management and Budget.

This action 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 E.O. 13132 (Federalism), it is determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

As noted above, this action is an order, not a rule. Accordingly, the Congressional Review Act (CRA) is inapplicable, as it applies only to rules. 5 U.S.C. 801, 804(3). It is in the public interest to maintain the temporary placement of 5F-EDMB-PINACA, 5F-MDMB-PICA, FUB-AKB48, 5F-CUMYL-PINACA and FUB-144 in schedule I because they pose a public health risk, for the reasons expressed in the temporary scheduling order (84 FR 15505, April 16, 2019). The temporary scheduling action was taken pursuant to 21 U.S.C. 811(h), which is specifically

designed to enable DEA to act in an expeditious manner to avoid an imminent hazard to the public safety. Under subsection 811(h), temporary scheduling orders are not subject to notice and comment rulemaking procedures. DEA understands that the CSA frames temporary scheduling actions as orders rather than rules to ensure that the process moves swiftly, and this extension of the temporary scheduling order continues to serve that purpose. For the same reasons that underlie subsection 811(h), that is, the need to place these substances in schedule I because they pose an imminent hazard to public safety, it would be contrary to the public interest to delay implementation of this extension of the temporary scheduling order.

Therefore, in accordance with 5 U.S.C. 808(2), this order extending the temporary scheduling order shall take effect immediately upon its publication. DEA will submit a copy of this order to both Houses of Congress and to the Comptroller General, although such filing is not required under the CRA, 5 U.S.C. 801–808, because, as noted above, this action is an order, not a rule.

D. Christopher Evans,

Acting Administrator.

[FR Doc. 2021–06555 Filed 3–30–21; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2021–0153]

Annual Fireworks Displays and Other Events in the Eighth Coast Guard District Requiring Safety Zones

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone for the Riverfest fireworks display on the Neches River in Port Neches, TX from 8:30 p.m. through 10 p.m. on May 1, 2021 to provide for the safety of life on navigable waterways during this event. Our regulation for fireworks displays and other events within the Eighth Coast Guard District identifies the regulated area for this event in Port Neches, TX. During the enforcement periods, the operator of any vessel in the regulated area must comply with directions from the Patrol

Commander or designated representative.

DATES: The regulations in 33 CFR 165.801 Table 3 will be enforced from 8:30 p.m. through 10 p.m. on May 1, 2021, or in the event of postponement due to rain, on May 2, 2021.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Mr. Scott Whalen, U.S. Coast Guard; telephone 409–719–5086, email scott.k.whalen@uscg.mil.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce safety zone regulations in 33 CFR 165.801 Table 3 for the Port Neches Riverfest fireworks display from 8:30 p.m. through 10 p.m. on May 1, 2021, or in the event of rain, on May 2, 2021. This action is being taken to provide for the safety of life on navigable waterways before, during, and after a pyrotechnics display. Our annual fireworks displays and other events in the Eighth Coast Guard District requiring safety zones, § 165.801, specifies the location of the safety zone for the Riverfest fireworks display which encompasses a 500-yard radius of the fireworks barge anchored on the Neches River in approximate position 29°59'51" N 093°57'06" W (NAD83). During the enforcement period, as reflected in § 165.801 Table 3, if you are the operator of a vessel in the regulated area you must comply with directions from the Patrol Commander or designated representative.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of the enforcement periods via Local Notice to Mariners, Marine Safety Information Bulletin and Vessel Traffic Service Advisory.

Dated: March 22, 2021.

Molly A. Wike,

Captain, U.S. Coast Guard, Captain of the Port, Marine Safety Zone Port Arthur.

[FR Doc. 2021–06453 Filed 3–30–21; 8:45 am]

BILLING CODE 9110–04–P

POSTAL SERVICE

39 CFR Part 111

Priority Mail Express Delivery Times

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service is amending *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®) in various sections to revise the Priority Mail Express® delivery times and to

eliminate the optional 10:30 a.m. delivery time.

DATES: *Effective Date:* May 23, 2021.

FOR FURTHER INFORMATION CONTACT: Markes Lucius at (202) 268–6170, Denis Baranov (202) 268–4880, or Garry Rodriguez at (202) 268–7281.

SUPPLEMENTARY INFORMATION: Currently, the Priority Mail Express service guarantee delivery times for most domestic mail including Priority Mail Express Military Service® and Hold For Pickup service are 12:00 p.m. or 3:00 p.m. as designated by the 3-digit or 5-digit destination ZIP® Code delivery areas and defined in the Priority Mail Express Delivery directory. The Postal Service is revising the 12:00 p.m. and 3:00 p.m. Priority Mail Express service guarantee delivery times to 6:00 p.m. The Postal Service is also eliminating the optional 10:30 a.m. delivery time.

The revisions to the Priority Mail Express service guarantee delivery times and elimination of the optional 10:30 a.m. delivery time will enable the Postal Service to improve the quality of service and provide a more efficient customer experience.

The Postal Service adopts the following changes to *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), incorporated by reference in the *Code of Federal Regulations*. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR part 111 is amended as follows:

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM) as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

100 Retail Mail Letters, Cards, Flats, and Parcels

* * * * *

110 Retail Mail Priority Mail Express

113 Prices and Eligibility

1.0 Prices and Fees

* * * * *

[Delete 1.6, “Optional Delivery Fee” in its entirety.]

* * * * *

4.0 Service Features of Priority Mail Express

* * * * *

4.2 Priority Mail Express 1-Day Delivery

* * * * *

4.2.3 Delivery Time

[Revise the first sentence of 4.2.3 to read as follows:]

Items are delivered by 6 p.m. on the next delivery day. * * *

4.2.4 Hold for Pickup

[Revise the text of 4.2.4 to read as follows:]

Except for Priority Mail Express mailpieces containing cremated remains, under Hold for Pickup service, items presented under 4.2 are available for pickup by the addressee at the destination facility by 6:00 p.m. of the next day that the destination office is open for retail business.

4.3 Priority Mail Express 2-Day Delivery

* * * * *

4.3.3 Delivery Time

[Revise the text of 4.3.3 to read as follows:]

Items are delivered by 6 p.m. on the second delivery day. If delivery is not made, the addressee is notified. A reminder notice is left on the third day after the attempted delivery. A second delivery is attempted only upon customer request.

4.3.4 Hold for Pickup

[Revise the text of 4.3.4 to read as follows:]

Except for Priority Mail Express mailpieces containing cremated remains, under Hold for Pickup service, items presented under 4.3 are available for pickup by the addressee at the destination facility by 6:00 p.m. of the second delivery day that the destination office is open for retail business.

* * * * *

200 Commercial Mail Letters, Flats, and Parcels

* * * * *

210 Commercial Mail Priority Mail Express

213 Prices and Eligibility

1.0 Prices and Fees

* * * * *

[Delete 1.8, “Optional Delivery Fee” in its entirety and renumber 1.9 as 1.8.]

* * * * *

4.2 Priority Mail Express 1-Day Delivery

* * * * *

4.2.3 Delivery Times

[Revise the text of 4.2.3 to read as follows:]

Except for items endorsed “Guaranteed by End of Day” per an approved customer agreement, items are delivered by 6 p.m. on the next delivery day. If delivery is not made, the addressee is notified. A reminder notice is left on the third day after the attempted delivery. A second delivery is attempted only upon customer request.

4.2.4 Hold for Pickup

[Revise the text of 4.2.4 to read as follows:]

Except for Priority Mail Express mailpieces containing cremated remains, under Hold for Pickup service, items presented under 4.2 are available for pickup by the addressee at the destination facility by 6 p.m. of the next day that the destination office is open for retail business.

4.3 Priority Mail Express 2-Day Delivery

* * * * *

4.3.3 Delivery Times

[Revise the text of 4.3.3 to read as follows:]

Except for items endorsed “Guaranteed by End of Day” per an approved customer agreement, items are delivered by 6 p.m. on the second delivery day. If delivery is not made, the addressee is notified. A reminder notice is left on the third day after the attempted delivery. A second delivery is attempted only upon customer request.

4.3.4 Hold for Pickup

[Revise the text of 4.3.4 to read as follows:]

Except for Priority Mail Express mailpieces containing cremated remains, under Hold for Pickup service, items presented under 4.3 are available for pickup by the addressee at the destination facility by 6 p.m. of the second delivery day that the destination office is open for retail business.

* * * * *

600 Basic Standards For All Mailing Services

* * * * *

604 Postage Payment Methods and Refunds

* * * * *

9.0 Exchanges and Refunds

* * * * *

9.2 Postage and Fee Refunds

* * * * *

9.2.1 General Standards

A refund for postage and fees may be made:

* * * * *

[Revise the text of item e to read as follows:]

e. Under 9.5 for Priority Mail Express postage and Sunday/holiday premium fee refunds.

* * * * *

9.2.5 Applying for Refund

A customer may apply for refunds under 9.2, as follows:

[Revise the first sentence of item a to read as follows:]

a. Online (preferred) at www.USPS.com/help: For domestic, Priority Mail Express (postage, Sunday/holiday premium fee), and for Certified Mail, Return Receipt (hardcopy and electronic), Signature Confirmation, and USPS Tracking (USPS Marketing Mail only), extra services only. * * *

* * * * *

9.5 Priority Mail Express Postage and Fees Refunds

9.5.1 Priority Mail Express 1-Day and 2-Day Delivery

[Revise the text of 9.5.1 to read as follows:]

For Priority Mail Express 1-Day and 2-Day Delivery, the USPS refunds the postage and Sunday or holiday premium fee for an item not delivered, for an item for which delivery was not attempted, or if the item was not made available for claim by the delivery date and time specified at the time of mailing, subject to the standards for this service, unless the delay was caused by one of the situations in 9.5.5.

* * * * *

700 Special Standards

703 Nonprofit USPS Marketing Mail and Other Unique Eligibility

* * * * *

2.0 Overseas Military and Diplomatic Post Office Mail

* * * * *

2.6 Priority Mail Express Military Service (PMEMS)

* * * * *

2.6.5 To APO/FPO and DPO Destinations

[Revise the text of 2.6.5 to read as follows:]

Under PMEMS, items mailed to APO/FPO and DPO destinations (from the United States) are available for delivery at the destination APO/FPO or DPO Post Office by 6:00 p.m. on the designated delivery day.

2.6.6 From APO/FPO and DPO Destinations

[Revise the text of 2.6.5 to read as follows:]

Under PMEMS, items mailed from APO/FPO and DPO locations (going to the United States) are delivered to an addressee within the delivery area of the destination Post Office by 6:00 p.m. on the designated delivery day.

* * * * *

Ruth B. Stevenson,

Attorney, Federal Compliance.

[FR Doc. 2021-06648 Filed 3-29-21; 4:15 pm]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2020-0198; FRL-10022-11-Region 3]

Air Plan Approval; West Virginia; 1997 8-Hour Ozone National Ambient Air Quality Standard Second Maintenance Plan for the West Virginia Portion of the Wheeling, WV-OH Area Comprising Marshall and Ohio Counties

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 West Virginia Department of Environmental Protection (WVDEP) on behalf of the State of West Virginia (WV). This revision pertains to West Virginia's plan for maintaining the 1997 8-hour ozone national ambient air quality standard (NAAQS) for the West Virginia portion of the Wheeling, WV-OH area (Wheeling Area) comprising Marshall and Ohio Counties. EPA is approving these revisions to the West Virginia SIP in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on April 30, 2021.

ADDRESSES: EPA has established a docket for this action under Docket ID

Number EPA-R03-OAR-2020-0198. 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 June 29, 2020 (85 FR 38831), EPA published a notice of proposed rulemaking (NPRM) for the State of West Virginia. In the NPRM, EPA proposed approval of West Virginia's plan for maintaining the 1997 ozone NAAQS through June 14, 2027, in accordance with CAA section 175A. The formal SIP revision was submitted by WVDEP on December 10, 2019.

II. Summary of SIP Revision and EPA Analysis

On May 15, 2007 (72 FR 27247, effective June 14, 2007), EPA approved a redesignation request (and maintenance plan) from WVDEP for the Wheeling 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 (South Coast II),¹ the D.C. Circuit held that this requirement cannot be waived for areas, like the Wheeling 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

¹ 882 F.3d 1138 (D.C. Cir. 2018).

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 WVDEP's December 10, 2019 SIP submittal fulfills West Virginia's obligation to submit a second maintenance plan and addresses each of the five necessary elements.

As discussed in the June 29, 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 the area's design values⁴ are well below the NAAQS and that it has had historical stability attaining the NAAQS. EPA evaluated WVDEP's December 10, 2019 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 Wheeling, WV-OH Area comprising Marshall and Ohio Counties as a revision to the West Virginia SIP. The effect of this action makes certain commitments related to the maintenance of the 1997 ozone NAAQS federally enforceable as part of the West Virginia SIP. Other specific requirements of WVDEP's December 10, 2019 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 four comments on the June 29, 2020 NPRM. All comments received are in the docket for this

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.

rulemaking action. A summary of the comments and EPA's responses are provided herein.

Comment 1: The commenter alleges that the plan should not be approved due to the allowance of future expansion of Interstate 70 (I-70) within Ohio County in West Virginia and Belmont County in Ohio from a West Virginia "transportation conformity plan." The commenter takes issue that the "transportation conformity plan" will allow more vehicles to use the highway, hence increasing the vehicle miles traveled (VMT) and the mobile source emissions. The commenter claims that "EPA should require WV to compensate" for the increase in VMT arising from the future expansion project and suggests that this could be evaluated by utilizing "actual VMT data collected on I-70" in the motor vehicle emission simulator (MOVES) modeling and the modeling "will show an increase in mobile source emissions in the area beyond that shown in WV's plan."

Response 1: EPA does not agree with the commenter that the plan should not be approved for the reasons given in the comment. The commenter did not identify a specific project that would expand the I-70 as it exists today. In an effort to identify the project that the commenter referred to, we reviewed West Virginia's current statewide transportation improvement program (STIP) and the current long-range transportation plan for the West Virginia portion of the Wheeling metropolitan area which includes Marshall and Ohio Counties. We could not identify any I-70 expansion projects in the STIP.⁵ We did identify several bridge rehabilitation projects on I-70, but these would not constitute highway expansion projects and would not result in increased vehicle miles traveled. We did identify one highway expansion project in the area's long-range transportation plan.⁶ That project would upgrade I-70 to six lanes from Elm Grove/Triadelphia interchange to Cabela Drive in Ohio County. Construction is not slated to begin until 2036. The opening date for the project is not stated in the long-range plan. Belomar, the metropolitan planning organization for the area, will have to consider the potential impacts of this project on air quality in the area when it makes transportation conformity determinations for the 1997 ozone NAAQS. However, with respect

⁵ <https://transportation.wv.gov/highways/programming/STIP/Pages/default.aspx>.

⁶ <https://www.belomar.org/wordpress/wp-content/uploads/2016/07/bomts-lrp-2040-final-document.pdf>.

to the commenter's request that compensating emissions reductions be obtained for any emissions increases that this project may eventually cause, there is no mechanism under the CAA that requires such compensating emissions reductions as part of a maintenance plan. In order to approve the second maintenance plan for the area, the plan must demonstrate that the area will be able to remain in attainment of the 1997 ozone NAAQS through 2027. We have reviewed the second maintenance plan and for the reasons stated in this final rule and in the proposal, we have concluded that the second maintenance plan is approvable. 85 FR 38831 (June 29, 2020).

Comment 2: The commenter claims that the second maintenance plan should be rejected because "EPA has not evaluated the loss in emission reductions" due to certain policy positions taken by the Trump administration related to ". . . the CAFE⁷ standards, biofuel blending requirements and removing States' and California's ability to set standards." The commenter asserts that West Virginia failed to use "reduced emission standards" in the mobile source evaluation. The commenter contends that West Virginia "uses assumptions that are against EPA's stated policy under the New Source Performance Standards (NSPS) and the National Emission Standards for Hazardous Pollutants (NESHAP)" and therefore, the plan should be rejected. Further, the commenter takes issue that "Recently EPA has announced protections under the mercury and air toxic standards (MATS) rule and the Boiler maximum achievable control technology (MACT) rule," and due to the removal of these programs, "EPA should require states to use those planning assumptions and account for any lost emissions reductions achieved by those programs."

Response 2: It is unclear from the comment how or why the commenter believes the particular policies cited are relevant to this action. For example, biofuel blending requirements are not relevant to ozone reductions, and neither West Virginia nor Ohio has adopted California's light duty vehicle emission standards, and therefore, neither state is impacted by the withdrawal of California's waiver for its zero emission vehicle sales mandate and its greenhouse gas emissions standards.⁸ The change to the National Highway

⁷ Corporate Average Fuel Economy (CAFE).

⁸ See 84 FR 51310, September 27, 2019. The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule Part One: One National Program.

Traffic Safety Administration's (NHTSA) corporate average fuel economy rules and EPA's greenhouse gas emissions standards did not affect EPA's Tier 3 vehicle and fuel regulation.⁹ Therefore, new vehicles continue to be required to be certified to the Tier 3 emissions standards for nitrogen oxides (NO_x) and volatile organic compounds (VOCs). Neither of the Safer Affordable Fuel-Efficient (SAFE) rulemakings affected emissions from the existing vehicle fleet. For the reasons stated in the NPRM, we disagree with alleged deficiencies in evaluating mobile sources.

We also do not agree with the commenter's contentions about West Virginia using "assumptions that are against EPA's stated policy under NSPS and NESHAP," or that EPA should require West Virginia to address the removal of protections the commenter alleges EPA has made under the MATS and Boiler MACT rules. The commenter does not identify how any NSPS or NESHAP "policies" impact this action, or which policies, NESHAPs or NSPS the commenter believes are relevant to this action. With respect to MATS and the Boiler MACT, the commenter incorrectly assumes that protections under those rules have been "removed." In a 2020 rulemaking, EPA found that it was not "appropriate and necessary" to regulate hazardous air pollutants (HAP) emissions from coal- and oil-fired Electrical Generating Units (EGUs), thereby reversing the Agency's previous conclusion under CAA section 112(n)(1)(A). 85 FR 31286 (May 22, 2020). This action did not, however, remove the EGUs covered by MATS from regulation. EPA explicitly stated that coal- and oil-fired EGUs would remain on the CAA section 112(c)(1) source category list, and that the CAA section 112(d) standards for those EGUs, as promulgated in the MATS rule, would be unaffected by its reversal of the "appropriate and necessary" finding because EPA had not met the statutorily required CAA section 112(c)(9) delisting criteria to remove these units from regulation. 85 FR at 31286 (May 22, 2020).¹⁰ The commenter is therefore incorrect that there has been any "removal of protections" with respect to the emission limits required under the

MATS rule. Similarly, although EPA has proposed certain changes to the Boiler MACT in response to a court decision,¹¹ those proposed changes have not been finalized to date. Therefore, the environmental protections of neither the MATS rule nor the Boiler MACT rule have been removed or decreased. EPA therefore disagrees with the commenter that this plan should be disapproved because of WVDEP's failure to address, in a plan designed to maintain an ozone standard, the CAA programs and policies referenced by the commenter.

Comment 3: The commenter asserts that the LMP should not be approved because of EPA's reliance on the Air Quality Modeling Technical Support Document (TSD) that was developed for EPA's regional transport rulemaking. The commenter contends that: (1) The TSD shows maintenance of the area for three years and not 10 years; (2) the modeling was performed for transport purposes across state lines and not to show maintenance of the NAAQS; (3) the modeling was performed for the 2008 and 2015 ozone NAAQS and not the 1997 ozone NAAQS; (4) the TSD has been "highly contested" by environmental groups and that "other states contend EPA's modeling as flawed;" and (5) the TSD does not address a recent court decision that threw out EPA's modeling "because it modeled to the wrong attainment year. . . ." The commenter asserts that the four specific issues it raises with respect to the modeling means that the TSD is "flawed, illegal, [and] is being used improperly for the wrong purpose. . . ." The commenter states that "EPA must retract its reliance on the modeling for the purposes of this maintenance plan and must find some other way of showing continued maintenance of the 1997 ozone NAAQS."

Response 3: EPA does not agree with the commenter that the approval of West Virginia's second maintenance plan is not appropriate. The commenter raises concerns about West Virginia and EPA's citation of air quality modeling, but the commenter ignores that EPA's primary basis for finding that West Virginia has provided for maintenance of the 1997 ozone NAAQS in the Wheeling Area is the State's demonstration that the criteria for a limited maintenance plan has been met. See 85 FR 38831, June 29, 2020. Specifically, as stated in the NPRM, for decades EPA has interpreted the provision in CAA section 175A that requires states to "provide for maintenance" of the NAAQS to be satisfied where areas demonstrate that

design values are and have been stable and well below the NAAQS—e.g., at 85% of the standard, or in this case at or below 0.071 ppm. EPA calls such demonstration a "limited maintenance plan."

The modeling cited by the commenter was referenced in West Virginia's submission and as part of EPA's proposed approval as supplementary supporting information, and we do not agree that the commenter's concerns about relying on that modeling are warranted. The commenter contends that the modeling only goes out three years (to 2023) and it needs to go out to 10 years, and therefore may not be relied upon. However, the air quality modeling TSD was only relied upon by EPA to provide additional support to indicate that the area is expected to continue to attain the NAAQS during the relevant period. As noted above, West Virginia primarily met the requirement to demonstrate maintenance of the NAAQS by showing that they met the criteria for a limited maintenance plan, rather than by modeling or projecting emissions inventories out to a future year. We also do not agree that the State is required to demonstrate maintenance for 10 years; CAA section 175A requires the State to demonstrate maintenance through the 20th year after the area is redesignated, which in this case is 2027.

We also disagree with the commenter's contention that because the air quality modeling TSD was performed to analyze the transport of pollution across state lines with respect to other ozone NAAQS, it cannot be relied upon in this action. We acknowledge that the air quality modeling TSD at issue was performed as part of EPA's efforts to address interstate transport pollution under CAA section 110(a)(2)(D)(i)(I). However, the purpose of the air quality modeling TSD is fully in keeping with the question of whether West Virginia is expected to maintain the NAAQS. The air quality modeling TSD identifies which air quality monitors in the United States are projected to have problems attaining or maintaining the 2008 and 2015 NAAQS for ozone in 2023. Because the air quality modeling TSD results simply provide projected ozone concentration design values, which are expressed as three-year averages of the annual fourth high 8-hour daily maximum ozone concentrations, the modeling results are useful for analyzing attainment and maintenance of any of the ozone NAAQS that are measured using this averaging time; in this case, the 1997, 2008 and 2015 ozone NAAQS. The only difference between the three standards

⁹ See 85 FR 24174, April 30, 2020. The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021–2026 Passenger Cars and Light Trucks.

¹⁰ We note also that the 2020 rulemaking has been challenged in the Court of Appeals for the District of Columbia and has also been identified by President Biden's January 20, 2021 Executive Order as an action that EPA should propose to review, revise, or rescind by August 2021.

¹¹ 85 FR 52198 (August 24, 2020).

is stringency. Taking the Wheeling Area's most recent certified design value as of the proposal (*i.e.*, for the years 2016–2018), the area's design value was 0.066 parts per million (ppm). What we can discern from this is that the area is meeting the 1997 ozone NAAQS of 0.080 ppm, the 2008 ozone NAAQS of 0.075 ppm, and the 2015 ozone NAAQS of 0.070 ppm. The same principle applies to projected design values from the air quality modeling TSD. In this case, the interstate transport modeling indicated that in 2023, the Wheeling Area's design value is projected to be 0.067 ppm,¹² which is again, well below all three standards. The fact that the air quality modeling TSD was performed to indicate whether the area will have problems attaining or maintaining the 2015 ozone NAAQS (*i.e.*, 0.070 ppm) does not make the modeling less useful for determining whether the area will also meet the less stringent revoked 1997 standard (*i.e.*, 0.080 ppm).

The commenter asserts that many groups have criticized EPA's transport modeling, alleging that the agency used improper emissions inventories, incorrect contribution thresholds, wrong modeling years, or that EPA has not accounted for local situations or reductions that occurred after the inventories were established. The commenter also alleges that EPA should not rely on its modeling because it "fails to stand up to the recent court decisions," citing the *Wisconsin v. EPA* D.C. Circuit decision.¹³ EPA disagrees that the existence of criticisms of the agency's air quality modeling TSD render it unreliable, and we also do not agree that anything in recent court decisions, including *Wisconsin v. EPA*, suggests that EPA's air quality modeling TSD is technically flawed. We acknowledge that the source apportionment air quality modeling TSD runs cited by the commenter have been at issue in various legal challenges to EPA actions, including the *Wisconsin v. EPA* case. However, in that case, the *only* flaw in EPA's air quality modeling TSD identified by the D.C. Circuit was the fact that its analytic year did not align with the attainment date found in CAA section 181.¹⁴ Contrary to the commenter's suggestion, the D.C. Circuit *upheld* EPA's air quality modeling TSD

with respect to the many technical challenges raised by petitioners in the *Wisconsin* case.¹⁵ We therefore think reliance on the interstate transport air quality modeling TSD as supplemental support for showing that the Wheeling Area will maintain the 1997 ozone NAAQS through the end of its 20th-year maintenance period is appropriate.

Comment 4: The commenter asserts that EPA should disapprove this maintenance plan because EPA should not allow states to rely on emission programs such as the Cross-State Air Pollution rule (CSAPR) to demonstrate maintenance for the 1997 ozone NAAQS. The commenter alleges that "the CSAP and CSAP Update and CSAP Close-out rules were vacated entirely" by multiple courts and "are now illegal programs providing no legally enforceable emission reductions to any states formerly covered by the rules." The commenter also asserts that nothing restricts "big coal and gas power plants from emitting way beyond there (sic) restricted amounts." The commenter does allow that "If EPA can show that continued maintenance without these rules is possible for the next 10 years then that would be OK but as the plan stands it relies on these reductions and must be disapproved."

Response 4: The commenter has misapprehended the factual circumstances regarding these interstate transport rules. Every rule cited by the commenter that achieves emission reductions from electric generating units (EGUs or power plants)—*i.e.*, the Cross-State Air Pollution Rule and the CSAPR Update—remains in place and continues to ensure emission reductions of NO_x and sulfur dioxide (SO₂). CSAPR began implementation in 2015 (after it was largely upheld by the Supreme Court) and the CSAPR Update began implementation in 2017. The latter rule was remanded to EPA to address the analytic year issues discussed in the prior comment and response, but the rule remains fully in effect. The commenter is correct that the D.C. Circuit vacated the CSAPR close-out, but we note that that rule was only a determination that no further emission reductions were required to address interstate transport obligations for the 2008 ozone NAAQS; the rule did not itself establish any emission reductions. We therefore disagree that the legal status of these rules presents any obstacle to EPA's approval of West Virginia's submission.

IV. Final Action

EPA is approving the 1997 ozone NAAQS limited maintenance plan for the Wheeling, WV-OH area comprising Marshall and Ohio Counties as a revision to the West Virginia 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).

¹² The June 29, 2020 NPRM for this action recited 0.060 ppm as the Projected 2023 design value in Table 2—Wheeling Area 8-hour Ozone Design Value in Part Per Million. Through this final action we clarify that the correct Projected 2023 design value that was included in the State's submission, is 0.067 ppm. The inclusion of the slightly higher but incorrect figure in the NPRM is a harmless error that does not alter EPA's approval of this LMP.

¹³ *Wisconsin*, 938 F.3d 303 (D.C. Cir. 2019).

¹⁴ *Wisconsin*, 938 F.3d at 313.

¹⁵ *Wisconsin*, 938 F.3d at 323–331.

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 June 1, 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 West Virginia’s limited maintenance plan for the Wheeling, WV-OH area comprising Marshall and Ohio Counties 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, Volatile organic compounds.

Dated: March 25, 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 XX—West Virginia

■ 2. In § 52.2520, the table in paragraph (e) is amended by adding an entry for “1997 8-Hour Ozone National Ambient Air Quality Standard Second Maintenance Plan for the West Virginia Portion of the Wheeling, WV–OH Area Comprising Marshall and Ohio Counties” at the end of the table to read as follows:

§ 52.2520 Identification of plan.

* * * * *
(e) * * *

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 West Virginia Portion of the Wheeling, WV-OH Area Comprising Marshall and Ohio Counties.	Wheeling WV-OH, West Virginia Area Comprising Marshall and Ohio Counties.	12/10/19	3/31/21, [insert Federal Register citation].	

[FR Doc. 2021–06523 Filed 3–30–21; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 210325–0069]

RIN 0648–BK45

Sea Turtle Conservation; Shrimp Trawling Requirements

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

ACTION: Final rule; delay of effective date.

SUMMARY: We, the NMFS, are delaying the effective date of a final rule that published on December 20, 2019.

DATES: As of March 31, 2021, the effective date of the rule amending 50 CFR part 223 that published at 84 FR 70048 on December 20, 2019, is delayed until August 1, 2021.

FOR FURTHER INFORMATION CONTACT: Jennifer Lee, NMFS Southeast Regional Office, telephone: 727–824–5312, or email: *jennifer.lee@noaa.gov*.

SUPPLEMENTARY INFORMATION: On December 20, 2019, we published a final rule to amend the alternative tow time restriction to require all skimmer trawl vessels 40 feet and greater in length to use turtle excluder devices (TEDs) designed to exclude small sea turtles in their nets, and that rule had an effective date of April 1, 2021 (84 FR 70048). The final rule amends regulations at 50 CFR part 223 under the authority of the Endangered Species Act. The purpose of the final rule is to reduce incidental

bycatch and mortality of sea turtles in the southeastern U.S. shrimp fisheries, and to aid in the protection and recovery of listed sea turtle populations. The rule also amends the definition of tow time to better clarify the intent and purpose of tow times to reduce sea turtle mortality, and it refines additional portions of the TED requirements to avoid potential confusion. We delayed the effectiveness of the final rule until April 1, 2021, to allow for the manufacture of the necessary number of TEDs and for fishers, particularly lower income fishers, to prepare financially for the regulation.

We typically conduct outreach on changes to TED regulations through in-person industry workshops and trade shows, dockside and net shop visits, and enforcement trainings. In our final rule we stated that we would be scheduling and announcing future TED training workshops. We also distributed a Fishery Bulletin to industry

representatives, state agency partners, media, and other constituents on the final rule, notifying fishers that we would be conducting numerous workshops and training sessions for skimmer trawl fishers, and that information on these sessions would be posted on our website at: <https://www.fisheries.noaa.gov/southeast/bycatch/turtle-excluder-device-regulations>.

We are now delaying the effective date of the final rule published on December 20, 2019, (84 FR 70048) until August 1, 2021. Safety and travel restrictions due to the COVID-19 pandemic have limited our ability to complete the in-person workshops and training sessions that we had anticipated and communicated to the public. This delay in effective date is necessary to provide us with additional time to conduct our planned outreach and training for fishers through a modified strategy, including but not limited to, virtual training sessions with the public. In addition to generally educating the public on the use of the devices, it will help prepare us for responding to installation and maintenance problems from industry when the regulations go in effect. This will allow fishers to be better prepared for compliance with regulations and reduce the likelihood of potential increased sea turtle deaths caused by widespread use of improperly constructed and/or installed TEDs.

Administrative Procedure Act

The Assistant Administrator for Fisheries (AA) finds that there is good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), because prior notice and opportunity for public comment on this temporary delay is unnecessary and would be contrary to the public interest. Such procedures are unnecessary because the rule that published at 84 FR 70048 on December 20, 2019, has already been subject to notice and comment, and all that remains is to notify the public of this delay in the effective date of the previously noticed regulations. Providing additional prior notice and opportunity for public comment is contrary to the public interest because there is a need to implement immediately this action to delay the April 1, 2021, effective date of the final rule and to provide notice of the delay to affected fishery participants. Making the requirements effective before fishers are properly educated and trained regarding the devices could lead to improper installation and use, which

could lead to greater harm to listed sea turtles. We are temporarily delaying the effective date of the rule (see **DATES** section) to provide us with additional time to promote compliance with the new regulations.

For these same reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1531 *et seq.*

Dated: March 25, 2021.

Samuel D. Rauch III,

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

[FR Doc. 2021-06594 Filed 3-30-21; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 210210-0018; RTID 0648-XA913]

Fisheries of the Economic Exclusive Zone Off Alaska; Groundfish Fishery by Non-Rockfish Program Catcher Vessels Using Trawl Gear in the Western and Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for groundfish, other than pollock, by non-Rockfish Program catcher vessels using trawl gear in the Western and Central Regulatory Areas of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2021 Chinook salmon prohibited species catch limit established for non-Rockfish Program catcher vessels using trawl gear and directed fishing for groundfish, other than pollock, in the Western and Central Regulatory Areas of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), March 26, 2021, through 2400 hours, A.l.t., December 31, 2021.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council

under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2021 Chinook salmon prohibited species catch (PSC) limit for non-Rockfish Program catcher vessels directed fishing for groundfish, other than pollock, using trawl gear in the Western and Central Regulatory Areas of the GOA is 3,060 Chinook salmon (§ 679.21(h)(4)(i)(C)).

In accordance with § 679.21(h)(8)(ii), the Regional Administrator has determined that the 2021 Chinook salmon PSC limit established for non-Rockfish Program catcher vessels directed fishing for groundfish, other than pollock, using trawl gear in the Western and Central Regulatory Areas of the GOA has been reached. Therefore, NMFS is prohibiting directed fishing for groundfish (except for pollock) by non-Rockfish Program catcher vessels using trawl gear in the Western and Central Regulatory Areas of the GOA.

While this closure is effective the maximum retainable amounts at 50 CFR 679.20(e) and (f) apply at any time during a trip.

Classification

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

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay is prohibiting directed fishing for groundfish, other than pollock, by non-Rockfish Program catcher vessels using trawl gear in the Western and Central Regulatory Areas of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 25, 2021.

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

Dated: March 25, 2021.

Jennifer M. Wallace,

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

[FR Doc. 2021-06560 Filed 3-26-21; 4:15 pm]

BILLING CODE 3510-22-P

Proposed Rules

Federal Register

Vol. 86, No. 60

Wednesday, March 31, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM-50-118; NRC-2019-0071]

Measurement Standards Used at U.S. Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; denial.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is denying a petition for rulemaking, submitted by Mr. Michael Taylor (the petitioner), dated December 3, 2018. The petition was docketed by the NRC on March 4, 2019, and was assigned Docket No. PRM-50-118. The petitioner requested that the NRC amend its regulations regarding the measurement standards used at U.S. nuclear power plants. The NRC is denying the petition because the NRC's current regulations and oversight activities provide reasonable assurance of adequate protection of public health and safety.

DATES: The docket for PRM-50-118 is closed on March 31, 2021.

ADDRESSES: Please refer to Docket ID NRC-2019-0071 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2019-0071. Address questions about NRC dockets to Dawn Forder; telephone: 301-415-3407; email: Dawn.Forder@nrc.gov. For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/>

adams.html. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.

- *Attention:* The Public Document Room (PDR), where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at PDR.Resource@nrc.gov or call 1-800-397-4209 between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Solomon Sahle, Office of Nuclear Material Safety and Safeguards, telephone: 301-415-3781, email: Solomon.Sahle@nrc.gov, or Greg Galletti, Office of Nuclear Reactor Regulation, telephone: 301-415-1831, email: Greg.Galletti@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. The Petition

Section 2.802 of title 10 of the *Code of Federal Regulations* (10 CFR), "Petition for rulemaking—requirements for filing," provides an opportunity for any interested person to petition the Commission to issue, amend, or rescind any regulation. On December 3, 2018, the NRC received a petition for rulemaking (PRM) from Mr. Michael Taylor, as amended on July 22, 2019 (ADAMS Accession Nos. ML19074A303 and ML19199A014, respectively). The petitioner requested that the NRC amend its regulations to require that all metrology and calibration laboratories at nuclear power plants become certified by accrediting organizations that require the use of certain measurement standards. The petitioner also requested that the NRC require training of all personnel and their management that make measurements at nuclear power plants, to ensure a clear understanding of the effects of measurement standards.

The petitioner is concerned that U.S. nuclear power plants are not required to use or have internal metrology or

calibration laboratories that are certified under an accrediting organization such as the American Association for Laboratory Accreditation, National Voluntary Laboratory Accreditation Program, or similar accrediting body, as a part of normal and required operations. The petitioner states that, because of this lack of accreditation, certain important factors are not currently considered in measurements conducted at nuclear power plants, including the ratio of measurement standards to units under test. The petitioner contends that this leads to an unresolved safety issue for Quality (safety-related) measurements in particular. The petitioner also states that existing internal quality assurance and documents and standards currently in use for inspections and audits do not adequately address this concern.

II. Public Comments on the Petition

A. Overview of Public Comments

The NRC published the notice of receipt and request for public comment in the **Federal Register** on May 15, 2019 (84 FR 21727). The public comment period closed on July 29, 2019. The NRC received a total of five public comments. Three comments expressed support for the petition, one did not clearly support or oppose the petition, and one (from the petitioner) provided grammatical corrections and minor clarifications to the petition.

The NRC reviewed and considered the public comments received in making its decision to deny the PRM. The NRC response follows a short summary of each comment.

B. NRC Responses to Public Comments

Comment: One comment, from an anonymous individual, agrees with the petitioner that the current regulations leave margin for error and that additional regulations are necessary.

NRC Response: The NRC disagrees with this comment. The NRC performed an independent search of all licensee event reports and greater-than-green inspection findings since 2015 and did not identify any examples of safety issues caused by the lack of laboratory certification requirements. In addition, a licensee's calibration program must meet the requirements of criterion XII, "Control of Measuring and Test Equipment," of appendix B, "Quality Assurance Criteria for Nuclear Power

Plants and Fuel Reprocessing Plants,” to 10 CFR part 50, “Domestic Licensing of Production and Utilization Facilities.” Furthermore, a licensee’s compliance with the requirements of appendix B to 10 CFR part 50 is subject to inspection by the NRC. As such, the NRC has reasonable assurance that the existing regulations provide adequate protection of public health and safety.

Comment: A comment from an anonymous individual stated that current internal labs in the utility industry should be required to go through the same requirements that external calibration facilities must go through when calibrating and testing equipment for nuclear plants. According to this comment, it is not economically fair for the external calibration labs to pay for and go through the rigorous audits and try to compete for business when internal laboratories are not required to pay for this expensive certification. This comment suggests that this petition puts every calibration business on an equal playing field and would ensure uniform, basic knowledge and skills prior to employment and continuing education each year after to satisfy certification renewal.

NRC Response: The NRC disagrees with this comment. Training requirements for nuclear power plant personnel, including calibration technicians, are covered under criterion II, “Quality Assurance Program,” of appendix B to 10 CFR part 50, “Domestic Licensing of Production and Utilization Facilities.” Meeting these requirements provides reasonable assurance that the calibration technicians will have the education, training, knowledge, and skills necessary to adequately perform their responsibilities. The economic considerations for external calibration activity facilities are outside the scope of NRC’s rulemaking determination. To the extent that a nuclear power plant licensee chooses to use an external calibration facility, the licensee must ensure that the calibration facility meets appendix B requirements.

Comment: A comment from an anonymous individual stated that any entity such as the Tennessee Valley Authority’s Central Lab Calibration Services should be accredited. According to this comment, just because the Tennessee Valley Authority is a federal agency does not mean it should not have to adhere to the rules of all the other calibration services.

NRC Response: The NRC disagrees with this comment. When performing safety-related calibration services for nuclear power plants, Tennessee Valley Authority’s Central Lab Calibration

Services must meet the requirements of criterion II of appendix B to 10 CFR part 50. Meeting this regulation provides reasonable assurance of adequate protection of public health and safety.

Comment: A comment from James Anderson, a private citizen, requested that the NRC not reduce time or money spent on nuclear power plants.

NRC Response: The NRC interprets this comment to request that the NRC not reduce its oversight or resources spent on the regulation of nuclear power plants. The NRC considers the comment to be out-of-scope of this petition.

Comment: The petitioner, Michael Taylor, submitted a document providing revisions to the PRM, including grammatical corrections and a few minor clarifications of the original petition.

NRC Response: The NRC considered the revised PRM submitted in this comment.

III. Reasons for Denial

The NRC is denying the petition because the petition does not raise a significant safety or security concern that would warrant the requested changes to the NRC’s regulations. To reach this determination, the staff evaluated the merits of the petition, public comments received, the immediacy of any safety concerns raised by the petition, and the NRC’s relevant past decisions and current policies. Specifically, staff considered existing NRC requirements for the control of measuring and test equipment. Although the NRC does not require nuclear power plant laboratories to be certified by accrediting organizations, their programs for safety-related measuring and test equipment calibration must meet the requirements in 10 CFR part 50, “Domestic Licensing of Production and Utilization Facilities,” appendix B, “Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants,” criterion XII, “Control of Measuring and Test Equipment,” and their programs are subject to NRC inspection. The NRC inspections provide additional assurance that licensees are adequately implementing the requirements of criterion XII of appendix B to 10 CFR part 50 to measure and test equipment programs through direct inspection of calibration and testing activities. These direct inspections ensure that measurement calculations are being adequately performed.

Any safety-related calibrations or measurements that are performed at metrology laboratories utilized by nuclear power plants would fall under these requirements. The requirements

for the training of nuclear power plant personnel performing safety-related activities are covered by criterion II, “Quality Assurance Program,” of appendix B to 10 CFR part 50. Any personnel performing safety-related calibrations in an onsite laboratory or at a metrology laboratory utilized by nuclear power plants would fall under these requirements.

In addition, the NRC conducted an independent search of all license event reports and greater-than-green inspection findings from 2015 onward and did not identify any examples of safety issues caused by improper calibrations of measurement and test equipment at nuclear power plant internal laboratories or by the lack of laboratory certification requirements.

In summary, the NRC is denying the petition because the petition does not raise a significant safety or security concern. The requested amendments to NRC regulations are not necessary because existing NRC regulations and inspection procedures provide reasonable assurance of adequate protection of public health and safety.

IV. Conclusion

For the reasons cited in this document, the NRC is denying PRM–50–118. The NRC has concluded that its existing regulations provide reasonable assurance of adequate protection of public health and safety.

Dated March 24, 2021.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2021–06432 Filed 3–30–21; 8:45 am]

BILLING CODE 7590–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 712

[NCUA–2021–0036]

RIN 3133–AE95

Credit Union Service Organizations (CUSOs)

AGENCY: National Credit Union Administration (NCUA).

ACTION: Supplemental notice of proposed rulemaking; extension of comment period.

SUMMARY: On February 26, 2021, the NCUA Board (Board) published a Notice of Proposed Rulemaking in the **Federal Register** requesting comment on the Board’s proposal to amend the NCUA’s credit union service organization

(CUSO) regulation (proposed rule). The proposed rule would accomplish two objectives: Expanding the list of permissible activities and services for CUSOs to include originating any type of loan that a Federal credit union (FCU) may originate; and granting the Board additional flexibility to approve permissible activities and services. The proposed rule provided a 30-day comment period that closed on March 29, 2021. To allow interested persons more time to consider and submit their comments, the Board has decided to extend the comment period for an additional 30 days.

DATES: The comment period for the proposed rule published February 26, 2021, at 86 FR 11645, is extended. Responses to the proposed rule must now be received on or before April 30, 2021.

ADDRESSES: You may submit written comments, identified by RIN 3133–AE95, by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments for the Docket NCUA–2021–0036.

- *Fax:* (703) 518–6319. Include “[Your Name]—Comments on Proposed Rule: Credit Union Service Organizations (CUSOs)” in the transmittal.

- *Mail:* Address to Melane Conyers-Ausbrooks, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.

- *Hand Delivery/Courier:* Same as mail address.

Public Inspection: You may view all public comments on the Federal eRulemaking Portal (<http://www.regulations.gov>) as submitted, except for those we cannot post for technical reasons. The NCUA will not edit or remove any identifying or contact information from the public comments submitted. Due to social distancing measures in effect, the usual opportunity to inspect paper copies of comments in the NCUA’s law library is not currently available. After social distancing measures are relaxed, visitors may make an appointment to review paper copies by calling (703) 518–6540 or emailing OGCMail@ncua.gov.

FOR FURTHER INFORMATION CONTACT: *Policy and Analysis:* Jacob McCall, (703) 518–6624; *Legal:* Rachel Ackmann, Senior Staff Attorney, (703) 548–2601; or by mail at National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314.

SUPPLEMENTARY INFORMATION: On January 14, 2021, the Board issued a proposed rule to amend the NCUA’s CUSO regulation. The proposed rule was published in the **Federal Register** on February 26, 2021.¹ The proposed rule would accomplish two objectives: Expanding the list of permissible activities and services for CUSOs to include originating any type of loan that an FCU may originate; and granting the Board additional flexibility to approve permissible activities and services. The NCUA also sought comment on broadening FCU investment authority in CUSOs.

The proposed rule provided a 30-day public comment period that closed on March 29, 2021. The NCUA received over 600 comments on the proposed rule. Given the number of comments received and a stated interest in an extension of the comment period, the Board believes there is significant interest in the proposed rule and that it is necessary to extend the comment period to give all interested parties sufficient time to properly address the proposed changes and questions presented in the proposed rule. The Board believes that extending the comment period for an additional 30 days is appropriate. This extension should allow interested parties more time to prepare responses to the proposed rule without delaying the rulemaking.

By the National Credit Union Administration Board on March 26, 2021.

Melane Conyers-Ausbrooks,
Secretary of the Board.

[FR Doc. 2021–06653 Filed 3–26–21; 4:15 pm]

BILLING CODE 7535–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2019–0910]

RIN 1625–AA09

Drawbridge Operation Regulation; Bayou Sara, Saraland, AL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the operating requirements for the CSX Transportation Railroad drawbridge across Bayou Sara, mile 0.1 near Saraland, Mobile County, Alabama. This proposed rule allows the bridge

owner to operate the bridge remotely from the CSX remote control center in Mobile, AL.

DATES: Comments and relate material must reach the Coast Guard on or before September 27, 2021.

ADDRESSES: You may submit comments identified by docket number USCG–2019–0910 using Federal e-Rulemaking Portal at <https://www.regulations.gov>.

See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Mr. Doug Blakemore, Eighth Coast Guard District Bridge Administration Branch Chief; telephone (504) 671–2128, email Douglas.A.Blakemore@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
CSX CSX Transportation
DHS Department of Homeland Security
FR Federal Register
OMB Office of Management and Budget
NPRM Notice of Proposed Rulemaking (Advance, Supplemental)
§ Section
U.S.C. United States Code

II. Background, Purpose and Legal Basis

The CSX Railroad Company, the owner of the bridge requested to change operation of the bridge from a tended drawbridge to a remotely operated drawbridge. The CSX Transportation Railroad drawbridge has a vertical clearance of 5’ in the closed to navigation position and operates in accordance with 33 CFR 117.105. This proposed rule will not change the operation schedule of the bridge. A copy of the bridge owners request can be found at <https://www.regulations.gov> in the Docket USCG–2019–0910.

The waterway users include recreational vessels and commercial tows; which combined requires approximately six openings a day.

CSX has completed installation of a remote operation system at the bridge and a remote control center, located in Mobile, AL. At the bridge, CSX has installed infrared cameras, closed circuit cameras and TVs, communication systems and information technology systems on the bridge that allow an operator from Mobile to monitor and control the bridge. They have also developed an operations manual that remote operators use to control each bridge.

¹ 86 FR 11645 (Feb. 26, 2021).

In the future, CSX anticipates to remotely operate an additional ten drawbridges from the CSX remote control center. As a general rule the Coast Guard will consider allowing one (1) remote operator to control up to three (3) separate bridges. This is dependent on the type of vessels that use the waterways, vessel traffic volume and environmental or geographical conditions of each bridge and waterway.

On January 22, 2020 the Coast Guard published a temporary deviation from regulations; request for comments (TD) entitled Drawbridge Operation Regulation; Bayou Sara, Saraland, AL in the **Federal Register** (85 FR 3853). This temporary deviation was issued to test the remote operations system for 60 days. The objective was to also to collect and analyze information on how the drawbridge operated from a remote location and the potential effect on vessel traffic in the area. This deviation ended March 23, 2020.

Given the duration of time from the end of the test period and the development of this NPRM, the Coast Guard is authorizing second deviation to re-test the remote operations of the bridge and its effect on waterway mobility in that area. However, this deviation will run for 180 days and simultaneously with this NPRM. Both under the same docket number. Both documents can be found at <https://www.regulations.gov> and comments can be made to either document.

During the 60 day test period, the Coast Guard did not identify any issues with the remote operation of the bridge or any negative impact to a vessels reasonable ability to use this waterway. The Coast Guard received two comments from the public during the test period. These comments can be viewed in the Docket and have been addressed throughout this NPRM or below. These comments have been summarized and evaluated by the Coast Guard.

One of the comments received expressed concern that remote operation systems have not been proven. Under 33 CFR 117.42 the Coast Guard has authorized a number of drawbridge to be remotely operated with successful results. Safety is a priority and the bridge must operate as if a drawtender were present at the bridge.

The same commenter had safety concerns that without drawtenders on site, maintenance, repairs, inspections and vessel assistance through the bridge would not be conducted. In accordance with CSX procedures, drawtenders are not allowed to perform these actions. There are also concerns about unreported strikes of the bridge by

vessels and potential trespassers at the bridge. CSX has cameras at the bridge and given that the bridge operating schedule is open on demand, the bridge must be monitored 24 hours a day. Also, vessels are required to report certain marine incidents and casualties and local law enforcement will be alerted if there is illegal activity at the bridge.

Another comment recommended that the bridge remain in the open to navigation position and close when a train is approaching. Coast Guard will consider this option and discuss with CSX during the comment and test period.

III. Discussion of Proposed Rule

33 CFR 117.42 sets Coast Guard drawbridge regulations. This regulation authorizes the Coast Guard District Commander to approve operations from a remote site. CSX has requested to operate the CSX Transportation Bridge across Bayou Sara from the CSX remote control center in Mobile, AL. The waterway users include recreational vessels requires approximately six openings a day.

Presently, the bridge opens on signal for the passage of vessels in accordance with 33 CFR 117.105 and this proposed rule will not change that operating schedule. This proposed rule will also not change how a request to open the bridge will be conducted. Mariners requiring an opening may do so by contacting the CSX remote control center on Channels 13/16 or by the phone number posted at the bridge.

The Coast Guard has visited the CSX remote control center several times and has confirmed that the remote operating system is effective. This proposed rule allows CSX to control the drawbridge from their remote control center and requires CSX to have the capability, including resources and manpower to return the operator to the bridge location within 3 hours following any of the below situations:

- Any component of the remote operations system fails and prevents the remote operator from being able to visually identify vessels, communicate with vessels, detect vessels immediately underneath the bridge or visually identify trains approaching the bridge.
- CSX fails to meet Federal Railway Administration (FRA) or any other government agency safety requirements.
- Anytime that CSX procedures, equipment or operators fail to safely open and close the bridge fail.
- At the direction of the District Commander.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize its analyses based on these statutes and Executive Orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB) and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the ability that vessels can still transit the bridge with the bridge operator controlling the bridge from a remote location.

B. Impact on Small Entities

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

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121),

we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f) and have made. The Coast Guard has determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule promulgates the operating regulations or procedures for drawbridges. Normally such actions are categorically excluded from further review, under paragraph L49, of Chapter 3, Table 3–1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to [https://](https://www.regulations.gov)

www.regulations.gov and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Documents mentioned in this NPRM as being available in this docket and all public comments, will be in our online docket at <https://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 117

Bridges.

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

■ 2. Revise § 117.105 to read as follows:

§ 117.105 Bayou Sara.

(a) The draw of the CSX Transportation Railroad bridge, mile 0.1 near Saraland,

AL shall be remotely operated by the bridge operator at CSX's bridge remote control center in Mobile, Alabama. Closed Circuit TVs, infrared detectors, communications systems and information technology systems have been installed at the bridge. Vessels can contact the CSX bridge operator via VHF–FM channel 13 or by telephone at the number displayed on the signs posted at the bridge to request an opening of the draw.

(b) CSX will return the operator to the bridge location within 3 hours following any of the below situations:

(1) Any component of the remote operations system fails and prevents the remote operator from being able to visually identify vessels, communicate with vessels, detect vessels immediately underneath the bridge or visually identify trains approaching the bridge.

(2) CSX fails to meet Federal Railway Administration (FRA) or any other government agency safety requirements.

(3) Anytime that CSX procedures, equipment or operators fail to safely open and close the bridge fail.

(4) Anytime at the direction of the District Commander.

Dated: March 16, 2021.

John P. Nadeau

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

[FR Doc. 2021-06482 Filed 3-30-21; 8:45 am]

BILLING CODE 9110-04-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2020-0554; FRL-10021-
57-Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Emissions Statement Certification for the 2015 Ozone National Ambient Air Quality Standard

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision formally submitted by the Delaware Department of Natural Resources and Environmental Control (DNREC). Under the Clean Air Act (CAA), a state's SIP must include an emission statement regulation that requires stationary sources in ozone nonattainment areas classified as marginal or above to report annual emissions of nitrogen oxides (NO_x) and volatile organic compounds (VOC). This SIP revision provides Delaware's certification that its existing emissions statement program satisfies the emissions statement requirements of the CAA for the 2015 ozone national ambient air quality standard (NAAQS). EPA is proposing to approve Delaware's emissions statement program certification for the 2015 ozone NAAQS as a SIP revision in accordance with the requirements of the CAA.

DATES: Written comments must be received on or before April 30, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R03-OAR-2020-0554 at <https://www.regulations.gov>, or via email to Gordon.Mike@epa.gov. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia

submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

Serena Nichols, 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) 814-2053. Ms. Nichols can also be reached via electronic mail at Nichols.Serena@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Under the CAA, EPA establishes NAAQS for criteria pollutants in order to protect human health and the environment. In response to scientific evidence linking ozone exposure to adverse health effects, EPA promulgated the first ozone NAAQS, the 0.12 part per million (ppm) 1-hour ozone NAAQS, in 1979. See 44 FR 8202 (February 8, 1979). The CAA requires EPA to review and reevaluate the NAAQS every five years in order to consider updated information regarding the effects of the criteria pollutants on human health and the environment. On July 18, 1997, EPA promulgated a revised ozone NAAQS, referred to as the 1997 ozone NAAQS, of 0.08 ppm averaged over eight hours. 62 FR 38856. This 8-hour ozone NAAQS was determined to be more protective of public health than the previous 1979 1-hour ozone NAAQS. In 2008, EPA strengthened the 8-hour ozone NAAQS from 0.08 to 0.075 ppm. See 73 FR 16436 (March 27, 2008). In 2015, EPA further lowered the 8-hour ozone NAAQS from 0.075 ppm to 0.070 ppm. The 0.070 ppm standard is referred to as the 2015 ozone NAAQS. See 80 FR 65452 (October 26, 2015).

On June 4, 2018 and July 25, 2018, EPA designated nonattainment areas for the 2015 ozone NAAQS. 83 FR 25776 and 83 FR 35136. Effective August 3, 2018 (83 FR 25776, June 4, 2018), New Castle County, Delaware, was

designated as marginal nonattainment for the 2015 ozone NAAQS. New Castle County was designated as part of the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE 2015 ozone NAAQS nonattainment area, which includes the following counties: New Castle in Delaware; Cecil in Maryland; Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Ocean, and Salem in New Jersey; and Bucks, Chester, Delaware, Montgomery, and Philadelphia in Pennsylvania. See 40 CFR 81.308, 81.321, 81.331, and 81.339. Delaware's Kent and Sussex Counties were designated as attainment areas for the same 2015 Ozone NAAQS. See 40 CFR 81.308.

Section 182 of the CAA identifies plan submissions and requirements for ozone nonattainment areas. Specifically, CAA section 182(a)(3)(B) requires that states develop and submit, as a revision to their SIP, rules which establish annual emission reporting requirements for certain stationary sources. Sources that are within ozone nonattainment areas must annually report the actual emissions of NO_x and VOC to the state. However, states may waive this requirement for sources that emit under 25 tons per year (tpy) of NO_x or VOC if the state provides an inventory of emissions from such class or category of sources as required by CAA sections 172 and 182. See CAA section 182(a)(3)(B)(ii).

EPA published guidance on source emissions statements in a July 1992 memorandum titled, "Guidance on the Implementation of an Emission Statement Program"¹ and in a March 14, 2006 memorandum titled, "Emission Statement Requirements Under 8-hour Ozone NAAQS Implementation" (2006 memorandum).² In addition, on December 6, 2018, EPA issued a final rule addressing a range of nonattainment area SIP requirements for the 2015 ozone NAAQS, including the emission statement requirements of CAA section 182(a)(3)(B) (2018 final rule). 83 FR 62998, codified at 40 CFR part 51, subpart CC. The 2006 memorandum clarified that the emissions statement requirement of CAA section 182(a)(3)(B) was applicable to all areas designated nonattainment

¹ July 1992 memorandum titled, "Guidance on the Implementation of an Emission Statement Program" is available online at https://www.epa.gov/sites/production/files/2015-09/documents/emission_statement_program_zy.pdf. Docket ID: EPA-R03-QAR-2020-0554.

² March 14, 2006 memorandum titled, "Emission Statement Requirements Under 8-hour Ozone NAAQS Implementation" is available online at https://www.epa.gov/sites/production/files/2015-07/documents/8hourozone_naaqs_031406.pdf. Docket ID: EPA-R03-OAR-2020-0554.

for the 1997 ozone NAAQS and classified as marginal or above under subpart 2, part D, title I of the CAA. Per EPA's 2018 final rule, the emissions statement requirement also applies to all areas designated nonattainment for the 2015 ozone NAAQS. 83 FR 62998, 63023 (December 6, 2018).

According to the preamble to EPA's 2018 final rule, most areas that are required to have an emissions statement program for the 2015 ozone NAAQS already have one in place due to a nonattainment designation for an earlier ozone NAAQS. 83 FR 62998, 63001 (December 6, 2018). EPA's 2018 final rule states that, "Many air agencies already have regulations in place to address certain nonattainment area planning requirements due to nonattainment designations for a prior ozone NAAQS. Air agencies should review any existing regulation that was previously approved by the EPA to determine whether it is sufficient to

fulfill obligations triggered by the revised ozone NAAQS." Id. In cases where an existing emissions statement rule is still adequate to meet the emissions statement requirement under the 2015 ozone NAAQS, states may provide the rationale for that determination to EPA in a written statement for approval into the SIP to meet the requirements of CAA section 182(a)(3)(B). 83 FR 62998, 63002 (December 6, 2018). In this statement, states should identify how the emissions statement requirements of CAA section 182(a)(3)(B) are met by their existing emissions statement rule. Id. In summary, Delaware can submit, as a formal revision to its SIP, a statement certifying that the State's existing emissions statement program satisfies the requirements of CAA section 182(a)(3)(B) and covers the State's portion of the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE

nonattainment area for the 2015 ozone NAAQS.

II. Summary of SIP Revision and EPA Analysis

On August 3, 2020, Delaware, through DNREC, submitted as a formal SIP revision, a statement certifying that Delaware's existing SIP-approved emissions statement program satisfies the emissions statements requirements for the 2015 ozone NAAQS and is at least as stringent as the requirements of CAA section 182(a)(3)(B). The provisions that implement Delaware's emissions statements program are under 7 DE Administrative Code 1117 Section 7.0 Emission Statement and were approved by EPA into the Delaware SIP on April 29, 1996 (61 FR 7415, February 28, 1996). See 40 CFR 52.420(c). Table 1 summarizes Delaware's emissions statements provisions and the corresponding CAA section 182(a)(3)(B) requirements.

TABLE 1—DELAWARE EMISSIONS STATEMENTS PROVISIONS AND CAA SECTION 182(A)(3)(B) REQUIREMENTS

CAA Section 182(a)(3)(B) ³ requirement	7 DE Administrative Code 1117 Section 7.0 requirement
182(a)(3)(B)(i)—For marginal nonattainment areas, the State shall submit a SIP revision to require that the owner or operator of each stationary source of NO _x or VOC provide the State with a statement for classes or categories of sources showing the actual emissions of NO _x and VOC from that source.	7 DE Admin Code 1117 Section 7.1—Emissions statements requirements apply to all stationary sources located in an ozone nonattainment area that emit NO _x or VOC. This would include marginal and above non-attainment areas. 7 DE Admin Code 1117 Section 7.2—Emissions statements are required to include the following information: Source identification information, operating data, actual emissions data, control equipment information, and process rate information.
182(a)(3)(B)(i)—Emissions statements are required to be submitted annually.	7 DE Admin Code 1117 Section 7.3—subject sources must submit to DNREC their annual emissions statements by April 30 for the preceding calendar year. DNREC may require more frequent emissions statements if required by EPA or if more frequent analysis of data is necessary to implement the requirements of Title 7, Chapter 60. Environmental Control of the Delaware Code (7 Del.C. Chapter 60).
182(a)(3)(B)(i)—Emissions statements shall contain a certification that the information contained in the statement is accurate to the best knowledge of the individual certifying the statement.	7 DE Admin Code 1117 Section 7.2—Each emissions statement shall include a certification of the data to ensure that the information contained in the statement is accurate to the best knowledge of the individual certifying the statement, who shall be an official of the facility and will take legal responsibility for the emissions statement's accuracy.
182(a)(3)(B)(ii)—The State may waive the requirements for emissions statements for any class or category of stationary sources which emit less than 25 tpy of NO _x or VOC if the State provides an inventory of emissions from such class or category of sources as required by CAA section 172 and 182.	7 DE Admin Code 1117 Section 7.1—DNREC may, with EPA approval, waive the emissions statements requirements for classes or categories of stationary sources with facility-wide actual emissions of less than 25 tpy of NO _x or VOCs if the class or category is included in the base year and periodic ozone SIP emission inventories.

EPA's review of Delaware's submittal finds Delaware's existing, SIP-approved

³ Section 182 of the CAA sets out a graduated control program for ozone nonattainment areas. Section 182(a) sets out requirements applicable in marginal ozone nonattainment areas, which are also applicable by sections 182 (b), (c), (d), and (e) to all other ozone nonattainment areas. See 2015 memorandum titled "Emission Statement Requirement Under 8-hour Ozone NAAQS Implementation," available online at https://www.epa.gov/sites/production/files/2015-07/documents/8hourozone_naaqs_031406.pdf, Docket ID: EPA-R03-OAR-2020-0554.

emissions statement provisions under 7 DE Administrative Code 1117 Section 7.0 satisfy the emission statement requirements of CAA section 182(a)(3)(B) for stationary sources located in marginal or above nonattainment areas in Delaware, including such sources in New Castle County, for the 2015 ozone NAAQS. Pursuant to CAA section 182(a)(3)(B)(i), Delaware must require annual emissions statements from stationary sources of NO_x or VOC located in marginal

nonattainment areas. These emissions statements must be certified by an official of the facility. As shown in Table 1, 7 DE Administrative Code 1117 Section 7.1 requires that all stationary sources of NO_x and VOC located in an ozone nonattainment area submit emissions statements to DNREC, except for those with actual emissions of less than 25 tpy of NO_x or VOC as permitted by CAA section 182(a)(3)(B). EPA finds Section 7.1 satisfies the requirements of CAA section 182(a)(3)(B)(i) as it requires

that stationary sources located in ozone nonattainment areas in the State, including Delaware's marginal nonattainment areas for the 2008 ozone NAAQS, submit emission statements. In addition, 7 DE Administrative Code 1117 Section 7.2 requires emissions statements be certified by and official of the facility and Section 7.3 requires emissions statements be submitted annually on April 30. EPA proposes to determine that these provisions satisfy the requirements of CAA section 182(a)(3)(B)(i) for the 2015 ozone NAAQS as they require emissions statements be certified and submitted annually.

EPA also proposes to determine that Delaware's emissions thresholds for stationary sources that are required to submit an emissions statement meet the threshold requirements of CAA section 182(a)(3)(B)(ii). As discussed previously, pursuant to CAA section 182(a)(3)(B)(ii), states may waive emissions statements requirements for classes or categories of stationary sources that emit less than 25 tpy of NO_x or VOC if the state provides an inventory of emissions from such classes or categories of sources as required by CAA section 172 and 182. As shown in Table 1, 7 DE Administrative Code 1117 Section 7.1 waives, with EPA approval, the requirement for emissions statements for classes or categories of stationary sources with facility-wide actual emissions of less than 25 tpy of NO_x or VOC if the class or category is included in the base year and periodic ozone emission inventories. Delaware does provide emissions inventories that include stationary sources in nonattainment areas that emit less than 25 tpy of NO_x or VOC, as required by CAA sections 172(c)(3) and 182(b)(3)(B)(ii). Therefore, EPA finds the emissions thresholds of 7 DE Administrative Code 1117 Section 7.1 are consistent with CAA section 182(a)(3)(B)(ii).

EPA has determined that the SIP-approved provisions under 7 DE Administrative Code 1117 Section 7.0 satisfy the requirements of CAA section 182(a)(3)(B) for the 2015 ozone NAAQS. Therefore, EPA is proposing to approve, as a SIP revision, the State of Delaware's, August 3, 2020 emissions statements certification for the 2015 ozone NAAQS as approvable under CAA section 182(a)(3)(B).

III. Proposed Action

EPA is proposing to approve, as a SIP revision, the State of Delaware's August 3, 2020 emissions statements certification for the 2015 ozone NAAQS

as approvable under CAA section 182(a)(3)(B). Delaware's emissions statements certification certifies that Delaware's existing SIP-approved emissions statements program under 7 DE Administrative Code 1117 Section 7.0 satisfies the requirements of CAA section 182(a)(3)(B) for the 2015 ozone NAAQS. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because it is not a significant regulatory action under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because

application of those requirements would be inconsistent with the CAA; and

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

In addition, this proposed rulemaking, in which EPA is proposing approval of Delaware's certification that its existing emission statement program satisfies the emission statement requirements of the CAA for the 2015 ozone NAAQS, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: March 24, 2021.

Diana Esher,

Acting Regional Administrator, Region III.

[FR Doc. 2021-06414 Filed 3-30-21; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[WC Docket No. 17-97; FCC 21-15; FRS 17992]

Call Authentication Trust Anchor; Correction

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects the comment due date for the Paperwork Reduction Act requirements of a proposed rule published in the **Federal Register** of February 17, 2021, regarding STIR/SHAKEN caller ID authentication. This correction clarifies that written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before 60 days after the date of this correction's publication.

DATES: June 1, 2021.

FOR FURTHER INFORMATION CONTACT: PRA@fcc.gov or contact Nicole Ongele at (202) 418-2991.

SUPPLEMENTARY INFORMATION:

Correction

In proposed rule FR Doc. 2021-03043, beginning on page 9894 in the issue of February 17, 2021, make the following correction in the Dates section. On page 9894 in the second column, the second sentence is corrected to read:

“Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before June 1, 2021.”

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021-06451 Filed 3-30-21; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 21-71; RM-11887; DA 21-269; FR ID 17576]

Television Broadcasting Hannibal, Missouri

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Video Division has before it a petition for rulemaking filed November 27, 2020 (Petition) by KHQA Licensee, LLC (Licensee), the licensee of KHQA-TV (CBS), channel 7, Hannibal, Missouri. The Licensee requests the substitution of channel 22 for channel 7 at Hannibal, Missouri in the digital television (DTV) Table of Allotments.

DATES: Comments must be filed on or before April 30, 2021 and reply comments on or before May 17, 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 petitioner as follows: Paul A. Cicelski, Esq., Lerman Senter PLLC, 2001 L Street NW, Washington, DC 20036.

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 Licensee states that the Commission has

recognized that VHF channels have certain propagation characteristics which may cause reception issues for some viewers, and that the reception of VHF signals require larger antennas relative to UHF channels. According to the Licensee, KHQA-TV has received numerous complaints from viewers unable to receive its signal and the Licensee’s channel substitution proposal will result in more effective building penetration for indoor antenna reception and greatly improve the Station’s ability to provide ATSC 3.0 service to homes, vehicles, and portable devices. The Licensee further states that there would be no loss of service. We believe that the Licensee’s channel substitution proposal warrants consideration. Channel 22 can be substituted for channel 7 at Hannibal, Missouri as proposed, in compliance with the principal community coverage requirements of the Commission’s rules at coordinates 39-58-22.0 N and 91-19-55.0 W. In addition, we find that this channel change meets the technical requirements set forth in our regulations.

This is a synopsis of the Commission’s *Notice of Proposed Rulemaking*, MB Docket No. 21-71; RM-11887; DA 21-269, adopted March 4, 2021, and released March 4, 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 SERVICE

■ 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 Missouri by revising the entry for Hannibal to read as follows:

§ 73.622 Digital television table of allotments.

* * * * *
(i) * * *

	Community	Channel No.
	* * * * *	
Missouri		
	* * * * *	
Hannibal		22
	* * * * *	

[FR Doc. 2021-06405 Filed 3-30-21; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 210324-0065]

RIN 0648-BK26

Magnuson-Stevens Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Approval of 2021 and 2022 Sector Operations Plans and Allocation of 2021 Northeast Multispecies Annual Catch Entitlements

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: We propose to approve sector operations plans and contracts, and grant regulatory exemptions for fishing years 2021 and 2022, provide preliminary Northeast multispecies annual catch entitlements to approved sectors for fishing year 2021, amend regulations required to administer electronic monitoring, and announce 2021 default specifications for seven Northeast multispecies stocks. Approval of sector operations plans and contracts is necessary to allocate annual catch entitlements to the sectors for sectors to operate. This action is intended to allow limited access permit holders to continue to operate or form sectors, as authorized under the Northeast Multispecies Fishery Management Plan, and to exempt sectors from certain effort control regulations to improve the efficiency and economics of sector vessels. We also announce our determination that electronic monitoring is sufficient for use instead of at-sea monitors to meet sector monitoring and reporting requirements. Lastly, we announce default specifications for Gulf of Maine winter flounder, Southern New England/Mid-Atlantic winter flounder, redfish, ocean pout, Atlantic wolffish, Eastern Georges Bank cod, and Eastern Georges Bank haddock.

DATES: Written comments must be received on or before April 15, 2021.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2021–0024, by the following method:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov and enter NOAA–NMFS–2021–0024 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 comment period, may not be considered by NMFS. 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 information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/

A” in the required fields if you wish to remain anonymous).

Copies of each sector’s proposed operations plan and contract are available from the NMFS Greater Atlantic Regional Fisheries Office: Contact Claire Fitz-Gerald at Claire.Fitz-Gerald@noaa.gov and Kyle Molton at Kyle.Molton@noaa.gov. These documents are also accessible via the Federal eRulemaking Portal: <http://www.regulations.gov>.

To review **Federal Register** documents referenced in this rule, you can visit: <https://www.fisheries.noaa.gov/management-plan/northeast-multispecies-management-plan>.

FOR FURTHER INFORMATION CONTACT: Claire Fitz-Gerald, Fishery Policy Analyst, (978) 281–9255.

SUPPLEMENTARY INFORMATION:

Background

The Northeast Multispecies Fishery Management Plan (FMP) defines a sector as a group of persons holding limited access Northeast multispecies permits who have voluntarily entered into a contract and agree to certain fishing restrictions for a specified period of time, and which has been granted a TAC(s) [*sic*] in order to achieve objectives consistent with applicable FMP goals and objectives. A sector must be comprised of at least three Northeast multispecies permits issued to at least three different persons, none of whom have any common ownership interest in the permits, vessels, or businesses associated with the permits issued [to] the other two or more persons in that sector. Sectors are self-selecting, meaning each sector can choose its members.

The Northeast multispecies sector management system allocates a portion of the Northeast multispecies stocks to each sector. These annual sector allocations are known as annual catch entitlements (ACE) and are based on the collective fishing history of a sector’s members. Sectors may receive allocations of large-mesh Northeast multispecies stocks with the exception of Atlantic halibut, windowpane flounder, Atlantic wolffish, and ocean pout, which are non-allocated species managed under separate effort controls. ACEs are portions of a stock’s annual catch limit (ACL) available to commercial Northeast multispecies vessels. A sector determines how to harvest its ACE.

Because sectors elect to receive an allocation under a quota-based system, the FMP grants sector vessels several “universal” exemptions from the FMP’s

effort controls. These universal exemptions apply to: Trip limits on allocated stocks; Northeast multispecies days-at-sea (DAS) restrictions; the requirement to use a 6.5-inch (16.5-centimeters (cm)) mesh codend when fishing with selective gear on Georges Bank (GB); and portions of the Gulf of Maine (GOM) Cod Protection Closures. The FMP prohibits sectors from requesting exemptions from permitting restrictions, gear restrictions designed to minimize habitat impacts, and most reporting requirements.

In addition to the approved sectors, there are several state-operated permit banks, which receive allocations based on the history of the permits owned by the states. The final rule implementing Amendment 17 to the FMP allowed a state-operated permit bank to receive an allocation without needing to comply with the administrative and procedural requirements for sectors (77 FR 16942; March 23, 2012). Instead, permit banks are required to submit a list of participating permits to us, as specified in the permit bank’s Memorandum of Agreement, to determine the ACE allocated to the permit bank. These allocations may be leased to fishermen enrolled in sectors. State-operated permit banks are no longer approved through the sector approval process, but current state-operated permit banks contribute to the total allocation under the sector system.

We received operations plans and preliminary contracts for fishing years 2021 and 2022 from 16 sectors. The operations plans are similar to operations plans and contracts previously approved for prior fishing years. The operations plans include 19 exemptions previously requested by sectors, and approved by NMFS, in fishing year 2020. One sector’s operations plan also includes a new exemption request for fishing year 2021. We have made a preliminary determination that the 16 sector operations plans and contracts that we received, and the 19 previously approved regulatory exemptions requested, are consistent with the FMP’s goals and objectives, and meet sector requirements outlined in the regulations at § 648.87. We are not approving the new sector exemption requested for fishing year 2021. Copies of the operations plans and contracts, and the environmental assessment (EA), are available at: <http://www.regulations.gov> and from NMFS (see **ADDRESSES**).

This rulemaking also announces our determination that electronic monitoring (EM) is sufficient for use instead of at-sea monitors (ASM) to meet sector monitoring requirements.

This action implements minor regulatory changes required to administer EM. These changes are implemented under our section 305(d) authority in the Magnuson-Stevens Act to make changes necessary to carry out the FMP. We are implementing these changes in conjunction with the sector rule for expediency purposes.

Catch Limits for Fishing Year 2021

Previously Established Catch Limits

Last year, Framework 59 to the FMP set fishing year 2021 catch limits for 15 groundfish stocks (85 FR 45794; July 30, 2020). The 2021 catch limits for most stocks remain the same as, or similar, to 2020 limits. Framework 59 did not specify a 2021 catch limit for GOM winter flounder, Southern New England/Mid-Atlantic (SNE/MA) winter flounder, redfish, ocean pout, Atlantic wolffish, Eastern GB cod, or Eastern GB haddock. Eastern GB cod and haddock are management units of the GB cod and GB haddock stocks that NMFS manages jointly with Canada, and the shared quota is set annually.

This year, in Framework 61 to the FMP, the Council adopted new or adjusted fishing year 2021 catch limits for: GB haddock; GB yellowtail flounder; GB winter flounder; GOM winter flounder; SNE/MA winter flounder; redfish; Northern windowpane flounder; Southern windowpane flounder; ocean pout; Atlantic halibut; and Atlantic wolffish. Framework 61 would set 2021 catch limits for the two U.S./Canada stocks (Eastern GB cod and Eastern GB haddock). It would adjust the breakdown of sub-components for GB cod, GOM cod, SNE/MA yellowtail flounder, CC/GOM yellowtail flounder,

witch flounder, and white hake. Framework 61 also included the exemption for sector vessels to target redfish with codend mesh as small as 5.5 inches (13.97 cm) as a universal exemption. We are working to publish a proposed rule to request comments on the Framework 61 measures once the Council submits the action to us for review and approval. We do not expect we will not be able to implement Framework 61 measures, if approved, before May 1, 2021.

As a result, this rule announces the 2021 catch limits set in Framework 59 that would be effective on May 1, 2021, including preliminary sector and common pool allocations based on final 2020 fishing year rosters (Table 1). If we approve Framework 61, the 2021 catch limits announced in this rule for these stocks will change.

The Framework 59 fishing year 2021 ACL for GB yellowtail flounder is 95.4 metric tons (mt), which will be in place on May 1. The Council recommended a fishing year 2021 ACL of 63.6 mt for GB yellowtail flounder in Framework 61. This is a 33-percent decrease, which will go into effect after May 1 if Framework 61 is approved. The Council also revised the fishing year 2021 ACL for GOM cod to 270.4 mt. This a 2-percent decrease from the fishing year 2021 ACL previously set in Framework 59. The adjustments are based on the recommendation of the Transboundary Management Guidance Committee, which is the joint U.S./Canada management body that meets annually to recommend shared quotas for the three transboundary stocks. The Council's recommendations will be further discussed in the Framework 61 proposed rule. We are highlighting these

changes in this rule because the GB yellowtail flounder and GOM cod sector allocations proposed in this rule are based on the higher 2021 catch limits previously approved in Framework 59. If the Council's recommended catch limits become final with no changes, ACE for these stocks will be reduced when Framework 61 is implemented.

Default Catch Limits

This rule also announces default catch limits for GOM winter flounder, SNE/MA winter flounder, redfish, ocean pout, Atlantic wolffish, Eastern GB cod, and Eastern GB haddock. These stocks do not already have a catch limit in place for fishing year 2021. The groundfish regulations implement default catch limits for any stock for which final specifications are not in place by the beginning of the fishing year on May 1. The FMP's default specifications provision sets catch at 35 percent of the previous year's (2020) catch limits, except in instances where the default catch limit would exceed the Council's recommendation. The fishing year 2021 state waters and other sub-components specified for redfish in Framework 59 exceed the Council's fishing year 2021 redfish recommendation in Framework 61. These sub-components would be reduced accordingly. The default catch limit would be effective from May 1 through July 31, or until the final rule for Framework 61 is implemented if prior to July 31. To comply with these regulations and minimize impacts on the fishery we are announcing these default specifications. If Framework 61 is not in place on or before July 31, all fishing for these stocks would be prohibited beginning August 1.

TABLE 1—NORTHEAST MULTISPECIES CATCH LIMITS FOR 2021

Stock	Total ACL	Groundfish sub-ACL	Preliminary sector sub-ACL	Preliminary common pool sub-ACL	Recreational sub-ACL	Midwater trawl fishery	Scallop fishery	Small-mesh fisheries	State waters sub-component	Other sub-component
GB Cod *	1,234	1,073	1,041	31					19	142
GOM Cod *	523	468	267	9	193				48	7
GB Haddock *	72,699	70,892	69,465	1,428		1,424			0	383
GOM Haddock *	15,843	15,575	10,022	258	5,295	156			56	56
GB Yellowtail Flounder *	116	95	92	3			19	2	0	0
SNE/MA Yellowtail Flounder *	21	15	12	3			2		0	4
CC/GOM Yellowtail Flounder *	787	688	656	32					58	41
American Plaice *	2,740	2,682	2,611	71					29	29
Witch Flounder *	1,414	1,310	1,275	35					44	59
GB Winter Flounder *	545	522	502	21					0	22
GOM Winter Flounder *	151	100	95	5					48	2
SNE/MA Winter Flounder *	245	189	166	22					13	43
Redfish *	3,973	3,931	3,880	51					0	0
White Hake *	2,041	2,019	1,995	24					11	11
Pollock *	21,047	19,282	19,092	190					882	882
N. Windowpane Flounder *	55	38	na	38			12		1	5
S. Windowpane Flounder *	412	48	na	48			143		26	196
Ocean Pout *	42	32	na	32					0	9
Atlantic Halibut *	102	77	na	77					21	4
Atlantic Wolffish	29	29	na	29					0	0

* These catch limits are based on fishing year 2021 Framework 59 and/or default specifications, and will be replaced when the final rule for Framework 61 becomes effective, if approved.

Sector Allocations

The sector allocations proposed in this rule are based on the 2021 catch limits established in Framework 59 and final fishing year 2020 sector rosters. Regulations require that sectors submit membership information to us on December 1 prior to the start of the fishing year, unless instructed otherwise. The Regional Administrator has determined that the December 1 enrollment deadline is not possible because we had yet to distribute the annual letter describing each vessel's potential contribution to a sector's quota for the upcoming fishing year. We distributed the letters in early February 2021. The deadline to enroll in a sector is approximately 4 weeks later, on March 8, 2021, although sectors may set a more restrictive deadline for their members. Because sector enrollment has been stable and consistent since the sector program was enacted, we are using fishing year 2020 rosters as a proxy for fishing year 2021 sector membership to calculate fishing year 2021 projected allocations in this proposed rule.

Any permits that change ownership after the enrollment deadline determined by the Regional Administrator as described above retain the ability to join a sector through April 30, 2021. All permits enrolled in a sector, and the vessels associated with those permits, have until April 30, 2021, to withdraw from a sector and fish in the common pool for fishing year 2021. For fishing year 2022, we will set similar roster deadlines, notify permit holders of the fishing year 2022

deadlines, and allow permit holders to change sectors separate from the annual sector operations plans approval process.

We calculate the sector's allocation for each stock by summing its members' potential sector contributions (PSC) for a stock and then multiplying that total percentage by the available commercial sub-ACL for that stock. Table 2 shows the projected total fishing year 2021 PSC by stock for the 16 sectors approved to operate in fishing year 2020 that submitted operations plans for 2021. Tables 3 and 4 show the initial allocations that each sector would be allocated for fishing year 2021 based on their final fishing year 2020 rosters and the fishing year 2021 Framework 59 and default specifications. At the start of the 2021 fishing year, we provide final allocations, to the nearest pound, to each sector based on their final May 1 rosters. We use these final allocations, along with later adjustments for ACE transfers, reductions for overages, or increases for carryover from fishing year 2020, to monitor sector catch. We have included the preliminary common pool sub-ACLs in tables 2 through 4 for comparison. These tables do not represent the final allocations for the 2021 fishing year.

We do not assign a permit separate PSCs for Eastern GB cod or Eastern GB haddock; instead, we assign each permit a PSC for the GB cod stock and GB haddock stock. Each sector's GB cod and GB haddock allocations are then divided into an Eastern ACE and a Western ACE, based on each sector's percentage of the GB cod and GB haddock ACLs. For example, if a sector

is allocated 4 percent of the GB cod ACL and 6 percent of the GB haddock ACL, the sector is allocated 4 percent of the commercial Eastern U.S./Canada Area GB cod total allowable catch (TAC) and 6 percent of the commercial Eastern U.S./Canada Area GB haddock TAC as its Eastern GB cod and haddock ACEs. These amounts are then subtracted from the sector's overall GB cod and haddock allocations to determine its Western GB cod and haddock ACEs. A sector may only harvest its Eastern GB cod and haddock ACEs in the Eastern U.S./Canada Area, but may "convert," or transfer, its Eastern GB cod or haddock allocation into Western GB allocation and fish that converted ACE outside the Eastern GB area.

At the start of fishing year 2021, we may withhold 20 percent of each sector's fishing year 2021 allocation until we finalize fishing year 2020 catch information. We expect to finalize 2020 catch information in summer 2021. We allow sectors to transfer fishing year 2020 ACE for 2 weeks upon our completion of year-end catch accounting to reduce or eliminate any fishing year 2020 overages. If necessary, we reduce any sector's fishing year 2021 allocation to account for a remaining overage in fishing year 2020. Each year of the operations plans, we notify the Council and sector managers of this deadline in writing and announce our final ACE determination on our website at: https://www.greateratlantic.fisheries.noaa.gov/ro/fso/reports/h/groundfish_catch_accounting.

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Table 2 -- Preliminary Cumulative PSC (percentage) Each Sector Would Receive by Stock for Fishing Year 2021*

Sector Name	MRI Count	GB Cod	GOM Cod	GB Haddock	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	C/C/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
Fixed Gear Sector	71	12.52998071	0.73401354	1.91835326	0.20788439	0.84655142	0.72002673	2.14380856	0.51837750	1.16323846	0.07169861	12.69711109	1.19821088	0.56862766	1.05536784	3.38554643
Maine Coast Community Sector	87	2.32937125	11.91789444	3.13835995	8.99483874	1.77876418	1.49862532	3.67613525	12.28186554	9.69843127	1.01112055	3.72925957	1.83983235	8.58318455	13.21670847	12.62269930
Maine Permit Bank	11	0.13361103	1.15503867	0.04432773	1.12455699	0.01377701	0.03180705	0.31794656	1.16407583	0.72688452	0.00021715	0.42662327	0.01789120	0.82190532	1.65422282	1.69505501
Moonussers Sector	40	11.87404994	3.36592802	3.72602983	3.03406286	0.38302570	0.32527727	2.58549375	0.76474219	1.71821481	0.89399263	2.48392191	2.26957436	2.65202110	5.80626985	5.44388052
NEFS 1	0	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000
NEFS 2	133	6.50870665	26.86079901	10.68754273	22.47357871	1.90743001	1.67879303	25.10661815	11.13325653	14.58958286	3.21717811	24.59966320	4.21649557	15.44784480	9.36636752	14.83240039
NEFS 3	0	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000
NEFS 4	58	7.40275568	11.14488493	5.81741902	8.87479953	2.16178984	2.26424835	6.38867875	9.51518694	8.85677985	0.69253854	7.43011764	0.99121910	6.67292639	8.26903503	6.86546011
NEFS 5	24	0.47997081	0.00066296	0.81554785	0.00357898	1.27619665	20.04779653	0.20523908	0.43227120	0.56080437	0.43636655	0.01160596	12.03962035	0.01449126	0.09437284	0.04251818
NEFS 6	26	3.15560673	3.15154289	3.58637352	4.40638800	3.30346794	5.11479613	4.55077429	4.58294817	6.04426428	1.72190050	5.09998622	1.90633661	6.81202484	4.52299523	3.66855030
NEFS 7	17	2.89058595	0.84079975	2.34693176	1.81427506	6.88397295	2.02256417	1.26281381	3.01032328	2.10346784	7.91584447	0.28463030	2.91360294	2.57070048	2.12507674	1.70828132
NEFS 8	40	8.34044028	1.21575070	7.74350356	0.72774894	17.07029411	7.05653219	6.55708012	3.26180750	3.67577507	23.88261584	4.91594306	9.67002429	0.91411640	1.06857986	1.20397607
NEFS 9	0	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000	0.00000000
NEFS 10	29	0.52585127	2.47089688	0.17673209	1.28209390	0.00114846	0.54787117	4.28071114	1.08110101	2.04602297	0.01083157	9.10588148	0.60104122	0.33492862	0.65504438	0.76337027
NEFS 11	48	0.39910666	12.35489458	0.03485940	2.86948621	0.00149117	0.01948622	2.52296479	1.69908958	1.65447336	0.00312600	2.13298790	0.02150471	1.94330395	4.50105141	8.90553361
NEFS 12	18	0.62875353	2.87032463	0.09374416	1.01358987	0.00042969	0.01049524	7.83711822	0.50289768	0.56773096	0.00043899	7.53967496	0.21702876	0.22673972	0.28137128	0.77537672
NEFS 13	68	11.82302597	0.78011183	20.47977361	0.96907999	34.78618838	23.37086366	6.51655862	8.51808436	9.23122094	17.35427814	2.14366875	15.64328752	4.38538903	2.22785146	2.64551911
New Hampshire Permit Bank	4	0.00082216	1.14528578	0.00003406	0.03234858	0.00002026	0.00001788	0.02180780	0.02847784	0.00615970	0.00000324	0.06070430	0.00003630	0.01940243	0.08135658	0.11135191
Sustainable Harvest Sector 1	22	2.27065603	2.97394879	2.26814141	3.82333744	0.75985178	0.11191776	2.17301939	5.36146512	3.86767505	5.63770961	3.29020132	0.74983812	2.99124424	4.43171281	2.68939055
Sustainable Harvest Sector 2	38	2.44932546	4.83857136	1.24018013	3.09928041	3.54799768	3.07190342	4.16162984	3.38856383	2.96435822	3.62980206	4.32153323	3.45263749	3.10638146	5.94749853	6.25026810
Sustainable Harvest Sector 3	86	23.33212075	9.00613498	33.86808278	32.73554226	21.72815141	13.23469673	15.09948417	30.10337722	27.81948208	29.53444092	4.67473756	30.47574019	40.62768063	33.48494809	25.40530189
Common Pool	492	2.92525913	3.17251626	2.01406318	2.51352916	3.54945135	18.87228114	4.59210862	2.65208869	2.70543337	3.98586655	5.05174830	11.77607805	1.30708713	1.21216525	0.98552021

* The data in this table are based on final fishing year 2020 sector rosters.

Table 3 -- Preliminary ACE (in 1,000 lbs), by Stock, for Each Sector for Fishing Year 2021 **^

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
FGS	18	278	4	240	2,758	47	2	0	33	31	34	1	28	5	49	47	1,439
MCCS	3	52	72	392	4,513	2,039	4	1	56	726	280	12	8	8	744	588	5,366
MPB	0	3	7	6	64	255	0	0	5	69	21	0	1	0	71	74	721
Mooncusser	17	264	20	466	5,358	688	1	0	39	45	50	10	5	9	230	258	2,314
NEFS 1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NEFS 2	9	144	163	1,336	15,368	5,094	4	1	381	658	421	37	54	18	1,339	417	6,305
NEFS 3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NEFS 4	11	164	68	727	8,365	2,011	5	1	97	563	256	8	16	4	578	368	2,919
NEFS 5	1	11	0	102	1,173	1	3	7	3	26	16	5	0	50	1	4	18
NEFS 6	5	70	19	448	5,157	999	7	2	69	271	175	20	11	8	590	201	1,559
NEFS 7	4	64	5	293	3,375	411	14	1	19	178	61	91	1	12	223	95	726
NEFS 8	12	185	7	968	11,134	165	36	2	99	193	106	275	11	40	79	48	512
NEFS 9	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NEFS 10	1	12	15	22	254	291	0	0	65	64	59	0	20	2	29	29	325
NEFS 11	1	9	75	4	50	650	0	0	38	100	48	0	5	0	168	200	3,786
NEFS 12	1	14	17	12	135	230	0	0	119	30	16	0	17	1	20	13	330
NEFS 13	17	262	5	2,560	29,448	220	73	8	99	504	267	200	5	65	380	99	1,125
NHPB	0	0	7	0	0	7	0	0	0	2	0	0	0	0	2	4	47
SHS 1	3	50	18	284	3,261	867	2	0	33	317	112	65	7	3	259	197	1,143
SHS 2	4	54	29	155	1,783	702	7	1	63	200	86	42	10	14	269	265	2,657
SHS 3	34	518	55	4,234	48,699	7,420	46	4	229	1,780	804	340	10	127	3,521	1,491	10,800
Common Pool	4	65	19	252	2,896	570	7	6	70	157	78	46	11	49	113	54	419
Sector Total	141	2,155	588	12,248	140,895	22,096	203	27	1,447	5,756	2,810	1,106	210	367	8,553	4,398	42,091

* The data in this table are based on final fishing year 2020 sector rosters.

^ Numbers are rounded to the nearest thousand pounds. In some cases, this table shows an allocation of 0, but that sector may be allocated a small amount of that stock in tens or hundreds pounds.

^ The data in the table represent the preliminary total allocations to each sector. Final allocations will be determined using final fishing year 2021 rosters.

Table 4 -- Preliminary ACE (in metric tons), by Stock, for Each Sector for Fishing Year 2021**^

Sector Name	GB Cod East	GB Cod West	GOM Cod	GB Haddock East	GB Haddock West	GOM Haddock	GB Yellowtail Flounder	SNE/MA Yellowtail Flounder	CC/GOM Yellowtail Flounder	Plaice	Witch Flounder	GB Winter Flounder	GOM Winter Flounder	SNE/MA Winter Flounder	Redfish	White Hake	Pollock
FGS	8	126	2	109	1,251	21	1	0	15	14	15	0	13	2	22	21	653
MCCS	2	23	33	178	2,047	925	2	0	25	329	127	5	4	3	337	267	2,434
MPB	0	1	3	3	29	116	0	0	2	31	10	0	0	0	32	33	327
Mooncusser	8	120	9	211	2,430	312	0	0	18	21	23	5	2	4	104	117	1,050
NEFS 1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NEFS 2	4	66	74	606	6,971	2,310	2	0	173	299	191	17	25	8	607	189	2,860
NEFS 3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NEFS 4	5	75	31	330	3,794	912	2	0	44	255	116	4	7	2	262	167	1,324
NEFS 5	0	5	0	46	532	0	1	3	1	12	7	2	0	23	1	2	8
NEFS 6	2	32	9	203	2,339	453	3	1	31	123	79	9	5	4	268	91	707
NEFS 7	2	29	2	133	1,531	187	7	0	9	81	28	41	0	5	101	43	329
NEFS 8	6	84	3	439	5,050	75	16	1	45	87	48	125	5	18	36	22	232
NEFS 9	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
NEFS 10	0	5	7	10	115	132	0	0	29	29	27	0	9	1	13	13	147
NEFS 11	0	4	34	2	23	295	0	0	17	46	22	0	2	0	76	91	1,717
NEFS 12	0	6	8	5	61	104	0	0	54	13	7	0	8	0	9	6	150
NEFS 13	8	119	2	1,161	13,357	100	33	4	45	228	121	91	2	29	172	45	510
NHPB	0	0	3	0	0	3	0	0	0	1	0	0	0	0	1	2	21
SHS 1	1	23	8	129	1,479	393	1	0	15	144	51	29	3	1	118	89	519
SHS 2	2	25	13	70	809	319	3	0	29	91	39	19	4	7	122	120	1,205
SHS 3	15	235	25	1,920	22,090	3,365	21	2	104	807	364	154	5	57	1,597	676	4,899
Common Pool	2	29	9	114	1,314	258	3	3	32	71	35	21	5	22	51	24	190
Sector Total	64	977	267	5,556	63,909	10,022	92	12	656	2,611	1,275	502	95	166	3,880	1,995	19,092

* The data in this table are based on final fishing year 2020 sector rosters.

† Numbers are rounded to the nearest metric ton, but allocations are made in pounds. In some cases, this table shows a sector allocation of 0 metric tons, but that sector may be allocated a small amount of that stock in pounds.

^ The data in the table represent the preliminary total allocations to each sector. Final allocations will be determined using final fishing year 2021 rosters.

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Announcement of our Electronic Monitoring Determination

Using the process and authority granted to us in Amendment 16 to the Northeast Multispecies FMP, and as described in regulations at § 648.87(b)(1)(v)(B), we have determined that the EM audit model is sufficient for use instead of ASM. In December 2019, we notified the New England Fishery Management Council of our intent to expand EM and allow sectors to submit an EM plan as part of the fishing years 2021–2022 sector operations plan approval process. Since 2016, we have worked with members of industry and other stakeholders to develop EM as a tool to meet sector monitoring requirements. We evaluated two models using exempted fishing permits (EFP): The audit model and maximized retention. Under the audit model, the captain records an estimated weight for all groundfish discards on an electronic vessel trip report (eVTR) and adheres to catch handling protocols at sea to ensure collection (e.g., groundfish discard measurements) of discard information from the EM data. EM data are the data created in the collection of fishery-dependent data by EM systems, including the video, images, sensor data, and metadata for a trip. Under maximized retention, vessels retain and land all allocated groundfish catch, including fish below the minimum size. EM data is used to confirm the vessel's adherence to the catch retention requirements, and a dockside monitor meets the vessel at the dock to collect catch data shoreside. Based on the data collected under the EFPs, we have determined that the EM audit model is sufficient to verify a vessel's submission of information on groundfish discards and other relevant information (e.g., date and time, gear category, location) for the purpose of ACE accounting, provided that the vessel's captain and crew adhere to catch handling and reporting requirements as described in the vessel-specific monitoring plan (VMP). VMPs detail specific fish handling protocols, policies and procedures, as well as the number and location of cameras. VMPs are reviewed and approved by NMFS prior to a vessel enrolling in EM to ensure the set-up is adequate to support data collection needs and requirements. NMFS will provide a template to assist providers in developing VMPs that include the required components. Vessels may use the EM audit model to meet monitoring and reporting requirements while fishing with hook, gillnet, or trawl gear in any of the four broad stock areas. The

maximized retention program will continue to operate under an EFP for fishing year 2021. This will allow us to further evaluate the sufficiency of the program for catch accounting.

In order to facilitate the adoption of the EM audit model by sector vessels, we offered a NMFS-designed audit model program for sectors to include in their proposed operations plans. Under the NMFS-designed audit model program, vessels would be required to measure groundfish discards in view of cameras and use designated discard control points for all discards. The captain and crew would have the option to use subsampling protocols for high volumes of discards if included in the vessel's NMFS-approved VMP. Participating vessels would submit EM data from all trips to their sector's contracted third-party service provider in accordance with the timeline specified by NMFS (currently 7 days). A subset of trips would be selected for review. Third-party service provider staff would review and annotate EM data for selected trips, and submit a report detailing the results to NMFS, in accordance with program requirements. NMFS would compare the third-party service provider's report to the eVTR submitted by the captain to understand the accuracy of self-reporting by EM vessels. Estimates of groundfish discards reported by the captain on the eVTR and EM data collected by the third-party service provider would serve as the basis for catch accounting.

We are announcing our determination and supporting rationale in this proposed rule to facilitate public review of, and comment on, the monitoring plans included in the sector operations plans and contracts proposed in the following section. We will approve or disapprove each plan based on its sufficiency for sector catch accounting. Any EM program employed by a sector to meet monitoring and reporting requirements must adhere to the EM program standards described in the Fishing Years 2021–22 Sector Operations Plan, Contract, and EA Requirements guidance document located on our website: <https://www.fisheries.noaa.gov/new-england-mid-atlantic/commercial-fishing/fishing-year-2020-sectors>.

We are also making regulatory adjustments, implemented under our section 305(d) authority in the Magnuson-Stevens Act to make changes necessary to carry out the FMP. We are making these adjustments to clarify the use of EM for sector monitoring as described in the regulations at § 648.87 and to ensure the FMP is implemented

in accordance with the Magnuson-Stevens Act.

Sector Operations Plans and Contracts

There were 16 active groundfish sectors in fishing year 2020. All 16 active sectors submitted operations plans and contracts for approval for fishing years 2021 and 2022. We are proposing to approve 16 sector operations plans and contracts for fishing years 2021 and 2022. In order to approve a sector's operations plan for fishing years 2021 and 2022, we consider whether a sector's plan is consistent with regulatory requirements and FMP objectives, and whether it has been compliant with reporting requirements from previous years, including the year-end reporting requirements found at § 648.87(b)(1)(vi)(C). Approved operations plans, provided on our website as a single document for each sector, not only contain the rules under which each sector would fish, but also provide the legal contract that binds each member to the sector for the length of the sector's operations plan. Each sector's operations plan, and each sector's members, must comply with the regulations governing sectors, found at § 648.87. In addition, each sector must conduct fishing activities as detailed in its approved operations plan.

Participating vessels are required to comply with all pertinent Federal fishing regulations, except as specifically exempted in the letter of authorization (LOA) issued by the Regional Administrator, which details any approved sector exemptions from the regulations. If, during a fishing year, or between fishing years 2021 and 2022, a sector requests an exemption that we have already granted, or proposes a change to administrative provisions, we may amend the sector operations plans. Should any such amendments require modifications to LOAs, we would include these changes in updated LOAs and provide them to the appropriate sectors.

As in previous years, we retain the right to revoke exemptions in-season if: We determine that the exemption jeopardizes management measures, FMP objectives, or rebuilding efforts; the exemption results in unforeseen negative impacts on other managed fish stocks, habitat, or protected resources; the exemption causes enforcement concerns; catch from trips using the exemption cannot be adequately monitored; or a sector is not meeting certain administrative or operational requirements. If it becomes necessary to revoke an exemption, we will do so

through a process consistent with the Administrative Procedure Act.

Each sector is required to ensure that it does not exceed its ACE during the fishing year. Sector vessels are required to retain all legal-sized allocated Northeast multispecies stocks, unless a sector is granted an exemption allowing its member vessels to discard legal-sized unmarketable fish at sea. Catch (defined as landings and discards) of all allocated Northeast multispecies stocks by a sector’s vessels count against the sector’s allocation. Groundfish catch from a sector trip targeting non-groundfish species would be deducted from the sector’s ACE because these are groundfish trips using gear capable of catching groundfish. Catch from a non-sector trip in an exempted fishery does not count against a sector’s allocation and is assigned to a separate ACL sub-component to account for any groundfish bycatch that occurs in non-groundfish fisheries.

Each sector contract details the method for initial ACE sub-allocation to sector members. For fishing years 2021 and 2022, each sector has proposed that each active sector member could harvest an amount of fish equal to the amount each individual member’s permit contributed to the sector, as modified by the sector for reserves or other management measures. Each sector operations plan submitted for fishing years 2021 and 2022 states that the sector would withhold an initial reserve from the sector’s ACE sub-allocation to each individual member to prevent the sector from exceeding its ACE. A sector and sector members can be held jointly and severally liable for ACE overages, discarding legal-sized fish, and/or misreporting catch (landings or discards). Each sector contract provides procedures for sector enforcement of its rules, explains sector monitoring and reporting requirements, provides sector managers with the authority to issue stop fishing orders to sector members

who violate provisions of the operations plan and contract, and presents a schedule of penalties that managers may levy on members for sector plan violations.

Sectors are required to monitor their allocations and catch. To help ensure that a sector does not exceed its ACE, each sector operations plan explains sector monitoring and reporting requirements, including a requirement to submit weekly catch reports to us. If a sector reaches an ACE threshold (specified in the operations plan), the sector must provide us with sector allocation usage reports on a daily basis. Once a sector’s allocation for a particular stock is caught, that sector is required to cease all sector fishing operations in that stock area until it acquires more ACE, likely by an ACE transfer between sectors. Within 60 days of when we complete year-end catch accounting, each sector is required to submit an annual report detailing the sector’s catch (landings and discards), sector enforcement actions, and pertinent information necessary to evaluate the biological, economic, and social impacts of each sector.

Industry-Funded Monitoring Programs

Sectors are responsible for designing, implementing, and funding a monitoring program that will provide the level of ASM coverage specified by NMFS for that year. We are required to determine a level of ASM coverage using a process described in Framework 55 (81 FR 26412; May 2, 2016) that provides a reliable estimate of overall catch by sectors needed for monitoring ACEs and ACLs while minimizing the cost burden to sectors and NMFS to the extent practicable. Sectors are responsible for the at-sea portion of costs associated with the sector’s monitoring program(s), even in years when reimbursement funds are available.

In fishing years 2010 and 2011, we funded an ASM program with a target

ASM coverage level of 30 percent of all trips. In addition, we provided 8-percent observer coverage through the Northeast Fishery Observer Program (NEFOP), which helps to support the Standardized Bycatch Reporting Methodology (SBRM) and stock assessments. This resulted in an overall target coverage level of 38 percent for fishing years 2010 and 2011, from the combined ASM and NEFOP. Beginning in fishing year 2012, we have conducted an annual analysis to determine the total target coverage level. Table 5 depicts the annual target coverage levels. Industry has been required to pay for their ASM coverage costs since 2012, while we continued to fund NEFOP coverage. However, we were able to fund the industry’s portion of ASM costs and NEFOP coverage in fishing years 2012 through most of 2015. Industry paid for their portion of the ASM program beginning in March 2016. In June 2016, after determining that the SBRM monitoring program could be fully funded with additional funding remaining, we announced that we had funds available to offset some of industry’s costs of the groundfish ASM program in 2016. We reimbursed sectors for 85 percent of their ASM costs for 10 months of the fishing year, distributed through a grant by the Atlantic States Marine Fisheries Commission. In fishing year 2017, using leftover funds from the 2016 grant, we reimbursed sectors for 60 percent of industry costs in fishing year 2017. Fishing effort was lower than expected in the first few months of the fishing year, and we were ultimately able to retroactively reimburse sectors for an additional estimated 25 percent of industry’s 2017 costs, which exhausted the remaining available SBRM funds. In fiscal years 2018, 2019, 2020, and 2021, Congress appropriated \$10.3 million for groundfish ASM. With these funds, we were able to fully reimburse industry costs in fishing years 2018, 2019, and 2020.

TABLE 5—HISTORIC TARGET COVERAGE LEVEL FOR MONITORING

Fishing year	Total target coverage level (percent)	ASM target coverage level (percent)	NEFOP target coverage level (percent)
2010	38	30	8
2011	38	30	8
2012	25	17	8
2013	22	14	8
2014	26	18	8
2015	16	12	4
2016	14	10	4
2017	16	8	8
2018	15	10	5
2019	31	(*)	(*)

TABLE 5—HISTORIC TARGET COVERAGE LEVEL FOR MONITORING—Continued

Fishing year	Total target coverage level (percent)	ASM target coverage level (percent)	NEFOP target coverage level (percent)
2020	40	(*)	(*)

* Beginning in fishing year 2019, assignment of NEFOP coverage changed in a way that no longer provided a single coverage target across all sectors. As a result, the total target coverage level was no longer partitioned into fixed ASM and NEFOP target coverage levels.

On March 20, 2020, we issued a fleet-wide observer waiver in response to local travel restrictions and limits on gatherings. During this time, we worked with monitoring service providers to develop observer redeployment plans, finalize internal policies to promote safe and effective redeployment, and conduct outreach to industry. We initiated the redeployment process on August 14, 2020. We are currently operating under two national level observer waivers. A vessel receives a waiver if an observer or ASM is not available for deployment; or the observer provider cannot meet the safety protocols imposed by a state on the commercial fishing crew or by the vessel or vessel company on its crew. Service provider companies have experienced significant staff attrition this year as a result of the limited amount of work available, and will need to hire additional staff to meet future specified coverage levels. Given the circumstances, we do not expect sectors to meet the 40 percent target coverage level in fishing year 2020. We expect to work with sectors and service provider companies through the remainder of the year to increase coverage levels to the extent possible, and to ensure they meet the specified coverage level when normal operations resume.

As announced in the previous section, we have determined that the EM audit model is sufficient to be used by vessels instead of ASM to meet sector monitoring requirements. Sector vessels may choose to use either ASM or the EM audit model to meet monitoring requirements, provided that the sector has a corresponding monitoring program approved as part of its operations plans, and we will no longer implement the EM audit model using an EFP. On January 26, 2021, we announced that the total target ASM coverage level will be 40 percent for fishing year 2021. Vessels that choose to use ASM to meet monitoring requirements would have a target coverage level of 40 percent for all sector groundfish trips. Vessels that choose to use EM to meet monitoring coverage requirements would use cameras and adhere to catch handling protocols as described in the VMP for

all groundfish trips. Only a subset of the submitted trips would be selected for review to monitor groundfish discards for catch accounting. For fishing year 2021, NMFS would randomly select 50 percent of trips for review by a third-party service provider. A subset of the selected trips would undergo a secondary review by NMFS to monitor the third-party service provider's performance. The vessel owner or operator and the third-party service provider must provide the EM data for any given trip to NMFS, and its authorized officers and designees, upon request including, but not limited to, trips selected for secondary review. The fishing year 2022 selection rate for third-party review would be announced during fishing year 2021. The selection rate may vary annually based on vessel performance and less than 100 percent of trips would be reviewed, consistent with regulations at 50 CFR 648.87(b)(1)(v)(B)(1). Although the exact costs of groundfish monitoring for fishing year 2021 are not known at this time, we expect we will have sufficient funds to fully reimburse industry's costs for ASM and EM based on our experience in previous fishing years.

Proposed Industry-Funded Monitoring Programs

The draft operations plans submitted in October 2020 include industry-funded monitoring plans for fishing year 2021. As in previous years, we gave sectors the option to design their own monitoring program(s) in compliance with regulations or elect to adopt the NMFS-designed ASM and/or EM audit model program(s). The NMFS-designed ASM program is the same program that we have used in previous fishing years. In the event that we cannot approve a proposed monitoring program, we asked all sectors to include an option to select a current NMFS-designed monitoring program as a fail-safe.

All active sectors submitted an ASM plan as part of their draft operations plans. Similar to previous years, some sectors chose to use the NMFS-designed ASM program while others proposed programs of their own design. Sector-designed ASM programs for fishing

years 2021 and 2022 were similar to those approved in past years.

Sustainable Harvest Sectors 1, 2, and 3; the GB Cod Fixed Gear Sector, the Maine Coast Community Sector, and Northeast Fishery Sectors (NEFS) 5, 10, 11, and 13 have proposed to use the NMFS-designed ASM program. We propose to approve this program for these sectors because it is consistent with goals and objectives of monitoring and regulatory requirements. Sectors that operate only as permit banks, and explicitly prohibit fishing in their operations plans, are not required to include provisions for an ASM program.

We propose to approve the ASM programs proposed by the remaining five active sectors, NEFS 2, 6, 7, 8, and 12, which state that they will: Contract with a NMFS-approved ASM provider; meet the specified coverage level; and utilize the Pre-Trip Notification System for random selection of monitored trips and notification to providers. These ASM programs also include additional protocols for ASM coverage waivers, incident reporting, and safety requirements for their sector managers and members. We have preliminarily determined that the proposed programs are consistent with the goals and objectives of ASM and regulatory requirements.

Seven sectors also submitted an EM plan as part of their draft operations plans. Of these sectors, six sectors, Sustainable Harvest Sectors 1, 2, and 3; the GB Cod Fixed Gear Sector, the Maine Coast Community Sector, and Northeast Fishery Sector 5, chose to use the NMFS-designed EM audit model program. We propose to approve this program for these sectors because it is consistent with goals and objectives of monitoring and regulatory requirements.

One sector, Northeast Fishery Sector 2, proposed an EM program of its own design. The proposed program maintained key elements of the NMFS-designed EM audit model program as the basis for its proposed EM program with modifications. We propose to approve NEFS 2's proposed program, which states that it will: Contract with an approved service provider; utilize PTNS as required; run cameras on 100 percent of groundfish trips for EM

vessels; and audit trips at a rate of 50 percent. The proposed program also establishes internal protocols and controls for the sector to manage its member vessels' participation in EM. We propose to approve this program for this sector because it is consistent with goals and objectives of monitoring and regulatory requirements.

Previously Granted Exemptions for Fishing Years 2021 and 2022

Previously Granted Exemptions Granted for Fishing Years 2021 and 2022 (1–19)

We are granting exemptions from the following requirements for fishing years 2021 and 2022, all of which have been requested and granted in previous years:

- (1) 120-day block out of the fishery required for Day gillnet vessels;
- (2) 20-day spawning block out of the fishery required for all vessels;
- (3) limits on the number of gillnets for Day gillnet vessels outside the GOM;

- (4) prohibition on a vessel hauling another vessel's gillnet gear;
- (5) limits on the number of gillnets that may be hauled on GB when fishing under a Northeast multispecies/monkfish DAS;
- (6) limits on the number of hooks that may be fished;
- (7) DAS Leasing Program length and horsepower restrictions;
- (8) prohibition on discarding;
- (9) gear requirements in the Eastern U.S./Canada Management Area;
- (10) prohibition on a vessel hauling another vessel's hook gear;
- (11) the requirement to declare an intent to fish in the Eastern U.S./Canada Special Access Program (SAP) and the Closed Area (CA) II Yellowtail Flounder/Haddock SAP prior to leaving the dock;
- (12) seasonal restrictions for the Eastern U.S./Canada Haddock SAP;

- (13) seasonal restrictions for the CA II Yellowtail Flounder/Haddock SAP;
- (14) sampling exemption;
- (15) 6.5-inch minimum mesh size requirement for trawl nets to allow a 5.5-inch codend on directed redfish trips;
- (16) prohibition on combining small-mesh exempted fishery and sector trips in SNE;
- (17) extra-large mesh requirement to target dogfish on trips excluded from ASM in SNE and Inshore GB;
- (18) requirement that Handgear A vessels carry a Vessel Monitoring System (VMS) unit when fishing in a single broad stock area (BSA); and
- (19) limits on the number of gillnets for Day gillnet vessels in the GOM.

A detailed description of the previously granted exemptions and supporting rationale can be found in the applicable final rules identified in Table 6 below.

TABLE 6—EXEMPTIONS FROM PREVIOUS FISHING YEARS THAT ARE GRANTED IN FISHING YEARS 2021 AND 2022

Exemptions	Rulemaking	Date of publication	Citation
1–2, 4–9	Fishing Year 2011 Sector Operations Final Rule	April 25, 2011	76 FR 23076.
10–11	Fishing Year 2012 Sector Operations Final Rule	May 2, 2012	77 FR 26129.
12–14	Fishing Year 2013 Sector Operations Interim Final Rule	May 2, 2013	78 FR 25591.
3, 15–16	Fishing Years 2015–2016 Sector Operations Final Rule	May 1, 2015	80 FR 25143.
17	Framework 55 Final Rule	May 2, 2016	81 FR 26412.
18	Amendment 18 Final Rule	April 21, 2017	82 FR 18706.
19	Fishing Year 2018 Sector Operations Final Rule	May 1, 2018	83 FR 18965.

Northeast Multispecies **Federal Register** documents can be found at <https://www.fisheries.noaa.gov/management-plan/northeast-multispecies-management-plan>.

New Exemption Requests We Will Not Approve for Fishing Year 2021

Minimum Mesh Size for Gillnets Fished in Georges Bank

For fishing year 2021, one sector requested a new exemption to allow sector vessels to use 6.0-inch (15.2-cm) mesh size to target groundfish in the GB BSA. Under current regulations, vessels are prohibited from fishing for groundfish with gillnets with mesh smaller than 6.5 inches (16.5 cm) in the GOM and GB Regulated Mesh Areas. Minimum mesh size restrictions (§ 648.80(a)(3)(i), (a)(4)(i), (b)(2)(i), and (c)(2)(i)) were implemented under previous groundfish actions to reduce overall mortality on groundfish stocks, change the selection pattern of the fishery to target larger fish, improve survival of sublegal fish, and allow sublegal fish more opportunity to spawn before entering the fishery.

Under the requested exemption, sector vessels would fish with gillnets as small as 6.0 inches (15.2 cm) in the GB BSA year-round. Vessels would restrict fishing activity to the GB BSA

when fishing under the exemption. Vessels would be restricted to a maximum of 30 gillnets. Soak time would not exceed 24 hours and vessels would retrieve their gear at the end of each trip. Participating sectors would monitor exemption usage to ensure that haddock catch makes up 75 percent or more of the total catch, based on a running three trip average. The intent of the request is to allow vessels fishing with gillnets to target GB haddock, a healthy groundfish stock.

We previously approved similar exemptions in fishing years 2010–2012, which allowed vessels to use 6.0-inch (15.2-cm) mesh gillnets to target haddock in the Gulf of Maine, however, these exemptions were disapproved in 2013 (78 FR 25591; May 2, 2013) due to concerns about GOM haddock stock status, which was poor at the time, and potential impacts on protected species. Despite improved stock status of GOM haddock, we have not re-approved an exemption in the GOM because of concerns about bycatch of GOM cod, which is in poor condition.

We are denying the request in this year's sector operations plans. Sectors submitted a similar exemption request last year, which we also denied. While GB haddock is a healthy stock and we are supportive of efforts to increase utilization of GB haddock quota, we are concerned that allowing the use of gillnets smaller than the 6.5-inch (16.5-cm) minimum mesh size may have an impact on GB cod, given that this stock is overfished and overfishing is occurring. Although some studies have shown increased selectivity of haddock with smaller mesh gillnets, selectivity curves suggest that smaller mesh gillnets will catch more smaller-sized cod and other co-occurring species than larger mesh nets. Industry and researchers have conducted studies to further investigate the selectivity of different gillnet mesh sizes, but these studies relied on limited data, did not directly investigate fishing in the proposed areas, and have yet to be peer reviewed. In addition, changes in the location and intensity of gillnet fishing may have impacts on protected resources, particularly North Atlantic

right whales, which are critically endangered and are present in the requested area during certain times of year. We may reevaluate this exemption request in a future action, should further information become available.

Additional Sector Operations Plan Provisions

Inshore GOM Restrictions

Several sectors have proposed an operations plan provision to limit and more accurately document a vessel's behavior when fishing in an area they define as the inshore portion of the GOM BSA, or the area to the west of 70° 15' W. long. As in fishing years 2019 and 2020, we are approving this provision, but a sector may elect to remove this provision in the final version of its operations plan, and it is not a requirement under NMFS regulations.

Under this provision, a vessel that is carrying an observer or ASM would remain free to fish in all areas, including the inshore GOM area, without restriction. If a vessel is not carrying an observer or ASM and fishes any part of its trip in the GOM west of 70° 15' W. long., the vessel would be prohibited from fishing outside of the GOM BSA. Also, if a vessel is not carrying an observer or ASM and fishes any part of its trip outside the GOM BSA, this provision would prohibit a vessel from fishing west of 70° 15' W. long. within the GOM BSA. The approved provision includes a requirement that a vessel declare whether it intends to fish in the inshore GOM area through the trip start hail using its VMS unit prior to departure. We provide sector managers with the ability to monitor this provision through the Sector Information Management Module, a website where we also provide roster, trip, discard, and observer information to sector managers. A sector vessel may use a federally-funded NEFOP observer or ASM on these trips because we believe this option will not create bias in discard estimates, as fishing behavior is expected to be consistent with the standard fishery requirements such as minimum gear and fish sizes as a result of exercising this option.

Prohibition on a Vessel Hauling Another Vessel's Trap Gear To Target Groundfish

Several sectors have requested a provision to allow a vessel to haul another vessel's fish trap gear, similar to the current exemptions that allow a vessel to haul another vessel's gillnet gear or hook gear. These exemptions have generally been referred to as

“community” gear exemptions. Regulations at § 648.84(a) require a vessel to mark all bottom-tending fixed gear, which includes fish trap gear used to target groundfish. This requirement helps protect against illegal hauling of gear by vessels that do not own the gear and are not authorized to tend it. To facilitate enforcement of § 648.84(a) and use of this exemption, we are requiring each vessel authorized to haul another's gillnet gear to tag that gear, similar to how this sector operations plan provision was implemented in fishing years 2014 through 2020. This allows one vessel to deploy the trap gear and another vessel to haul the trap gear, provided both vessels tag the gear prior to deployment. This requirement is included in the sector's operations plan to provide the opportunity for the sector to monitor the use of this provision and facilitate the Office of Law Enforcement and the U.S. Coast Guard's enforcement of the marking requirement. We do not expect this provision to increase effort or the amount of fish trap gear used. Instead, it would provide an efficiency and would allow a vessel to retrieve gear as a convenience.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator has preliminarily determined that this proposed rule is consistent with the Northeast Multispecies FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

This action proposes to approve measures submitted in 16 Northeast multispecies sector operations plans, including sector regulatory exemptions intended to provide additional operational flexibility, at-sea and electronic monitoring programs, and the allocation of ACE to sectors. Sectors must have an approved operations plan in order to operate, receive ACE allocations, and authorize member vessels to fish. Sectors operate under a series of “universal” regulatory exemptions that exempt sector vessels

from some of the effort controls in the fishery management plan, as well as sector-specific exemptions, which grant additional operational flexibilities to sector vessels. Universal exemptions include exemptions from DAS, seasonal closures, and trip limits. These exemptions allow sector participants to maximize per-trip yields, more fully harvest healthy stocks, and time the market.

The Regulatory Flexibility Act (RFA) requires Federal agencies to consider disproportionality and profitability to determine the significance of regulatory impacts. For RFA purposes only, NMFS established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts less than \$11 million for all its affiliated operations worldwide. The determination of whether the entity is large or small is based on the average annual revenue for the most recent 3 years for which data are available (from 2017 through 2019).

To participate in the Northeast Multispecies Sector Program, vessels must possess a limited access multispecies permit and operate as part of a sector. Entities holding one or more limited access multispecies permits are potentially impacted by this action. According to the commercial database, there were 627 entities that had at least one valid limited access permit during 2019, the last year for which affiliation information is available. Of these entities, 100 did not have revenues. There were 527 entities that reported revenues during 2019. Of these, 6 were classified as large and 521 were classified as small businesses.¹

The proposed approval of fishing years 2021 and 2022 operations plans and the allocation of fishing year 2021 ACE to groundfish sectors will have a positive impact on all 627 entities, as it will allow them to participate in the sector groundfish fishery rather than fish under the common pool effort control regulations. Common pool regulations include limits on DAS, trip limits, gear restrictions, size limits, and closures intended to control overall

¹ For purposes of this analysis, groundfish limited access eligibilities held as Confirmation of Permit History (CPH) are not included because although they may generate revenue from ACE leasing, they do not generate any gross sales from fishing activity and thus would not be classified as commercial fishing entities.

fishing mortality. In addition, these effort controls would be subject to in-season modifications and fishery closures based on industry-wide landings. Conversely, the ability to participate in the sector fishery would provide increased efficiency and flexibility to fishing businesses by exempting sector members from common pool limits. The proposed rule will not have a significant economic impact on a substantial number of small entities, and small entities would not be placed at a competitive disadvantage relative to large entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule does not contain a change to a collection of information requirement for purposes of the Paperwork Reduction Act of 1995. The existing collection of information requirements would continue to apply under the following OMB Control Number(s): 0648-0605; Northeast Multispecies Amendment 16.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: March 24, 2021.

Samuel D. Rauch, III,

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

For the reasons stated in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.2, add the definitions for “electronic monitoring data,” “raw,” and “video reviewer” in alphabetical order to read as follows:

§ 648.2 Definitions.

* * * * *

Electronic monitoring data means the data that are created in the collection of fishery-dependent data by electronic monitoring systems during fishing operations, including the video, images, and other sensor data, as well as the metadata that provides information (e.g., trip sail date, vessel information) about the raw data.

* * * * *

Raw, with respect to electronic monitoring, means the original, unaltered video footage, images, and

other sensor data collected by an electronic monitoring system.

* * * * *

Video reviewer means any electronic monitoring service provider staff approved/certified by NMFS for providing electronic monitoring video review services consistent with electronic monitoring program requirements.

* * * * *

3. In § 648.14, revise paragraph (k)(14)(x) and add paragraphs (k)(14)(xii) and (xiii) to read as follows:

§ 648.14 Prohibitions.

* * * * *

(k) * * * (14) * * *

(x) Leave port to begin a trip before an at-sea monitor has arrived and boarded the vessel if assigned to carry an at-sea monitor for that trip, or without an operational electronic monitoring system installed on board, as specified in § 648.87(b)(5)(iii)(A).

* * * * *

(xii) Fail to comply with the electronic monitoring system requirements as specified in § 648.87(b)(5)(iii)(A)(2).

(xiii) Fail to comply with the vessel monitoring plan requirements as specified in § 648.87(b)(5)(iii)(A)(3).

* * * * *

4. In § 648.87,

a. Revise paragraphs (b)(1)(v)(B) introductory text, (b)(1)(v)(B)(1) introductory text, (b)(4) introductory text, (b)(4)(i)(D) through (J), (b)(4)(ii) introductory text, (b)(4)(ii)(A)(6), (b)(4)(ii)(B) through (D), (b)(4)(ii)(G), and (b)(4)(ii)(H)(1);

b. Add paragraphs (b)(4)(ii)(H)(4) and (b)(4)(iv); and

c. Revise paragraphs (b)(5)(iii)(A), (b)(5)(iii)(B)(2), and (b)(5)(iv)(B).

The revisions and additions to read as follows:

§ 648.87 Sector allocation.

* * * * *

(b) * * * (1) * * * (v) * * *

(B) Independent third-party monitoring program. A sector must develop and implement an at-sea or electronic monitoring program that is satisfactory to, and approved by, NMFS for monitoring catch and discards and utilization of sector ACE, as specified in this paragraph (b)(1)(v)(B). The primary goal of the at-sea/electronic monitoring program is to verify area fished, as well as catch and discards by species and gear type, in the most cost-effective means practicable. All other goals and

objectives of groundfish monitoring programs at § 648.11(l) are considered equally-weighted secondary goals. The details of any at-sea or electronic monitoring program must be specified in the sector’s operations plan, pursuant to paragraph (b)(2)(xi) of this section, and must meet the operational standards specified in paragraph (b)(5) of this section. Electronic monitoring may be used in place of at-sea monitors if the technology is deemed sufficient by NMFS for a specific trip type based on gear type and area fished, in a manner consistent with the Administrative Procedure Act. The level of coverage for trips by sector vessels is specified in paragraph (b)(1)(v)(B)(1) of this section. The at-sea/electronic monitoring program shall be reviewed and approved by the Regional Administrator as part of a sector’s operations plans in a manner consistent with the Administrative Procedure Act. A service provider providing at-sea or electronic monitoring services pursuant to this paragraph (b)(1)(v)(B) must meet the service provider standards specified in paragraph (b)(4) of this section, and be approved by NMFS in a manner consistent with the Administrative Procedure Act.

(1) Coverage levels. Except as specified in paragraph (b)(1)(v)(B)(1)(i) of this section, any service provider providing at-sea or electronic monitoring services required under this paragraph (b)(1)(v)(B)(1) must provide coverage that is fair and equitable, and distributed in a statistically random manner among all trips such that coverage is representative of fishing activities by all vessels within each sector and by all operations of vessels operating in each sector throughout the fishing year. Coverage levels for an at-sea or electronic monitoring program, including video review requirements, shall be specified by NMFS, pursuant to paragraph (b)(1)(v)(B)(1)(i) of this section, but shall be less than 100 percent of all sector trips. In the event that a NMFS-sponsored observer and a third-party at-sea monitor are assigned to the same trip, only the NMFS observer must observe that trip. If an at-sea monitor is assigned to a particular trip, a vessel may not leave port without the at-sea monitor on board. If a vessel is using electronic monitoring to comply with the monitoring requirements of this part, it may not leave port without an operational electronic monitoring system on board.

* * * * *

(4) Independent third-party monitoring provider standards. Any service provider intending to provide at-

sea/electronic monitoring services described in paragraph (b)(1)(v) of this section must apply to and be approved/certified by NMFS in a manner consistent with the Administrative Procedure Act. NMFS shall approve/certify service providers, at-sea monitors, or video reviewers as eligible to provide sector monitoring services specified in this part and can disapprove/decertify service providers, individual at-sea monitors, or video reviewers through notice in writing to individual service providers/monitors/video reviewers if the following criteria are no longer being met:

(i) * * *

(D) A statement, signed under penalty of perjury, from each owner, board member, and officer describing any criminal convictions, Federal contracts they have had, and the performance rating they received on the contract, and previous decertification action while working as an observer, at-sea monitor, or video reviewer; or as an observer, at-sea, or electronic monitoring service provider;

(E) A description of any prior experience the applicant may have in placing individuals or monitoring equipment in remote field and/or marine work environments including, but not limited to, recruiting, hiring, deployment, equipment installation and maintenance, and personnel administration;

(F) A description of the applicant's ability to carry out the responsibilities and duties of a sector monitoring service provider and the arrangements to be used, including whether the service provider is able to offer at-sea or electronic monitoring services;

(G) Evidence of adequate insurance (copies of which shall be provided to the vessel owner, operator, or vessel manager, when requested) to cover injury, liability, and accidental death to cover at-sea monitors (including during training) and electronic monitoring staff who provide electronic monitoring services to vessels; vessel owner; and service provider. NMFS will determine the adequate level of insurance and notify potential service providers;

(H) Proof of benefits and personnel services provided in accordance with the terms of each monitor's or electronic monitoring staff's contract or employment status;

(I) Proof that the service provider's at-sea monitors or video reviewers have passed an adequate training course sponsored by the service providers to the extent not funded by NMFS that is consistent with the curriculum used in the current yearly NEFOP training

course, unless otherwise specified by NMFS;

(J) An Emergency Action Plan describing the provider's response to an emergency with any at-sea monitor or electronic monitoring staff, including, but not limited to, personal injury, death, harassment, or intimidation; and

* * * * *

(ii) *Service provider performance requirements.* At-sea and electronic monitoring service providers must be able to document compliance with the following criteria and requirements:

(A) * * *

(6) For service providers offering catch estimation or at-sea or electronic monitoring services, a service provider must be able to determine an estimate of discards for each trip and provide such information to the sector manager and NMFS, as required by this section.

(B) The service provider must ensure that at-sea monitors or video reviewers remain available to NMFS, including NMFS Office for Law Enforcement, for debriefing for at least 2 weeks following any monitored trip/offload or electronic monitoring trip report submission. Electronic monitoring service providers must ensure that electronic monitoring data and reports are retained for a minimum of 12 months after catch data is finalized for the fishing year. NMFS will notify providers of the catch data finalization date each year. The service provider must provide NMFS access to electronic monitoring data upon request;

(C) The service provider must report possible at-sea or electronic monitoring staff harassment; discrimination; concerns about vessel safety or marine casualty; injury; and any information, allegations, or reports regarding at-sea or electronic monitoring staff conflict of interest or breach of the standards of behavior to NMFS and/or the sector manager, as specified by NMFS;

(D) The service provider must submit to NMFS, if requested, a copy of each signed and valid contract (including all attachments, appendices, addendums, and exhibits incorporated into the contract) between the service provider and those entities requiring services (*i.e.*, sectors and participating vessels) and between the service provider and specific dockside, roving, at-sea, or electronic monitoring staff;

* * * * *

(G) With the exception of a service provider offering reporting, dockside, at-sea, or electronic monitoring services to participants of another fishery managed under Federal regulations, a service provider's owner(s), board member(s), and officers must not have a direct or

indirect interest in a fishery managed under Federal regulations, including, but not limited to, fishing vessels, dealers, shipping companies, sectors, sector managers, advocacy groups, or research institutions and may not solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value from anyone who conducts fishing or fishing-related activities that are regulated by NMFS, or who has interests that may be substantially affected by the performance or nonperformance of the official duties of service providers;

(H) * * *

(1) At-sea monitor and other approved monitoring equipment deployment or video review levels, including the number of refusals and reasons for such refusals;

* * * * *

(4) * * *

(iv) *Standards for individual electronic monitoring video reviewers.* For an individual to be approved/certified as an electronic monitoring video reviewer, the service provider must demonstrate that each potential reviewer meets the requirements described in paragraphs (b)(4)(iii)(A), (B), (E), and (F) of this section.

* * * * *

(5) * * *

(iii) * * *

(A) *Vessel requirements – (1) Pre-trip notification.* In addition to all other reporting/recordkeeping requirements specified in this part, to facilitate the deployment of at-sea monitors and electronic monitoring equipment pursuant to paragraph (b)(1)(v)(B)(1) of this section, the operator of a vessel fishing on a sector trip must provide at-sea/electronic monitoring service providers with at least the following information: The vessel name, permit number, trip ID number in the form of the VTR serial number of the first VTR page for that trip or another trip identifier specified by NMFS, whether a monkfish DAS will be used, and an estimate of the date/time of departure in advance of each trip. The timing of such notice shall be sufficient to allow ample time for the service provider to determine whether an at-sea monitor or electronic monitoring equipment will be deployed on each trip and allow the at-sea monitor or electronic monitoring equipment to prepare for the trip and get to port, or to be installed on the vessel, respectively. The details of the timing, method (*e.g.*, phone, email, etc.), and information needed for such pre-trip notifications shall be included as part of a sector's yearly operations plan. If a vessel has been informed by a

service provider that an at-sea monitor or electronic monitoring equipment has been assigned to a particular trip pursuant to paragraph (b)(5)(iii)(B)(1) of this section, the vessel may not leave port to begin that trip until the at-sea monitor has arrived and boarded the vessel, or the electronic monitoring equipment has been properly installed.

(2) *Electronic monitoring system requirements.* A vessel operator using electronic monitoring to meet sector monitoring requirements must ensure that the electronic monitoring system is operational for every trip, including:

(i) Ensuring that the electronic monitoring system is operating, recording, and retaining the recording for the duration of every trip. A vessel must not fish without an operational electronic monitoring system recording and retaining the recording of activity onboard, unless issued a waiver by NMFS;

(ii) Conducting a system check of the electronic monitoring system prior to departing on a fishing trip to ensure it is fully operational, including ensuring there is sufficient video storage capacity to retain the recording of the entire fishing trip;

(iii) Ensuring camera views are unobstructed and clear, including ensuring lighting is sufficient in all circumstances to illuminate catch, so that catch and discards are visible and

may be identified and quantified as required; and

(iv) Ensuring that no person tampers with, disconnects, or destroys any part of the electronic monitoring system, associated equipment, or recorded data.

(3) *Vessel monitoring plan requirements for electronic monitoring vessels.* A vessel must have a NMFS-approved vessel monitoring plan to meet sector monitoring requirements.

(i) The vessel monitoring plan must be onboard the vessel at all times.

(ii) The vessel operator and crew must comply with all catch handling protocols and other requirements described in the vessel monitoring plan, including sorting catch and processing any discards within view of the cameras and consistent with the vessel monitoring plan.

(iii) Modifications to any vessel monitoring plan must be approved by NMFS prior to such vessel fishing under the conditions of the new vessel monitoring plan.

(iv) A vessel owner or operator using electronic monitoring to meet sector monitoring requirements must submit all electronic monitoring data to the service provider in accordance with the electronic monitoring program requirements specified by NMFS.

(v) A vessel owner or operator must make the electronic monitoring system, associated equipment, electronic monitoring data, or vessel monitoring

plan available to NMFS for inspection, upon request.

* * * * *

(B) * * *

(2) *At-sea/electronic monitoring report.* A report detailing area fished and the amount of each species kept and discarded shall be submitted electronically in a standard acceptable form to the appropriate sector and NMFS within 48 hour of the completion of the trip, or as otherwise instructed by the Regional Administrator. The data elements to be collected and the format for submission shall be specified by NMFS and distributed to all approved at-sea/electronic monitoring service providers and sectors. At-sea/electronic monitoring data shall not be accepted until such data pass automated NMFS data quality checks.

(iv) * * *

(B) *At-sea monitoring service provider requirements.* An at-sea monitor must complete a pre-trip vessel safety checklist provided by NMFS before an at-sea monitor can leave port onboard a vessel on a sector trip. If the vessel fails a review of safety issues pursuant to this paragraph (b)(5)(iv)(B), an at-sea monitor cannot be deployed on that vessel for that trip.

* * * * *

Notices

Federal Register

Vol. 86, No. 60

Wednesday, March 31, 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 COMMERCE

International Trade Administration

Initiation of Five-Year (Sunset) Reviews

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is automatically initiating the five-year reviews (Sunset Reviews) of the antidumping duty (AD) and countervailing duty (CVD) order(s) and

suspended investigation(s) listed below. The International Trade Commission (the ITC) is publishing concurrently with this notice its notice of *Institution of Five-Year Reviews* which covers the same order(s) and suspended investigation(s).

DATES: Applicable April 1, 2021.

FOR FURTHER INFORMATION CONTACT: Commerce official identified in the *Initiation of Review* section below at AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230. For information from the ITC, contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205-3193.

SUPPLEMENTARY INFORMATION:

Background

Commerce's procedures for the conduct of Sunset Reviews are set forth

in its *Procedures for Conducting Five-Year (Sunset) Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to Commerce's conduct of Sunset Reviews is set forth 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).

Initiation of Review

In accordance with section 751(c) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.218(c), we are initiating the Sunset Reviews of the following antidumping and countervailing duty order(s) and suspended investigation(s):

DOC case No.	ITC case No.	Country	Product	Commerce contact
A-122-855	731-TA-1270	Canada ..	Polyethylene Terephthalate Resin (1st Review)	Thomas Martin, (202) 482-3936.
A-570-024	731-TA-1271	China	Polyethylene Terephthalate Resin (1st Review)	Thomas Martin, (202) 482-3936.
A-570-886	731-TA-1043	China	Polyethylene Retail Carrier Bags (3rd Review)	Mary Kolberg, (202) 482-1785.
A-570-504	731-TA-282	China	Petroleum Wax Candles (5th Review)	Thomas Martin, (202) 482-3936.
A-533-861	731-TA-1272	India	Polyethylene Terephthalate Resin (1st Review)	Thomas Martin, (202) 482-3936.
A-560-822	731-TA-1156	Indonesia	Polyethylene Retail Carrier Bags (2nd Review)	Mary Kolberg, (202) 482-1785.
A-557-813	731-TA-1044	Malaysia	Polyethylene Retail Carrier Bags (3rd Review)	Mary Kolberg, (202) 482-1785.
A-523-810	731-TA-1273	Oman	Polyethylene Terephthalate Resin (1st Review)	Thomas Martin, (202) 482-3936.
A-583-843	731-TA-1157	Taiwan ...	Polyethylene Retail Carrier Bags (2nd Review)	Mary Kolberg, (202) 482-1785.
A-549-821	731-TA-1045	Thailand	Polyethylene Retail Carrier Bags (3rd Review)	Mary Kolberg, (202) 482-1785.
A-552-806	731-TA-1158	Vietnam ..	Polyethylene Retail Carrier Bags (2nd Review)	Mary Kolberg, (202) 482-1785.
C-570-025	701-TA-531	China	Polyethylene Terephthalate Resin (1st Review)	Jacqueline Arrowsmith, (202) 482-5255.
C-533-862	701-TA-532	India	Polyethylene Terephthalate Resin (1st Review)	Jacqueline Arrowsmith, (202) 482-5255.
C-552-805	701-TA-462	Vietnam ..	Polyethylene Retail Carrier Bags (2nd Review)	Jacqueline Arrowsmith, (202) 482-5255.

Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the pertinent statute and Commerce's regulations, Commerce's schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on Commerce's website at the following address: <https://enforcement.trade.gov/sunset/>. All submissions in these Sunset Reviews must be filed in accordance with Commerce's regulations regarding format, translation, and service of documents. These rules, including electronic filing requirements via Enforcement and Compliance's

Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), can be found at 19 CFR 351.303.

In accordance with section 782(b) of the Act, any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information. Parties must use the certification formats provided in 19 CFR 351.303(g). Commerce intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

Letters of Appearance and Administrative Protective Orders

Pursuant to 19 CFR 351.103(d), Commerce will maintain and make available a public service list for these proceedings. Parties wishing to participate in any of these five-year reviews must file letters of appearance as discussed at 19 CFR 351.103(d). To facilitate the timely preparation of the public service list, it is requested that those seeking recognition as interested parties to a proceeding submit an entry of appearance within 10 days of the publication of the Notice of Initiation. Because deadlines in Sunset Reviews can be very short, we urge interested parties who want access to proprietary information under administrative

protective order (APO) to file an APO application immediately following publication in the **Federal Register** of this notice of initiation. Commerce's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.¹

Information Required from Interested Parties

Domestic interested parties, as defined in sections 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b), wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with Commerce's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, Commerce will automatically revoke the order without further review.²

If we receive an order-specific notice of intent to participate from a domestic interested party, Commerce's regulations provide that *all parties* wishing to participate in a Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that Commerce's information requirements are distinct from the ITC's information requirements. Consult Commerce's regulations for information regarding Commerce's conduct of Sunset Reviews. Consult Commerce's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at Commerce.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

¹ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 41363 (July 10, 2020).

² See 19 CFR 351.218(d)(1)(iii).

Dated: March 18, 2021.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2021-06645 Filed 3-30-21; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Recruitment of First Responder Network Authority Board Members

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice; extension of application window.

SUMMARY: On March 4, 2021, the National Telecommunications and Information Administration (NTIA) published a notice seeking expressions of interest in an appointment to the Board of the First Responder Network Authority (FirstNet Authority). The notice established a deadline of April 5, 2021, for the transmittal of expressions of interest. This notice extends the period for submission of expressions of interest until April 15, 2021.

DATES: Expressions of interest must be postmarked or electronically transmitted on or before April 15, 2021.

ADDRESSES: Applicants should submit expressions of interest to: Michael Dame, Acting Associate Administrator, Office of Public Safety Communications, National Telecommunications and Information Administration, by email to FirstNetBoardApplicant@ntia.gov.

FOR FURTHER INFORMATION CONTACT: Michael Dame, Acting Associate Administrator, Office of Public Safety Communications, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Room 4078, Washington, DC 20230; telephone: (202) 482-1181; email: mdame@ntia.gov. Please direct media inquiries to NTIA's Office of Public Affairs, (202) 482-7002.

SUPPLEMENTARY INFORMATION: On March 4, 2021, NTIA published a notice seeking expressions of interest in an appointment to the FirstNet Authority Board. See Notice, Recruitment of First Responder Network Authority Board Members, 86 FR 12659 (Mar. 4, 2021). The notice established a deadline of April 5, 2021, for the transmittal of expressions of interest. To ensure that all interested parties have an opportunity to submit expressions of interest, NTIA extends the deadline for

submission of expressions of interest to April 15, 2021. All other information in the March 4, 2021 notice remains unchanged.

Dated: March 25, 2021.

Kathy Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 2021-06552 Filed 3-30-21; 8:45 am]

BILLING CODE 3510-WL-P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; National Medal of Technology and Innovation Nomination Application

The United States Patent and Trademark Office (USPTO) 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 USPTO invites comment on this information collection renewal, which helps the USPTO assess the impact of its information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on January 15, 2021 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: United States Patent and Trademark Office, Department of Commerce.

Title: National Medal of Technology and Innovation Nomination Application.

OMB Control Number: 0651-0060.

Form Number:

- PTO-NMTI-1 (National Medal of Technology and Innovation Nomination Form)

Type of Review: Extension and revision of a currently approved information collection.

Estimated Number of Respondents: 50 respondents per year.

Average Hour per Response: The USPTO estimates that it will take the public approximately 40 hours to complete a response, gather the necessary information, prepare the nomination form with the recommendations, and submit the request for nomination to the USPTO.

Estimated Total Annual Respondent Burden Hours: 2,000 hours.

Estimated Total Annual Non-Hour Cost Burden: \$0.

Needs and Uses: The purpose of the National Medal of Technology and Innovation is to recognize those who have made lasting contributions to America's competitiveness, standard of living, and quality of life through technological innovation, and to recognize those who have made substantial contributions to strengthen the Nation's technological workforce. By highlighting the national importance of technological innovation, the Medal also seeks to inspire future generations of Americans to prepare for and pursue technical careers to keep America on the forefront of global technology and economic leadership.

Affected Public: Individuals or Households.

Frequency: On Occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view Department of Commerce, USPTO information collections currently under review by OMB.

Written comments and recommendations for this 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 information collection or the OMB Control Number 0651-0060.

Further information can be obtained by:

- *Email:* InformationCollection@uspto.gov. Include "0651-0060 information request" in the subject line of the message.
- *Mail:* Kimberly Hardy, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

Kimberly Hardy,

Information Collections Officer, Office of the Chief Administrative Officer, United States Patent and Trademark Office.

[FR Doc. 2021-06580 Filed 3-30-21; 8:45 am]

BILLING CODE 3510-16-P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Representative and Address Provisions

The United States Patent and Trademark Office (USPTO) 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 USPTO invites comment on this information collection renewal, which helps the USPTO assess the impact of its information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on January 15, 2021 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: United States Patent and Trademark Office, Department of Commerce.

Title: Representative and Address Provisions.

OMB Control Number: 0651-0035.

Form Number(s): (AIA = American Invents; SB = Specimen Book).

- PTO/AIA/80; PTO/SB/80 (Power of Attorney to Prosecute Applications Before the USPTO)
- PTO/AIA/81 (Power of Attorney to One or More of the Joint Inventors and Change of Correspondence Address)
- PTO/SB/81 (Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address)
- PTO/AIA/81A; PTO/SB/81A (Patent—Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address)
- PTO/AIA/81B (Reexamination or Supplemental Examination—Patent Owner Power of Attorney or Revocation of Power of Attorney With a New Power of Attorney and Change of Correspondence Address for Reexamination or Supplemental Examination and Patent)
- PTO/SB/81B (Reexamination—Patent Owner Power of Attorney or Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address)
- PTO/SB/81C (Reexamination—Third Party Requester Power of Attorney or

Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address)

- PTO/AIA/82A; PTO/AIA/82B; PTO/AIA/82C (Transmittal for Power of Attorney To One Or More Registered Practitioners/Power Of Attorney By Applicant)
- PTO/AIA/83; PTO/SB/83 (Request for Withdrawal as Attorney or Agent and Change of Correspondence Address)
- PTO/SB/124 (Request for Customer Number Data Change)
- PTO/SB/125 (Request for Customer Number)
- PTO-2248 (Request to Update a PCT Application with a Customer Number)

Type of Review: Extension and revision of a currently approved information collection.

Estimated Number of Respondents: 184,743 respondents per year.

Estimated Number of Responses: 226,573 responses per year.

Average Hour per Response: The USPTO estimates that it takes the public approximately between 0.05 hours (3 minutes) and 1.5 hours (90 minutes) to submit the information in this information collection, including the time to gather the necessary information, prepare the appropriate form or document, and submit the completed item to the USPTO.

Estimated Total Annual Respondent Burden Hours: 13,641 hours per year.

Estimated Total Annual Non-Hour Cost Burden: \$26,241 per year.

Needs and Uses: The public uses this information collection to grant or revoke power of attorney, to withdraw as attorney or agent of record, to authorize a practitioner to act in a representative capacity, to request a Customer Number, and to change the data associated with a Customer Number. This information collection is necessary so that the USPTO knows who is authorized to take action in an application, patent, or reexamination proceeding and where to send correspondence regarding an application, patent, or reexamination proceeding. In this notice, the USPTO has updated and slightly revised its estimated numbers from those originally published in the 60-day notice.

Affected Public: Private Sector; Individuals or Households.

Frequency: On Occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view Department of Commerce, USPTO information collections currently under review by OMB.

Written comments and recommendations for this 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 information collection or the OMB Control Number 0651–0035.

Further information can be obtained by:

- **Email:** InformationCollection@uspto.gov. Include “0651–0035 information request” in the subject line of the message.

- **Mail:** Kimberly Hardy, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Kimberly Hardy,

Information Collections Officer, Office of the Chief Administrative Officer, United States Patent and Trademark Office.

[FR Doc. 2021–06578 Filed 3–30–21; 8:45 am]

BILLING CODE 3510–16–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2021–0006]

Title: Notice of Availability: Proposed Guidance on Alternative Test Methods and Integrated Testing Approaches

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Notice of availability.

SUMMARY: The Consumer Product Safety Commission (Commission or CPSC) is announcing the availability of a document titled, “Proposed Guidance for Industry and Test Method Developers: CPSC Staff Evaluation of Alternative Test Methods and Integrated Testing Approaches and Data Generated from Such Methods to Support FHSA Labeling Requirements.” The Commission requests comments on the proposed guidance.

DATES: Submit comments by June 14, 2021.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2021–0006, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: <https://www.regulations.gov>. Follow the instructions for submitting comments. The CPSC does not accept comments submitted by electronic mail (email), except through [https://](https://www.regulations.gov)

www.regulations.gov. The CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Mail/hand delivery/courier Written Submissions: Submit comments by mail/hand delivery/courier to: Division of the Secretariat, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504–7479; email: cpsc-os@cpsc.gov.

Instructions: All submissions must include the agency name and docket number for this notice. CPSC may post all comments received without change, including any personal identifiers, contact information, or other personal information provided, to: <https://www.regulations.gov>. Do not submit electronically: Confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you wish to submit such information, please submit it according to the instructions for written submissions.

Docket: For access to the docket to read background documents or comments received, go to: <https://www.regulations.gov>, and insert the docket number, CPSC–2021–0006, into the “Search” box, and follow the prompts. The proposed guidance is available under “Supporting and Related Material.” It is also available on the Commission’s website at: <https://cpsc.gov/s3fs-public/NOA-Proposed-Guidance-on-Alternative-Test-Methods-and-Integrated-Testing-Approaches.pdf?NDYVpNRIAMpOPJDPzlt770dvxnvPJHh6> and from the Commission’s Division of the Secretariat.

FOR FURTHER INFORMATION CONTACT: John Gordon, Toxicologist, Directorate for Health Sciences, U.S. Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; telephone: 301–987–2025; email: jgordon@cpsc.gov.

SUPPLEMENTARY INFORMATION:

A. Background

The Federal Hazardous Substances Act (FHSA), 15 U.S.C. 1261–1275, requires that hazardous substances bear certain cautionary statements on their labels. Manufacturers may perform toxicological tests to determine whether such products require cautionary labeling addressing the hazard. Although animals are still used in toxicological testing, most governmental agencies support reduced use of animals in testing, by promoting the acceptance of data from alternative test methods.

In 1997, the National Institute of Environmental Health Sciences

(NIEHS), the National Toxicology Program (NTP), and 13 federal agencies (including CPSC) joined to form the Interagency Coordinating Committee for the Validation of Alternative Methods (ICCVAM). ICCVAM sponsors scientific review of non-animal tests (known as New Approach Methodologies or NAMs) that may reduce, refine, or replace animal tests in evaluating potential hazards. Reviews from ICCVAM and other federal agencies can provide a basis for regulatory agencies, such as CPSC, to consider non-animal testing alternatives for use in regulatory decision making. In the past, CPSC staff relied upon ICCVAM’s validation of new alternative testing methods, as reliable test methods to determine compliance with the labeling requirements of the FHSA. However, ICCVAM no longer formally validates test methods.

In 2012, CPSC issued a policy on non-animal or alternative testing methods to support labeling requirements under the FHSA, as codified under 16 CFR 1500.232 (Animal Testing Policy). CPSC’s website lists current CPSC-accepted alternative test methods and their conditions of use.¹ Since 2012, new advancements in toxicological testing, and, in particular, with NAMs, have occurred. NAMs include *in vitro* (in test tube), *in chemico* (all chemical test, no biological material), or *in silico* (computer models) methods and approaches used to test for toxicological effects in place of animal testing. In some cases, NAMs are combined with other NAMs or existing *in vivo* (animal) data to form an “integrated approach to testing and assessment” (IATAs).

The Commission reaffirms its policy to find alternatives to traditional animal testing that replace animals, reduce the number of animals tested, and decrease the pain and suffering in animals associated with testing household products. As such, the Commission strongly encourages all agency stakeholders to submit for evaluation by CPSC staff any scientifically validated alternative test methods that do not require animal testing for determining compliance with the labeling requirements under the FHSA.

Because ICCVAM no longer formally validates test methods, to assist stakeholders, including the public, manufacturers, test method developers, and test laboratories, in determining what test methods are deemed reliable for determining compliance with the labeling requirements under the FHSA,

¹ <https://www.cpsc.gov/Business-Manufacturing/Testing-Certification/Recommended-Procedures-Regarding-the-CPSCs-Policy-on-Animal-Testing/>.

CPSC staff drafted proposed guidance clarifying staff's informational requirements and process for evaluating NAMs and IATAs. As described in the proposed guidance, the types of information CPSC staff would use to evaluate NAMs or IATAs submitted to CPSC would include (but not be limited to): Concordance and reproducibility data; false positive and false negative rates; applicability domain; test endpoint; validation studies; or any other pertinent information needed to make a determination. The proposed guidance also includes an optional NAM nomination form, which can be used to organize information about a NAM or IATA for CPSC staff evaluation. Such non-animal alternative test methods, if accepted by CPSC, would be considered reliable test methods for determining compliance with the labeling requirements under the FHSA. Additionally, CPSC would continue to list CPSC-accepted alternative test methods on CPSC's website.

The proposed guidance is not a rule and does not establish legal requirements. The proposed guidance is intended to inform stakeholders about what information CPSC staff uses to evaluate NAMs or IATAs for FHSA labeling determinations. The proposed guidance also informs stakeholders of CPSC staff's process for evaluating that information. Depending on the complexity of specific NAMs or IATAs, the information discussed in the guidance may or may not apply; and in some instances, staff may need additional information not specifically described in the guidance document to make an evaluation. The proposed guidance is available at: <https://www.regulations.gov> under docket number, CPSC-2021-0006, under "Supporting and Related Material", on the Commission's website at: <https://cpsc.gov/s3fs-public/NOA-Proposed-Guidance-on-Alternative-Test-Methods-and-Integrated-Testing-Approaches.pdf?NDYVpNRIAMpOPJDPzlt770dvxnvpJHh6>, and from the CPSC's Division of the Secretariat, as provided in the ADDRESSES section of this notice.

B. Request for Comments

The Commission invites comments on the "Proposed Guidance for Industry and Test Method Developers: CPSC Staff Evaluation of Alternative Test Methods and Integrated Testing Approaches and Data Generated from Such Methods to Support FHSA Labeling Requirements." The CPSC will consider all timely comments before finalizing the guidance. Comments should be submitted by June 14, 2021. Information on how to submit comments can be

found in the ADDRESSES section of this notice.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2021-06567 Filed 3-30-21; 8:45 am]

BILLING CODE 6355-01-P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Application Package for AmeriCorps VISTA Application and Reporting Forms

AGENCY: Corporation for National and Community Service.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Corporation for National and Community Service (operating as AmeriCorps) has submitted a public information collection request (ICR) entitled Application Package for AmeriCorps VISTA Application and Reporting Forms for review and approval in accordance with the Paperwork Reduction Act.

DATES: Written comments must be submitted to the individual and office listed in the ADDRESSES section by April 30, 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 this ICR, with applicable supporting documentation, may be obtained by calling AmeriCorps, Kelly Daly at 202-606-6849 or by email to kdaly@cns.gov.

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, 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;

- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose 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

A 60-day Notice requesting public comment was published in the **Federal Register** on November 30, 2020 at Vol. 85, No. 230, Page 76542. This comment period ended January 29, 2021. Zero public comments were received from this Notice.

Title of Collection: Application Package for AmeriCorps VISTA Application and Reporting Forms.

OMB Control Number: 3045-0038.

Type of Review: Renewal.

Respondents/Affected Public: Organizations and State, Local or Tribal Governments.

Total Estimated Number of Annual Responses: 850.

Total Estimated Number of Annual Burden Hours: 20,450.

Abstract: AmeriCorps is revising its VISTA application and reporting forms to remove duplicative questions, improve readability, and reflect changes in reporting requirements, including a reduction in frequency of programmatic reporting.

Dated: March 25, 2021.

Margery Ansara,

Director, AmeriCorps VISTA.

[FR Doc. 2021-06574 Filed 3-30-21; 8:45 am]

BILLING CODE 6050-28-P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

Negotiation of a Renewal of the Reciprocal Defense Procurement Memorandum of Understanding with the Ministry of Defense of Japan

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Request for public comments.

SUMMARY: On behalf of the U.S. Government, DoD is contemplating a renewal of Reciprocal Defense Procurement Memorandum of Understanding with the Ministry of Defense of Japan. DoD is requesting industry feedback regarding its experience in public defense

procurements conducted by or on behalf of the Japanese Ministry of Defense or Armed Forces.

DATES: Comments must be received by April 30, 2021.

ADDRESSES: Submit comments to Defense Pricing and Contracting, Attn: Mr. Gregory D. Snyder, 3060 Defense Pentagon, Room 3B938, Washington, DC 20301–3060; or by email to gregory.d.snyder.civ@mail.mil.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory D. Snyder, telephone 703–614–0719.

SUPPLEMENTARY INFORMATION: DoD has concluded a Reciprocal Defense Procurement Memorandum of Understanding (RDP MOU) with each of the 27 “qualifying” countries at the level of the Secretary of Defense and his counterpart. The purpose of an RDP MOU is to promote rationalization, standardization, and interoperability of conventional defense equipment with allies and other friendly governments. These RDP MOUs provide a framework for ongoing communication regarding market access and procurement matters that enhance effective defense cooperation.

RDP MOUs generally include language by which the Parties agree that their defense procurements will be conducted in accordance with certain implementing procedures. These procedures relate to—

- Publication of notices of proposed purchases;
- The content and availability of solicitations for proposed purchases;
- Notification to each unsuccessful offeror;
- Feedback, upon request, to unsuccessful offerors concerning the reasons they were not allowed to participate in a procurement or were not awarded a contract; and
- Provision for the hearing and review of complaints arising in connection with any phase of the procurement process to ensure that, to the extent possible, complaints are equitably and expeditiously resolved.

Based on the RDP MOU, each country affords the other country certain benefits on a reciprocal basis consistent with national laws and regulations. The benefits that the United States accords to the products of qualifying countries include the following:

- Offers of qualifying country end products are evaluated without applying the price differentials otherwise required by the Buy American statute and the Balance of Payments Program.
- The chemical warfare protection clothing restrictions in 10 U.S.C. 2533a and the specialty metals restriction in

10 U.S.C. 2533b(a)(1) do not apply to products manufactured in a qualifying country.

- Customs, taxes, and duties are waived for qualifying country end products and components of defense procurements.

If DoD (for the U.S. Government) renews an RDP MOU with the Ministry of Defense of Japan, then Japan would continue to be listed as one of the “qualifying countries” in the definition of “qualifying country” at Defense Federal Acquisition Regulation Supplement (DFARS) 225.003, and offers of products of Japan, or that contain components from Japan, would continue to be afforded the benefits available to all qualifying countries. This also means that U.S. products would continue to be exempt from any analogous “Buy Japan” laws or policies applicable to procurements by the Japan Ministry of Defense or Armed Forces.

While DoD is evaluating Japan’s laws and regulations in this area, DoD would benefit from U.S. industry’s experience in participating in Japan’s public defense procurements. DoD is, therefore, asking U.S. firms that have participated or attempted to participate in procurements by or on behalf of Japan’s Ministry of Defense or Armed Forces to let us know if the procurements were conducted with transparency, integrity, fairness, and due process in accordance with published procedures, and if not, the nature of the problems encountered.

DoD is also interested in comments relating to the degree of reciprocity that exists between the United States and Japan when it comes to the openness of defense procurements to offers of products from the other country.

Jennifer D. Johnson,
Regulatory Control Officer, Defense Acquisition Regulations System.

[FR Doc. 2021–06591 Filed 3–30–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2020–0038; OMB Control Number 0750–0004]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement (DFARS); Assessing Contractor Implementation of Cybersecurity Requirements

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System 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 April 30, 2021.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS), Assessing Contractor Implementation of Cybersecurity Requirements; OMB Control Number 0750–0004.

Type of Request: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Obligation to Respond: Required to obtain or retain benefits.

DoD estimates the annual public reporting burden for the information collection as follows:

Reporting Frequency: On occasion.

a. Basic Assessment

Respondents: 13,068.

Responses per respondent: 1.

Annual responses: 13,068.

Hours per Response: 0.75.

Annual Burden Hours: 9,801.

b. Medium Assessment

Respondents: 200.

Responses per respondent: 1.

Annual responses: 200.

Hours per Response: 8.

Annual Burden Hours: 1,600.

c. High Assessment

Respondents: 110.

Responses per respondent: 1.

Annual responses: 110.

Hours per Response: 420.

Annual Burden Hours: 46,200.

d. Total Public Burden (All Entities)

Respondents: 13,068.

Total annual responses: 13,378.

Total burden hours: 57,601.

e. Total Public Burden (Small Entities)

Respondents: 8,823.

Total annual responses: 9,023.

Total burden hours: 41,821.

Needs and Uses: The collection of information is necessary for DoD to immediately begin assessing where vulnerabilities in its supply chain exist and take steps to correct such deficiencies. In addition, the collection of information is necessary to ensure Defense Industrial Base (DIB) contractors that have not fully implemented the NIST SP 800–171 security requirements pursuant to DFARS clause 252.204–7012, Safeguarding Covered Defense

Information and Cyber Incident Reporting, begin correcting these deficiencies immediately.

This collection of information is implemented in the DFARS through the provision at 252.204–7019, Notice of NIST SP 800–171 DoD Assessment Requirement, and the clause at 252.204–7020, NIST SP 800–171 DoD Assessment Requirements. This information collection covers the following requirements:

- DFARS provision 252.204–7019, Notice of NIST SP 800–171 DoD Assessment Requirement, is prescribed for use in all solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial items, except for solicitations solely for the acquisition of commercially available off-the-shelf (COTS) items. Per the provision, if an offeror is required to have implemented NIST SP 800–171 per DFARS clause 252.204–7012, then the offeror shall have a current assessment posted in the Supplier Performance Risk System (SPRS) for each covered contractor information system that is relevant to the offer, contract, task order, or delivery order in order to be considered for award. If the offeror does not have summary level scores of a current NIST SP 800–171 DoD Assessment (*i.e.*, not more than 3 years old, unless a lesser time is specified in the solicitation) posted in SPRS, the offeror may conduct and submit a Basic Assessment for posting in SPRS.

- DFARS clause 252.204–7020, NIST SP 800–171 DoD Assessment Requirements, is prescribed for use in all solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, except for solicitations and contracts solely for the acquisition of COTS items. The clause requires the contractor to provide the Government access to its facilities, systems, and personnel in order to conduct a Medium or High Assessment, if necessary. For Basic Assessments, the contractor may submit summary level scores for posting to SPRS. Medium Assessments are assumed to be conducted by DoD Components, primarily by Program Management Office cybersecurity personnel, in coordination with the Defense Contract Management Agency (DCMA) Defense Industrial Base Cybersecurity Assessment Center (DIBCAC), as part of a separately scheduled visit (*e.g.*, for a Critical Design Review). High Assessments will be conducted by, or in conjunction with, the DCMA DIBCAC. The Department may choose to conduct a Medium or High Assessment when

warranted based on the criticality of the program(s)/technology(ies) associated with the contracted effort(s). For example, a Medium Assessment may be initiated by a Program Office that has determined that the risk associated with their programs warrants going beyond the Basic self-assessment. The results of that Medium Assessment may satisfy the Program Office, or may indicate the need for a High assessment. DoD will provide Medium and High Assessment summary level scores to the contractor and offer the opportunity for rebuttal and adjudication of assessment summary level scores prior to posting the summary level scores to SPRS. The requirements of this clause flow down to subcontractors.

Comments and recommendations on the proposed information collection should be sent to Ms. Susan Minson, DoD Desk Officer, at *Oira_submission@omb.eop.gov*. Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

You may also submit comments, identified by docket number and title, by the following method: *Federal eRulemaking Portal: https://www.regulations.gov*. Follow the instructions for submitting comments.

DoD Clearance Officer: Ms. Angela James. Requests for copies of the information collection proposal should be sent to Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil*.

Jennifer D. Johnson,
Regulatory Control Officer, Defense Acquisition Regulations System.

[FR Doc. 2021–06571 Filed 3–30–21; 8:45 am]

BILLING CODE 6820–ep–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2021–0003; OMB Control Number 0704–0483]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement (DFARS); Independent Research and Development Technical Descriptions

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System 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 April 30, 2021.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS), Independent Research and Development Technical Descriptions; OMB Control Number 0704–0483.

Type of Request: Revision and extension of a currently approved collection.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Obligation to Respond: Required to obtain or retain benefits.

Reporting Frequency: On occasion.

Number of Respondents: 69.

Responses per Respondent: 90.49, approximately.

Annual Responses: 6,244.

Average Burden per Response: 0.5 hour.

Annual Burden Hours: 3,122.

Needs and Uses: DFARS 231.205–18 requires contractors to report independent research and development (IR&D) projects to the Defense Technical Information Center (DTIC) using DTIC's online IR&D database. The inputs must be updated at least annually and when the project is completed. The data provide in-process information on IR&D projects for which DoD reimburses the contractor as an allowable indirect expense. In addition to improving the Department's ability to determine whether contractor IR&D costs are allowable, the data provide visibility into the technical content of industry IR&D activities to meet DoD needs.

Comments and recommendations on the proposed information collection should be sent to Ms. Susan Minson, DoD Desk Officer, at *Oira_submission@omb.eop.gov*. Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

You may also submit comments, identified by docket number and title, by the following method: *Federal eRulemaking Portal: https://www.regulations.gov*. Follow the instructions for submitting comments.

DoD Clearance Officer: Ms. Angela James. Requests for copies of the information collection proposal should be sent to Ms. James at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil*.

Jennifer D. Johnson,
Regulatory Control Officer, Defense Acquisition Regulations System.

[FR Doc. 2021–06570 Filed 3–30–21; 8:45 am]

BILLING CODE 6820–ep–P

DEPARTMENT OF DEFENSE**Defense Acquisition Regulations System**

[Docket Number DARS–2021–0007; OMB Control Number 0704–0479]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement (DFARS) Part 234 and Related Clause, Earned Value Management System

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. *DoD invites comments on:* Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection requirement for use through July 31, 2021. DoD proposes that OMB extend its approval for three additional years.

DATES: DoD will consider all comments received by June 1, 2021.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0479, using any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments.
- *Email:* osd.dfars@mail.mil. Include OMB Control Number 0704–0479 in the subject line of the message.
- *Mail:* Defense Acquisition Regulations System, Attn: Ms. Heather Kitchens, OUSD(A&S)DPC(DARS), 3060 Defense Pentagon, Room 3B938, Washington, DC 20301–3060.

Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Heather Kitchens, 571–372–6104.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 234 and related clause at 252.234–7002, Earned Value Management System; OMB Control Number 0704–0479.

Type of Request: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit entities.

Respondent's Obligation: Required to obtain or retain benefits.

Reporting Frequency: On occasion.

Number of Respondents: 10.

Responses per Respondent: 1.

Annual Responses: 10.

Average Burden per Response: 676 hours.

Annual Response Burden Hours: 6,760.

Needs and Uses: DFARS clause 252.242–7005, Contractor Business Systems, requires contractors to respond to written determinations of significant deficiencies in the contractor's business systems as defined in the clause. The information contractors are required to submit in response to findings of significant deficiencies in their accounting system, estimating system, material management and accounting system, and purchasing system has previously been approved by the Office of Management and Budget. This request specifically addresses information required by DFARS clause 252.234–7002, Earned Value Management System, which requires contractors to respond in writing to initial and final determinations of significant deficiencies in the contractor's earned value management system. The requirements apply to entities that are contractually required to maintain an earned value management system. DoD needs this information to document actions to correct significant deficiencies in contractor business systems. DoD contracting officers use the information to mitigate the risk of unallowable and unreasonable costs being charged on government contracts.

Jennifer D. Johnson,

Regulatory Control Officer, Defense Acquisition Regulations System.

[FR Doc. 2021–06569 Filed 3–30–21; 8:45 am]

BILLING CODE 6820–ep–P

DEPARTMENT OF DEFENSE**Defense Acquisition Regulations System**

[Docket Number DARS–2021–0008; OMB Control Number 0704–0255]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Construction and Architect-Engineer Contracts

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, DoD announces the proposed extension of a public information collection requirement, and seeks public comment on the provisions thereof. DoD invites comments on: Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; the accuracy of the estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection requirement for use through July 21, 2021. DoD proposes that OMB extend its approval for an additional three years.

DATES: DoD will consider all comments received by June 1, 2021.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0255, using any of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments.
- *Email:* osd.dfars@mail.mil. Include OMB Control Number 0704–0255 in the subject line of the message.
- *Fax:* 571–372–6094.
- *Mail:* Defense Acquisition Regulations System, Attn: Ms. Barbara J. Trujillo, OUSD(A&S)DPC/DARS, 3060 Defense Pentagon, Room 3B938, Washington, DC 20301–3060.

Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara J. Trujillo, 571–372–6102.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 236, Construction and Architect-Engineer Contracts, and related clauses at DFARS 252.236; OMB Control Number 0704–0255.

Type of Request: Revision and extension of a currently approved collection.

Affected Public: Businesses and other for-profit entities.

Respondent's Obligation: Required to obtain or retain benefits.

Number of Respondents: 1,691.

Responses per Respondent: 5.

Annual Responses: 8,554.

Average Burden per Response: 12.

Annual Burden Hours: 96,782.

Reporting Frequency: On occasion.

Needs and Uses: DoD contracting officers need this information to evaluate contractor proposals for contract modifications; to determine that a contractor has removed obstructions to navigation; to review contractor requests for payment for mobilization and preparatory work; to determine reasonableness of costs allocated to mobilization and demobilization; and to determine eligibility for the 20 percent evaluation preference for United States firms in the award of some overseas construction contracts.

DFARS 236.570(a) prescribes use of the clause at DFARS 252.236–7000, Modification Proposals—Price Breakdown, in all fixed-price construction solicitations and contracts. The clause requires the contractor to submit a price breakdown with any proposal for a contract modification.

DFARS 236.570(b) prescribes use of the following clauses in fixed-price construction contracts and solicitations as applicable:

(1) The clause at DFARS 252.236–7002, Obstruction of Navigable Waterways, requires the contractor to notify the contracting officer of obstructions in navigable waterways.

(2) The clause at DFARS 252.236–7003, Payment for Mobilization and

Preparatory Work, requires the contractor to provide supporting documentation when submitting requests for payment for mobilization and preparatory work.

(3) The clause at DFARS 252.236–7004, Payment for Mobilization and Demobilization, permits the contracting officer to require the contractor to furnish cost data justifying the percentage of the cost split between mobilization and demobilization, if the contracting officer believes that the proposed percentages do not bear a reasonable relation to the cost of the work.

DFARS 236.570(c) prescribes use of the following provisions in solicitations for military construction contracts that are funded with military construction appropriations and are estimated to exceed \$1,000,000:

(1) The provision at DFARS 252.236–7010, Overseas Military Construction—Preference for United States Firms, when contract performance will be in a United States outlying area in the Pacific or in a country bordering the Arabian Gulf, requires an offeror to specify whether or not it is a United States firm.

(2) The provision at DFARS 252.236–7012, Military Construction on Kwajalein Atoll—Evaluation Preference, when contract performance will be on Kwajalein Atoll, requires an offeror to specify whether it is a United States firm, or on Kwajalein Atoll, status as a Marshallese firm.

Jennifer D. Johnson,
Regulatory Control Officer, Defense Acquisition Regulations System.

[FR Doc. 2021–06568 Filed 3–30–21; 8:45 am]

BILLING CODE 6820–ep–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Revised Non-Foreign Overseas Per Diem Rates

AGENCY: Defense Human Resources Activity, Department of Defense (DoD).

ACTION: Notice of revised per diem rates in non-foreign areas outside the Continental U.S.

SUMMARY: Defense Human Resources Activity publishes this Civilian Personnel Per Diem Bulletin Number 316. Bulletin Number 316 lists current per diem rates prescribed for reimbursement of subsistence expenses while on official Government travel to Alaska, Hawaii, the Commonwealth of Puerto Rico, and the possessions of the United States. The Fiscal Year (FY) 2021 lodging rate review resulted in lodging rate changes in certain locations.

DATES: The updated rates take effect April 1, 2021.

FOR FURTHER INFORMATION CONTACT: Ms. Shelly L. Greendyk, 571–372–1249.

SUPPLEMENTARY INFORMATION: This document notifies the public of revisions in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance Committee for travel to non-foreign areas outside the continental United States. The FY 2021 lodging rate review for Guam, Northern Mariana Islands, and the U.S. Virgin Islands resulted in lodging rate changes in certain locations. Bulletin Number 316 is published in the **Federal Register** to ensure that Government travelers outside the Department of Defense are notified of revisions to the current reimbursement rates.

If you believe the lodging, meal or incidental allowance rate for a locality listed in the following table is insufficient, you may request a rate review for that location. For more information about how to request a review, please see the Defense Travel Management Office's Per Diem Rate Review Frequently Asked Questions (FAQ) page at <https://www.defensetravel.dod.mil/site/faqraterrev.cfm>.

Dated: March 26, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

State or territory	Locality	Season start	Season end	Lodging	M&IE	Total per diem	Effective date
ALASKA	[OTHER]	01/01	12/31	175	113	288	10/01/2020
ALASKA	ADAK	01/01	12/31	175	117	292	10/01/2020
ALASKA	ANCHORAGE [INCL NAV RES]	01/01	12/31	229	125	354	10/01/2020
ALASKA	BARROW	05/15	09/14	326	129	455	10/01/2020
ALASKA	BARROW	09/15	05/14	252	129	381	10/01/2020
ALASKA	BARTER ISLAND LRRS	01/01	12/31	175	113	288	10/01/2020
ALASKA	BETHEL	01/01	12/31	219	101	320	10/01/2020
ALASKA	BETTLES	01/01	12/31	175	113	* 288	10/01/2020
ALASKA	CAPE LISBURNE LRRS	01/01	12/31	175	113	288	10/01/2020
ALASKA	CAPE NEWENHAM LRRS	01/01	12/31	175	113	288	10/01/2020
ALASKA	CAPE ROMANZOF LRRS	01/01	12/31	175	113	288	10/01/2020
ALASKA	CLEAR AB	01/01	12/31	175	113	288	10/01/2020
ALASKA	COLD BAY	01/01	12/31	175	113	288	10/01/2020

State or territory	Locality	Season start	Season end	Lodging	M&IE	Total per diem	Effective date
ALASKA	COLD BAY LRRS	01/01	12/31	175	113	288	10/01/2020
ALASKA	COLDFOOT	01/01	12/31	219	93	312	10/01/2020
ALASKA	COPPER CENTER	01/01	12/31	175	115	290	10/01/2020
ALASKA	CORDOVA	03/01	10/31	175	106	281	10/01/2020
ALASKA	CORDOVA	11/01	02/28	150	106	256	10/01/2020
ALASKA	CRAIG	05/01	09/30	139	94	233	10/01/2020
ALASKA	CRAIG	10/01	04/30	109	94	203	10/01/2020
ALASKA	DEADHORSE	01/01	12/31	120	113	*233	10/01/2020
ALASKA	DELTA JUNCTION	01/01	12/31	175	101	276	10/01/2020
ALASKA	DENALI NATIONAL PARK	06/01	09/30	164	98	258	10/01/2020
ALASKA	DENALI NATIONAL PARK	10/01	05/31	114	98	188	10/01/2020
ALASKA	DILLINGHAM	07/01	08/31	320	113	433	10/01/2020
ALASKA	DILLINGHAM	09/01	06/30	298	113	411	10/01/2020
ALASKA	DUTCH HARBOR-UNALASKA	01/01	12/31	175	129	304	10/01/2020
ALASKA	EARECKSON AIR STATION	01/01	12/31	146	74	220	10/01/2020
ALASKA	EIELSON AFB	05/01	09/15	154	100	254	10/01/2020
ALASKA	EIELSON AFB	09/16	04/30	79	100	179	10/01/2020
ALASKA	ELFIN COVE	01/01	12/31	175	113	288	10/01/2020
ALASKA	ELMENDORF AFB	01/01	12/31	229	125	354	10/01/2020
ALASKA	FAIRBANKS	05/01	09/15	154	100	254	10/01/2020
ALASKA	FAIRBANKS	09/16	04/30	79	100	179	10/01/2020
ALASKA	FORT YUKON LRRS	01/01	12/31	175	113	288	10/01/2020
ALASKA	FT. GREELY	01/01	12/31	175	101	276	10/01/2020
ALASKA	FT. RICHARDSON	01/01	12/31	229	125	354	10/01/2020
ALASKA	FT. WAINWRIGHT	05/01	09/15	154	100	254	10/01/2020
ALASKA	FT. WAINWRIGHT	09/16	04/30	79	100	179	10/01/2020
ALASKA	GAMBELL	01/01	12/31	175	113	288	10/01/2020
ALASKA	GLENNALLEN	01/01	12/31	175	115	290	10/01/2020
ALASKA	HAINES	01/01	12/31	149	113	262	10/01/2020
ALASKA	HEALY	06/01	09/30	164	98	262	10/01/2020
ALASKA	HEALY	10/01	05/31	114	98	212	10/01/2020
ALASKA	HOMER	05/01	09/30	189	124	313	10/01/2020
ALASKA	HOMER	10/01	04/30	104	124	228	10/01/2020
ALASKA	JB ELMENDORF-RICHARDSON	01/01	12/31	229	125	354	10/01/2020
ALASKA	JUNEAU	02/01	09/30	249	118	367	10/01/2020
ALASKA	JUNEAU	10/01	01/31	175	118	293	10/01/2020
ALASKA	KAKTOVIK	01/01	12/31	175	129	*304	10/01/2020
ALASKA	KAVIK CAMP	01/01	12/31	175	113	*288	10/01/2020
ALASKA	KENAI-SOLDOTNA	05/01	09/30	151	113	264	10/01/2020
ALASKA	KENAI-SOLDOTNA	10/01	04/30	99	113	212	10/01/2020
ALASKA	KENNICOTT	01/01	12/31	175	85	260	10/01/2020
ALASKA	KETCHIKAN	04/01	09/30	250	118	368	10/01/2020
ALASKA	KETCHIKAN	10/01	03/31	140	118	258	10/01/2020
ALASKA	KING SALMON	01/01	12/31	175	89	264	10/01/2020
ALASKA	KING SALMON LRRS	01/01	12/31	175	113	288	10/01/2020
ALASKA	KLAWOCK	05/01	09/30	139	94	233	10/01/2020
ALASKA	KLAWOCK	10/01	04/30	109	94	203	10/01/2020
ALASKA	KODIAK	04/01	09/30	207	109	316	10/01/2020
ALASKA	KODIAK	10/01	03/31	123	109	232	10/01/2020
ALASKA	KOTZEBUE	01/01	12/31	175	121	296	10/01/2020
ALASKA	KULIS AGS	01/01	12/31	229	125	354	10/01/2020
ALASKA	MCCARTHY	01/01	12/31	175	85	260	10/01/2020
ALASKA	MCGRATH	01/01	12/31	175	113	*288	10/01/2020
ALASKA	MURPHY DOME	05/01	09/15	154	100	254	10/01/2020
ALASKA	MURPHY DOME	09/16	04/30	79	100	179	10/01/2020
ALASKA	NOME	01/01	12/31	200	118	318	10/01/2020
ALASKA	NOSC ANCHORAGE	01/01	12/31	229	125	354	10/01/2020
ALASKA	NUIQSUT	01/01	12/31	175	113	*288	10/01/2020
ALASKA	OLIKTOK LRRS	01/01	12/31	175	113	288	10/01/2020
ALASKA	PALMER	01/01	12/31	175	117	292	10/01/2020
ALASKA	PETERSBURG	01/01	12/31	130	108	238	10/01/2020
ALASKA	POINT BARROW LRRS	01/01	12/31	175	113	288	10/01/2020
ALASKA	POINT HOPE	01/01	12/31	175	113	*288	10/01/2020
ALASKA	POINT LONELY LRRS	01/01	12/31	175	113	288	10/01/2020
ALASKA	PORT ALEXANDER	01/01	12/31	175	113	*288	10/01/2020
ALASKA	PORT ALSWORTH	01/01	12/31	175	113	288	10/01/2020
ALASKA	PRUDHOE BAY	01/01	12/31	120	113	*233	10/01/2020
ALASKA	SELDOVIA	05/01	09/30	189	124	313	10/01/2020
ALASKA	SELDOVIA	10/01	04/30	104	124	223	10/01/2020
ALASKA	SEWARD	04/01	09/30	299	146	445	10/01/2020
ALASKA	SEWARD	10/01	03/31	104	146	250	10/01/2020
ALASKA	SITKA-MT. EDGE CUMBE	04/01	09/30	220	116	336	10/01/2020
ALASKA	SITKA-MT. EDGE CUMBE	10/01	03/31	189	116	305	10/01/2020
ALASKA	SKAGWAY	04/01	09/30	250	118	368	10/01/2020
ALASKA	SKAGWAY	10/01	03/31	140	118	258	10/01/2020
ALASKA	SLANA	01/01	12/31	175	113	288	10/01/2020
ALASKA	SPARREVOHN LRRS	01/01	12/31	175	113	288	10/01/2020
ALASKA	SPRUCE CAPE	04/01	09/30	207	109	316	10/01/2020
ALASKA	SPRUCE CAPE	10/01	03/31	123	109	232	10/01/2020
ALASKA	ST. GEORGE	01/01	12/31	175	113	288	10/01/2020
ALASKA	TALKEETNA	01/01	12/31	175	120	295	10/01/2020
ALASKA	TANANA	01/01	12/31	200	118	318	10/01/2020
ALASKA	TATALINA LRRS	01/01	12/31	175	113	288	10/01/2020

State or territory	Locality	Season start	Season end	Lodging	M&IE	Total per diem	Effective date
ALASKA	TIN CITY LRRS	01/01	12/31	175	113	288	10/01/2020
ALASKA	TOK	01/01	12/31	105	113	218	10/01/2020
ALASKA	VALDEZ	05/16	09/15	212	110	322	10/01/2020
ALASKA	VALDEZ	09/16	05/15	154	110	264	10/01/2020
ALASKA	WAINWRIGHT	01/01	12/31	275	77	352	10/01/2020
ALASKA	WAKE ISLAND DIVERT AIRFIELD	01/01	12/31	175	113	288	10/01/2020
ALASKA	WASILLA	05/01	09/30	190	94	284	10/01/2020
ALASKA	WASILLA	10/01	04/30	100	94	194	10/01/2020
ALASKA	WRANGELL	04/01	09/30	250	118	368	10/01/2020
ALASKA	WRANGELL	10/01	03/31	140	118	258	10/01/2020
ALASKA	YAKUTAT	06/01	09/30	350	111	461	10/01/2020
ALASKA	YAKUTAT	10/01	05/31	150	111	261	10/01/2020
AMERICAN SAMOA	AMERICAN SAMOA	01/01	12/31	139	86	225	07/01/2019
AMERICAN SAMOA	PAGO PAGO	01/01	12/31	139	86	225	07/01/2019
GUAM	GUAM (INCL ALL MIL INSTAL)	01/01	12/31	159	96	255	04/01/2021
GUAM	JOINT REGION MARIANAS (ANDERSEN)	01/01	12/31	159	96	255	04/01/2021
GUAM	JOINT REGION MARIANAS (NAVAL BASE)	01/01	12/31	159	96	255	04/01/2021
GUAM	TAMUNING	01/01	12/31	159	96	255	04/01/2021
HAWAII	[OTHER]	01/01	12/31	218	149	367	01/01/2021
HAWAII	CAMP H M SMITH	01/01	12/31	177	149	326	01/01/2021
HAWAII	CNI NAVMAG PEARL HARBOR- HICKAM	01/01	12/31	177	149	326	01/01/2021
HAWAII	FT. DERUSSEY	01/01	12/31	177	149	326	01/01/2021
HAWAII	FT. SHAFTER	01/01	12/31	177	149	326	01/01/2021
HAWAII	HICKAM AFB	01/01	12/31	177	149	326	01/01/2021
HAWAII	HONOLULU	01/01	12/31	177	149	326	01/01/2021
HAWAII	ISLE OF HAWAII: HILO	01/01	12/31	199	120	319	01/01/2021
HAWAII	ISLE OF HAWAII: LOCATIONS OTHER THAN HILO.	01/01	12/31	218	156	374	01/01/2021
HAWAII	ISLE OF KAUAI	01/01	12/31	325	141	466	01/01/2021
HAWAII	ISLE OF LANAI	01/01	12/31	218	134	352	01/01/2021
HAWAII	ISLE OF MAUI	01/01	12/31	304	150	454	01/01/2021
HAWAII	ISLE OF MOLOKAI	01/01	12/31	218	106	324	01/01/2021
HAWAII	ISLE OF OAHU	01/01	12/31	177	149	326	01/01/2021
HAWAII	JB PEARL HARBOR-HICKAM	01/01	12/31	177	149	326	01/01/2021
HAWAII	KAPOLEI	01/01	12/31	177	149	326	01/01/2021
HAWAII	KEKAHA PACIFIC MISSILE RANGE FAC	01/01	12/31	325	141	466	01/01/2021
HAWAII	KILAUEA MILITARY CAMP	01/01	12/31	199	120	319	01/01/2021
HAWAII	LIHUE	01/01	12/31	325	141	466	01/01/2021
HAWAII	MCB HAWAII	01/01	12/31	177	149	326	01/01/2021
HAWAII	NCTAMS PAC WAHIAWA	01/01	12/31	177	149	326	01/01/2021
HAWAII	NOSC PEARL HARBOR	01/01	12/31	177	149	326	01/01/2021
HAWAII	PEARL HARBOR	01/01	12/31	177	149	326	01/01/2021
HAWAII	PMRF BARKING SANDS	01/01	12/31	325	141	466	01/01/2021
HAWAII	SCHOFIELD BARRACKS	01/01	12/31	177	149	326	01/01/2021
HAWAII	TRIPLER ARMY MEDICAL CENTER	01/01	12/31	177	149	326	01/01/2021
HAWAII	WHEELER ARMY AIRFIELD	01/01	12/31	177	149	326	01/01/2021
MIDWAY ISLANDS	MIDWAY ISLANDS	01/01	12/31	125	81	206	01/01/2021
NORTHERN MARIANA ISLANDS.	[OTHER]	01/01	12/31	80	113	182	04/01/2021
NORTHERN MARIANA ISLANDS.	ROTA	01/01	12/31	130	114	244	04/01/2021
NORTHERN MARIANA ISLANDS.	SAIPAN	01/01	12/31	161	113	274	04/01/2021
NORTHERN MARIANA ISLANDS.	TINIAN	01/01	12/31	80	93	162	04/01/2021
PUERTO RICO	[OTHER]	01/01	12/31	154	100	254	06/01/2020
PUERTO RICO	AGUADILLA	01/01	12/31	149	90	239	06/01/2020
PUERTO RICO	BAYAMON	12/01	05/31	195	115	310	06/01/2020
PUERTO RICO	BAYAMON	06/01	11/30	167	115	282	06/01/2020
PUERTO RICO	CAROLINA	12/01	05/31	195	115	310	06/01/2020
PUERTO RICO	CAROLINA	06/01	11/30	167	115	282	06/01/2020
PUERTO RICO	CEIBA	01/01	12/31	159	110	269	06/01/2020
PUERTO RICO	CULEBRA	01/01	12/31	159	105	264	06/01/2020
PUERTO RICO	FAJARDO [INCL ROOSEVELT RDS NAVSTAT].	01/01	12/31	159	110	269	06/01/2020
PUERTO RICO	FT. BUCHANAN [INCL GSA SVC CTR, GUAYNABO].	12/01	05/31	195	115	310	06/01/2020
PUERTO RICO	FT. BUCHANAN [INCL GSA SVC CTR, GUAYNABO].	06/01	11/30	167	115	282	06/01/2020
PUERTO RICO	HUMACAO	01/01	12/31	159	110	269	06/01/2020
PUERTO RICO	LUIS MUNOZ MARIN IAP AGS	12/01	05/31	195	115	310	06/01/2020
PUERTO RICO	LUIS MUNOZ MARIN IAP AGS	06/01	11/30	167	115	282	06/01/2020
PUERTO RICO	LUQUILLO	01/01	12/31	159	110	269	06/01/2020
PUERTO RICO	MAYAGUEZ	01/01	12/31	109	94	203	06/01/2020
PUERTO RICO	PONCE	01/01	12/31	149	130	279	06/01/2020
PUERTO RICO	RIO GRANDE	01/01	12/31	154	85	239	06/01/2020
PUERTO RICO	SABANA SECA [INCL ALL MILITARY]	12/01	05/31	195	115	310	06/01/2020
PUERTO RICO	SABANA SECA [INCL ALL MILITARY]	06/01	11/30	167	115	282	06/01/2020
PUERTO RICO	SAN JUAN & NAV RES STA	12/01	05/31	195	115	310	06/01/2020
PUERTO RICO	SAN JUAN & NAV RES STA	06/01	11/30	167	115	282	06/01/2020
PUERTO RICO	VIEQUES	01/01	12/31	159	94	253	06/01/2020
VIRGIN ISLANDS (U.S.)	ST. CROIX	12/15	04/14	299	120	419	04/01/2021
VIRGIN ISLANDS (U.S.)	ST. CROIX	04/15	12/14	247	120	367	04/01/2021

State or territory	Locality	Season start	Season end	Lodging	M&IE	Total per diem	Effective date
VIRGIN ISLANDS (U.S.)	ST. JOHN	12/04	04/30	230	123	353	04/01/2021
VIRGIN ISLANDS (U.S.)	ST. JOHN	05/01	12/03	170	123	293	04/01/2021
VIRGIN ISLANDS (U.S.)	ST. THOMAS	04/15	12/15	249	118	367	04/01/2021
VIRGIN ISLANDS (U.S.)	ST. THOMAS	12/16	04/14	339	118	457	04/01/2021
WAKE ISLAND	WAKE ISLAND	01/01	12/31	129	70	199	01/01/2021

* Where meals are included in the lodging rate, a traveler is only allowed a meal rate on the first and last day of travel.

[FR Doc. 2021-06634 Filed 3-30-21; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF EDUCATION

[Docket No.: ED-2021-SCC-0050]

Agency Information Collection Activities; Comment Request; Impact Evaluation of Departmentalized Instruction in Elementary Schools

AGENCY: Institute of Education Sciences (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before June 1, 2021.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED-2021-SCC-0050. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the www.regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at ICDocketMgr@ed.gov. Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the PRA Coordinator of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 208C Washington, DC 20202-8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Thomas Wei, 646-428-3892.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Impact Evaluation of Departmentalized Instruction in Elementary Schools.

OMB Control Number: 1850-0942.

Type of Review: An extension without change of a currently approved collection.

Respondents/Affected Public: Individuals and Households.

Total Estimated Number of Annual Responses: 12.

Total Estimated Number of Annual Burden Hours: 80.

Abstract: This study is authorized by Section 8601 of the Every Student Succeeds Act (ESSA), which tasks the U.S. Department of Education with conducting evaluations to build the evidence base in education. Finding creative ways to redeploy existing teachers in the classroom may yield academic benefits to students at little cost. One such strategy is departmentalized instruction, where

each teacher specializes in teaching certain subjects to multiple classes of students instead of teaching all subjects to a single class of students (self-contained instruction). While nearly ubiquitous in secondary schools, departmentalization has only recently become more popular in upper elementary grades. This evaluation is examining the implementation and outcomes of teachers and students as they departmentalize in fourth and fifth grades. In doing so, it will generate valuable evidence on an improvement strategy that low-performing elementary schools identified under ESSA may consider adopting.

Dated: March 25, 2021.

Juliana Pearson,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2021-06556 Filed 3-30-21; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

[Docket No.: ED-2020-SCC-0190]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; HBCU Scholar Recognition Program

AGENCY: Office of the Secretary (OS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved information collection.

DATES: Interested persons are invited to submit comments on or before April 30, 2021.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this information collection request by selecting "Department of Education" under "Currently Under Review," then check "Only Show ICR for Public Comment" checkbox. Comments may also be sent to ICDocketmgr@ed.gov.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Elyse Jones, 202-453-5627.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: HBCU Scholar Recognition Program.

OMB Control Number: 1894-0016.

Type of Review: A revision of a currently approved information collection.

Respondents/Affected Public: Individuals and Households.

Total Estimated Number of Annual Responses: 202.

Total Estimated Number of Annual Burden Hours: 707.

Abstract: This program was designed to recognize current HBCU students for their dedication to academics, leadership and civic engagement. Nominees were asked to submit a nomination package containing a signed nomination form, unofficial transcripts, short essay, resume, and endorsement letter. Items in this package provide the tools necessary to select current HBCU students who are excelling academically and making differences in their community.

Dated: March 26, 2021.

Stephanie Valentine,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2021-06630 Filed 3-30-21; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

[Docket No.: ED-2021-SCC-0051]

Agency Information Collection Activities; Comment Request; Expanding Opportunity Through Quality Charter Schools Program: Technical Assistance To Support Monitoring, Evaluation, Data Collection, and Dissemination of Best Practices

AGENCY: Office of Innovation and Improvement (OII), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before June 1, 2021.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED-2021-SCC-0051. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the www.regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at ICDocketMgr@ed.gov. Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the PRA Coordinator of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W208C Washington, DC 20202-8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection

activities, please contact Nicoisa Jones, (202) 453-6695.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Expanding Opportunity through Quality Charter Schools Program: Technical Assistance to Support Monitoring, Evaluation, Data Collection, and Dissemination of Best Practices.

OMB Control Number: 1855-0016.

Type of Review: Extension without change of a currently approved collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 342.

Total Estimated Number of Annual Burden Hours: 537.

Abstract: This request is for an extension of OMB approval to collect data for the Expanding Opportunity through Quality Charter Schools Program: Technical Assistance to Support Monitoring, Evaluation, Data Collection, and Dissemination of Best Practices formerly titled Charter Schools Program (CSP) Grant Awards Database. This current data collection is being coordinated with the EDFacts Initiative to reduce respondent burden and fully utilize data submitted by States and available to the U.S. Department of

Education (ED). Specifically, under the current data collection, ED collects CSP grant award information from grantees (State agencies, charter management organizations, and some schools) to create a new database of current CSP-funded charter schools. Together, these data allow ED to monitor CSP grant performance and analyze data related to accountability for academic purposes, financial integrity, and program effectiveness.

Dated: March 25, 2021.

Juliana Pearson,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2021-06573 Filed 3-30-21; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD21-8-000]

Technical Conference on Reassessment of the Electric Quarterly Report Requirements; Notice of Technical Conference

Take notice that on May 19, 2021, the Federal Energy Regulatory Commission (Commission) will convene a staff-led technical conference via webcast as part of a reassessment of the Electric Quarterly Report (EQR) requirements. A supplemental notice will be issued prior to the conference with further details regarding the agenda, meeting registration information, and electronic log-in information.

The purpose of this technical conference is to provide a forum for Commission staff, filers, and data users to discuss potential changes to the current EQR data fields. This technical conference is the second in a series of conferences related to a reassessment of the EQR requirements.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to accessibility@ferc.gov or call toll free 1-866-208-3372 (voice) or 202-502-8659 (TTY), or send a FAX to 202-208-2106 with the required accommodations.

For more information about the EQR technical conference, please contact Jeff Sanders of the Commission's Office of Enforcement at (202) 502-6455, or send an email to EQR@ferc.gov. Additional information will also be provided on the EQR web page.

Dated: March 25, 2021.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2021-06618 Filed 3-30-21; 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 electric rate filings:

Docket Numbers:

ER20-2415-002; ER10-2421-005; ER10-2457-003; ER10-2590-008; ER10-2593-008; ER10-2616-019; ER11-4400-016; ER12-1769-008; ER12-2250-006; ER12-2251-006; ER12-2252-007; ER12-2253-006; ER12-75-009; ER14-1569-012; ER14-2245-006; ER14-883-013; ER15-1596-012; ER15-1599-012; ER19-102-005; ER19-158-007; ER19-2803-004; ER19-2806-004; ER19-2807-004; ER19-2809-004; ER19-2810-004; ER19-2811-004.

Applicants: Moss Landing Energy Storage 2, LLC, Moss Landing Power Company LLC, Oakland Power Company LLC, Ambit Northeast, LLC, Cincinnati Bell Energy LLC, Connecticut Gas & Electric, Inc., Dynegy Commercial Asset Management, LLC, Dynegy Energy Services, LLC, Dynegy Energy Services (East), LLC, Dynegy Marketing and Trade, LLC, Dynegy Power Marketing, LLC, Energy Rewards, LLC, Energy Services Providers, Inc., Everyday Energy, LLC, Everyday Energy NJ, LLC, Illinois Power Marketing Company, Luminant Energy Company LLC, Massachusetts Gas & Electric, Inc., Public Power, LLC, Public Power & Utility of Maryland, LLC, Public Power & Utility of NY, Inc, Public Power (PA), LLC, TriEagle Energy, LP, Viridian Energy, LLC, Viridian Energy PA, LLC, Viridian Energy NY, LLC.

Description: Notice of Change in Status of Vistra Southwest MBR Sellers.

Filed Date: 3/24/21.

Accession Number: 20210324-5238.

Comments Due: 5 p.m. ET 4/14/21.

Docket Numbers: ER21-716-002.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Supplement and Correction: Original ISA, SA No. 5692; Queue No. AF1-198 to be effective 6/30/2020.

Filed Date: 3/25/21.

Accession Number: 20210325-5087.

Comments Due: 5 p.m. ET 4/15/21

Docket Numbers: ER21-955-001.

Applicants: California Independent System Operator Corporation.

Description: Tariff Amendment: Amendment to Pending Filing in ER21-955 to be effective 4/1/2021.

Filed Date: 3/25/21.

Accession Number: 20210325-5145.

Comments Due: 5 p.m. ET 4/5/21.

Docket Numbers: ER21-1510-000.

Applicants: Midcontinent Independent System Operator, Inc., Big Rivers Electric Corporation.

Description: § 205(d) Rate Filing: 2021-03-24 BREC Attachment O and GG Filing to be effective 6/1/2021.

Filed Date: 3/24/21.

Accession Number: 20210324-5133.

Comments Due: 5 p.m. ET 4/14/21.

Docket Numbers: ER21-1511-000.

Applicants: Ohio Power Company, AEP Ohio Transmission Company, Inc., American Electric Power Service Corporation, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: AEP submits the Loudonville FA re: ILDSA SA No. 1336 to be effective 5/25/2021.

Filed Date: 3/25/21.

Accession Number: 20210325-5051.

Comments Due: 5 p.m. ET 4/15/21.

Docket Numbers: ER21-1512-000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA/ICSA SA No. 5212 & 5213; Queue Nos. AB2-077/AB2-078/AB2-079 to be effective 9/10/2018.

Filed Date: 3/25/21.

Accession Number: 20210325-5056.

Comments Due: 5 p.m. ET 4/15/21.

Docket Numbers: ER21-1513-000.

Applicants: ISO New England Inc.

Description: § 205(d) Rate Filing: ISO New England Inc.; Ministerial Filing to Conform Tariff Section I.2 to be effective 1/1/2021.

Filed Date: 3/25/21.

Accession Number: 20210325-5057.

Comments Due: 5 p.m. ET 4/15/21.

Docket Numbers: ER21-1514-000.

Applicants: Mid-Atlantic Interstate Transmission, LLC, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: MAIT submits Nine ECSAs, Nos. 5924-5927, 5929-5930, 5935-5937 to be effective 5/25/2021.

Filed Date: 3/25/21.

Accession Number: 20210325-5068.

Comments Due: 5 p.m. ET 4/15/21.

Docket Numbers: ER21-1515-000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA No. 4493, Queue No. AB1-096 to be effective 6/17/2016.

Filed Date: 3/25/21.

Accession Number: 20210325-5120.

Comments Due: 5 p.m. ET 4/15/21.

Docket Numbers: ER21–1516–000.
Applicants: Midcontinent Independent System Operator, Inc., Hoosier Energy Rural Electric Cooperative.

Description: § 205(d) Rate Filing: 2021–03–25 Hoosier Attachment O Filing to be effective 6/1/2021.

Filed Date: 3/25/21.

Accession Number: 20210325–5121.

Comments Due: 5 p.m. ET 4/15/21.

Docket Numbers: ER21–1517–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to WMPA No. 5693, Queue No. AF1–155 to be effective 6/16/2020.

Filed Date: 3/25/21.

Accession Number: 20210325–5155.

Comments Due: 5 p.m. ET 4/15/21.

Docket Numbers: ER21–1518–000.

Applicants: FPL Energy Mower County, LLC.

Description: Tariff Cancellation: Notice of Cancellation to be effective 3/26/2021.

Filed Date: 3/25/21.

Accession Number: 20210325–5158.

Comments Due: 5 p.m. ET 4/15/21.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF21–267–000.

Applicants: Kimberly-Clark Corporation.

Description: Form 556 of Kimberly-Clark Corporation [New Milford Mill].

Filed Date: 12/16/20.

Accession Number: 20201216–5227.

Comments Due: None-Applicable.

Docket Numbers: QF21–515–000.

Applicants: Sonata Green Owner, LLC.

Description: Form 556 of Sonata Green Owner LLC.

Filed Date: 2/18/21.

Accession Number: 20210218–5074.

Comments Due: None-Applicable.

Docket Numbers: QF21–580–000.

Applicants: Susquehanna 1, LLC.

Description: Form 556 of

Susquehanna 1, LLC.

Filed Date: 3/17/21.

Accession Number: 20210317–5193.

Comments Due: None-Applicable.

Docket Numbers: QF21–610–000.

Applicants: Kimberly-Clark Corporation.

Description: Form 556 of Kimberly-Clark Corporation [Owensboro Facility].

Filed Date: 3/23/21.

Accession Number: 20210323–5274.

Comments Due: None-Applicable.

Take notice that the Commission received the following PURPA 210(m)(3) filings:

Docket Numbers: QM21–12–000.

Applicants: Virginia Electric and Power Company.

Description: Application of Virginia Electric and Power Company to Terminate Mandatory Purchase Obligation under the Public Utility Regulatory Policies Act of 1978.

Filed Date: 3/18/21.

Accession Number: 20210318–5016.

Comments Due: 5 p.m. ET 4/15/21.

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: March 25, 2021.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2021–06619 Filed 3–30–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP21–78–000]

ANR Pipeline Company; Notice of Application and Establishing Intervention Deadline

Take notice that on March 12, 2021, ANR Pipeline Company (ANR), 700 Louisiana Street, Suite 700, Houston, TX 77002–2700, filed an application under section 7(c) of the Natural Gas Act (NGA),¹ and Part 157 and 284 of the Commission's regulations,² requesting authorization to construct, own and operate the Wisconsin Access Project (Project). The Project consists of (i) an increase in the firm capacity on ANR's natural gas pipeline by approximately 50,707 dekatherms per day (Dth/d) into Wisconsin, effectuated through modifications to the original design assumptions and software within ANR's engineering models; and, (ii) minor

modifications to the existing meter stations of Coleman, Lena, Meeme, Mosinee, Rhinelander, Suring, and Two Rivers to provide increased delivery point capabilities, all located in Wisconsin. ANR states that the total cost of the Project to be \$5,512,290.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at FERCOnlineSupport@ferc.gov or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding the proposed project should be directed to Alexander Kass, Legal Counsel, ANR Pipeline Company, 700 Louisiana Street, Suite 1300, Houston, Texas, by phone at (832)–320–5226, or by email at alexander_kass@tcenergy.com.

Pursuant to Section 157.9 of the Commission's Rules of Practice and Procedure,³ within 90 days of this Notice the Commission staff will either: Complete its environmental review and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or environmental assessment (EA) for this proposal. The filing of an EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Public Participation

There are two ways to become involved in the Commission's review of

¹ 15 USC 717f(c) (2020).

² 18 CFR 157 and 284 (2020).

³ 18 CFR (Code of Federal Regulations) 157.9.

this project: You can file comments on the project, and you can file a motion to intervene in the proceeding. There is no fee or cost for filing comments or intervening. The deadline for filing a motion to intervene is 5:00 p.m. Eastern Time on April 16, 2021.

Comments

Any person wishing to comment on the project may do so. Comments may include statements of support or objections to the project as a whole or specific aspects of the project. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please submit your comments on or before April 16, 2021.

There are three methods you can use to submit your comments to the Commission. In all instances, please reference the Project docket number CP21-78-000 in your submission.

(1) You may file your comments electronically by using the eComment feature, which is located on the Commission's website at www.ferc.gov under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You may file your comments electronically by using the eFiling feature, which is located on the Commission's website (www.ferc.gov) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on "eRegister." You will be asked to select the type of filing you are making; first select "General" and then select "Comment on a Filing"; or

(3) You can file a paper copy of your comments by mailing them to the following address below. Your written comments must reference the Project docket number CP21-78-000.

To mail via USPS, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To mail via any other courier, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of comments (options 1 and 2 above) and has eFiling staff available to assist you at (202) 502-8258 or FercOnlineSupport@ferc.gov.

Persons who comment on the environmental review of this project will be placed on the Commission's

environmental mailing list, and will receive notification when the environmental documents (EA or EIS) are issued for this project and will be notified of meetings associated with the Commission's environmental review process.

The Commission considers all comments received about the project in determining the appropriate action to be taken. However, the filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding. For instructions on how to intervene, see below.

Interventions

Any person, which includes individuals, organizations, businesses, municipalities, and other entities,⁴ has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure⁵ and the regulations under the NGA⁶ by the intervention deadline for the project, which is April 16, 2021. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as the your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at <https://www.ferc.gov/resources/guides/how-to-intervene.asp>.

There are two ways to submit your motion to intervene. In both instances, please reference the Project docket number CP21-78-000 in your submission.

(1) You may file your motion to intervene by using the Commission's eFiling feature, which is located on the Commission's website (www.ferc.gov) under the link to Documents and Filings. New eFiling users must first create an account by clicking on "eRegister." You will be asked to select the type of filing you are making; first select "General" and then select

"Intervention." The eFiling feature includes a document-less intervention option; for more information, visit <https://www.ferc.gov/docs-filing/efiling/document-less-intervention.pdf>; or

(2) You can file a paper copy of your motion to intervene, along with three copies, by mailing the documents to the address below. Your motion to intervene must reference the Project docket number CP21-78-000.

To mail via USPS, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To mail via any other courier, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of motions to intervene (option 1 above) and has eFiling staff available to assist you at (202) 502-8258 or FercOnlineSupport@ferc.gov.

Motions to intervene must be served on the applicant either by mail or email at: 700 Louisiana Street, Suite 700, Houston, Texas or at alexander_kass@tcenergy.com. Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online. Service can be via email with a link to the document.

All timely, unopposed⁷ motions to intervene are automatically granted by operation of Rule 214(c)(1).⁸ Motions to intervene that are filed after the intervention deadline are untimely, and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations.⁹ A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208-

⁷ The applicant has 15 days from the submittal of a motion to intervene to file a written objection to the intervention.

⁸ 18 CFR 385.214(c)(1).

⁹ 18 CFR 385.214(b)(3) and (d).

⁴ 18 CFR 385.102(d).

⁵ 18 CFR 385.214.

⁶ 18 CFR 157.10.

FERC, or on the FERC website at www.ferc.gov using the “eLibrary” link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to www.ferc.gov/docs-filing/esubscription.asp.

Intervention Deadline: 5:00 p.m. Eastern Time on April 16, 2021.

Dated: March 25, 2021.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2021-06621 Filed 3-30-21; 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: RP21-643-000.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: § 4(d) Rate Filing: Rate Schedules LSS and SS-2 Tracker Filing eff 4/1/2021 to be effective 4/1/2021.

Filed Date: 3/24/21.

Accession Number: 20210324-5005.

Comments Due: 5 p.m. ET 4/5/21.

Docket Numbers: RP21-644-000.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: § 4(d) Rate Filing: Rate Schedule S-2 Tracker Filing (ASA/PCB) eff 12/1/2020 Correction to be effective 12/1/2020.

Filed Date: 3/24/21.

Accession Number: 20210324-5071.

Comments Due: 5 p.m. ET 4/5/21.

Docket Numbers: RP21-645-000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: § 4(d) Rate Filing: 3.24.21 Negotiated Rates—Castleton Commodities Merchant Trading L.P. R-4010-29 to be effective 4/1/2021.

Filed Date: 3/24/21.

Accession Number: 20210324-5080.

Comments Due: 5 p.m. ET 4/5/21.

Docket Numbers: RP21-646-000.

Applicants: Equitrans, L.P.

Description: Tariff Cancellation: Terminated Negotiated Rate Agreement—EQT Energy ITS to be effective 4/1/2021.

Filed Date: 3/24/21.

Accession Number: 20210324-5165.

Comments Due: 5 p.m. ET 4/5/21.

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: March 25, 2021.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2021-06620 Filed 3-30-21; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 2574-000, 2574-090, 2574-091; Project Nos. 2611-088, 2611-090; Project Nos. 2322-068, 2322-069, 2322-070, 2325-000, 2325-096, 2325-097]

Merimil Limited Partnership; Hydro-Kennebec, LLC; Brookfield White Pine Hydro, LLC; Notice of Teleconference

a. Project Names and Numbers: Lockwood Hydroelectric Project No. 2574; Hydro-Kennebec Hydroelectric Project No. 2611; Shawmut Hydroelectric Project No. 2322; and Weston Hydroelectric Project No. 2325.

b. Project licensees: Merimil Limited Partnership; Hydro-Kennebec, LLC; Brookfield White Pine Hydro, LLC.

c. Date and Time of Teleconference: Thursday, April 8, 2021 from 11:00 a.m. to 1:00 p.m. Eastern Standard Time.

d. **FERC Contact:** Marybeth Gay, (202) 502-6125 or Marybeth.Gay@ferc.gov.

e. Purpose of Meeting: Commission staff will hold a teleconference with the National Marine Fisheries Service

(NMFS) and Brookfield Renewable Partners (Brookfield) to discuss issues related to options for moving forward with Endangered Species Act consultation raised by NMFS in recent filings made with the Commission regarding the Lockwood, Hydro-Kennebec, Shawmut, and Weston Projects.

f. Members of the public and intervenors in the referenced proceedings may attend the teleconference; however, participation will be limited to representatives of the NMFS and Brookfield, and the Commission's representatives.

g. Please call or email Marybeth Gay at (202) 502-6125 or Marybeth.Gay@ferc.gov by Wednesday, April 7, 2021, to RSVP and to receive the teleconference call-in information.

Dated: March 25, 2021.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2021-06623 Filed 3-30-21; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Southeastern Power Administration

Proposed Rate Adjustment, Jim Woodruff Project

AGENCY: Southeastern Power Administration, DOE.

ACTION: Notice of proposed rates, public forum, and opportunities for public review and comment.

SUMMARY: Southeastern Power Administration (Southeastern) proposes to revise existing schedules of rates and charges applicable to the sale of power from the Jim Woodruff Project, effective October 1, 2021, through September 30, 2026. Interested persons may review the rates and supporting studies and submit written comments. Southeastern will consider all comments received in this process.

DATES: Written comments are due on or before June 29, 2021. A public information and comment forum will be held by Southeastern Power Administration, virtually, on May 11, 2021, at 3:00 p.m. EDT. Persons desiring to speak at the forum should notify Southeastern at least seven (7) days before the scheduled forum date so that a list of forum participants can be prepared. Notifications should be submitted by Email to comments@sepa.doe.gov. Others participating in the forum may speak if time permits. Following the forum, Southeastern will provide exhibits to attendees and upon request.

ADDRESSES: The Tuesday, May 11, 2021, Microform Teams Meeting URL information is as follows: <http://bit.ly/2Os0TV7>, Call in information: +1 (404) 796-9216, Phone Conference ID: 950 131 260#. Written comments should be submitted to: Administrator, Southeastern Power Administration, U.S. Department of Energy, 1166 Athens Tech Road, Elberton, GA 30635-6711; Email: Comments@sepa.doe.gov. Information regarding the rates, including studies and other supporting materials, is available for public review in the offices of Southeastern Power Administration, 1166 Athens Tech Road, Elberton, GA 30635.

FOR FURTHER INFORMATION CONTACT: Samuel W. Loggins, Assistant Administrator, Finance and Marketing, Southeastern Power Administration, U.S. Department of Energy, 1166 Athens Tech Road, Elberton, GA 30635-6711, (706) 213-3805; Email: Samuel.Loggins@sepa.doe.gov.

SUPPLEMENTARY INFORMATION:

Background of Existing Rates: The existing schedules of rates and charges applicable to the sale of power from the Jim Woodruff Project are effective through September 30, 2021. On October 20, 2016, the Federal Energy Regulatory Commission (FERC) confirmed and approved, on a final basis, Rate Schedules JW-1-K, and JW-2-F applicable to the Jim Woodruff System for a period ending September 30, 2021 (157 FERC ¶ 62,043).

Repayment Study: Existing rate schedules are based upon a March 2016 repayment study and other supporting data contained in FERC Docket No. EF16-7-000. A repayment study prepared in February 2021 showed that the existing rates are not adequate to meet repayment criteria. Southeastern is therefore proposing a rate increase. A revised study shows that a revenue increase of \$684,000 per year from preference customers would make the rates adequate to meet repayment criteria. The rate adjustment would represent an increase of about 9.2 percent.

The additional costs are due to U.S. Army Corps of Engineers Operation & Maintenance expense increases and Southeastern marketing expense increases.

Proposed Rates: In the proposed rate schedule JW-1-L, which is available to preference customers, the capacity charge would be increased from \$7.74 per kilowatt per month to \$8.46 per kilowatt per month. The energy charge would be increased from 20.44 mills per kilowatt-hour to 22.32 mills per kilowatt-hour. In addition to the

capacity and energy charges, each preference customer would continue to be charged for power purchased by Southeastern on behalf of the preference customer. This pass-through would continue to be computed as described in the current rate schedules.

Rate schedule JW-2-F, available to Duke Energy Florida (DEF), would continue the current rate of 100 percent of DEF's fuel cost.

Legal Authority: By Delegation Order No. 00-037.00B, effective November 19, 2016, the Secretary of Energy delegated to Southeastern's Administrator the authority to develop power and transmission rates, to the Deputy Secretary of Energy the authority to confirm, approve, and place such rates into effect on an interim basis, and to the Federal Energy Regulatory Commission (FERC) the authority to confirm, approve, and place into effect on a final basis, or to disapprove, rates developed by the Administrator under the delegation. By Delegation Order No. S1-DEL-S4-2021, effective February 25, 2021, the Acting Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary for Science (and Energy). By Redelegation Order No. 00-002.10E, effective February 14, 2020, the Under Secretary of Energy (to whom such authority was delegated by the Secretary of Energy in Delegation Order No. 00-002.00S from January 15, 2020 until that delegation was rescinded on February 25, 2021) redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Assistant Secretary for Electricity. By Redelegation Order No. 00-002.10-03, effective July 8, 2020, the Assistant Secretary for Electricity further redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Administrator, Southeastern Power Administration. The delegations and redelegations not affirmatively rescinded remain valid. This rate is proposed by the Administrator, Southeastern Power Administration, pursuant to the authority delegated in Delegation Order No. 00-037.00B.

Environmental Impact: Southeastern has reviewed the possible environmental impacts of the rate adjustment under consideration and has concluded that, because the adjusted rates would not significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, as amended, the proposed action is not a major Federal action for which

preparation of an Environmental Impact Statement is required.

Determination Under Executive Order 12866: Southeastern has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Signing Authority: This document of the Department of Energy was signed on March 18, 2021, by Virgil G. Hobbs III, Administrator for Southeastern Power Administration, 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 March 26, 2021.

Treena V. Garrett,

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

[FR Doc. 2021-06632 Filed 3-30-21; 8:45 am]

BILLING CODE 6450-01-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2020-0693; FRL-10021-09]

Agency Information Collection Activities; Proposed Renewal of an Existing Collection and Request for Comment; Pesticide Data-Call-In Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces the availability of and solicits public comment on an Information Collection Request (ICR) that EPA is planning to submit to the Office of Management and Budget (OMB). The ICR, entitled "Pesticide Data-Call-In Program" and identified by EPA ICR No. 2288.04 and OMB Control No. 2070-0174, represents the renewal of an existing ICR that is scheduled to expire on November 30, 2021. Before submitting the ICR to OMB for review and approval under the PRA, EPA is soliciting public comments on specific

aspects of the proposed information collection that is summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

DATES: Comments must be submitted on or before June 1, 2021.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2020–0693, by using the *Federal eRulemaking Portal* at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT:

Carolyn Siu, Mission Support Division, Office of Program Support, (P75601), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (703) 347–1249; email address: siu.carolyn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.
2. Evaluate the accuracy of the Agency's estimates 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.
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that

employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What information collection activity or ICR does this action apply to?

Title: Pesticide Data-Call-In Program.

ICR number: EPA ICR No. 2288.04.

OMB control number: OMB Control No. 2070–0174.

ICR status: This ICR is currently scheduled to expire on November 30, 2021. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This ICR covers the information collection activities associated with the issuance of data-call-ins (DCIs) under section 3(c)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.* EPA regulates the use of pesticides under the authority of two federal statutes: FIFRA and the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a. In general, before manufacturers can sell pesticides in the United States, EPA must evaluate the pesticides thoroughly to ensure that they meet federal safety standards to protect human health and the environment. EPA grants a "registration" or license that permits a pesticide's distribution, sale, and use only after the company meets the scientific and regulatory requirements.

In evaluating a pesticide registration application, EPA assesses a wide variety of potential human health and environmental effects associated with the use of the product. Applicants, or potential registrants, must generate or provide the scientific data necessary to address concerns pertaining to the identity, composition, potential adverse effects, and environmental fate of each pesticide. The data allow EPA to evaluate whether a pesticide has the potential to cause harmful effects on certain non-target organisms and endangered species (including humans, wildlife, and plants) and on surface water or ground water.

Through a rigorous scientific and public process, EPA specifies the kinds of data and information necessary to make regulatory judgments about the risks and benefits of pesticide products under FIFRA sections 3, 4 and 5, as well as the data and information needed to determine the safety of pesticide chemical residues under FFDCA section 408. The regulations in 40 CFR part 158 describe the minimum data and information EPA typically requires to support an application for pesticide registration or amendment; support the reregistration of a pesticide product; support the maintenance of a pesticide registration by means of the data call-in process (*e.g.*, as used in the registration review program); or establish or maintain a tolerance or exemption from the requirements of a tolerance for a pesticide chemical residue.

As described in 40 CFR 158.30, however, FIFRA provides EPA with flexibility to require, or not require, data and information for the purposes of making regulatory judgments for individual pesticide products, thereby allowing for the data required to be modified on an individual basis to fully characterize the use and properties, characteristics, or effects of specific pesticide products under review. The Agency encourages each applicant to consult with EPA to discuss the data requirements particular to its product prior to and during the registration process. In addition, the Agency cautions applicants that the data routinely required by the regulations may not be sufficient to permit EPA to evaluate the potential of the product to cause unreasonable adverse effects on man or the environment. EPA may, therefore, require the submission of additional data or information beyond that specified in the regulations if such data or information are needed to evaluate a pesticide product as required by FIFRA and FFDCA.

EPA uses the DCIs issued under this ICR to acquire the data that has been deemed necessary for the Agency's statutorily mandated review of a pesticide's registration, which require it to assess whether the continued registration of an existing pesticide causes an unreasonable adverse effect on human health or the environment and whether the Agency will pursue appropriate regulatory measures. The key program areas are described in more detail in this ICR, along with the Agency's estimates of the information collection burden and costs associated with issuing DCIs under those key program areas.

Form numbers: EPA For No. 8570–4, 8574–27, 8570–28, 8570–32, 8579–34,

8570–35, 8570–36, 8570–37, 6300–3, and 6300–4.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to range between 20 and 8,182 hours per response, depending on the details associated with the individual DCIs. Burden is defined in 5 CFR 1320.3(b).

The ICR, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized here:

Respondents/affected entities: Entities potentially affected by this ICR are pesticide registrants and are identified by the North American Industrial Classification System (NAICS) code 325320, Pesticide and Other Agricultural Chemical Manufacturing.

Respondent's obligation to respond: Mandatory under FIFRA section 3(c)(2)(B).

Estimated total number of potential respondents: 122.

Frequency of response: On occasion.

Estimated total annual burden hours: 1,091,617 hours.

Estimated total annual cost: \$84,846,448.

III. Are there changes in the estimates from the last approval?

There is an increase of 465,948 hours in the total estimated respondent burden compared with that identified in the ICR that was approved by OMB. This increase reflects EPA's correction of a clerical error associated with the approved hours entered into the tracking system (causing a burden of 58,206 hours to be approved rather than the 625,669 burden hours requested in the submitted ICR), and an increase in the estimated DCIs issued over the next three years from 663 to 802 that will require data generation thus raising the average of DCIs issued annually from 221 to 267. Other factors include the addition of high-test costs for certain DCIs, and an increase in non-government wage rates. This is increase qualifies as an adjustment.

In addition, OMB has requested that EPA move towards using the 18-question format for ICR Supporting Statements used by other federal agencies and departments and is based on the submission instructions established by OMB in 1995, replacing the alternate format developed by EPA and OMB prior to 1995. EPA intends to update this Supporting Statement during the comment period to reflect the 18-question format, and has included the questions in an attachment to this

Supporting Statement. In doing so, the Agency does not expect the change in format to result in substantive changes to the information collection activities or related estimated burden and costs.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: March 25, 2021.

Michal Freedhoff,

Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2021-06608 Filed 3-30-21; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2020-0692; FRL-10019-41]

Agency Information Collection Activities; Proposed Renewal of an Existing Collection and Comment Request; Pesticide Environmental Stewardship Program Annual Measures Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces that the Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR) to the Office of Management and Budget (OMB). The ICR, entitled: "Pesticide Environmental Stewardship Program Annual Measures Reporting" and identified by EPA ICR No. 2415.04 and OMB Control No. 2070-0188, represents the renewal of an existing ICR that is scheduled to expire on October 31, 2021. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection that is summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

DATES: Comments must be received on or before June 1, 2021.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2020-0692, by using the Federal eRulemaking Portal at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Due to the public health concerns related to COVID-19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited

exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT:

Carolyn Siu, Mission Support Division, Office of Program Support, (7101M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (703) 347-1249; email address: siu.carolyn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

2. Evaluate the accuracy of the Agency's estimates 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.

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What information collection activity or ICR does this action apply to?

Title: Pesticide Environmental Stewardship Program Annual Measures Reporting.

ICR number: EPA ICR No. 2415.04.

OMB control number: OMB Control No. 2070-0188.

ICR status: The existing ICR is currently scheduled to expire on October 31, 2021. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's

regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: This ICR covers the information collection activities associated with voluntary participation in the Pesticide Environmental Stewardship Program (PESP). The program uses the information collected to establish partner membership, develop stewardship strategies, measure progress towards stewardship goals, and award incentives. PESP is an EPA partnership program that encourages the use of integrated pest management (IPM) strategies to reduce pests and pesticide risks. IPM is an approach that involves making the best choices from among a series of Pest management practices that are both economical and pose the least possible hazard to people, property, and the environment.

PESP member includes pesticide end-users and organizations which focus on training, educating, and/or influencing pesticide users. To become a PESP member, an organization submits an application and a five-year strategy outlining how environmental and human health risk reduction goals will be achieved through IPM implementation and/or education. The program encourages PESP members to track progress towards IPM goals such as: reductions in unnecessary use of pesticides, cost reductions, and knowledge shared about IPM methodologies. Entities participating in PESP also benefit from technical assistance, and through incentives for achievements at different levels.

Form Numbers: EPA Form No. 9600–01, 9600–02, and 9600–03.

Respondents/affected entities: Entities potentially affected by this ICR are pesticide user companies and organizations, or entities that practice IPM or promote the use of IPM through education and training.

Respondent's obligation to respond: Voluntary.

Estimated number of respondents: 419 (total).

Frequency of response: Annual and on occasion.

Total estimated burden: 50,093 hours (per year). Burden is defined at 5 CFR 1320.03(b)

Total estimated cost: \$3,501,544 (per year). This is the estimated burden cost; there are no capital investment or

maintenance and operational costs for this information collection.

III. Are there changes in the estimates from the last approval?

There is an increase of 2,428 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase reflects EPA's updating of burden estimates for this collection based upon historical information on the number of PESP members. Based on revised estimates, the number of IPM Promoters has decreased, while the number of IPM users has increased, and the number of National IPM users has decreased since the last ICR renewal. Although the estimated burden per response has not changed for any category, the shift in membership types has resulted in a net increase in the overall burden.

In addition, OMB has requested that EPA move towards using the 18-question format for ICR Supporting Statements used by other federal agencies and departments and is based on the submission instructions established by OMB in 1995, replacing the alternate format developed by EPA and OMB prior to 1995. EPA intends to update this Supporting Statement during the comment period to reflect the 18-question format, and has included the questions in an attachment to this Supporting Statement. In doing so, the Agency does not expect the change in format to result in substantive changes to the information collection activities or related estimated burden and costs.

IV. What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Authority: 7 U.S.C. 136 *et seq.*

Dated: March 25, 2021.

Michal Freedhoff,

Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2021–06589 Filed 3–30–21; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Sunshine Act Meetings

AGENCY: Farm Credit Administration Board, Farm Credit Administration.

ACTION: Notice, regular meeting.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act, of the forthcoming regular meeting of the Farm Credit Administration Board.

DATES: The regular meeting of the Board will be held April 8, 2021, from 9 a.m. until such time as the Board may conclude its business. *Note: Because of the COVID–19 pandemic, we will conduct the board meeting virtually. If you would like to observe the open portion of the virtual meeting, see instructions below for board meeting visitors.*

ADDRESSES: To observe the open portion of the virtual meeting, go to *FCA.gov*, select “Newsroom,” then “Events.” There you will find a description of the meeting and a link to “Instructions for board meeting visitors.” See **SUPPLEMENTARY INFORMATION** for further information about attendance requests.

FOR FURTHER INFORMATION CONTACT: Dale Aultman, Secretary to the Farm Credit Administration Board (703) 883–4009. TTY is (703) 883–4056.

SUPPLEMENTARY INFORMATION:

Instructions for attending the virtual meeting: Parts of this meeting of the Board will be open to the public, and parts will be closed. If you wish to observe the open portion, at least 24 hours before the meeting, go to *FCA.gov*, select “Newsroom,” then “Events.” There you will find a description of the meeting and a link to “Instructions for board meeting visitors.” If you need assistance for accessibility reasons or if you have any questions, contact Dale Aultman, Secretary to the Farm Credit Administration Board, at (703) 883–4009. The matters to be considered at the meeting are as follows:

Open Session

Approval of Minutes

- March 11, 2021

Report

- Quarterly Report on Economic Conditions and FCS Condition and Performance

New Business

- Collateral Evaluation—Proposed Rule

Closed Session

- Office of Examination Quarterly Report¹

Dated: March 29, 2021.

Dale Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2021-06762 Filed 3-29-21; 4:15 pm]

BILLING CODE 6705-01-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-1013; FRS 18114]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before June 1, 2021. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should

advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to PRA@fcc.gov and to Cathy.Williams@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418-2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-1013.

Title: Mitigation of Orbital Debris.

Form Number: N/A.

Type of Review: Revision of an existing collection.

Respondents: Business or other for-profit entities, not-for-profit institutions.

Number of Respondents: 46 respondents; 46 responses.

Estimated Time per Response: 8 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in 47 U.S.C. 151, 154(i), 301, 303, 307, 308, 309, and 310.

Total Annual Burden: 368 hours.

Annual Cost Burden: \$88,550.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general, there is no need for confidentiality with this collection of information.

Needs and Uses: On April 24, 2020, the Commission released a Report and Order, FCC 20-54, IB Docket No. 18-313, titled "Mitigation of Orbital Debris in the New Space Age" (Orbital Debris Report and Order). In this Orbital Debris Report and Order, the Commission updated its rules related to orbital debris mitigation, including application requirements. The new rules are designed to ensure that the Commission's actions concerning radio communications, including licensing U.S. spacecraft and granting access to the U.S. market for non-U.S. spacecraft, mitigate the growth of orbital debris, while at the same time not creating undue regulatory obstacles to new satellite ventures. The action will help to ensure that Commission decisions are consistent with the public interest in space remaining viable for future satellites and systems and the many services that those systems provide to the public. The rule revisions also provide additional detail to applicants on what information is expected under the Commission's rules, which can help to increase certainty in the application filing process. While this information collection represents an overall increase in the burden hours, the information

collection serves the public interest by ensuring that the Commission and public have necessary information about satellite applicants' plans for mitigation of orbital debris.

Specifically, FCC 20-54 contains the new or modified information collection requirements listed below, applicable to applicants seeking experimental licenses for satellite operations under part 5 of the Commission's rules, as well as to license grantees under part 97 submitting notifications to the Commission prior to launch of a satellite amateur station:

(1) Existing disclosure requirements have been revised to include specific metrics in several areas, including: Probability that the space stations will become a source of debris by collision with small debris and meteoroids that would cause loss of control and prevent disposal; probability of collision between any non-geostationary orbit (NGSO) space station and other large objects; and casualty risk associated with any individual spacecraft that will be disposed by atmospheric re-entry.

(2) Where relevant, the disclosures must include the following: Use of separate deployment devices, distinct from the space station launch vehicle, that may become a source of orbital debris; potential release of liquids that will persist in droplet form; and any planned proximity operations and debris generation that will or may result from the proposed operations, including any planned release of debris, the risk of accidental explosions, the risk of accidental collision, and measures taken to mitigate those risks.

(3) The existing disclosure requirement to analyze potential collision risk associated with space station(s) orbits has been modified to specify that the disclosure identify characteristics of the space station(s)' orbits that may present a collision risk, including any planned and/or operational space stations in those orbits, and indicate what steps, if any, have been taken to coordinate with the other spacecraft or system, or what other measures the operator plans to use to avoid collision.

(4) For NGSO space stations that will transit through the orbits used by any inhabitable spacecraft, including the International Space Station, the disclosure must include the design and operational strategies, if any, that will be used to minimize the risk of collision and avoid posing any operational constraints to the inhabitable spacecraft.

(5) The disclosure must include a certification that upon receipt of a space situational awareness conjunction warning, the operator will review and

¹Closed session is exempt pursuant to 5 U.S.C. 552b(c)(8) and (9).

take all possible steps to assess the collision risk, and will mitigate the collision risk if necessary. As appropriate, steps to assess and mitigate the collision risk should include, but are not limited to: Contacting the operator of any active spacecraft involved in such a warning; sharing ephemeris data and other appropriate operational information with any such operator; and modifying space station attitude and/or operations.

(6) For NGSO space stations the disclosure must describe the extent of satellite maneuverability.

(7) The disclosure must address trackability of the space station(s). For NGSO space stations the disclosure must also include: (a) How the operator plans to identify the space station(s) following deployment and whether the space station tracking will be active or passive; (b) whether, prior to deployment the space station(s) will be registered with the 18th Space Control Squadron or successor entity; and (c) the extent to which the space station operator plans to share information regarding initial deployment, ephemeris, and/or planned maneuvers with the 18th Space Control Squadron or successor entity, other entities that engage in space situational awareness or space traffic management functions, and/or other operators.

(8) For NGSO space stations, additional disclosures must be provided regarding spacecraft disposal, including, for some space stations, a demonstration that the probability of success of the chosen disposal method is 0.9 or greater for any individual space station, and for multi-satellite systems, a demonstration including additional information regarding efforts to achieve a higher probability of success.

These information collection requirements are contained in 47 CFR 5.64 and 47 CFR 97.207.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021-06548 Filed 3-30-21; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-0298, OMB 3060-1198; FRS 18105]

Information Collections Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might “further reduce the information collection burden for small business concerns with fewer than 25 employees.”

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before April 30, 2021.

ADDRESSES: Comments should be sent to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Your comment must be submitted into www.reginfo.gov per the above instructions for it to be considered. In addition to submitting in www.reginfo.gov also send a copy of your comment on the proposed information collection to Nicole Ongele, FCC, via email to PRA@fcc.gov and to Nicole.Ongele@fcc.gov. Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418-2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page <http://www.reginfo.gov/public/do/PRAMain>, (2) look for the section of the web page called “Currently Under Review,” (3) click on the downward-pointing arrow in the “Select Agency” box below the “Currently Under Review” heading, (4) select “Federal Communications Commission” from the list of agencies presented in the “Select Agency” box, (5) click the “Submit” button to the right of the “Select Agency” box, (6)

when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission’s burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might “further reduce the information collection burden for small business concerns with fewer than 25 employees.”

OMB Control Number: 3060-0298.

Title: Part 61, Tariffs (Other than the Tariff Review Plan).

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 2,925 respondents; 9,585 responses.

Estimated Time per Response: 1-50 hours.

Frequency of Response: On occasion, annual, biennial, and one-time reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. Sections 151-155, 201-205, 208, 251-271, 403, 502 and 503 of the Communications Act of 1934 (Act), as amended.

Total Annual Burden: 244,477 hours.

Total Annual Cost: \$1,584,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: Respondents are not being asked to submit confidential information to the Commission. If the Commission requests respondents to submit

information which respondents believe are confidential, respondents may request confidential treatment of such information under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: On October 9, 2020, the Commission released the 8YY (toll free) Access Charge Reform Order, FCC 20-143, that transitions intercarrier compensation for toll free services either to lower, uniform rate caps or to bill-and-keep over approximately three years as a means of curtailing abuse of the 8YY intercarrier compensation regime. The Order requires price cap and rate-of-return carriers to establish separate rate elements for certain interstate and intrastate toll free and non-toll free services. Carriers are also required to lower their 8YY database query charges over three years, and are prohibited from charging for more than one query per call. Competitive LECs assessing a tariffed intrastate or interstate Toll Free Database Query Charge must cap such charges and revise their tariffs to ensure that those charges do not exceed the rates charged by the competing incumbent LEC.

The information collected through carriers' tariffs is used by the Commission and state commissions to determine whether services offered are just and reasonable, as the Act requires. The tariffs and any supporting documentation are examined in order to determine if the services are offered in a just and reasonable manner.

OMB Control Number: 3060-1198.

Title: Section 90.525, Administration of Interoperability Channels; Section 90.529, State Licenses; and Section 90.531, Band Plan.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: State, local or tribal government, and Not-for-profit institutions.

Number of Respondents and Responses: 2,230 respondents; 2,230 responses.

Estimated Time per Response: 1 hour-2 hours.

Frequency of Response: On occasion reporting and one-time reporting requirements; third party disclosure.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7), unless otherwise noted.

Total Annual Burden: 2,230 hours.

Total Annual Cost: No Cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: Section 90.525 of the Commission's rules requires approval of license applications for Interoperability channels in the 769-775 MHz and 799-805 MHz frequency bands by state-level agency or organization responsible for administering emergency communications. Section 90.529 of the Commission's rules provides that each state license will be granted subject to the condition that the state certifies on or before each applicable benchmark date that it is providing or prepared to provide "substantial service." Section 90.531 of the Commission's rules sets forth the band plan for the 769-775 MHz and 799-805 MHz public safety bands. This section covers channel designations for base and mobile use, narrowband segments, combined channels, channel pairing, internal guard band, and broadband. Narrowband general use channels, including the former narrowband reserve channels, and low power channels require regional planning committee concurrence and narrowband air-ground channels require state or regional planning committee concurrence.

Commission staff will use the information to assign licenses for interoperability and General Use channels, as well as renewal of State licenses. The information will also be used to determine whether prospective licensees operate in compliance with the Commission's rules. Without such information, the Commission could not accommodate State interoperability or regional planning requirements or provide for the efficient use of State frequencies. This information collection includes rules to govern the operation and licensing of 700 MHz band systems to ensure that licensees continue to fulfill their statutory responsibilities in accordance with the Communications Act of 1934, as amended. Such information will continue to be used to verify that applicants are legally and technically qualified to hold licenses, and to determine compliance with Commission rules.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021-06547 Filed 3-30-21; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL ELECTION COMMISSION

[NOTICE 2021-06]

Filing Dates for the Ohio Special Elections in the 11th Congressional District

AGENCY: Federal Election Commission.
ACTION: Notice of filing dates for special election.

SUMMARY: Ohio has scheduled special elections on August 3, 2021, and November 2, 2021, to fill the U.S. House of Representatives seat in the 11th Congressional District vacated by Representative Marcia L. Fudge. Committees required to file reports in connection with the Special Primary Election on August 3, 2021, shall file a 12-day Pre-Primary Report. Committees required to file reports in connection with both the Special Primary and Special General Election on November 2, 2021, shall file a 12-day Pre-Primary, a 12-day Pre-General, and a 30-day Post-General Report.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth S. Kurland, Information Division, 1050 First Street NE, Washington, DC 20463; Telephone: (202) 694-1100; Toll Free (800) 424-9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates who participate in the Ohio Special Primary and Special General Elections shall file a 12-day Pre-Primary Report on July 22, 2021; a 12-day Pre-General Report on October 21, 2021; and a 30-day Post-General Report on December 2, 2021. (See charts below for the closing date for each report.)

Note that these reports are in addition to the campaign committee's regular quarterly filings. (See charts below for the closing date for each report.)

Unauthorized Committees (PACs and Party Committees)

Political committees not filing monthly in 2021 are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the Ohio Special Primary or Special General Elections by the close of books for the applicable report(s). (See charts below for the closing date for each report.)

Committees filing monthly that make contributions or expenditures in connection with the Ohio Special Primary or Special General Elections will continue to file according to the monthly reporting schedule.

Additional disclosure information for the Ohio special elections may be found

on the FEC website at <https://www.fec.gov/help-candidates-and-committees/dates-and-deadlines/>.

Disclosure of Lobbyist Bundling Activity

Principal campaign committees, party committees and leadership PACs that

are otherwise required to file reports in connection with the special elections must simultaneously file FEC Form 3L if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of \$19,300 during

the special election reporting periods. (See charts below for closing date of each period.) 11 CFR 104.22(a)(5)(v), (b), 110.17(e)(2), (f).

CALENDAR OF REPORTING DATES FOR OHIO SPECIAL ELECTIONS

Report	Close of books ¹	Reg./cert. & overnight mailing deadline	Filing deadline
Campaign Committees Involved in <i>Only</i> the Special Primary (08/03/2021) Must File:			
July Quarterly .....	.....	--- WAIVED ---	.....
Pre-Primary	07/14/2021	07/19/2021	07/22/2021
October Quarterly	09/30/2021	10/15/2021	10/15/2021
PACs and Party Committees Not Filing Monthly Involved in <i>Only</i> the Special Primary (08/03/2021) Must File:			
Pre-Primary	07/14/2021	07/19/2021	07/22/2021
Mid-Year .....	.....	--- WAIVED ---	.....
Year-End	12/31/2021	01/31/2022	01/31/2022
Campaign Committees Involved in Both the Special Primary (08/03/2021) and Special General (11/02/2021) Must File:			
July Quarterly .....	.....	--- WAIVED ---	.....
Pre-Primary	07/14/2021	07/19/2021	07/22/2021
October Quarterly .....	.....	--- WAIVED ---	.....
Pre-General	10/13/2021	10/18/2021	10/21/2021
Post-General	11/22/2021	12/02/2021	12/02/2021
Year-End	12/31/2021	01/31/2022	01/31/2022
PACs and Party Committees Not Filing Monthly Involved in Both the Special Primary (08/03/2021) and the Special General (11/02/2021) Must File:			
Pre-Primary	07/14/2021	07/19/2021	07/22/2021
Mid-Year .....	.....	--- WAIVED ---	.....
Pre-General	10/13/2021	10/18/2021	10/21/2021
Post-General	11/22/2021	12/02/2021	12/02/2021
Year-End	12/31/2021	01/31/2022	01/31/2022
Campaign Committees Involved in <i>Only</i> the Special General (11/02/2021) Must File:			
July Quarterly	06/30/2021	07/15/2021	07/15/2021
October Quarterly .....	.....	--- WAIVED ---	.....
Pre-General	10/13/2021	10/18/2021	10/21/2021
Post-General	11/22/2021	12/02/2021	12/02/2021
Year-End	12/31/2021	01/31/2022	01/31/2022
PACs and Party Committees Not Filing Monthly Involved in <i>Only</i> the Special General (11/02/2021) Must File:			
Mid-Year	06/30/2021	07/31/2021	07/31/2021 ²
Pre-General	10/13/2021	10/18/2021	10/21/2021
Post-General	11/22/2021	12/02/2021	12/02/2021
Year-End	12/31/2021	01/31/2022	01/31/2022

¹ The reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered as a political committee up through the close of books for the first report due.

² Notice that this filing deadline falls on a weekend. Filing deadlines are not extended when they fall on nonworking days. Accordingly, reports filed by methods other than registered, certified or overnight mail must be received by close of business on the last business day before the deadline.

Dated: March 26, 2021.
 On behalf of the Commission.
Shana M. Broussard,
 Chair, Federal Election Commission.
 [FR Doc. 2021-06604 Filed 3-30-21; 8:45 am]
 BILLING CODE 6715-01-P

FEDERAL ELECTION COMMISSION
[NOTICE 2021-05]
Filing Dates for the New Mexico Special Election in the 1st Congressional District
AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.
SUMMARY: New Mexico has scheduled a Special General Election on June 1, 2021, to fill the U.S. House of Representatives seat in the 1st Congressional District vacated by

Representative Debra A. Haaland. Committees participating in the New Mexico special election are required to file pre- and post-election reports.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth S. Kurland, Information Division, 1050 First Street NE, Washington, DC 20463; Telephone: (202) 694-1100; Toll Free (800) 424-9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates who participate in the New Mexico Special General Election shall file a 12-day Pre-General Report on May 20, 2021, and a 30-day Post-General Report on July 1, 2021. (See charts below for the closing date for each report.)

Note that these reports are in addition to the campaign committee's regular quarterly filings. (See charts below for the closing date for each report.)

Unauthorized Committees (PACs and Party Committees)

Political committees not filing monthly in 2021 are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the New Mexico Special General by the close of books for the applicable report(s). (See charts below for the closing date for each report.)

Committees filing monthly that make contributions or expenditures in connection with the New Mexico Special General will continue to file according to the monthly reporting schedule.

Additional disclosure information for the New Mexico special election may be found on the FEC website at <https://www.fec.gov/help-candidates-and-committees/dates-and-deadlines/>.

Disclosure of Lobbyist Bundling Activity

Principal campaign committees, party committees and leadership PACs that are otherwise required to file reports in connection with the New Mexico Special General must simultaneously file FEC Form 3L if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of \$19,300 during the special election reporting periods. (See charts below for closing date of each period.) 11 CFR 104.22(a)(5)(v), (b), 110.17(e)(2), (f).

CALENDAR OF REPORTING DATES FOR NEW MEXICO SPECIAL ELECTION

Report	Close of books ¹	Reg./cert. & overnight mailing deadline	Filing deadline
Campaign Committees Involved in the Special General (06/01/2021) Must File:			
Pre-General	05/12/2021	05/17/2021	05/20/2021
Post-General	06/21/2021	07/01/2021	07/01/2021
July Quarterly	06/30/2021	07/15/2021	07/15/2021
PACs and Party Committees Not Filing Monthly Involved in the Special General (06/01/2021) Must File:			
Pre-General	05/12/2021	05/17/2021	05/20/2021
Post-General	06/21/2021	07/01/2021	07/01/2021
Mid-Year	06/30/2021	07/31/2021	07/31/2021 ²

¹ The reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered as a political committee up through the close of books for the first report due.

² Notice that this filing deadline falls on a weekend. Filing deadlines are not extended when they fall on nonworking days. Accordingly, reports filed by methods other than registered, certified or overnight mail must be received by close of business on the last business day before the deadline.

Dated: March 26, 2021.
On behalf of the Commission.

Shana M. Broussard,
Chair, Federal Election Commission.
[FR Doc. 2021-06605 Filed 3-30-21; 8:45 am]
BILLING CODE 6715-01-P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments, relevant information, or documents regarding the agreements to the Secretary by email at Secretary@fmc.gov, or by mail, Federal Maritime Commission, Washington, DC 20573. Comments will be most helpful to the Commission if received within 12 days of the date this notice appears in the

Federal Register. Copies of agreements are available through the Commission's website (www.fmc.gov) or by contacting the Office of Agreements at (202)-523-5793 or tradeanalysis@fmc.gov.

Agreement No.: 201234-005.

Agreement Name: Agreement by Ocean Common Carriers to Participate on the Exchange Board.

Parties: CMA CGM SA; Hapag-Lloyd AG; COSCO Shipping Lines Co., Ltd.; COSCO Shipping Co., Ltd.; Maersk A/S; HMM Company Limited; and Ocean Network Express Pte. Ltd.

Filing Party: Elizabeth Lowe; Venable LLP.

Synopsis: The amendment updates the name of HMM Company Limited.

Proposed Effective Date: 5/6/2021.

Location: <https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/2064>.

Agreement No.: 201235-005.

Agreement Name: Agreement by Ocean Common Carriers to Use Standard Service Contract Terms.

Parties: CMA CGM SA; Hapag-Lloyd AG; COSCO Shipping Lines Co., Ltd.; COSCO Shipping Co., Ltd.; Maersk A/S; HMM Company Limited; Orient Overseas Container Line Limited and OOCL (Europe) Limited (acting as a single party) and Ocean Network Express Pte. Ltd.

Filing Party: Elizabeth Lowe; Venable LLP.

Synopsis: The amendment updates the name of HMM Company Limited.

Proposed Effective Date: 5/6/2021.

Location: <https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/2065>.

Agreement No.: 012094-001.

Agreement Name: Tropical/United Abaco Slot Charter Agreement.

Parties: Tropical Shipping & Construction Company Limited LLC and

United Abaco Shipping Company Limited.

Filing Party: Neal Mayer; Hoppel, Mayer & Coleman.

Synopsis: The amendment changes the name of Tropical Shipping.

Proposed Effective Date: 3/24/2021.

Location: <https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/359>.

Agreement No.: 012222-001.

Agreement Name: Crowley/America Cruise Ferries, Inc. Space Charter and Sailing Agreement.

Parties: Crowley Latin America Services, LLC and America Cruise Ferries, Inc.

Filing Party: Wayne Rohde; Cozen O'Connor.

Synopsis: The amendment deletes the space/cargo commitment in Article 5(a) and corrects a typographical error in Article 1.

Proposed Effective Date: 3/23/2021.

Location: <https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/271>.

Dated: March 26, 2021.

Rachel E. Dickon,

Secretary.

[FR Doc. 2021-06629 Filed 3-30-21; 8:45 am]

BILLING CODE 6730-02-P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the

standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

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 April 29, 2021.

A. Federal Reserve Bank of St. Louis (Holly A. Rieser, Manager) P.O. Box 442, St. Louis, Missouri 63166-2034.

Comments can also be sent electronically to

Comments.applications@stls.frb.org;

1. *The McGehee Bank Employee Stock Ownership Plan, McGehee, Arkansas*; to acquire additional voting shares of up to 35 percent of Southeast Financial Bankstock Corporation, and thereby indirectly acquire voting shares of McGehee Bank, both of McGehee, Arkansas.

Board of Governors of the Federal Reserve System, March 25, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021-06524 Filed 3-30-21; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Savings and Loan Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Home Owners' Loan Act (12 U.S.C. 1461 *et seq.*) (HOLA), Regulation LL (12 CFR part 238), and Regulation MM (12 CFR part 239), and all other applicable statutes and regulations to become a savings and loan holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a savings association.

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 whether the proposed transaction complies with the standards enumerated in the HOLA (12 U.S.C. 1467a(e)).

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 April 29, 2021.

A. Federal Reserve Bank of Atlanta

(Kathryn Haney, Assistant Vice President) 1000 Peachtree Street, NE, Atlanta, Georgia 30309. Comments can also be sent electronically to

Applications.Comments@atl.frb.org;

1. *Catalyst Bancorp, Inc., Opelousas, Louisiana*; to become a savings and loan holding company by acquiring St. Landry Homestead Federal Savings Bank, Opelousas, Louisiana, in connection with the mutual-to-stock conversion of St. Landry Homestead Federal Savings Bank.

Board of Governors of the Federal Reserve System, March 25, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021-06525 Filed 3-30-21; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, with revision, the Application for Employment with the Board of Governors of the Federal Reserve System (FR 28; OMB No. 7100-0181).

DATES: The revisions are applicable as of April 30, 2021.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nuha Elmagrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452-3829. Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395-6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-

approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. The OMB inventory, as well as copies of the PRA Submission, supporting statements, and approved collection of information instrument(s) are available at <https://www.reginfo.gov/public/do/PRAMain>. These documents are also available on the Federal Reserve Board's public website at <https://www.federalreserve.gov/apps/reportforms/review.aspx> or may be requested from the agency clearance officer, whose name appears above.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, With Revision of the Following Information Collection

Report title: Application for Employment with the Board of Governors of the Federal Reserve System.

Agency form number: FR 28.

OMB control number: 7100-0181.

Effective Date: April 30, 2021.

Frequency: As needed.

Respondents: Individuals who are seeking employment with the Board.

Estimated number of respondents: FR 28 (initial application only in Taleo): 15,000; FR 28 (initial application plus pre-interview section in Taleo): 2,000; FR 28 (PDF): 150; FR 28s: 7,500; FR 28i: 300; FR 28c: 2,300.

Estimated average hours per response: FR 28 (initial application only in Taleo): 0.25; FR 28 (initial application plus pre-interview section in Taleo): 1; FR 28 (PDF): 0.75; FR 28s: 0.0166; FR 28i: 0.25; FR 28c: 0.5.

Estimated annual burden hours: FR 28 (initial application only in Taleo): 3,750; FR 28 (initial application plus pre-interview section in Taleo): 2,000; FR 28 (PDF): 112.5; FR 28s: 124.5; FR 28i: 75; FR 28c: 1,150; total: 7,212.

General description of report: The Board receives approximately 17,000 FR 28 applications per year, both solicited and unsolicited, from members of the public who would like to be considered for employment at the Board. The FR 28 application form comprises seven sections: (I) Background, (II) Job Preferences, (III) Education and Training, (IV) Certifications and Professional Licenses, (V) Employment Record, (VI) References, and (VII) General Questions, including clarifying comments if applicable. The Background section collects name, address, telephone and citizenship information, as well as the position for which the applicant is applying and the applicant's willingness to travel. The Job Preferences section asks about the

type of employment desired (e.g., permanent or temporary; full or part-time; and desired compensation). The Education and Training section collects detailed information on the applicant's educational history and skills set. The Certifications and Professional Licenses section collects information on when an applicant's current certification(s) and license(s) were issued and expire. The Employment Record section collects a chronological summary of work experience. The References section collects information on three references. The General Questions section collects information such as criminal records; discharges or terminations from employment; retirement annuity status from the DC or federal governments or the military; relationships to or acquaintances with Board staff or with officers and directors of financial institutions; and ownership interest that the applicant, their spouse, or their child[ren] holds in certain financial institutions.

The FR 28 application form may be completed online through the Taleo submission website, or in hardcopy by PDF. If the applicant completes the online version of the application through Taleo, they will initially be asked to upload a resume and to complete the first four sections of the application; it is not until the applicant is asked to interview that they will be instructed to complete the remaining sections of the application. If completing the PDF version of the FR 28 application form, the applicant will fill out all seven sections in their entirety but may not be asked to supply a resume.

The FR 28s is a voluntary form that comprises four sections seeking the following information: Name and gender, for which applicants are asked to check either the box that corresponds to their gender or the box for "I do not wish to disclose"; the position for which the applicant is applying; ethnicity self-identification, for which applicants are asked to choose from among Hispanic or Latino, Not Hispanic or Latino, or "I do not wish to disclose"; and race self-identification, for which applicants are asked to choose one or more from among American Indian or Alaskan Native; Asian; Black or African-American; Native Hawaiian or Other Pacific Islander; and White or to select "I do not wish to disclose." The Board uses this information to comply with federal equal employment opportunity (EEO) recordkeeping and reporting requirements, as well as an input to its self-analysis of hiring practices. Information collected on the FR 28s has

no bearing on the determination of an applicant's job-related qualifications and completion of the self-identification form is voluntary.

The FR 28i survey comprises three sections in which research assistant (RA) candidates are (i) asked to rate their level of interest in categories of economics and related research areas; (ii) provided the option to expand upon certain qualifying characteristics indicated as important to the Board; and (iii) asked to rate their experience with various software packages and statistical programming languages. The FR 28i helps to streamline the RA recruitment process.

The FR 28c conflicts of interest form comprises four sections and collects information from external applicants after they have been selected for an interview at the Board regarding certain financial interests held by the applicant, their spouse, and their minor child(ren); immediate family members who are involved in related businesses (e.g., whether a spouse, parent, child, or sibling is an employee, officer, director or trustee of any bank); compensated outside employment and uncompensated positions that the applicant participates in (aside from positions with religious, social, fraternal, or political entities); and other situations, arrangements, or investments the applicant believes could pose a conflict of interest based on the duties of the position for which they are applying. The purpose of the FR 28c form is to determine whether a conflict of interest exists that would impact the applicant's ability to fulfill the responsibilities associated with the position for which they have applied.

Legal authorization and confidentiality: The FR 28 form, the FR 28i survey, and the FR 28s form are authorized by Sections 10 and 11(l) of the Federal Reserve Act, 12 U.S.C. 244 and 248 (1), which provide the Board broad authority over employment of staff. The FR 28c form is also authorized by Section 10 of the Federal Reserve Act, 12 U.S.C. 244, which provides that the Board's determination with respect to the "employment, compensation, leave, and expenses [of its members and employees] shall be governed solely by the provisions of this chapter and rules and regulations of the Board not inconsistent therewith." In addition, under regulations promulgated by the Office of Government Ethics ("OGE") pursuant to 5 U.S.C. 7301, each executive agency's designated ethics officer is required to provide "advice and counseling to prospective ... employees regarding government ethics laws and regulations" and to "maintain

records of agency ethics program activities” (5 CFR 2638.104(c)(2) and (4)).

The obligation to respond to the FR 28 form, the FR 28c form, and to the questions in Sections I and III of the FR 28i survey is required to obtain the benefit of Board employment. The obligation to respond to the questions in Section II of the FR 28i survey and the obligation to disclose gender, race, and ethnicity on the FR 28s form is voluntary.

Certain information provided on the FR 28 and the FR 28i forms may be kept confidential under exemption (b)(6) of the Freedom of Information Act (FOIA), which protects information in “personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy” (5 U.S.C. 552(b)(6)). For example, the release of information such as an applicant’s home address and phone number, as well as personal information regarding the applicant’s references, would likely constitute a clearly unwarranted invasion of personal privacy and, accordingly, would be kept confidential. However, the release of information such as the educational and professional qualifications of successful applicants would not likely constitute a clearly unwarranted invasion of personal privacy and, therefore, would not be treated as confidential under the FOIA.

Generally, information provided on the FR 28c form may be kept confidential pursuant to exemption 6 of the FOIA. In addition, financial information collected on the form (such as confidential details about the shares an applicant, their spouse, or their minor child owns in a bank) may be withheld under exemption 4 of the FOIA, which protects “financial information obtained from a person [that is] privileged and confidential” (5 U.S.C. 552(b)(4)). Information provided on the 28s would be kept confidential under exemption 6 of the FOIA to the extent release of such information would constitute a clearly unwarranted invasion of personal privacy and is not otherwise required under federal law.

The information collected on the FR 28, the FR 28c, the FR 28i, and the FR 28s forms will be maintained in a “system of records” within the meaning of the Privacy Act, 5 U.S.C. 552a(a)(5), and a Privacy Act statement will accompany each of the four forms that respectively comprise this information collection. The Board may disclose the information collected on these forms, including confidential information withheld from the public under a FOIA exemption, to third parties in

accordance with the Privacy Act’s “routine use” disclosure provisions, 5 U.S.C. 552a(a)(7) and (b)(3), which permit the disclosure of a record for a purpose that is compatible with the purpose for which the record was collected. The routine uses that would permit the disclosure of the information collected on each form are listed in the specific system of records notices (SORNs) that apply to each form. For the FR 28, the FR 28c, the FR 28i, and the FR 28s, the information collected will be stored in the SORN entitled “BGFRS–1, FRB—Recruiting and Placement Records,” located here: <https://www.federalreserve.gov/files/BGFRS-1-recruiting-and-placement-records.pdf>. The information collected on the FR 28c will also be stored in the SORN titled “BGFRS–41, FRB—Ethics Program Records,” located here: <https://www.federalreserve.gov/files/BGFRS-41-FRB-Ethics-Program-Records.pdf>. If the applicant is hired, the information provided on the FR 28s may also be stored in the SORN titled “BGFRS–24: FRB—EEO General Files,” located here: <https://www.federalreserve.gov/files/BGFRS-24-eeo-general-files.pdf>.

Specifically, the BGFRS–1 and the BGFRS–41 SORNs provide that the information may be disclosed outside the Board in accordance with general routine uses A, B, C, D, E, F, G, H, I, and J (see “General Routine Uses of Board Systems of Records available at <https://www.federalreserve.gov/files/SORN-page-general-routine-uses-of-board-systems-of-records.pdf>). The BGFRS–24 SORN provides that the information may be disclosed outside the Board in accordance with general routine uses A, B, C, D, E, F, G, I, and J (see *id.*). The BGFRS–1 SORN also provides that all or part of the record may be disclosed outside of the Board in order to disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested), when necessary to obtain information relevant to a Board decision to hire or retain an employee, issue a security clearance, conduct a security or suitability investigation of an individual, classify jobs, let a contract, or issue a license, grant or other benefit.

Current actions: On November 24, 2020, the Board published a notice in the **Federal Register** (85 FR 75016) requesting public comment for 60 days on the extension, with revision, of the FR 28. There are no revisions to the questions asked or the information collected on the FR 28i survey. However, as part of this OMB

authorization, the Board has added the FR 28c conflicts of interest form to this information collection, as it was previously collected pursuant to a separate OMB authorization, because the FR 28c form is associated with the application process. In addition, the Board has revised the FR 28 application form to remove the three conflicts of interest questions on the FR 28 application form. Given that detailed information on potential conflicts would no longer be collected on the FR 28 application form, the Board has amended the FR 28c form to delete the instruction that applicants provide additional information on conflicts of interest “not previously described on your employment application (FR 28).” The Board has also revised the hardcopy PDF version of the FR 28s voluntary form so that, regardless of the ethnicity identified by the applicant, the applicant would also be asked to voluntarily identify their race, in order to comport with the standards set out by OMB, which aligns with the similar form approved by OMB (the Standard Form 181) and the electronic version of the FR 28s form in the Taleo application submission portal. In addition, the legal authorization cited on the face of the FR 28s form (both the hardcopy PDF version and the electronic version in the Taleo portal) would be updated to reflect that the collection of information is authorized pursuant to sections 10 and 11(l) of the Federal Reserve Act, 12 U.S.C. 244 and 238(l). The comment period for this notice expired on January 25, 2021. The Board did not receive any comments. The revisions will be implemented as proposed.

Board of Governors of the Federal Reserve System, March 26, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–06636 Filed 3–30–21; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies

owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551-0001, not later than April 30, 2021.

A. *Federal Reserve Bank of New York* (Ivan Hurwitz, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001. Comments can also be sent electronically to

Comments.applications@ny.frb.org.

1. *M&T Bank Corporation, Buffalo, New York*; to acquire People's United Financial Inc., and thereby indirectly acquire People's United Bank National Association, both of Bridgeport, Connecticut.

Board of Governors of the Federal Reserve System, March 26, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021-06641 Filed 3-30-21; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Reporting, Recordkeeping, and Disclosure Requirements Associated with Regulation BB (FR BB; OMB No. 7100-0197).

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve

System, Washington, DC 20551, (202) 452-3829. Office of Management and Budget (OMB) Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395-6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. The OMB inventory, as well as copies of the PRA Submission, supporting statements, and approved collection of information instrument(s) are available at <https://www.reginfo.gov/public/do/PRAMain>. These documents are also available on the Federal Reserve Board's public website at <https://www.federalreserve.gov/apps/reportforms/review.aspx> or may be requested from the agency clearance officer, whose name appears above.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Information Collection

Report title: Reporting, Recordkeeping, and Disclosure Requirements Associated with Regulation BB.

Agency form number: FR BB.

OMB control number: 7100-0197.

Frequency: Annually.

Respondents: State Member Banks (SMBs), with the exception of special purpose banks that do not perform commercial or retail banking services by granting credit to the public in the ordinary course of business, other than as incident to their specialized operations. These banks include bankers' banks and banks that engage only in one or more of the following activities: Providing cash management controlled disbursement services or serving as correspondent banks, trust companies, or clearing agents.

Estimated number of respondents: Assessment area delineation, 117; Loan data: Small business and small farm, 113; Loan data: Community development, 98; Loan data: Home Mortgage Disclosure Act (HMDA) out of Metropolitan Statistical Areas (MSA), 117; Request for designation as a wholesale or a limited purpose bank, 1; Request for strategic plan approval, 2; Affiliate lending data, 5; Data on lending by a consortium or a third party,

12; Small business and small farm loan register, 113; Consumer loan data, 28; Other loan data, 20; and Public file and public notice, 778.

Estimated average hours per response: Assessment area delineation, 2; Loan data: Small business and small farm, 8; Loan data: Community development, 13; Loan data: HMDA out of MSA, 253; Request for designation as a wholesale or a limited purpose bank, 4; Request for strategic plan approval, 275; Affiliate lending data, 38; Data on lending by a consortium or a third party, 17; Small business and small farm loan register, 219; Consumer loan data, 326; Other loan data, 25; and Public file and public notice, 10.

Estimated annual burden hours: Assessment area delineation, 234; Loan data: Small business and small farm, 904; Loan data: Community development, 1,274; Loan data: HMDA out of MSA, 29,601; Request for designation as a wholesale or a limited purpose bank, 4; Request for strategic plan approval, 550; Affiliate lending data, 190; Data on lending by a consortium or a third party, 204; Small business and small farm loan register, 24,747; Consumer loan data, 9,128; Other loan data, 500; and Public file and public notice, 7,780.

General description of report: The Community Reinvestment Act (CRA) directs the Board, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency (collectively, the agencies) to evaluate financial institutions' (banks and savings associations) records of helping to meet the credit needs of their entire communities, including low- and moderate-income areas, consistent with the safe and sound operation of the institutions. The CRA is implemented through regulations issued by the agencies. The Board's regulation applies to SMBs.

Legal authorization and confidentiality: The FR BB is authorized by section 806 of the CRA, which permits the Board to issue "[r]egulations to carry out the purposes of [the CRA]";¹ section 11 of the Federal Reserve Act, which permits the Board to "require such statements and reports as it deems necessary" of state member banks;² and section 9 of the Federal Reserve Act, which permits the Board to examine state member banks.³

Most of the recordkeeping, reporting, and disclosure requirements of Regulation BB are mandatory. However, there are several limited parts of the

¹ 12 U.S.C. 2905.

² 12 U.S.C. 248(a)(1).

³ 12 U.S.C. 325.

collection that are required to obtain a benefit: Specifically, the request for designation as a wholesale or limited purpose bank, the strategic plan, and the recordkeeping and reporting requirements associated with data regarding consumer loans and lending performance, affiliate lending data, and data on lending by a consortium or a third party.

Most of the information collected under Regulation BB is not considered confidential. However, if a respondent elects to submit a strategic plan pursuant to 12 CFR 228.27, the respondent may submit additional information to the Board relating to the strategic plan on a confidential basis, so long as the goals in the plan are sufficiently specific to enable the public and the Board to judge the merits of the plan. The Board will determine whether the additional information is entitled to confidential treatment on a case-by-case basis.

To the extent a respondent submits information contained in or related to examination, operating, or condition reports prepared by, or on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions, the respondent may request confidential treatment pursuant to exemption 8 of the Freedom of Information Act (FOIA).⁴ To the extent a respondent submits nonpublic commercial or financial information which is both customarily and actually treated as private by the respondent, the respondent may request confidential treatment pursuant to exemption 4 of the FOIA.⁵

Current actions: On December 11, 2020, the Board published an initial notice in the **Federal Register** (85 FR 80097) requesting public comment for 60 days on the extension, without revision, of the FR BB. The comment period for this notice expired on February 9, 2021. The Board did not receive any comments. The Board adopted the extension, without revision, of the FR BB as originally proposed.

Board of Governors of the Federal Reserve System, March 25, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.
[FR Doc. 2021-06549 Filed 3-30-21; 8:45 am]

BILLING CODE 6210-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID-19

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Agency order.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS) announces the extension of an Order under Section 361 of the Public Health Service Act to temporarily halt residential evictions to prevent the further spread of COVID-19.

DATES: This Order is effective April 1, 2021 through June 30, 2021.

FOR FURTHER INFORMATION CONTACT: Tiffany Brown, Acting Deputy Chief of Staff, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21-10, Atlanta, GA 30329. Phone: 404-639-7000. Email: cdc regulations@cdc.gov.

SUPPLEMENTARY INFORMATION:

Background

This Order further extends the original temporary eviction moratorium Order published on September 4, 2020, as initially extended by the Consolidated Appropriations Act, 2021, and further extended by the Order published on January 29, 2021 set to expire on March 31, 2021, with modifications through June 30, 2021. Because of COVID-19, household crowding and transmission, and the increased risk of individuals sheltering in close quarters in congregate settings such as homeless shelters, which may be unable to provide adequate social distancing as populations increase, extending the temporary halt on evictions, subject to further extension, modification, or rescission, is appropriate.

The Order is extended through June 30, 2021 based on current and projected epidemiological context of SARS-CoV-2 transmission throughout the United States. Although daily incidence of COVID-19 decreased and plateaued between January and March 25, 2021, widespread transmission continues at high levels, making the Order still necessary, especially given that previous plateaus have led to secondary and tertiary phases of acceleration.

A copy of the Order is provided below. A copy of the signed Order and

the Declaration can be found at: <https://www.cdc.gov/coronavirus/2019-ncov/covid-eviction-declaration.html>.

Centers for Disease Control and Prevention Department of Health and Human Services

Order Under Section 361 of the Public Health Service Act (42 U.S.C. 264) and 42 Code of Federal Regulations 70.2

Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID-19

Summary

Subject to the limitations under “Applicability,” a landlord, owner of a residential property, or other person¹ with a legal right to pursue eviction or possessory action, shall not evict any covered person from any residential property in any jurisdiction to which this Order applies during the effective period of the Order.

Definitions

“Available government assistance” means any governmental rental or housing payment benefits available to the individual or any household member.

“Available housing” means any available, unoccupied residential property, or other space for occupancy in any seasonal or temporary housing, that would not violate federal, state, or local occupancy standards and that would not result in an overall increase of housing cost to such individual.

“Covered person”² means any tenant, lessee, or resident of a residential property who provides to their landlord, the owner of the residential property, or other person with a legal right to pursue

¹ For purposes of this Order, “person” includes corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals.

² This definition is based on factors that are known to contribute to evictions and thus increase the need for individuals to move into close quarters in new congregate or shared living arrangements or experience homelessness. Individuals who suffer job loss, have limited financial resources, are low income, or have high out-of-pocket medical expenses are more likely to be evicted for nonpayment of rent than others not experiencing these factors. See Desmond, M., Gershenson, C., Who gets evicted? Assessing individual, neighborhood, and network factors, *Soc Sci Res.* 2017;62:362-377. doi:10.1016/j.sresresearch.2016.08.017, (identifying job loss as a possible predictor of eviction because renters who lose their jobs experience not only a sudden loss of income but also the loss of predictable future income). According to one survey, over one quarter (26%) of respondents also identified job loss as the primary cause of homelessness. See *2019 San Francisco Homeless Count & Survey Comprehensive Report*, Applied Survey Research, at 22, https://hsh.sfgov.org/wp-content/uploads/2020/01/2019HIRDReport_SanFrancisco_FinalDraft-1.pdf. (last viewed Mar. 24, 2021).

⁴ 5 U.S.C. 552(b)(8).

⁵ 5 U.S.C. 552(b)(4).

eviction or a possessory action,³ a declaration under penalty of perjury indicating that:

(1) The individual has used best efforts to obtain all available government assistance for rent or housing;

(2) The individual either (i) earned no more than \$99,000 (or \$198,000 if filing jointly) in Calendar Year 2020, or expects to earn no more than \$99,000 in annual income for Calendar Year 2021 (or no more than \$198,000 if filing a joint tax return),⁴ (ii) was not required to report any income in 2020 to the U.S. Internal Revenue Service, or (iii) received an Economic Impact Payment (stimulus check).⁵ 6

(3) The individual is unable to pay the full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, a lay-off, or extraordinary⁷ out-of-pocket medical expenses;

³ As used throughout this Order, this would include, without limitation, an agent or attorney acting on behalf of the landlord or the owner of the residential property.

⁴ According to one study, the national two-bedroom housing wage in 2020 was \$23.96 per hour (approximately, \$49,837 annually), meaning that an hourly wage of \$23.96 was needed to afford a modest two-bedroom house without spending more than 30% of one's income on rent. The hourly wage needed in Hawaii (the highest cost U.S. State for rent) was \$38.76 (approximately \$80,621 annually). See *Out of Reach: How Much do you Need to Earn to Afford a Modest Apartment in Your State?*, National Low Income Housing Coalition, <https://reports.nlihc.org/oor> (last visited Mar. 23, 2021). As further explained herein, because this Order is intended to serve the critical public health goal of preventing evicted individuals from potentially contributing to the interstate spread of COVID-19 through movement into close quarters in new congregate, shared housing settings, or through homelessness, the higher income thresholds listed here have been determined to better serve this goal.

⁵ "Stimulus check" includes payments made pursuant to Section 2201 of the CARES Act, to Section 9601 of the American Rescue Plan Act of 2021, or to any similar federally authorized payments made to individual natural persons in 2020 and 2021. Eligibility for the 2020 or 2021 stimulus checks has been based on an income that is equal to or lower than the income thresholds described above and does not change or expand who is a covered person under this Order since it was entered into on September 4, 2020.

⁶ A person is likely to qualify for protection under this Order if they receive the following benefits: (a) Temporary Assistance for Needy Families (TANF); (b) Supplemental Nutrition Assistance Program (SNAP); (c) Supplemental Security Income (SSI); or (d) Supplemental Security Disability Income (SSDI) to the extent that income limits for these programs are less than or equal to the income limits for this Order. However, it is the individual's responsibility to verify that their income is within the income limits described.

⁷ Extraordinary expenses are defined as those that prevented you from paying some or all of your rent or providing for other basic necessities like food security. To qualify as an extraordinary medical expense, the unreimbursed medical expense is on that is likely to exceed 7.5% of one's adjusted gross income for the year.

(4) The individual is using best efforts to make timely partial payments that are as close to the full payment as the individual's circumstances may permit, taking into account other nondiscretionary expenses; and

(5) Eviction would likely render the individual homeless—or force the individual to move into and live in close quarters in a new congregate or shared living setting—because the individual has no other available housing options.

"*Evict*" and "*Eviction*" means any action by a landlord, owner of a residential property, or other person with a legal right to pursue eviction or possessory action, to remove or cause the removal of a covered person from a residential property. This definition also does not prohibit foreclosure on a home mortgage.

"*Residential property*" means any property leased for residential purposes, including any house, building, mobile home or land in a mobile home park,⁸ or similar dwelling leased for residential purposes, but shall not include any hotel, motel, or other guest house rented to a temporary guest or seasonal tenant as defined under the laws of the state, territorial, tribal, or local jurisdiction.

"*State*" shall have the same definition as under 42 CFR 70.1, meaning "any of the 50 states, plus the District of Columbia."

"*U.S. territory*" shall have the same definition as under 42 CFR 70.1, meaning "any territory (also known as possessions) of the United States, including American Samoa, Guam, the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands."

Statement of Intent

This Order shall be interpreted and implemented in a manner as to achieve the following objectives:

- Mitigating the spread of COVID-19 within crowded, congregate or shared living settings, or through unsheltered homelessness;
- Mitigating the further spread of COVID-19 from one state or territory into any other state or territory;
- Mitigating the further spread of COVID-19 by temporarily suspending the eviction of covered persons from residential property for nonpayment of rent; and
- Supporting response efforts to COVID-19 at the federal, state, local, territorial, and tribal levels.

⁸ Mobile home parks may also be referred to as manufactured housing communities.

Background

There is currently a pandemic of a respiratory disease ("COVID-19") caused by a novel coronavirus (SARS-CoV-2) that has now spread globally, including cases reported in all fifty states within the United States, plus the District of Columbia and U.S. territories. As of March 25, 2021, there have been almost 125 million cases of COVID-19 globally, resulting in over 2,700,000 deaths.⁹ Over 29,700,000 cases have been identified in the United States, with new cases reported daily, and over 540,000 deaths due to the disease.¹⁰ Although transmission has decreased since a peak in January 2021, the current number of cases per day remains almost twice as high as the initial peak in April 2020 and transmission rates are similar to the second peak in July 2020.

The virus that causes COVID-19 spreads very easily and sustainably between people who are in close contact with one another (within about 6 feet), mainly through respiratory droplets produced when an infected person coughs, sneezes, or talks. Individuals without symptoms can also spread the virus.¹¹ Among adults, the risk for severe illness from COVID-19 increases with age, with older adults at highest risk. Severe illness means that persons with COVID-19 may require hospitalization, intensive care, or a ventilator to help them breathe, and may be fatal. People of any age with certain underlying medical conditions (e.g. cancer, obesity, serious heart conditions, or diabetes) are at increased risk for severe illness from COVID-19.¹²

COVID-19 presents a historic threat to public health, and COVID-19 cases have been detected in every county in the continental United States.¹³ Between December 2020 and January 2021, the number of deaths per day from COVID-19 consistently exceeded any other

⁹ *COVID-19 Dashboard by the Center for Systems Science and Engineering (CSSE) at Johns Hopkins University (JHU)*, Johns Hopkins Coronavirus Resource Center, <https://coronavirus.jhu.edu/map.html> (last visited Mar. 25, 2021).

¹⁰ *COVID Data Tracker*, Centers for Disease Control and Prevention, <https://covid.cdc.gov/covid-data-tracker/#data-tracker-home> (last visited Mar. 25, 2021).

¹¹ Johansson MA, Quandelacy TM, Kada S, et al. SARS-CoV-2 Transmission From People Without COVID-19 Symptoms. *JAMA Netw Open*. 2021;4(1):e2035057. doi:10.1001/jamanetworkopen.2020.35057

¹² *People with Certain Medical Conditions*, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html> (last updated Mar. 15, 2021).

¹³ *US COVID-19 cases and deaths by state*, USAFacts, <https://usafacts.org/visualizations/coronavirus-covid-19-spread-map/> (last visited Mar. 24, 2021).

cause.¹⁴ Although transmission levels have decreased since January, between February 25 and March 25, 2021, the daily incidence of COVID-19 remained comparable to the summer peak of transmission in July 2020, which is higher than the daily incidence when the Order initially took effect in September, 2020. Furthermore, 37% of counties in the United States are categorized as experiencing “high” transmission (over 100 cases per 100,000 people or greater than 10% test positivity) and an additional 30% of counties are categorized as experiencing “substantial” transmission (50–99.99 cases per 100,000 people or 8–9.99% test positivity).¹⁵ No counties are currently considered free of spread, and only 8% of counties are considered to have low transmission.¹⁶

Two-dose mRNA COVID-19 vaccination became available in December 2020 and as of March 27, 2021 over 50 million people in the United States (more than 15% of the population) have been fully immunized.¹⁷ In February 2021, a single dose COVID-19 vaccine also became available. CDC continues to update guidance for COVID-19 precautions among individuals who have been fully vaccinated; however, currently there are no recommended changes to COVID-19 prevention recommendations related to activities in public, such as avoiding crowded and poorly ventilated places. This is particularly important given continued transmission. Even as COVID-19 vaccines continue to be distributed, it remains critical to maintain COVID-19 precautions to avoid further rises in transmission and to guard against yet another increase in the rates of new infections. It is important to note that despite higher rates of vaccine coverage, the simultaneous roll-back of community mitigation efforts may continue to expose vulnerable populations, such as those targeted in this Order, to higher-than-average COVID-19 rates. It is important to note that despite higher rates of vaccine coverage, the simultaneous roll-back of community mitigation efforts may continue to expose vulnerable populations, such as

those targeted in this Order, to higher-than-average COVID-19 rates.¹⁸

In recent months, new variants of SARS-CoV-2 have also emerged globally.¹⁹ Epidemiological evaluation of these variants shows increased transmissibility as well as possible increased mortality. The current substantial levels of transmission and the emergence of variants highlight the persistent and dynamic nature of the pandemic and the need for continued protections.

To respond to this public health threat, Federal, state, and local governments have taken unprecedented or exceedingly rare actions, including border closures, restrictions on travel, stay-at-home orders, mask requirements, and eviction moratoria. In particular, the COVID-19 pandemic has triggered unprecedented restrictions on interstate and foreign travel. For example, many states require travelers arriving from other states to obtain negative test results and/or quarantine upon arrival.²⁰ For international travel, all passengers age two or older—including U.S. citizens—must obtain a negative test result or show proof of recovery before they may board a flight to the United States.²¹ Despite the need for travel precautions, airport use has increased in recent weeks, leading to heightened concerns of interstate transmission.²² SARS-CoV-2 transmission, behavior change, and travel restrictions have devastated industries that depend on the movement of people, such as the travel, leisure, and hospitality.²³ Ten months after the initial wave of closures due to COVID-19, over 16 percent of the hospitality and leisure sector’s labor force was

unemployed.²⁴ The persistent spread of COVID-19 continues to necessitate preventive action.

In the context of a pandemic, eviction moratoria—like quarantine, isolation, and social distancing—can be an effective public health measure utilized to prevent the spread of communicable disease. Eviction moratoria facilitate self-isolation by people who become ill or who are at risk for severe illness from COVID-19 due to an underlying medical condition. They also allow state and local authorities to more easily implement, as needed, stay-at-home and social distancing directives to mitigate the community spread of COVID-19.

Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. 116–136) to aid individuals and businesses adversely affected by COVID-19 in March 2020. Section 4024 of the CARES Act provided a 120-day moratorium on eviction filings as well as other protections for tenants in certain rental properties with federal assistance or federally related financing. These protections helped alleviate the public health consequences of tenant displacement during the COVID-19 pandemic. The CARES Act eviction moratorium expired on July 24, 2020. The protections in the CARES Act supplemented temporary eviction moratoria and rent freezes implemented by governors and other local officials using emergency powers. Researchers estimated that this temporary federal moratorium provided relief to a material portion of the nation’s roughly 43 million renters.²⁵ The CARES act also provided funding streams for emergency rental assistance; surveys estimate that this assistance became available to the public through rental assistance programs by July 2020.²⁶

The federal moratorium provided by the CARES Act, however, did not reach all renters. Many renters who fell outside the scope of the Federal moratorium were instead protected under state and local moratoria. In August, it was estimated that as many as 30–40 million people in America could be at risk of eviction.²⁷ In early

¹⁸ *COVID Data Tracker*, Centers for Disease Control and Prevention, <https://covid.cdc.gov/covid-data-tracker/#datatracker-home> (last visited Mar. 25, 2021).

¹⁹ Abdool Karim SS, de Oliveira T. New SARS-CoV-2 Variants—Clinical, Public Health, and Vaccine Implications [published online ahead of print, 2021 Mar 24]. *N Engl J Med*. 2021;10.1056/NEJMc2100362. doi:10.1056/NEJMc2100362.

²⁰ *Travel During COVID-19*, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/travelers/travel-during-covid19.html> (last updated Feb. 16, 2021).

²¹ *Id.*

²² Cecelia Smith-Schoenwalder, *CDC Urges Americans to Avoid Travel as Airport Screenings Approach Pandemic Peak*, U.S. News, <https://www.usnews.com/news/health-news/articles/2021-03-22/cdc-urges-americans-to-avoid-travel-as-airport-screenings-approach-pandemic-peak> (last visited Mar. 26, 2021).

²³ Aaron Klein & Ember Smith, *Explaining the economic impact of COVID-19: Core industries and the Hispanic workforce*, Brookings Institute, <https://www.brookings.edu/research/explaining-the-economic-impact-of-covid-19-core-industries-and-the-hispanic-workforce/> (last visited Mar. 23, 2021).

¹⁴ Woolf SH, Chapman DA, Lee JH. COVID-19 as the Leading Cause of Death in the United States. *JAMA*. 2021;325(2):123–124. doi:10.1001/jama.2020.24865.

¹⁵ *COVID-19 Integrated County View*, Centers for Disease Control and Prevention, <https://covid.cdc.gov/covid-data-tracker/#county-view> (last visited Mar. 22, 2021).

¹⁶ *Id.*

¹⁷ *Id.*

²⁴ *Labor Force Statistics from the Current Population Survey*, U.S. Bureau of Labor Statistics, <https://www.bls.gov/web/empsit/cpseea31.htm> (last updated Mar. 5, 2021).

²⁵ See *CARES Act Eviction Moratorium*, Congressional Research Service, <https://crsreports.congress.gov/product/pdf/IN/IN11320> (last visited Mar. 23, 2021).

²⁶ Vincent Reina et al., *COVID-19 Emergency Rental Assistance: Analysis of a National Survey of Programs*, Research Brief, https://nlihc.org/sites/default/files/HIP_NLIHC_Furman_Brief_FINAL.pdf (last visited Mar. 26, 2021).

²⁷ See Emily Benfer et al., *The COVID-19 Eviction Crisis: An Estimated 30–40 Million People in*

March, 2021, the Census Household Pulse Survey estimated that over 4 million adults who are not current on rent perceive that they are at imminent risk of eviction.²⁸ A wave of evictions on that scale would be unprecedented in modern times.²⁹ A large portion of those who are evicted may move into close quarters in shared housing or, as discussed below, become homeless, thus becoming at higher risk of COVID-19.

On September 4, 2020, the CDC Director issued an Order temporarily halting evictions in the United States for the reasons described therein. That Order was set to expire on December 31, 2020, subject to further extension, modification, or rescission. Section 502 of Title V, Division N of the Consolidated Appropriations Act, 2021 extended the Order until January 31, 2021. With the extension of the Order, Congress also provided \$25 billion for emergency rental assistance for the payment of rent and rental arrears. Congress later provided an additional \$21.55 billion in emergency rental assistance when it passed the American Rescue Plan.

On January 29, 2021, following an assessment of the ongoing pandemic, the CDC Director renewed the Order until March 31, 2021. This Order further extends and modifies the prior Eviction Moratoria until June 30, 2021, for the reasons described herein, subject to revision based on the changing public health landscape. To the extent any provision of this Order conflicts with prior Orders, this Order is controlling.

Researchers estimate that, in 2020, Federal, state, and local eviction moratoria led to over one million fewer evictions than the previous year.³⁰ Additional research shows that, despite the CDC eviction moratorium leading to an estimated 50% decrease in eviction filings compared to the historical average, there have still been over 100,000 eviction filings since

September, suggesting high demand and likelihood of mass evictions.³¹

Eviction and Risk of COVID-19 Transmission

Evicted renters must move, which leads to multiple outcomes that increase the risk of COVID-19 spread. Specifically, many evicted renters move into close quarters in shared housing or other congregate settings. According to the Census Bureau American Housing Survey, 32% of renters reported that they would move in with friends or family members upon eviction, which would introduce new household members and potentially increase household crowding. Studies show that COVID-19 transmission occurs readily within households. The secondary attack rate in households has been estimated to be 17%, and household contacts are estimated to be 6 times more likely to become infected by an index case of COVID-19 than other close contacts. A study of pregnant women in New York City showed that women in large households (greater number of residents per household) were three times as likely to test positive for SARS-CoV-2 than those in smaller households, and those in neighborhoods with greater household crowding (≤ 1 resident per room) were twice as likely to test positive.

Throughout the United States, counties with the highest proportion of crowded households have experienced COVID-19 mortality rates 2.6 times those of counties with the lowest proportion of crowded households.

Shared housing is not limited to friends and family. It includes a broad range of settings, including transitional housing and domestic violence and abuse shelters. Special considerations exist for such housing because of the challenges of maintaining social distance. Residents often gather closely or use shared equipment, such as kitchen appliances, laundry facilities, stairwells, and elevators. Residents may have unique needs, such as disabilities, chronic health conditions, cognitive decline, or limited access to technology, and thus may find it more difficult to take actions to protect themselves from COVID-19. CDC recommends that shelters provide new residents with a clean mask, keep them isolated from others, screen for symptoms at entry, or arrange for medical evaluations as needed depending on symptoms. Accordingly, an influx of new residents at facilities that offer support services could potentially overwhelm staff and,

if recommendations are not followed, lead to exposures.

Preliminary modeling projections and observational data from COVID-19 incidence comparisons across states that implemented and lifted eviction moratoria indicate that evictions substantially contribute to COVID-19 transmission. In mathematical models where eviction led exclusively to sharing housing with friends or family, lifting eviction moratoria led to a 40% increased risk of contracting COVID-19 among people who were evicted and those with whom they shared housing after eviction (pre-peer review). Compared to a scenario where no evictions occurred, the models also predicted a 5–50% increased risk of infection, even for those who did not share housing, as a result of increased overall transmission. The authors estimated that anywhere from 1,000 to 100,000 excess cases per million population could be attributable to evictions depending on the eviction and infection rates.

An analysis of observational data from state-based eviction moratoria in the 43 states and the District of Columbia showed significant increases in COVID-19 incidence and mortality approximately 2–3 months after eviction moratoria were lifted (pre-peer review). Specifically, the authors compared the COVID-19 incidence and mortality rates in states that lifted their moratoria with the rates in states that maintained their moratoria. In these models, the authors controlled for time-varying indicators of each state's test count as well as major public-health interventions including lifting stay-at-home orders, school closures, and mask mandates. After adjusting for these other changes, they found that the incidence of COVID-19 in states that lifted their moratoria was 1.6 times that of states that did not at 10 weeks post-lifting (95% CI 1.0, 2.3), a ratio that grew to 2.1 at ≥ 16 weeks (CI 1.1, 3.9). Similarly, they found that mortality in states that lifted their moratoria was 1.6 times that of states that did not at 7 weeks post-lifting (CI 1.2, 2.3), a ratio that grew to 5.4 at ≥ 16 weeks (CI 3.1, 9.3). The authors estimated that, nationally, over 433,000 cases of COVID-19 and over 10,000 deaths could be attributed to lifting state moratoria.³²

³² Leifheit, Kathryn M. and Linton, Sabriya L. and Raifman, Julia and Schwartz, Gabriel and Benfer, Emily and Zimmerman, Frederick J and Pollack, Craig, Expiring Eviction Moratoriums and COVID-19 Incidence and Mortality (November 30, 2020). Available at SSRN: <https://ssrn.com/abstract=3739576> or <http://dx.doi.org/10.2139/ssrn.3739576>.

America are at Risk, Aspen Institute, <https://www.aspeninstitute.org/blog-posts/the-covid-19-eviction-crisis-an-estimated-30-40-million-people-in-america-are-at-risk/> (last visited Mar. 23, 2021).

²⁸ Household Pulse Survey, United States Census Bureau, <https://www.census.gov/data-tools/demo/hhp/#/?measures=EVR> (last visited Mar. 25, 2021).

²⁹ As a baseline, approximately 900,000 renters are evicted every year in the United States. Princeton University Eviction Lab. *National Estimates: Eviction in America*, The Eviction Lab: Princeton University, <https://evictionlab.org/national-estimates/> (last visited Mar. 24, 2021).

³⁰ Pete Hepburn & Renee Louis, *Preliminary Analysis: Six Months of the CDC Eviction Moratorium*, The Eviction Lab: Princeton University, <https://evictionlab.org/six-months-cdc/> (last visited Mar. 26, 2021).

³¹ *Id.*

Although data are limited, available evidence suggests evictions lead to interstate spread of COVID-19 in two ways. First, an eviction may lead the evicted members of a household to move across state lines. Of the 35 million Americans who move each year, 15% move to a new state. Second, even if a particular eviction, standing alone, would not always result in interstate displacement, the mass evictions that would occur in the absence of this Order would inevitably increase the interstate spread of COVID-19. This Order cannot effectively mitigate interstate transmission of COVID-19 without covering intrastate evictions, as the level of spread of SARS-CoV-2 resulting from these evictions can lead to SARS-CoV-2 transmission across state borders. Moreover, intrastate spread facilitates interstate spread in the context of communicable disease spread, given the nature of infectious disease. In the aggregate, the mass-scale evictions that will likely occur in the absence of this Order will inevitably increase interstate spread of COVID-19.

Eviction, Homelessness, and Risk of Severe Disease From COVID-19

Evicted individuals without access to support or other assistance options may become homeless, including older adults or those with underlying medical conditions, who are more at risk for severe illness from COVID-19 than the general population. In Seattle-King County, 5–15% of people experiencing homelessness between 2018 and 2020 cited eviction as the primary reason for becoming homeless. Additionally, some individuals and families who are evicted may originally stay with family or friends, but subsequently seek homeless services. Among people who entered shelters throughout the United States in 2017, 27% were staying with family or friends beforehand.

People experiencing homelessness are at high risk for COVID-19. It may be more difficult for these persons to consistently access the necessary resources to adhere to public health recommendations to prevent COVID-19. For instance, it may not be possible to avoid certain congregate settings such as homeless shelters, or easily access facilities to engage in handwashing with soap and water.

Extensive outbreaks of COVID-19 have been identified in homeless shelters. In Seattle, Washington, a network of three related homeless shelters experienced an outbreak that led to 43 cases among residents and staff members. In Boston, Massachusetts, universal COVID-19 testing at a single shelter revealed 147 cases, representing

36% of shelter residents. COVID-19 testing in a single shelter in San Francisco led to the identification of 101 cases (67% of those tested). Data from 557 universal diagnostic testing events at homeless shelters in 21 states show an average of 6% positivity among shelter clients. Data comparing the incidence or severity of COVID-19 among people experiencing homelessness directly to the general population are limited. However, during the 15-day period of the outbreak in Boston, MA, researchers estimated a cumulative incidence of 46.3 cases of COVID-19 per 1000 persons experiencing homelessness, as compared to 1.9 cases per 1000 among Massachusetts adults (pre-print).

CDC guidance recommends increasing physical distance between beds in homeless shelters. To adhere to this guidance, shelters have limited the number of people served throughout the United States. In many places, considerably fewer beds are available to individuals who become homeless. Shelters that do not adhere to the guidance, and operate at ordinary or increased occupancy, are at greater risk for the types of outbreaks described above. The challenge of mitigating disease transmission in homeless shelters has been compounded because some organizations have chosen to stop or limit volunteer access and participation.

In the context of the current pandemic, large increases in evictions resulting in homelessness could have at least two potential negative consequences. One is if homeless shelters increase occupancy in ways that increase the exposure risk to COVID-19. The other is if homeless shelters limit new admissions, leading to increases in unsheltered homelessness, which is associated with significantly heightened risk of mortality generally. Neither consequence is in the interest of the public health.

Additionally, research suggests that the population of persons who would be evicted and those experiencing homelessness may be at risk of severe disease from COVID-19. Five studies have shown an association between eviction and hypertension, which has been associated with more severe outcomes from COVID-19. Also, people experiencing homelessness often have underlying conditions that increase their risk of severe outcomes of COVID-19. Among patients with COVID-19, homelessness has been associated with increased likelihood of hospitalization.

In short, evictions threaten to increase the spread of COVID-19 as they force

people to move, often into close quarters in new shared housing settings with friends or family, or congregate settings such as homeless shelters. The ability of these settings to adhere to best practices, such as social distancing and other infection control measures, decreases as populations increase.

Modifications

In addition to extending the effective period of the prior orders, this Order makes several modifications. A description of each modification follows:

CDC added a statement in the “Statement of Intent” section consistent with the clarification of the “Evict” and “Eviction” definitions. The statement now specifically clarifies that one intended purpose of this Order is to mitigate the spread of COVID-19 by temporarily suspending the eviction of covered persons from residential property for nonpayment of rent.

CDC modified the “Applicability” section to add the following points:

A signed declaration submitted under a previous order remains valid notwithstanding the issuance of this extended and modified order, and covered persons do not need to submit a new declaration under this Order. Evictions for nonpayment of rent initiated prior to September 4, 2020, but not yet completed are subject to this Order, but those that were completed before September 4, 2020, are not subject to the Order. While the Order does not prohibit evictions for engaging in criminal activity while on the leased premises, covered persons may not be evicted on the sole basis that they are alleged to have committed the crime of trespass (or similar state-law offense) where the underlying activity is a covered person remaining in a residential property despite nonpayment of rent. Individuals who are confirmed to have, who have been exposed to, or who might have COVID-19 and take reasonable precautions to not spread the disease should not be evicted on grounds that they pose a health or safety threat to other residents.

Even if a particular eviction, standing alone, would not always result in interstate displacement, the mass evictions that would occur in the absence of this Order would inevitably increase the interstate spread of COVID-19. Moreover, increases in intrastate spread further facilitate interstate spread in the context of communicable disease spread.

The “Background,” “Eviction and Risk of COVID-19 Infection” and “Eviction, Homelessness, and Risk of Severe Disease from COVID-19”

subsections have been revised to reflect updated epidemiological and other relevant information in support of this Order.

CDC added a new section titled “Declaration Forms” with the following points:

To qualify as a covered person eligible for the protections of this Order, a tenant, lessee, or resident of a residential property must provide a completed and signed copy of a declaration with the elements listed in the definition of “Covered Person” to their landlord, owner of the residential property where they live, or other person who has a right to have them evicted or removed.

Tenants, lessees, or residents of a residential property may use any written document in place of the Declaration Form if it includes the required information as in the Form, is signed, and includes a perjury statement.

Tenants, lessees, or residents of a residential property can use a form translated into other Languages.

In some circumstances, it may be appropriate for one member of the residence to provide an executed declaration on behalf of the other adult residents who are party to the lease, rental agreement, or housing contract.

CDC modified the “Findings and Action” section to, among other things, further explain that this Order is not a rule within the meaning of the Administrative Procedure Act and, to the extent a court finds that the Order qualifies as a rule, there is good cause to dispense with prior public notice and comment.

Applicability

This Order does not apply in any state, local, territorial, or tribal area with a moratorium on residential evictions that provides the same or greater level of public-health protection than the requirements listed in this Order or to the extent its application is prohibited by federal court order. In accordance with 42 U.S.C. 264(e), this Order does not preclude state, local, territorial, and tribal authorities from imposing additional requirements that provide greater public-health protection and are more restrictive than the requirements in this Order.

This Order is a temporary eviction moratorium to prevent the further spread of COVID-19. This Order does not relieve any individual of any obligation to pay rent, make a housing payment, or comply with any other obligation that the individual may have under a tenancy, lease, or similar contract. Nothing in this Order

precludes the charging or collecting of fees, penalties, or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract. Nothing in this Order precludes evictions based on a tenant, lessee, or resident: (1) Engaging in criminal activity while on the premises; (2) threatening the health or safety of other residents;³³ (3) damaging or posing an immediate and significant risk of damage to property; (4) violating any applicable building code, health ordinance, or similar regulation relating to health and safety; or (5) violating any other contractual obligation, other than the timely payment of rent or similar housing-related payment (including non-payment or late payment of fees, penalties, or interest).

A signed declaration submitted under a previous order remains valid notwithstanding the issuance of this extended and modified order, and covered persons do not need to submit a new declaration under this Order.

Any evictions for nonpayment of rent initiated prior to September 4, 2020, but not yet completed, are subject to this Order. Any tenant, lessee, or resident of a residential property who qualifies as a “Covered Person” and is still present in a rental unit is entitled to protections under this Order. Any eviction that was completed prior to September 4, 2020, is not subject to this Order.

Under this Order, covered persons may be evicted for engaging in criminal activity while on the premises. But covered persons may not be evicted on the sole basis that they are alleged to have committed the crime of trespass (or similar state-law offense) where the underlying activity is a covered person remaining in a residential property for nonpayment of rent. Permitting such evictions would result in substantially more evictions overall, thus increasing the risk of disease transmission as otherwise covered persons move into congregate settings or experience homelessness. This result would be contrary to the stated objectives of this Order, and therefore would diminish their effectiveness. Moreover, to the extent such criminal trespass laws are invoked to establish criminal activity solely based on a tenant, lessee, or

³³ Individuals who might have COVID-19 are advised to stay home except to get medical care. Accordingly, individuals who might have COVID-19 and take reasonable precautions to not spread the disease should not be evicted on the ground that they may pose a health or safety threat to other residents. See *What to Do if You are Sick*, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html> (last updated Mar. 17, 2021).

resident of a residential property remaining in a residential property despite the nonpayment of rent, such invocation conflicts with this Order and is preempted pursuant to 42 U.S.C. 264(e).

Individuals who are confirmed to have, who have been exposed to, or who might have COVID-19 and take reasonable precautions to not spread the disease may not be evicted on grounds that they may pose a health or safety threat to other residents.

The Order is extended through June 30, 2021, based on the current and projected epidemiological context of SARS-CoV-2 transmission throughout the United States. Although daily incidence of COVID-19 decreased and plateaued between January and March 25, 2021, widespread transmission continues at high levels, making the Order still necessary, especially given that previous plateaus have led to secondary and tertiary phases of acceleration. Furthermore, the number of deaths per day continues at levels comparable to or higher than when this Order was established in September 2020.³⁴ This 90-day extension will allow the assessment of natural changes to COVID-19 incidence, the influences of new variants, and the expansion of COVID-19 vaccine coverage to determine if there is a continued need for a national eviction moratorium.

Declaration Forms

To qualify for the protections of this Order, a tenant, lessee, or resident of a residential property must provide a completed and signed copy of a declaration with the elements listed in the definition of “Covered person” to their landlord, owner of the residential property where they live, or other person who has a right to have them evicted or removed from where they live. To assist tenants and landlords, the CDC created a standardized declaration form that can be downloaded here: <https://www.cdc.gov/coronavirus/2019-ncov/downloads/declaration-form.pdf>.

Tenants, lessees, and residents of residential property are not obligated to use the CDC form. Any written document that an eligible tenant, lessee, or residents of residential property presents to their landlord will comply with this Order, as long as it contains the required elements of “Covered person” as described in this order. In addition, tenants, lessees, and residents

³⁴ *Trends in Number of COVID-19 Cases and Deaths in the US Reported to CDC, by State/Territory*, Centers for Disease Control and Prevention, https://covid.cdc.gov/covid-data-tracker/#trends_dailytrendsdeaths (last visited Mar. 22, 2021).

of residential property are allowed to declare in writing that they meet the elements of covered person in other languages.

All declarations, regardless of form used, must be signed, and must include a statement that the tenant, lessee, or resident of a residential property understands that they could be liable for perjury for any false or misleading statements or omissions in the declaration. This Order does not preclude a landlord challenging the truthfulness of a tenant's, lessee's, or resident's declaration in court, as permitted under state or local law.

In certain circumstances, such as individuals filing a joint tax return, it may be appropriate for one member of the residence to provide an executed declaration on behalf of the other adult residents party to the lease, rental agreement, or housing contract. The declaration may be signed and transmitted either electronically or by hard copy.

Findings and Action

For the reasons described herein, I am extending and modifying the September 4, 2020 Order, as extended by section 502 of Title V, Division N of the Consolidated Appropriations Act, 2021 and further extended by the January 29, 2021 Order. I have determined that extending the temporary halt in evictions in this Order constitutes a reasonably necessary measure under 42 CFR 70.2 to prevent the further spread of COVID-19 throughout the United States. I have further determined that measures by states, localities, or territories that do not meet or exceed these minimum protections are insufficient to prevent the interstate spread of COVID-19.³⁵

Based on the convergence of COVID-19, household crowding and transmission, and the increased risk of individuals sheltering in close quarters in congregate settings such as homeless shelters, which may be unable to provide adequate social distancing as populations increase, I have determined that extending the temporary halt on evictions is appropriate.

Therefore, under 42 CFR 70.2, subject to the limitations under the "Applicability" section, the September

4, 2020 Order is hereby modified and extended through June 30, 2021.

Accordingly, a landlord, owner of a residential property, or other person with a legal right to pursue eviction or possessory action shall not evict any covered person from any residential property in any state or U.S. territory in which there are documented cases of COVID-19 that provides a level of public-health protections below the requirements listed in this Order.

This Order is not a rule within the meaning of the Administrative Procedure Act (APA) but rather an emergency action taken under the existing authority of 42 CFR 70.2. The purpose of section 70.2, which was promulgated through notice-and-comment rulemaking, is to enable CDC to take swift steps to prevent contagion without having to seek a second round of public comments and without a delay in effective date.³⁶

In the event that this Order qualifies as a rule under the APA, notice and comment and a delay in effective date are not required because there is good cause to dispense with prior public notice and comment and the opportunity to comment on this Order and the delay in effective date. See 5 U.S.C. 553(b)(3)(B). Considering the public health emergency caused by COVID-19, it would be impracticable and contrary to the public health, and by extension the public interest, to delay the issuance and effective date of this Order.

In the September 4, 2020 Order, the previous CDC Director determined that good cause existed because the public health emergency caused by COVID-19 made it impracticable and contrary to the public health, and by extension the public interest, to delay the issuance and effective date of the Order. The previous Director also found that a delay in the effective date of the Order would permit the occurrence of evictions—potentially on a mass scale—that would have potentially significant consequences. For these reasons, the previous Director concluded that the delay in the effective date of the Order would defeat the purpose of the Order and endanger the public health and, therefore, determined that immediate action was necessary. As a result, the previous Director issued the Order without prior notice and comment and without a delay in the effective date. I made similar findings in the January 29, 2021 Order.

As noted above, although transmission levels have decreased

since January, between February 25, 2021 and March 25, 2021, the daily incidence of COVID-19 remained comparable to the summer peak of transmission in July 2020. Daily incidence in the last 30 days has remained consistently higher than the daily incidence when the Order took effect in September 2020. Furthermore, 37% of counties in the United States are categorized as experiencing "high" transmission (over 100 cases per 100,000 people or greater than 10% test positivity) and an additional 30% of counties are categorized as experiencing "substantial" transmission (50–99.99 cases per 100,000 people or 8–9.99% test positivity). No counties are currently considered free of spread, and only 8% of counties are considered to have low transmission. Because of these reasons and because the current extension is set to expire on March 31, 2021, I hereby conclude that immediate action is again necessary without prior notice and comment and without a delay in the effective date.

The rapidly changing nature of the pandemic requires not only that CDC act swiftly, but also deftly to ensure that its actions are commensurate with the threat. This necessarily involves assessing evolving conditions that inform CDC's determinations.

Although the pandemic is dynamic and the situation evolves over time, the fundamental public health threat that existed on September 4, 2020, and January 29, 2021—the risk of large numbers of residential evictions contributing to the spread of COVID-19 throughout the United States—continues to exist. Without this Order, there is every reason to expect that evictions will increase. It is imperative that public health authorities act quickly to help ward off an unprecedented wave of evictions, which would threaten new spikes in SARS-CoV-2 transmission at a critical juncture in fight against COVID-19. Such mass evictions and the attendant public-health consequences would be very difficult, if not impossible, to reverse. It would be impracticable and contrary to the public interest to delay the issuance and effective date of the Order pending notice-and-comment rulemaking for the reasons described herein, and because of the ever-changing landscape of the pandemic and the uncertainty of whether Congress would grant another extension as it did in December 2020.

Similarly, if this Order qualifies as a rule under the APA, the Office of Information and Regulatory Affairs (OIRA) has determined that it would be an economically significant regulatory

³⁵ In the United States, public health measures are implemented at all levels of government, including the federal, state, local, and tribal levels. Publicly-available compilations of pending measures indicate that eviction moratoria and other protections from eviction have expired or are set to expire in many jurisdictions. *COVID-19 Housing Policy Scorecard*, The Eviction Lab: Princeton University, <https://evictionlab.org/covid-policy-scorecard/> (last visited Mar. 23, 2021).

³⁶ *Chambliss Enters., LLC v. Redfield*, No. 20-1455, 2020 WL 7588849, (W.D. La. 2020).

action pursuant to Executive Order 12866 and a major rule under the Congressional Review Act (CRA). But there would not be a delay in its effective date. CDC has determined that for the same reasons, there would be good cause under the CRA to make the requirements herein effective immediately. Thus, this action has been reviewed by OIRA.

If any provision of this Order, or the application of any provision to any persons, entities, or circumstances, shall be held invalid, the remainder of the provisions, or the application of such provisions to any persons, entities, or circumstances other than those to which it is held invalid, shall remain valid and in effect.

This Order shall be enforced by federal authorities and cooperating state and local authorities through the provisions of 18 U.S.C. 3559, 3571; 42 U.S.C. 243, 268, 271; and 42 CFR 70.18. However, this Order has no effect on the contractual obligations of renters to pay rent and shall not preclude charging or collecting fees, penalties, or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract.

Criminal Penalties

Under 18 U.S.C. 3559, 3571; 42 U.S.C. 271; and 42 CFR 70.18, a person violating this Order may be subject to a fine of no more than \$100,000 or one year in jail, or both, if the violation does not result in a death, or a fine of no more than \$250,000 or one year in jail, or both if the violation results in a death, or as otherwise provided by law. An organization violating this Order may be subject to a fine of no more than \$200,000 per event if the violation does not result in a death or \$500,000 per event if the violation results in a death or as otherwise provided by law. The U.S. Department of Justice may initiate criminal proceedings as appropriate seeking imposition of these criminal penalties.

Notice to Cooperating State and Local Officials

Under 42 U.S.C. 243, the U.S. Department of Health and Human Services is authorized to cooperate with and aid state and local authorities in the enforcement of their quarantine and other health regulations and to accept state and local assistance in the enforcement of federal quarantine rules and regulations, including in the enforcement of this Order.

Notice of Available Federal Resources

While this Order to prevent eviction is effectuated to protect the public health, the states and units of local government are reminded that the Federal Government has deployed unprecedented resources to address the pandemic, including housing assistance.

The Department of Housing and Urban Development (HUD), the Department of Agriculture, and Treasury have informed CDC that unprecedented emergency resources have been appropriated through various Federal agencies that assist renters and landlords during the pandemic, including \$46.55 billion to the Treasury through the Consolidated Appropriations Act of 2021 and the American Rescue Plan (ARP). Furthermore, in 2020 44 states and 310 local jurisdictions allocated about \$3.9 billion toward emergency rental assistance, largely from funds appropriated to Treasury and HUD from the Coronavirus Aid, Relief, and Economic Security (CARES).³⁷ These three rounds of federal appropriations also provided substantial resources for homeless services, homeowner assistance, and supplemental stimulus and unemployment benefits that low income renters used to pay rent.

Visit <https://home.treasury.gov/policy-issues/cares/state-and-local-governments> for more information about the Coronavirus Relief Fund and <https://home.treasury.gov/policy-issues/cares/emergency-rental-assistance-program> for more information about the Emergency Rental Assistance Program. HUD has further informed CDC that forbearance policies for mortgages backed by the federal government are in effect until June 30, 2021, which provide many landlords, especially smaller landlords, with temporary relief as new emergency rental assistance programs are deployed.

HUD, USDA and Treasury grantees and partners play a critical role in prioritizing efforts to support this goal. As grantees decide how to deploy CDBG—CV and ESG—CV funds provided by the new funding from the CARES Act, Consolidated Appropriations Act of 2021, and ARP all communities should assess what resources have already been allocated to prevent evictions and homelessness through temporary rental assistance and homelessness prevention, particularly to the most vulnerable households.

³⁷ Vincent Reina *et al.*, *COVID-19 Emergency Rental Assistance: Analysis of a National Survey of Programs*, Research Brief, https://nlihc.org/sites/default/files/HIP_NLIHC_Furman_Brief_FINAL.pdf (last visited Mar. 26, 2021).

HUD stands at the ready to support American communities take these steps to reduce the spread of COVID-19 and maintain economic prosperity. For program support, including technical assistance, please visit www.hudexchange.info/program-support. For further information on HUD resources, tools, and guidance available to respond to the COVID-19 pandemic, state and local officials are directed to visit <https://www.hud.gov/coronavirus>. These tools include toolkits for Public Housing Authorities and Housing Choice Voucher landlords related to housing stability and eviction prevention, as well as similar guidance for owners and renters in HUD-assisted multifamily properties. Furthermore, tenants can visit consumerfinance.gov/housing for up-to-date information on rent relief options, protections, and key deadlines.

Effective Date

This Order is effective on April 1, 2021, and will remain in effect through June 30, 2021, subject to revision based on the changing public health landscape.

Authority: The authority for this Order is Section 361 of the Public Health Service Act (42 U.S.C. 264) and 42 CFR 70.2.

Dated: March 29, 2021.

Sherri Berger,

Acting Chief of Staff, Centers for Disease Control and Prevention.

[FR Doc. 2021-06718 Filed 3-29-21; 4:15 pm]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Re-Establishment of the Advisory Committee to the Director

Pursuant to Section 222 of the Public Health Service Act (42 U.S.C. 217a), as amended and the Federal Advisory Committee Act, as amended (5 U.S.C. App), the Director, Centers for Disease Control and Prevention (CDC), announces the re-establishment of the Advisory Committee to the Director, Centers for Disease Control and Prevention.

The Secretary, Department of Health and Human Services (HHS) and by delegation, the Director, CDC, are authorized under Sections 301 and 311 of the Public Health Service Act, [42 U.S.C. Sections 241 and 243], as amended to: (1) Conduct, encourage, cooperate with, and assist other appropriate public authorities, scientific

institutions, and scientists in the conduct of research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases, and other impairments; (2) assist States and their political subdivisions in the prevention of infectious diseases and other preventable conditions, and in the promotion of health and well-being; and (3) train State and local personnel in health work. The ACD, CDC, shall advise the Secretary, HHS, and the Director, CDC, on policy and broad strategies that will enable CDC to fulfill its mission of protecting health through health promotion, prevention, and preparedness.

For information, contact Tiffany J. Brown, JD, MPH, Acting Deputy Chief of Staff, Office of the Director, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mail Stop H21-10, Atlanta, GA 30329-4027, telephone (404) 498-6655; TJBrown@cdc.gov.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2021-06644 Filed 3-30-21; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS-10102 and CMS-1984-14]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to

publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by June 1, 2021.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* 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.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: CMS-P-0015A, Room C4-26-05, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at website address at <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html>.

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786-4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS-10102—National Implementation of Hospital Consumer Assessment of Healthcare Providers and Systems (HCAHPS)

CMS-1984-14—Hospice Facility Cost Report Form

Under the PRA (44 U.S.C. 3501-3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* National Implementation of Hospital Consumer Assessment of Healthcare Providers and Systems (HCAHPS); *Use:* The HCAHPS (Hospital Consumer Assessment of Healthcare Providers and Systems) Survey is the first national, standardized, publicly reported survey of patients' perspectives of their hospital care. HCAHPS is a 29-item survey instrument and data collection methodology for measuring patients' perceptions of their hospital experience. Since 2008, HCAHPS has allowed valid comparisons to be made across hospitals locally, regionally and nationally.

The national implementation of HCAHPS is designed to allow third-party CMS-approved survey vendors to administer HCAHPS using mail-only, telephone-only, mixed-mode (mail with telephone follow-up), or active IVR (interactive voice response). With respect to a telephone-only or mixed-mode survey, the CMS-approved survey vendors use electronic data collection or CATI systems. CATI is also used for telephone follow-up with mail survey non-respondents. With respect to IVR survey administration, the IVR technology gathers information from respondents by prompting respondents to answer questions by pushing the numbers on a touch-tone telephone. Patients selected for IVR mode are able to opt out of the interactive voice

response system and return to a “live” interviewer if they wish to do so. *Form Number:* CMS–10102 (OMB control number: 0938–0981); *Frequency:* Occasionally; *Affected Public:* Individuals and Households; *Number of Respondents:* 2,843,617; *Total Annual Responses:* 2,843,617; *Total Annual Hours:* 347,648. (For policy questions regarding this collection contact William Lehrman at 410–786–1037.)

2. Type of Information Collection
Request: Extension of a currently approved collection; *Title of Information Collection:* Hospice Facility Cost Report Form; *Use:* Under the authority of §§ 1815(a) and 1833(e) of the Social Security Act (the Act), CMS requires that providers of services participating in the Medicare program submit information to determine costs for health care services rendered to Medicare beneficiaries. CMS requires that providers follow reasonable cost principles under 1861(v)(1)(A) of the Act when completing the Medicare cost report (MCR). The regulations at 42 CFR 413.20 and 413.24 require that providers submit acceptable cost reports on an annual basis and maintain sufficient financial records and statistical data, capable of verification by qualified auditors. In addition, regulations require that providers furnish such Information to the contractor as may be necessary to assure proper payment by the program, receive program payments, and satisfy program overpayment determinations.

CMS regulations at 42 CFR 413.24(f)(4) require that each hospice submit an annual cost report to their contractor in a standard American Standard Code for Information Interchange (ASCII) electronic cost report (ECR) format. A hospice submits the ECR file to contractors using a compact disk (CD), flash drive, or the CMS approved Medicare Cost Report E-filing (MCREF) portal, [URL: <https://mcref.cms.gov>]. The instructions for submission are included in the hospice cost report instructions on page 43–3.

CMS requires the Form CMS–1984–14 to determine a hospice’s reasonable costs incurred in furnishing medical services to Medicare beneficiaries. CMS uses the Form CMS–1984–14 for rate

setting; payment refinement activities, including developing a market basket; Medicare Trust Fund projections; and program operations support. Additionally, the Medicare Payment Advisory Commission (MedPAC) uses the hospice cost report data to calculate Medicare margins (a measure of the relationship between Medicare’s payments and providers’ Medicare costs) and analyze data to formulate Medicare Program recommendations to Congress. *Form Number:* CMS–1984–14 (OMB control number: 0938–0758); *Frequency:* Yearly; *Affected Public:* Private Sector, Business or other for-profits, Not for profits institutions; *Number of Respondents:* 4,379; *Total Annual Responses:* 4,379; *Total Annual Hours:* 823,252. (For policy questions regarding this collection contact Duncan Gail at 410–786–7278.)

Dated: March 26, 2021.
William N. Parham, III,
Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.
[FR Doc. 2021–06642 Filed 3–30–21; 8:45 am]
BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Head Start Program Performance Standards (0970–0148)

AGENCY: Office of Head Start, Administration for Children and Families, HHS.
ACTION: Request for public comment.

SUMMARY: The Office Head Start (OHS), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is requesting a 3-year extension of the information collection requirements under the Head Start Program Performance Standards (OMB #0970–0148). There are no changes to the information collection.

DATES: *Comments due within 60 days of publication.* In compliance with the

requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: Copies of the proposed collection of information can be obtained and comments may be forwarded by emailing infocollection@acf.hhs.gov. Alternatively, copies can also be obtained by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation (OPRE), 330 C Street SW, Washington, DC 20201, Attn: ACF Reports Clearance Officer. All requests, emailed or written, should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: Section 641A of the Head Start Act, 42 U.S.C. 9836A, directs HHS to develop “scientifically based and developmentally appropriate education performance standards related to school readiness” and “ensure that any such revisions in the standards do not result in the elimination of or any reduction in quality, scope, or types of health, educational, parental involvement, nutritional, social, or other services.” The Office of Head Start (OHS) announced in the **Federal Register** in 2016 the first comprehensive revision of the Head Start Program Performance Standards (HSPPS) since their original release in 1975. This information collection was approved alongside the final rule for the HSPPS.

This information collection is entirely record keeping and does not contain any standardized instruments to provide flexibility for local programs. These records are intended to act as a tool for grantees and delegate agencies to be used in their day-to-day operations. For example, this includes the requirement that programs maintain a waiting list of eligible families. There are no changes to the record keeping requirements.

Respondents: Head Start Grantees. Depending on the standard, the calculated burden hours is based on the individual enrollee (1,054,720), family (956,120), program (3,020), or staff (265,030). In a few cases, only a proportion of one of these may apply.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
1301.6(a)	3,020	1	0.70	2,114	2,114
1302.12(k)	1,054,720	1	.166	175,084	175,084
1302.14(c)	3,020	1	2.00	6,040	6,040
1302.16(b)	3,020	1	5.00	15,100	15,100
1302.33(a)–(b)	1,054,720	1	1.00	1,054,720	1,054,720

ANNUAL BURDEN ESTIMATES—Continued

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
1302.33(c)(2)	294,632	1	2.00	589,264	589,264
1302.42(a)–(b)	1,054,720	1	0.66	696,115	696,115
1302.42(e)	3,020	1	0.50	1,510	1,510
1302.47(b)(7)(iv)	3,020	1	0.50	1,510	1,510
1302.53(b)–(d)	3,020	1	0.166	501	501
1302.90(a)	3,020	1	0.50	1,510	1,510
1302.90(b)(1)(i)–(iv),(b)(4)	79,509	1	0.33	26,238	26,238
1302.93(a)	26,503	1	0.25	6,626	6,626
1302.94(a)	3,020	1	0.166	501	501
1302.101(a)(4), 1302.102(b)–(c)	3,020	1	79.00	238,580	238,580
1302.102(d)(3)	110	1	10.00	1,100	1,100
1303.12	3,020	1	0.166	501	501
1303.22–24	956,120	1	0.33	315,520	315,520
1303.42–53	260	1	40.00	10,400	10,400
1303.70(c)	200	1	1.00	200	200
1303.72(a)(3)	3,020	1	2.00	6,040	6,040
1304.13	75	1	60.00	4,500	4,500
1304.15(a)	400	1	0.25	100	100

Estimated Total Annual Burden Hours: 3,153,774.

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

(Authority: 42 U.S.C. 9836A)

John M. Sweet Jr.,

ACF/OPRE Certifying Officer.

[FR Doc. 2021–06639 Filed 3–30–21; 8:45 am]

BILLING CODE 4184–40–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 NIAID Investigator Initiated Program Project Applications (P01 Clinical Trial Not Allowed).

Date: April 30, 2021.

Time: 12:30 p.m. to 4:00 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 3G50, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Louis A. Rosenthal, 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 3G50, Rockville, MD 20852, (240) 669–5070, rosenthall@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: March 25, 2021.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–06563 Filed 3–30–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6256–N–01]

Tribal HUD–VASH Expansion; Notice of Rating Factors

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The 2017 Consolidated Appropriations Act provided \$7 million for the U.S. Department of Housing and Urban Development (HUD) to use for the Tribal HUD–VASH demonstration program. HUD–VASH is a collaborative program between HUD and the Department of Veterans Affairs (VA) that combines HUD housing vouchers with VA supportive services to help Veterans who are homeless and their families find and sustain permanent housing. The 2017 Appropriations Act also requires HUD to publish in the **Federal Register** the “need” and “administrative capacity” review and selection criteria HUD includes in the Tribal HUD–VASH Notice of Funding Availability.

This Notice does not provide information on the application process. Those seeking to review all of the NOFA’s content and/or apply for funds may do so at <https://www.grants.gov/web/grants/view-opportunity.html?oppId=330966>.

FOR FURTHER INFORMATION CONTACT:

Hilary Atkin, Department of Housing and Urban Development, 451 Seventh Street SW, Room 4108, Washington, DC 20410–8000; telephone (202) 402–3427 (this is not a toll-free number).

Individuals with speech or hearing impairments may access this number through TTY by calling the Federal Information Relay Service at (800) 877-8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Tribal HUD-VA Supportive Housing (Tribal HUD-VASH) demonstration program was established under the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235, approved December 16, 2014) (2015 Appropriations Act), and provides grants to Indian Tribes and Tribally Designated Housing Entities (TDHEs) eligible to receive block grants under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA). Grantees use HUD funding towards rental assistance for Native American Veterans who are homeless or at risk of homelessness, living on or near a reservation or other Indian areas.

The Consolidated Appropriations Act, 2017 (Pub. L. 115-31, approved May 5, 2017) (2017 Appropriations Act) provided HUD with \$7 million for the Tribal HUD-VASH demonstration program. Congress directed HUD to use this funding to provide renewal grants to the original Indian Tribes and TDHEs that received funding under the demonstration program. After awarding renewal funding, Congress authorized HUD to use any remaining amounts appropriated to fund new grants.

On May 22, 2018, HUD published a Notice in the **Federal Register**, titled “Implementation of the Tribal HUD-VA Supportive Housing Program,” 83 FR 23710, that consolidated all Tribal HUD-VASH program requirements, provided application and submission information, and established HUD’s procedures for issuing renewal funding subject to the availability of future appropriations. In September 2018, HUD provided the original 26 Indian Tribes and TDHEs participating in the program with \$3,765,568 of the \$7 million in renewal funding.

In accordance with the 2017 Appropriations Act, HUD published a Notice of Funding Availability (NOFA) on January 15, 2021, announcing the availability of the remaining \$3,234,432 in FY 2017 funding for new Tribal HUD-VASH grants and establishing the criteria HUD would use to award these new grants. For Tribal HUD-VASH funds, the 2017 Appropriations Act provides that “funds shall be awarded based on need, and administrative capacity established by the Secretary [of HUD] in a Notice published in the **Federal Register**” Public Law 115-31, div. K, tit. II, 131 Stat. 135, 762. This Notice fulfills this requirement by restating the rating criteria HUD established in the NOFA, including Section V.A., “Review Criteria” and Section V.B. on the “Review and Selection Process.”

Those seeking to review all of the NOFA’s content, or those seeking to

apply for Tribal HUD-VASH funds, may do so at <https://www.grants.gov/web/grants/view-opportunity.html?oppId=330966>.

II. Tribal HUD-VASH Expansion: Rating Criteria and Review and Selection Process Information

The review criteria and information on the review and selection process contained in Sections V.A. and V.B. in the “Tribal HUD-VASH Expansion” NOFA, published January 15, 2021, at <https://www.grants.gov/web/grants/view-opportunity.html?oppId=330966>, are reproduced herein:

V. Application Review Information.

A. Review Criteria

1. Rating Factors

The factors for rating and ranking Tribal HUD-VASH applications and the points for each factor are explained below. A maximum of 100 points may be awarded under Rating Factors 1, 2, and 3. To be considered for funding, an application must receive a minimum of 20 points under Rating Factor 1 and 35 points under Rating Factor 3. Applicants that do not meet the minimum score for each of these rating factors are ineligible to receive an award through the competition. Eligible applicants must receive an overall total of at least 75 points to be considered for funding.

Rating factor	Factor title	Points
Rating Factor 1 ...	CAPACITY OF THE APPLICANT (Minimum of 20 points needed to meet threshold requirement)	30
Subfactor 1.1	Managerial and Technical Staff	6
Subfactor 1.2	Technical Capacity	6
Subfactor 1.3	Findings	6
Subfactor 1.4	Timely Reporting	6
Subfactor 1.5	Expenditures	6
Rating Factor 2 ...	NEED	20
Subfactor 2.1	Identified Needs	10
Subfactor 2.2	Supporting Information	5
Subfactor 2.3	Severity of the Problem	5
Rating Factor 3 ...	CAPACITY TO ADMINISTER THE PROGRAM (Minimum of 35 points needed to meet threshold requirement)	50
Subfactor 3.1	Implementation Plan and Schedule	10
Subfactor 3.2	Availability of Housing Stock	10
Subfactor 3.3	Budget	10
Subfactor 3.4	Coordination with Department of Veterans Affairs	10
Subfactor 3.5	Coordination with Partners	5
Subfactor 3.6	Outputs and Outcomes	5
Total Points (Minimum of 75 points needed to meet threshold requirement)		100

Rating Factor 1: Capacity of the Applicant

Maximum Points: 30

Subfactor 1.1. Managerial and Technical Staff

Maximum Points: 6

Applicants must demonstrate that they possess or can obtain the managerial and technical staff necessary to implement a Tribal HUD-VASH grant.

The applicant must address the following components in its workplan

narrative. If the applicant does not currently have the managerial or technical staff, then the applicant must address how it will obtain staff to manage and/or other assistance (e.g., contractors, consultants, subaward, etc.) to help manage and implement the

program, and how it will ensure that all are qualified in accordance with the following components:

1. A description of the knowledge and experience of key staff, including the program manager, that will implement the Tribal HUD–VASH program;

2. Discussion of relevant training or experience working with homeless and/or at risk of homelessness populations or Veterans;

3. Understanding of supportive housing and other evidence-based practices used by Tribal HUD–VASH;

4. Recent housing experience of key staff (within 5 years);

5. Any successful accomplishments related to working with the homeless, at risk of homelessness population, or Veterans. Successful accomplishments include producing measurable impact on the quality and/or quantity of housing affecting the tribal homeless community. Some indicators of success may include a description of key outcomes (e.g., reduction of homeless population rate, innovative homeless self-sufficiency programs, etc.), overall impact of the accomplishment, award recognition, etc.; and

6. The extent to which the program manager's time commitments and other key program personnel are appropriate and adequate to meet the program's objectives.

Applicants proposing the construction, acquisition, or rehabilitation of units to house Veterans assisted under the Tribal HUD–VASH program must also include the following components in its workplan narrative:

7. Qualifications and relevant experience of staff, contractors, consultants, and sub-grantees for the project; and

8. Applicant's own experience in implementing new housing construction, acquisition, or rehabilitation projects.

HUD will award points as follows: (6 points)

The applicant thoroughly addresses all components outlined in this Subfactor. The applicant already has its own managerial and technical staff to implement a Tribal HUD–VASH grant. (5 points)

The applicant does not currently have its own managerial or technical staff to implement a Tribal HUD–VASH grant. However, the applicant thoroughly addresses how it will obtain qualified staff and/or other assistance (e.g., contractors, consultants, subrecipient, etc.) needed to manage and implement the program based on the components outlined in this Subfactor. (4 points)

The applicant adequately addressed this Subfactor but was either missing one of the components outlined in this Subfactor or the applicant addressed all of the required components but lacked detail to warrant full points under this Subfactor. (3 points)

The applicant adequately addressed this Subfactor but was missing 2–3 of the components outlined in this Subfactor. (0 points)

The application did not include any of the information described above to receive points under this Subfactor or the applicant addressed this Subfactor but was missing 4 or more components.

Subfactor 1.2. Technical Capacity

Maximum Points: 6

The applicant must address the measures that have been taken, or that it will take to ensure that it will implement policies and procedures for managing the Tribal HUD–VASH program.

The applicant should explain how its policies and procedures address the following components:

1. How it will comply with program requirements and procedures to ensure that its key personnel have the information and tools they need to manage the program;

2. Steps for managing waiting lists;

3. Coordination efforts with VA and HUD staff;

4. Implementing program obligations (e.g., participating in regular meetings, coordination and outreach efforts, etc.), and

5. Implementation of how supportive housing and other evidence-based practices will be integrated with Tribal HUD–VASH veterans.

Applicants proposing to construct, rehabilitate, or acquire units for eligible Veterans must also address the following component:

6. The steps it will take to oversee the proper implementation of the parties (e.g., contractor, consultants, subrecipient, etc.) responsible for completing the project.

Applicants with existing Tribal HUD–VASH policies may submit their existing policies as supporting documentation under this Subfactor.

Resources about program requirements and procedures can be found online: https://www.hud.gov/program_offices/public_indian_housing/ih/tribalhudvash.

(6 points)

The applicant thoroughly addresses the measures that have been taken or

that it will take to ensure that it will implement policies and procedures for managing the Tribal HUD–VASH program based on the Subfactor criteria described.

(4 points)

The applicant adequately addressed this Subfactor but was either missing one of the components outlined in this Subfactor or the applicant addressed all of the required components but lacked detail to warrant full points under this Subfactor. (3 points)

The applicant adequately addressed this Subfactor but was missing 2–3 of the components outlined in this Subfactor. (0 points)

The application did not include any of the information described above to receive points under this Subfactor or the applicant addressed this Subfactor but was missing 4 or more components.

Subfactor 1.3. Findings

Maximum Points: 6

For this Subfactor, HUD will evaluate the applicant's performance during the rating period of October 1, 2017, up to and including the application submission deadline. To receive maximum points, the applicant must not have had any Single Audit findings, HUD–ONAP monitoring findings (IHBG, Indian Community Development Block Grant (ICDBG), and other programs monitored by ONAP) or findings pertaining to ONAP programs from either HUD's Office of the Inspector General (OIG) and/or the US Government Accountability Office (GAO) at any time during the rating period. Applicants that have Single Audit findings pertaining to financial management, accounting, and internal controls for HUD–ONAP programs during the rating period will receive zero points in this Subfactor. Applicants should not submit workplan narrative information or supporting attachments for this Subfactor, as HUD will utilize its own records to verify this information. (6 points)

The applicant did not have any Single Audit, HUD–ONAP monitoring, HUD–OIG, or GAO findings at any time during the rating period. (4 points)

The applicant had outstanding HUD–ONAP monitoring, HUD–OIG, or GAO findings during the rating period but resolved those findings by the established target date(s) or revised target date. (2 points)

The applicant had HUD–ONAP monitoring, HUD–OIG, or GAO findings during the rating period but were not yet due for resolution based on the established target date(s) or revised target date.

(0 points)

One of the Following Applies:

- During the rating period, the applicant did not resolve all open HUD–ONAP monitoring, HUD–OIG, or GAO findings by the established target date(s) or revised target date; or
- The applicant had Single Audit findings pertaining to financial management, accounting, and internal controls for HUD–ONAP programs during the rating period.

Subfactor 1.4. Timely Reporting

Maximum Points: 6

Applicants that currently receive HUD–ONAP grants under the IHBG formula program, FY18/FY19 IHBG Competitive Program, Indian Community Development Block Grant (ICDBG) program, COVID–19 Recovery Programs (IHBG–CARES and ICDBG–CARES), or Tribal HUD–VASH program must ensure the timely submission of the following required reports: Annual Performance Report (APR), Annual Status and Evaluation Report (ASER), and the Federal Financial Report (SF–425). Applicants who have never received a HUD–ONAP grant will be awarded 2 points under this Subfactor.

HUD will award maximum points to those who have submitted all reports by the submission deadlines (which includes any granted extensions) for all HUD–ONAP grants during the one-year period immediately preceding the date that this NOFA is published. Applicants should not submit workplan narrative information or supporting attachments for this Subfactor, as HUD will utilize its own records to verify this information.

(6 points)

The applicant submitted all required reports by the submission deadlines for all HUD–ONAP grants during the one-year period immediately preceding the date that this NOFA is published.

(3 points)

The applicant submitted some, but not all, required reports by the submission deadlines for HUD–ONAP grants during the one-year period immediately preceding the date that this NOFA is published.

(2 points)

The applicant has never received a HUD–ONAP grant.

(0 points)

The applicant did not submit any required reports by the submission deadlines for HUD–ONAP grants during the one-year period immediately preceding the date that this NOFA is published.

Subfactor 1.5. Expenditures

Maximum Points: 6

HUD will evaluate administrative capacity by considering how applicants have utilized current Tribal HUD–VASH or IHBG formula funds using one of the categories below. In awarding points, HUD will consider the amount of undisbursed funds remaining in the Line of Credit Control System (LOCCS) for each applicant.

HUD will evaluate existing Tribal HUD–VASH grantees using Category #1 below. For applicants that do not currently administer the Tribal HUD–VASH program, HUD will evaluate how these IHBG recipients (or if they are not an IHBG recipient, their IHBG formula recipient) have spent or invested IHBG formula funds using either Category #2 or Category #3 below. In awarding points, HUD will take into account the amount of unexpended IHBG formula funds remaining in LOCCS and its plans for spending undisbursed IHBG funds, or if approved for investments, the status of the invested funds and the applicant's plans to use these funds for affordable housing activities. In assessing an applicant's undisbursed funds, HUD will neither consider the IHBG formula funds awarded in FY 2020 nor the IHBG funds awarded under the Coronavirus, Relief, and Economic Security (CARES) Act since Indian tribes and TDHES would have recently been awarded this funding. Eligible applicants that have ever been allocated IHBG formula funds but neither accept those funds nor have a current IHBG formula recipient will automatically receive 3 points under Category #2 below.

Category #1: Existing Tribal HUD–VASH Grantees

HUD will review how an existing Tribal HUD–VASH grantee has utilized its FY15 and FY17 funds. HUD will compare the total undisbursed balance awarded from these fiscal years with the cumulative award amount as of the NOFA publication date. HUD will not include the Tribal HUD–VASH renewal grant funding awarded under Notice PIH–2019–18 and PIH–2020–10 in evaluating this Subfactor. Applicants should not submit workplan narrative information or supporting attachments for this Subfactor, as HUD will utilize its own records to verify this information.

(6 points)

The applicant's combined undisbursed balance in LOCCS is 0–15% of the Tribal HUD–VASH cumulative award amount it received in FY15 and FY17.

(5 points)

The applicant's combined undisbursed balance in LOCCS is between 16% and 30% of the Tribal HUD–VASH cumulative award amount it received in FY15 and FY17.

(4 points)

The applicant's combined undisbursed balance in LOCCS is between 31% and 45% of the Tribal HUD–VASH cumulative award amount it received in FY15 and FY17.

(2 points)

The applicant's combined undisbursed balance in LOCCS is between 46% and 60% of the Tribal HUD–VASH cumulative award amount it received in FY15 and FY17.

(1 point)

The applicant's combined undisbursed balance in LOCCS is between 61% and 75% of the Tribal HUD–VASH cumulative award amount it received in FY15 and FY17.

(0 points)

The applicant's combined undisbursed balance in LOCCS is more than 75% of the Tribal HUD–VASH cumulative award amount it received in FY15 and FY17.

Category #2: New Applicants That Are Not Approved for Investing Formula IHBG Funds or Approved for But Are Not Investing IHBG Formula Funds

For this Subfactor, applicants not approved to invest formula IHBG funds will be evaluated on the expenditure of IHBG formula funding received in the last three federal fiscal years (2018–2020) in comparison with the amount of undisbursed IHBG funds remaining in LOCCS on the date this NOFA is published.

A new applicant with an undisbursed balance that is more than 25% of IHBG formula cumulative amounts that it received for the last three federal fiscal years may qualify for full points under this Subfactor only if it includes a justification that is satisfactory to HUD demonstrating well-developed plans to accumulate IHBG funds to carry out a specific activity in the future. The justification must include supporting information on when and how the recipient intends to spend its undisbursed IHBG funds in the future to qualify for the full 6 points. This may include specific references to past

Indian Housing Plans, Annual Performance Reports, or other related documents.

An applicant that has received approval for but not investing its IHBG formula funds must clearly state this in the workplan narrative in order to qualify for points under this Subfactor Option. Applicants should not submit LOCCS or formula funding data for this Subfactor, as HUD will utilize its records to verify.

Eligible applicants that have ever been allocated IHBG formula funds but neither accept those funds nor have a current IHBG formula recipient will automatically receive 3 points for this Subfactor.
(6 points)

One of the Following Applies:

- The applicant's undisbursed amount in LOCCS is 0–25% of IHBG formula cumulative amount for the 2018–2020 Federal fiscal years; or
- The applicant's undisbursed amount is more than 25% of IHBG formula cumulative amounts and the applicant provided sufficient justification demonstrating well-developed plans to accumulate IHBG funds to carry out specific IHBG eligible activities in the future. The justification included supporting information on when and how the recipient intends to spend its undisbursed IHBG funds in the future.
(3 points)

One of the Following Applies:

- The applicant's undisbursed amount in LOCCS is between 26% and 50% of IHBG formula cumulative amount for the 2018–2020 Federal fiscal years. The applicant did not provide a justification and supporting information satisfactory to HUD demonstrating well-developed plans to spend its undisbursed IHBG amounts; or
- The applicant does not currently administer the IHBG formula program and accordingly does not have balances of IHBG funds.
(1 point)

The applicant's undisbursed amount in LOCCS is between 51% and 75% of IHBG formula cumulative amount for the 2018–2020 Federal fiscal years. The applicant did not provide a justification and supporting information satisfactory to HUD demonstrating well-developed plans to spend its undisbursed IHBG amounts.
(0 points)

The applicant's undisbursed amount in LOCCS is more than 75% of IHBG formula cumulative amount for the

2018–2020 Federal fiscal years. The applicant did not provide a justification and supporting information demonstrating a well-developed plan to spend its undisbursed IHBG amounts.

Category #3: New Applicants Approved for and Investing IHBG Formula Funds

A new applicant approved for investing formula IHBG funds in accordance with section 204(b) of NAHASDA and 24 CFR 1000.58 must submit information about its investment balances and its plans to spend the invested IHBG funds on affordable housing activities.
(6 points)

The applicant submitted all of the following information addressing its invested IHBG funds: the amount of IHBG grant funds that it currently has invested, the investment securities and other obligations in which the funds are invested, and a well-developed plan for spending the invested IHBG funds on affordable housing activities.
(3 points)

The applicant did not submit one of the following information addressing its invested IHBG grant funds: the amount of IHBG grant funds that it currently has invested, the investment securities and other obligations in which the funds are invested, and a well-developed plan for spending the invested IHBG funds on affordable housing activities.
(1 point)

The applicant did not submit two of the following information addressing its invested IHBG grant funds: the amount of IHBG grant funds that it currently has invested, the investment securities and other obligations in which the funds are invested, and a well-developed plan for spending the invested IHBG funds on affordable housing activities.
(0 points)

The application failed to include any of the following: information detailing the amount of IHBG grant funds that it currently has invested, the investment securities and other obligations in which the funds are invested, and a well-developed plan for spending the invested IHBG funds on affordable housing activities.

Rating Factor 2: Need
Maximum Points: 20

Subfactor 2.1. Identified Needs
Maximum Points: 10

As required by the 2017 Appropriations Act, HUD will consider need when reviewing applications received under this NOFA. For this rating factor, the applicant must address the following components in its workplan narrative:

1. Reasons why the applicant is interested in a Tribal HUD–VASH grant;
2. Discussion of the magnitude (estimated number) and severity of the applicant's homeless Veterans or Veterans at risk of homelessness population;

3. The extent to which specific gaps or weaknesses in services, housing, or opportunities have been identified and how it will be addressed;

4. Steps taken to identify or estimate the applicant's total homeless Veterans or Veterans at risk of homelessness population, including those that may be eligible for VA benefits; and

5. Identify the estimated number of the applicant's eligible homeless Veterans or Veterans at risk of homelessness population that could be served under the Tribal HUD–VASH program. Resources to determine Veteran eligibility for VA supportive services are available online: <https://www.va.gov/health-care/eligibility/>.

6. Existing grantees (if applicable): In addition to components #1–5 above, existing grantees must include an explanation of why additional Tribal HUD–VASH funds are needed in order to continue addressing the needs of its eligible homeless or at risk of homelessness Veteran population.

HUD will award points as follows:
(10 points)

The applicant fully addressed all of the components outlined in this Subfactor.
(8 points)

The applicant was either missing one of the components outlined in this Subfactor or the need justification addressed all of the required components, but lacked detail to warrant full points under this Subfactor.
(5 points)

The applicant was missing more than one of the components outlined in this Subfactor.
(0 points)

The applicant did not address any of the components described above to receive points under this Subfactor.
*Subfactor 2.2. Supporting Information
Maximum Points: 5*

Applicants must demonstrate need for the Tribal HUD–VASH program by providing supporting information verifying the presence of Veterans that are homeless or at risk of homelessness in their Indian area (the area where the Tribe or TDHE is authorized to carry out affordable housing activities). The supporting information must correlate with the identified needs discussed in Subfactor 2.1.

Examples of acceptable documentation may include, but are not limited to:

1. Point-in-Time counts;
2. Waiting lists with homeless Veterans or Veterans at risk of homelessness;
3. Number of overcrowded households with residents that are at risk of homelessness
4. A list of eligible Veterans from the Tribal Veteran's Representative;
5. Data from the local VA;
6. U.S. Census Bureau's American Community Survey (ACS) data; and
7. Any supporting documentation demonstrating to HUD's satisfaction the presence of homeless Veterans or Veterans at risk of homelessness.

HUD will award points as follows:
(5 points)

The applicant provided supporting information that correlates with the identified needs discussed in Subfactor 2.1.

(3 points)

The applicant provided supporting information. However, not all of the information submitted correlates with the identified needs discussed in Subfactor 2.1.

(0 points)

The applicant did not provide supporting information, or the information submitted does not correlate with any of the identified needs discussed in Subfactor 2.1.

Subfactor 2.3. Severity of the Problem
Maximum Points: 5

For this Subfactor, HUD will assess need based on severity of the applicant's identified homeless Veterans or Veterans at risk of homelessness population. Points will be awarded based on how the estimated number of identified homeless Veterans or Veterans at risk of homelessness compares to the number of rental housing units requested by the applicant. HUD will use information submitted for Subfactors 2.1, 2.2, and 3.1 for this Subfactor review.

(5 points)

The estimated number of identified homeless Veterans or Veterans at risk of homelessness is at least three times the number of rental housing units requested by the applicant.

(3 points)

The estimated number of identified homeless Veterans or Veterans at risk of homelessness is at least twice but less than three times the number of rental housing units requested by the applicant.

(1 point)

The estimated number of identified homeless Veterans or Veterans at risk of homelessness is at least equal to but less than twice the number of rental housing units requested by the applicant.

(0 points)

The estimated number of homeless Veterans or Veterans at risk of homelessness is less than the number of rental housing units requested by the applicant.

Rating Factor 3: Capacity to Administer the Program

Maximum Points: 50

Subfactor 3.1. Implementation Plan and Implementation Schedule

Maximum Points: 10

HUD will assess the applicant's administrative capacity to implement its proposed Tribal HUD-VASH program by reviewing its workplan narrative. In addition, the applicant must include a schedule of specific tasks in its Implementation Schedule.

The applicant must describe the program in detail and include the following components in its workplan narrative and Implementation Schedule:

1. *Type of Tribal HUD-VASH Assistance: Tenant-Based vs. Project-Based:* The applicant must describe its rationale for requesting Tenant-Based Rental Assistance and/or Project-Based Rental Assistance. The rationale must correlate with the need discussed in Rating Factor 2, Need;

2. *Units of Assistance Requested:* The workplan narrative must include a justification for the total number of rental housing units that the Tribe or TDHE plans to provide. The justification must correlate with the information submitted under Rating Factor 2, Need, and criteria established in this NOFA, and must address housing availability. The number of units requested in the justification must match the information provided on the Units of Assistance Table(s) submitted with the application;

3. Location of the units where eligible Veterans may be housed (*e.g.*, include a map, address and/or aerial photo); and

4. If applicable, description of how the applicant plans to operate and maintain any units owned or operated by the applicant.

An applicant proposing Project-Based Rental Assistance must also address the following in its workplan narrative:

5. *Housing stock:* Description of whether the applicant plans to leverage other resources to construct, acquire, or rehabilitate housing stock for the use of eligible Veterans. If the applicant is not planning to increase its housing stock and is instead using its existing stock, then the applicant must describe what type of units it plans to use (*e.g.* IHBG,

FCAS, Title VI, Low-Income Housing Tax Credit, Section 184, tribal, etc.) and identify the age of the stock as of the application deadline established in this NOFA. Applicants that propose to use existing housing stock to house Veterans will not be awarded the maximum points under Subfactor 3.2 below, unless it is newly constructed or acquired for Veterans 12 months or less prior to the application deadline established in this NOFA

6. The length of time the Tribal HUD-VASH assistance would not be used while waiting for the units to be completed (*e.g.* constructed, acquired, or rehabilitated) and what activities the applicant will continue to implement during this time. Note that projects with new construction timeframes longer than two years will not be approved;

7. The number of units and the type of structure to which the assistance units will be attached; and

8. The project ownership and evidence of site control. As stated in the Consolidated Notice, Project-Based Rental Assistance may be provided to privately owned housing with a contract with the owner of the housing, or a unit that is owned or operated by the tribe/TDHE.

HUD will award points as follows:
(10 points)

The workplan narrative and Implementation Schedule include all of the components outlined in this Subfactor, including components #5-8 if the applicant is proposing Project-Based Rental Assistance.

(7 points)

One of the Following Applies

- The workplan narrative and Implementation Schedule are either missing one of the components outlined in this Subfactor, including components #5-8 if the applicant is proposing Project-Based Rental Assistance; or

- The plan addressed all of the required components but lacked detail to warrant full points under this Subfactor.

(5 points)

The applicant is requesting the majority of funds towards Project-Based Rental Assistance and workplan narrative and Implementation Schedule are missing more than one but less than five of the components outlined in this Subfactor.

(0 points)

The applicant is either requesting the majority of funds towards Project-Based Rental Assistance and the workplan narrative and Implementation Schedule are missing five or more of the

components outlined in this Subfactor or the applicant is requesting the majority of funds towards Tenant-Based Rental Assistance and the workplan narrative and Implementation Schedule are missing two or more of the components outlined in this Subfactor. Subfactor 3.2. Availability of Housing Stock

Maximum Points: 10

HUD recognizes that this additional Tribal HUD-VASH expansion funding provides an opportunity to address severe overcrowding and the lack of affordable housing in Indian Country. As such, HUD will award full points under this Subfactor to applicants that demonstrate the administrative capacity to increase their housing stock for eligible Veterans. Additionally, HUD will award points based on how the applicant addresses the availability of housing stock it would use to house eligible Veterans under the Tribal HUD-VASH program.

For this Subfactor, applicants will be rated under either Category #1 or Category #2 below, depending on the nature of the proposed project. Applicants that propose both Project-Based and Tenant-Based projects will be rated according to the project that constitutes the majority of the federal request amount listed on the SF-424

and detailed budget. Applicants that propose an equal amount of federal funds towards both Project-Based and Tenant-Based projects will be rated according to Category #1- Project-Based Rental Assistance, as this in keeping with HUD's priority to increase the number of new housing units available for eligible Veterans under the program.

Category #1: Project-Based Rental Assistance

For applicants that request the majority of federal funds for Project-Based Rental Assistance, maximum points will be awarded to those that have leveraged other funding sources to increase its housing stock for the use of eligible Veterans.

To qualify for full points, applicants proposing to increase its housing stock for eligible Veterans must identify the amount of leveraged funding sources that it has used or plans to use and provide firm commitment documentation supporting this amount.

A firm commitment refers to a letter of commitment, memorandum of understanding, or agreement to participate from an applicant's partner specifying that it agrees to perform and/or support an activity specified in the application. The firm commitment must demonstrate that the partner has the financial capacity to deliver the

resources or skills necessary to implement the proposed activity, either in cash or through in-kind contributions, if HUD awards Tribal HUD-VASH funds. Federal sources are only allowed to be used as leveraging if permitted by a program's authorizing statute. Contributions that could be considered as leveraged resources for point award include, but are not limited to:

- Tribal government funds;
- Donations from individuals or organizations, private foundations, businesses;
- State or federal loans or guarantees;
- Other grant funds;
- Donated goods and services needed for the project;
- Land needed for the project; and
- Direct administrative costs.

As indicated in Subfactor 3.1, applicants that propose to use existing housing stock to house Veterans will not be awarded the maximum points for this Subfactor, unless it is newly constructed or acquired for Veterans 12 months or less prior to the application deadline established in this NOFA.

The following table summarizes acceptable firm commitment documentation to provide as evidence of leveraged funds:

Leveraged resource	Firm commitment documentation needed
Tribal Resources	<ul style="list-style-type: none"> • Tribal resolution committing funds, housing stock, or equivalent; the resolution (or equivalent) must identify the exact dollar amount (or value of resources to be committed).
Federal Resources	<ul style="list-style-type: none"> • IHBG formula funds (whether administered by the tribe or a TDHE) in keeping with ONAP Program Guidance No. 2018-01(IHBG in the Tribal HUD-VASH Program: <ul style="list-style-type: none"> ○ Leveraging with current program year funds: The most recently approved Indian Housing Plan (IHP) must identify the dollar amount and commit the IHBG resources to the project. If not currently approved in the most recent IHP, the application must state that an amendment to the IHP will be processed if the applicant is awarded Tribal HUD-VASH funds. ○ Future IHBG funding: If future IHBG funds will be used, the application must identify the program year and the dollar amount of IHBG funds that will be used. • Other Federal Program Funds: Might include funds from the U.S. Department of Agriculture, Indian Health Service, Bureau of Indian Affairs, or any other federal agency. If allowable by the Federal program's statute, the applicant should submit statement (e.g., letter, email, etc.) from the Federal agency approving the amount of funds to be committed for leveraging.
Public Agency, Foundation, or Other Private Party.	<ul style="list-style-type: none"> • Letters of commitment which must include: <ul style="list-style-type: none"> ○ The donor organization's name; ○ The specific funds proposed; ○ The dollar amount of the financial or in-kind resource; ○ Method for valuation; ○ The purpose of that resource within the proposed project; and ○ Signed commitment from an official of the organization legally authorized to make the commitment. • Memorandum of understanding, and/or agreement to participate, including any conditions to which the contribution may be subject.
Goods and Services	<ul style="list-style-type: none"> • Must demonstrate that the donated items are necessary to the actual development of the project and include comparable costs that support the donation.
Land	<ul style="list-style-type: none"> • Land valuation must be established using one of the following methods and the documentation must be contained in the application. The application of land valuation documentation must state the method used to determine land value and identify the land value. Land that has previously been used as leverage towards other ONAP competitions may not be proposed as leveraging for this NOFA. • The methods for land valuation include: <ul style="list-style-type: none"> ○ A site-specific appraisal no more than two years old; ○ An appraisal of a nearby comparable site also no more than two years old; ○ A reasonable extrapolation of land value based on current area realtor value guides; or ○ A reasonable extrapolation of land value based on recent sales of similar properties in the same area.

Grantees will be required to show evidence that leveraging resources were actually received and used for their intended purposes through quarterly reports (SF-425) as the project proceeds.

HUD recognizes that in some cases, the applicant cannot receive a firm commitment of non-tribal funds by the application deadline. In such cases, the applicant must include a statement from the contributing entity that describes why the firm commitment cannot be made at the current time. The statement must say that the tribe/organization and proposed project meets the eligibility criteria for receiving the leveraged funds. It must also include a date by which the funding decisions will be made. This date cannot be over six months from the anticipated date of grant approval by HUD. If the applicant does not provide HUD with evidence of the firm commitment from the original leverage source or an alternative source within six months of the date of grant approval, or if anticipated leverage is not provided, HUD will re-rate and re-rank the application with the updated leverage information. If the application is no longer fundable after re-rating and re-ranking the application, HUD will rescind the grant and recapture grant funds.

HUD will award points as follows: (10 points)

The applicant provided firm commitment documentation for all sources of leveraging resources that it has used or plans to use for the construction or acquisition of housing specifically for Veterans *and* one of the following applies:

- The applicant is proposing to increase its housing stock for the use of eligible Veterans by leveraging other funding sources for the construction or acquisition of new units; or
- The applicant proposes to use of existing stock that is newly constructed or acquired for Veterans 12 months or less prior to the application deadline established in this NOFA, as identified in Subfactor 3.1.

(8 points)

The applicant is proposing to leverage other funding sources for the rehabilitation of existing stock for the use of Veterans. The applicant provided firm commitment documentation for all sources of leveraging resources that it has used or plans to use for the rehabilitation project.

(5 points)

The applicant is not proposing to increase its housing stock specifically for the use of eligible Veterans. Rather,

the applicant is proposing to use existing housing stock, without associated rehabilitation costs, and the stock is more than 12 months old from the application deadline established in this NOFA for its Tribal HUD-VASH program.

(0 points)

The applicant proposed to increase its housing stock for the use of eligible Veterans by leveraging other sources of funding but did not provide firm commitment documentation for all sources of leveraging resources.

Category #2: Tenant-Based Rental Assistance

Applicants requesting funding to provide Tenant-Based Rental Assistance must submit supporting documentation demonstrating the availability of rental units where eligible Veterans may be housed, if awarded a Tribal HUD-VASH grant.

Documentation for this Subfactor must include agreements or letters of partnerships with local landlords showing commitment to house eligible Veterans as identified in Subfactor 3.1-Implementation Plan and Implementation Schedule. Other forms of supporting documentation to receive points under this Subfactor include a rental market survey identifying the rental market available for Veterans, or other documentation satisfactory to HUD demonstrating the availability of housing for Veterans assisted under this program.

Applicants that propose to make their own housing stock available for Tenant-Based Rental Assistance must provide supporting documentation in the form of a tribal resolution or equivalent committing units it would offer eligible Veterans under the program. The resolution (or equivalent) must identify the type of housing stock (*e.g.*, FCAS, NAHASDA, etc.), the number of units, and the age of the units.

Applicants that propose to use units (50% or higher) that have been constructed, acquired, or rehabbed 12 months or less prior to the application deadline of this NOFA will receive more points under this Subfactor versus applicants that propose to use older housing stock.

(10 points)

The applicant provided agreements or letters of partnerships with local landlords for all rental units where eligible Veterans may be housed, as identified in Subfactor 3.1-Implementation Plan and Implementation Schedule. The applicant is also proposing to offer its own housing stock as an option for eligible Veterans, provided a tribal

resolution or equivalent identifying the type of housing stock, number of units, and the majority age of the units (50% or higher) is 12 months or less from the application deadline of this NOFA.

(9 points)

The applicant provided agreements or letters of partnerships with local landlords for all rental units where eligible Veterans may be housed, as identified in Subfactor 3.1-Implementation Plan and Implementation Schedule. The applicant is also proposing to offer its own housing stock as an option for eligible Veterans and provided a tribal resolution or equivalent identifying the type of housing stock and number of units. However, the majority age of the units (49% or less) is older than 12 months from the application deadline of this NOFA.

(8 points)

The applicant provided agreements or letters of partnerships with local landlords for all rental units where eligible Veterans may be housed, as identified in Subfactor 3.1-Implementation Plan and Implementation Schedule. The applicant is not proposing to offer its own housing stock as an option for eligible Veterans.

(6 points)

The applicant provided agreements or letters of partnerships with local landlords for some, but not all rental units. The applicant provided other supporting documentation for the remaining rental units where eligible Veterans may be housed, as identified in Subfactor 3.1-Implementation Plan and Implementation Schedule. The applicant is not proposing to offer its own housing stock as an option for eligible Veterans.

(4 points)

The applicant did not provide agreements or letters of partnerships with local landlords. Rather, the applicant provided other supporting documentation for all rental units where eligible Veterans may be housed, as identified in Subfactor 3.1-Implementation Plan and Implementation Schedule. The applicant is not proposing to offer its own housing stock as an option for eligible Veterans.

(2 points)

The applicant did not provide agreements or letters of partnerships with local landlords. Rather, the applicant provided other supporting documentation for some, but not all rental units where eligible Veterans may be housed, as identified in Subfactor

3.1-Implementation Plan and Implementation Schedule. The applicant is not proposing to offer its own housing stock as an option for eligible Veterans.

(0 points)

The applicant did not provide any supporting documentation for the rental units where eligible Veterans may be housed.

Subfactor 3.3. Budget

Maximum Points: 10

HUD will review the detailed budget (Unit of Assistance Table, estimated administrative fee usage, and if applicable, project costs for the development of new units) according to the following criteria:

1. Budget is thoroughly prepared, with all costs requested on the SF-424 accounted for and calculations shown by the applicant;

2. Budget figures are consistent throughout the application;

3. Costs are allowable, allocable, reasonable, and necessary for implementing the proposed Tribal HUD-VASH program; and

4. All budget calculations are mathematically correct.

Points will be awarded as follows:

(10 points)

The detailed budget fully satisfied all of the criteria outlined in this Subfactor. (8 points)

The detailed budget adequately satisfied all but one of the criteria outlined in this Subfactor. (5 points)

The detailed budget did not satisfy two criteria outlined in this Subfactor (0 points)

The detailed budget was missing information and/or did not satisfy three or more criteria outlined in this Subfactor.

Subfactor 3.4. Coordination With the Department of Veterans Affairs

Maximum Points: 10

This Subfactor awards points based on how an applicant will take affirmative steps to coordinate with the VA Medical Center that serves its tribal area and its overall understanding of the VA's role in implementing the program.

The applicant must address the following components in its workplan narrative:

1. Identify which VA Medical Center or VA Healthcare System the applicant will partner with for the program;

2. Description of the VA's agreement to participate in Tribal HUD-VASH, commitment and capacity to provide

timely case management services to support a Tribal HUD-VASH award, and how the VA intends to obtain the case manager (VA hire or contract);

3. Overview of how the applicant will incorporate the VA partnership into the applicant's Tribal-HUD-VASH program operations;

4. Description of how supportive housing evidence-based practices (e.g., Critical Time Intervention, Harm Reduction, etc.) will be integrated by the applicant for this program. (More information is available in the "Tribal HUD-VASH Guidebook (April 2016)" available at https://www.hud.gov/program_offices/public_indian_housing/ih/tribalhudvash);

5. Applicant's understanding of case manager criteria, recruitment and selection, including any anticipated involvement of tribal entities and potential barriers to obtaining a case manager;

6. Joint VA and tribal efforts to identify and conduct outreach to eligible homeless and/or at risk of homelessness veterans; and

7. Applicant's plan for on-going communication with the VA.

(10 points)

The applicant thoroughly described its coordination efforts with the VA in its workplan narrative and demonstrates a full understanding of the VA's role in implementing the program. The applicant discussed all of the Subfactor components in detail. (8 points)

The applicant adequately addressed this Subfactor but was either missing one of the components outlined in this Subfactor or the applicant addressed all of the required components but lacked detail to warrant full points under this Subfactor. (6 points)

The applicant adequately addressed this Subfactor but was missing 2-3 of the components outlined in this Subfactor. (4 points)

The applicant addressed this Subfactor but was missing 4 or more components outlined in this Subfactor. (0 points)

The application did not include any of the information described above to receive points under this Subfactor.

Subfactor 3.5. Coordination With Partners

Maximum Points: 5

The applicant is encouraged to involve other partners in developing and implementing the Tribal HUD-VASH program. For this Subfactor, the

applicant must address the following components:

1. How the applicant has designed the project and plans to implement it in coordination with community members, tribal departments, the Indian Health Service (HIS) or tribal health system, Continuums of Care, Veterans groups, nonprofits, homelessness providers, or other agencies/organizations;

2. Description of actions taken or to be taken to work with partners to support its marketing and outreach efforts to homeless and/or at risk of homelessness Veterans; and

3. Planned efforts to promote employment opportunities for homeless and/or at risk of homelessness Veterans. (5 points)

The applicant thoroughly described its coordination efforts with other partners in its workplan narrative and discussed all of this Subfactor's components in detail. (3 points)

The applicant adequately addressed this Subfactor but was either missing one of the components outlined in this Subfactor or the applicant addressed all of the required components but lacked detail to warrant full points under this Subfactor. (0 points)

The application did not include any of the information described above to receive points under this Subfactor.

Subfactor 3.6. Outputs and Outcomes

Maximum Points: 5

The applicant must include outcomes and outputs it strives to achieve with the project and describe them in detail. Outputs are measured in the volume of work accomplished and must correlate with the nature of the Tribal HUD-VASH program activities proposed and discussed in Rating Factors 2 and 3 of the workplan narrative. They should be clear enough to allow HUD to monitor and assess the proposed project or program's progress if funded. An outcome is the impact achieved from the outputs of the proposed project or program. They should be quantifiable measures or indicators that identify the change in the community, people's lives, economic status, etc. Discussion and coordination with VA facility staff can help identify clear outputs and outcomes as part of the investigation/planning process.

Examples of outputs could include but are not limited to:

- Number of eligible Veterans assisted
- Number of rental units identified/number of partnerships with local landlords (Tenant-Based Housing Assistance)

- Number of Project-Based units constructed, acquired, or rehabilitated for the eligible Veterans

- Number of outreach meetings and efforts undertaken to coordinate assistance with partners

Examples of outcomes could include but are not limited to:

- Number of eligible Veterans exiting the Tribal HUD–VASH program to permanent housing

- Number of eligible Veterans graduating (no longer needing case management services from the VA)

- Reduction of eligible Veterans on a tribe/TDHE’s waiting list

- Increase in available housing stock for eligible Veterans

- Increased in fiscal resources for eligible Veterans during participation in the Tribal HUD–VASH program by obtaining employment or appropriate disability and/or other benefits (*e.g.*, Supplemental Nutrition Assistance Program, etc.) for which the Veteran is eligible, and learning and utilizing effective money management practices

- Obtain maximal “self-sufficiency” as appropriate to their functional abilities, as evidenced by independently meeting tenancy requirements (such as paying rent portion on time, maintaining the unit, following the rules of the landlord, allowing others peaceful enjoyment of their unit, etc.), practicing wellness strategies and attending to their healthcare needs, attending to personal needs (*e.g.*, independently taking care of activities of daily living), and engaging in social and community activities to increase purposeful, meaningful activities and establish/maintain healthy and effective social supports

(5 points)

The applicant clearly described measurable outputs and outcomes for the Tribal HUD–VASH program activities proposed in the workplan.

(3 points)

The applicant included measurable outputs and outcomes for the Tribal HUD–VASH program activities proposed in the workplan but did not clearly describe them in detail.

(1 points)

The applicant included either measurable outputs or outcomes for Tribal HUD–VASH program activities proposed in the workplan, but not both.

(0 points)

The application did not contain the information described above to receive points under this Subfactor.

2. Other Factors

Preference Points

HUD encourages activities in support of the Secretary’s FY20 Initiatives. HUD may award up to two (2) points for any of the 3 preferences (OZ, PZ or HBCU).

Opportunity Zones

This program does not offer Opportunity Zone preference points.

HBCU

This program does not offer HBCU preference points.

Promise Zones

This program does not offer Promise Zone preference points.

B. Review and Selection Process

1. Past Performance

In evaluating applications for funding, HUD will consider an applicant’s past performance in managing funds. Items HUD will consider include, but are not limited to:

- The ability to account for funds in compliance with applicable reporting and recordkeeping requirements;

- Timely use of funds received from HUD;

- Timely submission and quality of reports submitted to HUD;

- Meeting program requirements;

- Meeting performance targets as established in the grant agreement;

- The applicant’s organizational capacity, including staffing structures and capabilities;

- Timely completion of activities and receipt and expenditure of promised matching or leveraged funds;

HUD may reduce scores as specified under V. A. Review Criteria. Whenever possible, HUD will obtain past performance information. If this review results in an adverse finding related to integrity or performance, HUD reserves the right to take any of the remedies provided in Section III. E Statutory and Regulatory Requirements Affecting Eligibility, “Pre-selection Review of Performance” document link above.

2. Assessing Applicant Risk

In evaluating risks posed by applicants, HUD may use a risk-based approach and may consider any items such as the following:

- Financial stability;
- Quality of management systems and ability to meet the management standards prescribed in this part;
- History of performance. The applicant’s record in managing Federal awards, if it is a prior recipient of Federal awards, including timeliness of compliance with

applicable reporting requirements, conformance to the terms and conditions of previous Federal awards, and if applicable, the extent to which any previously awarded amounts will be expended prior to future awards;

- Reports and findings from audits performed under Subpart F—Audit Requirements of this part or the reports and findings of any other available audits; and
- The applicant’s ability to effectively implement statutory, regulatory, or other requirements imposed on non-Federal entities.

3. Application Selection Process

HUD will review each application from an eligible applicant and assign points in accordance with the selection factors described in this section.

(a) Application Screening and Acceptance

ONAP will screen and accept applications if they meet all the criteria listed below:

- The application is received or submitted in accordance with the requirements of this NOFA;
- The applicant is eligible to submit an application;
- The proposed project is eligible; and
- The application contains all of the applicable components listed in Section IV.B. of this NOFA.

(b) Threshold Compliance

HUD will review each application that passes the screening process to ensure that each applicant and each proposed project meets the eligibility and submission thresholds in the Eligibility Requirements and this NOFA.

(c) Past Performance

HUD will evaluate applicants’ past performance under Rating Factor 1–Capacity of the Applicant.

(d) Rating

HUD will rate all eligible applications that meet the Threshold Requirements against the criteria in Rating Factors 1 through 3 and assign a rating score. The maximum total rating score for the three Rating Factors is 100 points. HUD will review and rate each application that meets the acceptance criteria and threshold requirements. Once all applications are rated, HUD will conduct a review to ensure consistency in the application rating.

(e) Minimum Points

To be considered for funding, the application must receive a minimum of 20 points under Rating Factor 1–

Capacity of the Applicant, a minimum of 35 points under Rating Factor 3-Capacity to Administer the Program, and an overall score of at least 75 points. HUD will reject any application that does not meet the minimum rating score requirements.

(f) Ranked Order

HUD will place eligible applications that meet the minimum rating score requirements in ranked order. Funds will be awarded in rank order based on the score received on the application submitted under this NOFA. Applicants within the fundable range of 75 or more points will be considered for funding in ranked order up to the amount requested, or a lesser amount if sufficient funds are not available. Meeting the minimum score of 75 points does not guarantee a funding award will be made. HUD also reserves the right to adjust funding to meet urgent policy priorities. HUD reserves the right to issue a supplemental or independent NOFA if necessary (e.g., to ensure that all appropriated funds are awarded).

(g) Grant Award Adjustments

At its discretion, if HUD determines that there are not enough funds available to fully fund a project as proposed by a successful applicant, then HUD may contact the applicant to determine whether revisions can be made to the program budget, workplan narrative, and Implementation Schedule to reflect the actual award offer. If it is not possible to agree on a revised program budget, workplan narrative, and Implementation Schedule, then an award will not be made to that applicant. In such an instance, HUD may offer an award, in a rank order, to another applicant. HUD may also select additional applications for funding, in rank order, if additional funds become available. See also Adjustments to Funding information in section VI.A. below.

(h) Tiebreakers

When rating results in a tied score and there is not enough money to fund all tied scored applications, HUD will use the following factors in the order listed to resolve the tie:

1. HUD will approve applications that can be fully funded over those that cannot be fully funded;
2. Applicants that receive the most points according to Subfactor 3.2, Availability of Housing Stock;
3. Applicants that propose to leverage other funding sources to increase its housing stock for the use of eligible Veterans; and

4. Applicants that score the highest cumulative points for Rating Factor 1-Capacity of the Applicant and Rating Factor 2-Need.

(i) Additional Tribal HUD-VASH Funds

If, after publication of this NOFA, additional funds become available through additional appropriations or recaptured funds, HUD reserves the right to:

1. Award funding to additional applicants based on their score from this competition;
2. Use the additional funds to provide additional funding to an applicant awarded less than the original requested amount of funds to make the full award; and
3. Fund additional applicants that were eligible to receive an award but for which there were no funds available from the FY 2017 appropriations; and
4. Award funding to applicants that meet the funding errors category in section VI.A. below.

(j) Curable Deficiencies and Pre-Award Requirements:

- *Curable Deficiencies*: If there are curable deficiencies identified in successful applications, then applicants must satisfactorily address these deficiencies before HUD can make a grant award.
- *Pre-Award Requirements*: Successful applicants may have to provide supporting documentation concerning the management, maintenance, operation, or financing of proposed projects before a grant agreement can be executed. HUD may ask for additional information on the scope, magnitude, timing, budget, method of implementing the project or any proposed leveraging resources. HUD may also ask further information to verify the commitment of other resources required to complete, operate, or maintain the proposed project. HUD will notify applicants by email, facsimile, or via the U.S. Postal Service, return receipt requested. HUD will provide official notification to the authorized representative. Each applicant must provide accurate email addresses for receipt of these notifications and must monitor their email accounts to determine whether a notification has been received. Applicants will be provided no less than 48 hours and no more than fourteen (14) calendar days from the date of receipt of the HUD notification to respond to these requirements. No extensions will be provided. If the deadline date falls on a Saturday, Sunday, or Federal holiday, the response must be received by HUD on

the next day that is not a Saturday, Sunday, or Federal holiday. If an applicant does not respond within the prescribed time period or makes an insufficient response, then ONAP will determine that the requirement has not been met and will withdraw the grant offer. Applicants may not substitute new projects for those originally proposed in the application and any new information will not affect the project's rating and ranking. The time period for calculating the response deadline for pre-award requirements begins on the day after receipt of the pre-award letter from ONAP.

(k) Agency Errors

Judgments made within the provisions of this NOFA and all program statutory and regulatory requirements are not subject to claim of error. There is no appeal process. An applicant may however, bring arithmetic errors in application scoring to the attention of HUD within 30 days of being informed of its score.

(l) Anticipated Announcement and Award Dates

Following the evaluation process, HUD will notify successful applicants of their selection for funding. HUD will also notify other applicants, whose applications were received by the deadline, but have not been chosen for awards. Notifications will be sent by email to the person listed as the Authorized Representative listed on the SF-424. HUD anticipates announcing awards under this NOFA approximately four to six months after the application due date.

Authority: 42 U.S.C. 3535(d); Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235, approved December 16, 2014); Consolidated Appropriations Act, 2017 (Pub. L. 115-31, approved May 5, 2017).

Dominique G. Blom,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 2021-06595 Filed 3-30-21; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

**[FWS-R1-ES-2021-N019;
FXES11130100000-212-FF01E00000]**

Endangered Species; Receipt of Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received applications for permits to conduct activities intended to enhance the propagation and survival of endangered species under the Endangered Species Act of 1973, as amended. We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing the requested permits, we will take into consideration any information that we receive during the public comment period.

DATES: We must receive your written comments on or before April 30, 2021.

ADDRESSES: *Document availability and comment submission:* Submit a request for a copy of the application and related documents and submit any comments by one of the following methods. All requests and comments should specify the applicant name and application number (e.g., Dana Ross TE-08964A-2):

- *Email:* permitsR1ES@fws.gov.
- *U.S. Mail:* Marilet Zablan, Program Manager, Restoration and Endangered Species Classification, Ecological Services, U.S. Fish and Wildlife Service, Portland Regional Office, 911 NE 11th Avenue, Portland, OR 97232-4181.

FOR FURTHER INFORMATION CONTACT: Colleen Henson, Regional Recovery Permit Coordinator, Ecological Services, (503) 231-6131 (phone); permitsR1ES@fws.gov (email). Individuals who are hearing or speech impaired may call the Federal Relay Service at 1-800-877-8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service, invite the public to comment on applications for permits under section 10(a)(1)(A) of the Endangered Species Act, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The requested permits would allow the applicants to conduct activities intended to promote recovery of species that are listed as endangered under the ESA.

Background

With some exceptions, the ESA prohibits activities that constitute take of listed species unless a Federal permit is issued that allows such activity. The ESA’s definition of “take” includes such activities as pursuing, harassing, trapping, capturing, or collecting, in addition to hunting, shooting, harming, wounding, or killing.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with endangered or threatened

species for scientific purposes that promote recovery or for enhancement of propagation or survival of the species. These activities often include such prohibited actions as capture and collection. Our regulations implementing section 10(a)(1)(A) for these permits are found in the Code of Federal Regulations (CFR) at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Permit Applications Available for Review and Comment

Proposed activities in the following permit requests are for the recovery and enhancement of propagation or survival of the species in the wild. The ESA requires that we invite public comment before issuing these permits. Accordingly, we invite local, State, Tribal, and Federal agencies and the public to submit written data, views, or arguments with respect to these applications. The comments and recommendations that will be most useful and likely to influence agency decisions are those supported by quantitative information or studies.

Application No.	Applicant, city, state	Species	Location	Take activity	Permit action
TE38768B	Micronesian Environmental Services, Saipan, MP.	Mariana common moorhen (<i>Gallinula chloropus guami</i>), Micronesian megapode (<i>Megapodius laperouse</i>), nightingale reed-warbler (<i>Acrocephalus luscinia</i>).	GU, MP ..	Harass by survey	Amend.
CS0003146 ...	SR3 SeaLife Response, Rehabilitation, and Research, Des Moines, WA.	Hawksbill sea turtle (<i>Eretmochelys imbricata</i>), leatherback sea turtle (<i>Dermochelys coriacea</i>), loggerhead sea turtle (<i>Caretta caretta</i>).	OR, WA	Rehabilitation and transfer of stranded sea turtles.	New.

Public Availability of Comments

Written comments we receive become part of the administrative record associated with this action. 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 request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and

from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Next Steps

If we decide to issue a permit to an applicant listed in this notice, we will publish a notice in the **Federal Register**.

Authority

We publish this notice under section 10(c) of the Endangered Species Act of

1973, as amended (16 U.S.C. 1531 *et seq.*).

Marjorie Nelson,

Acting Assistant Regional Director—Ecological Services, Pacific Region.

[FR Doc. 2021-06600 Filed 3-30-21; 8:45 am]

BILLING CODE 4333-15-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS-HQ-IA-2020-0140; FXIA16710900000-212-FF09A30000]

Endangered Species; Marine Mammals; Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits.

SUMMARY: We, the U.S. Fish and Wildlife Service, have issued the following permits to conduct certain activities with endangered species, marine mammals, or both. We issue these permits under the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA).

ADDRESSES: Information about the applications for the permits listed in this notice is available online at www.regulations.gov. See **SUPPLEMENTARY INFORMATION** for details.

FOR FURTHER INFORMATION CONTACT: Tim MacDonald, by phone at 703-358-2185, via email at DMAFR@fws.gov, or via the Federal Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), have issued permits to conduct certain activities with endangered and threatened species in response to permit applications that we received under the authority of section 10(a)(1)(A) of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*)

After considering the information submitted with each permit application and the public comments received, we issued the requested permits subject to

certain conditions set forth in each permit. For each application for an endangered species, we found that (1) the application was filed in good faith, (2) the granted permit would not operate to the disadvantage of the endangered species, and (3) the granted permit would be consistent with the purposes and policy set forth in section 2 of the ESA.

Availability of Documents

The permittees' original permit application materials, along with public comments we received during public comment periods for the applications, are available for review. To locate the application materials and received comments, go to www.regulations.gov and search for the appropriate permit number (e.g., 12345C) provided in the following table:

ENDANGERED SPECIES

Permit No.	Applicant	Permit issuance date
56953D	Tony Goldberg	August 14, 2020.
69406D	U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office	August 17, 2020.
60225D	Minnesota Zoological Gardens	August 17, 2020.
60002D	Columbus Zoo and Aquarium	August 17, 2020.
49147D	Toledo Zoological Society	August 19, 2020.
76438D	Royal Botanic Gardens, Kew; c/o U.S. Fish and Wildlife Service	August 19, 2020.
63307D	University of Massachusetts at Amherst	August 19, 2020.
56470D	Chattanooga Zoo	August 18, 2020.
59321D	Peoria Zoo at Glen Oak Park	August 21, 2020.
105568	United States Geological Survey, National Wildlife Health Center	October 9, 2020.
003005	Louisiana State University, Museum of Natural Science	October 19, 2020.
93328C	University of Texas at Arlington, Amphibian and Reptile Diversity Research Center	October 19, 2020.
075249	Sam Noble Oklahoma Museum of Natural History	October 26, 2020.
672849	Priour Brothers Ranch	October 27, 2020.
707102	Priour Brothers Ranch	November 4, 2020.
50097D	Rockin' S Exotic Game Ranch LLC	October 27, 2020.
50118D	Rockin' S Exotic Game Ranch LLC	October 27, 2020.
66472D	Minnesota Zoological Gardens	November 2, 2020.
69314D	Stanford University	November 2, 2020.
76665D	777 Ranch	October 19, 2020.
60507D	Lonesome Bull Ranch	October 9, 2020.
68664D	Lonesome Bull Ranch	October 9, 2020.
70028D	Maryland Zoo in Baltimore	November 24, 2020.
56752D	International Center for the Preservation of Wild Animals (The Wilds)	November 23, 2020.
59433D	Mississippi Aquarium	November 23, 2020.
66451D	Saint Louis Zoo	November 23, 2020.
69790D	Animal Ark Wildlife Sanctuary	November 23, 2020.
70466A	Lucky 7 Ranch	November 23, 2020.
70470A	Lucky 7 Ranch	November 23, 2020.

MARINE MAMMALS

Permit No.	Applicant	Permit issuance date
791721	U.S. Geological Survey dba USGS Sirenia Project	October 20, 2020.
37946D	Charlie Hamilton James	November 20, 2020.
37058D	Charlie Hamilton James	November 18, 2020.

Authorities

We issue this notice under the authority of the Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.*), and the Marine Mammal Protection Act as amended (16 U.S.C. 1361 *et seq.*) and their implementing regulations.

Timothy MacDonald,

Government Information Specialist, Branch of Permits, Division of Management Authority.

[FR Doc. 2021-06576 Filed 3-30-21; 8:45 am]

BILLING CODE 4333-15-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS-HQ-IA-2020-0141; FXIA16710900000-212-FF09A30000]

Foreign Endangered Species; Marine Mammals; Receipt of Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on applications to conduct certain activities with foreign species that are listed as endangered under the Endangered Species Act (ESA). With some exceptions, the ESA prohibits activities with listed species unless Federal authorization is issued that allows such activities. The ESA also requires that we invite public comment before issuing permits for any activity otherwise prohibited by the ESA with respect to any endangered species.

DATES: We must receive comments by April 30, 2021.

ADDRESSES: *Obtaining Documents:* The applications, application supporting materials, and any comments and other materials that we receive will be available for public inspection at <http://www.regulations.gov> in Docket No. FWS-HQ-IA-2020-0141.

Submitting Comments: When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. You may submit comments by one of the following methods:

- *Internet:* <http://www.regulations.gov>. Search for and submit comments on Docket No. FWS-HQ-IA-2020-0141.

- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: Docket No. FWS-HQ-IA-2020-0141; U.S. Fish and Wildlife Service Headquarters, MS:

PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041-3803.

For more information, see Public Comment Procedures under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Tim MacDonald, by phone at 703-358-2185, via email at DMAFR@fws.gov, or via the Federal Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I comment on submitted applications?

We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

You may submit your comments and materials by one of the methods in **ADDRESSES**. We will not consider comments sent by email or fax, or to an address not in **ADDRESSES**. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**).

When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. Provide sufficient information to allow us to authenticate any scientific or commercial data you include. The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) those that include citations to, and analyses of, the applicable laws and regulations.

B. May I review comments submitted by others?

You may view and comment on others' public comments at <http://www.regulations.gov>, unless our allowing so would violate the Privacy Act (5 U.S.C. 552a) or Freedom of Information Act (5 U.S.C. 552).

C. Who will see my comments?

If you submit a comment at <http://www.regulations.gov>, your entire comment, including any personal identifying information, will be posted on the website. If you submit a hardcopy comment that includes personal identifying information, such as your address, phone number, or email address, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. Moreover, all

submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(c) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), we invite public comments on permit applications before final action is taken. With some exceptions, the ESA prohibits certain activities with listed species unless Federal authorization is issued that allows such activities. Permits issued under section 10(a)(1)(A) of the ESA allow otherwise prohibited activities for scientific purposes or to enhance the propagation or survival of the affected species. Service regulations regarding prohibited activities with endangered species, captive-bred wildlife registrations, and permits for any activity otherwise prohibited by the ESA with respect to any endangered species are available in title 50 of the Code of Federal Regulations in part 17.

III. Permit Applications

We invite comments on the following applications.

Endangered Species

Applicant: U.S. Fish and Wildlife Service/National Black-footed Ferret Conservation Center, Carr, CO; Permit No. 800411 and Permit No. 086867

The applicant requests renewal and amendment of permits to export, import, and re-import both live captive-born and wild specimens, biological samples, and salvaged material of black-footed ferret (*Mustela nigripes*) to and from Canada and Mexico for completion of identified tasks and objectives mandated under the Black-footed Ferret Recovery Plan. Salvaged materials may include, but are not limited to, whole or partial specimens, blood, tissue, hair, and fecal swabs. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: International Crane Foundation, Baraboo, WI; Permit No. PER0002969

The applicant requests a permit to export biological samples derived from the whooping crane (*Grus americana*), taken in Arkansas National Wildlife Refuge, Austwell, TX, for the purpose of enhancing the propagation or survival of the species through scientific research. This notification is for a single import.

Applicant: University of Oklahoma, Norman, OK; Permit No. 75498D

The applicant requests a permit to import biological samples derived from wild Central American river turtles (*Dermatemys mawii*), taken in Belize, for the purpose of scientific research. This notification is for a single import.

Applicant: Memphis Zoo, Memphis, TN; Permit No. 75752D

The applicant requests a permit to import one female captive-born Amur leopard (*Panthera pardus orientalis*) from Twycross Zoo, Atherstone, United Kingdom, for the purpose of enhancing the propagation or survival of the species. This notification is for a single import.

Applicant: Donald Lee Wehmeyer, Abilene, TX; Permit No. 71813D

The applicant requests a permit to import a sport-hunted cape mountain zebra (*Equus zebra zebra*) trophy from South Africa to enhance the propagation or survival of the species. This notification is for a single import.

Applicant: Tortoise Conservatory, LLC, Phoenix, AZ; Permit No. 59955B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for radiated tortoise (*Astrochelys radiata*), to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: National Aviary in Pittsburgh, Pittsburgh, PA; Permit No. 71028D

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the following species, to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Common name	Scientific name
Blue-throated macaw ..	<i>Ara glaucogularis</i>
Guam rail	<i>Rallus owstoni</i>
Rothschild's starling	<i>Leucopsar rothschildi</i>
Edward's pheasant	<i>Lophura edwardsi</i>
Palawan peacock pheasant.	<i>Polyplectron emphanum</i>
African penguin	<i>Spheniscus demersus</i>
Red siskin	<i>Carduelis cucullata</i>
Guam kingfisher	<i>Halcyon cinnamomina cinnamomina</i>
Cabot's tragopan pheasant.	<i>Tragopan caboti</i>
Andean condor	<i>Vultur gryphus</i>

Applicant: Virginia Zoological Park, Norfolk, VA; Permit No. 69710D

The applicant requests a captive-bred wildlife registration under 50 CFR

17.21(g) for the following species to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Common name	Scientific name
Siamese crocodile	<i>Crocodylus siamensis</i>
White-naped crane	<i>Grus vipio</i>
Siamang	<i>Symphalangus syndactylus</i>
Bornean orangutan	<i>Pongo pygmaeus</i>
Malayan tapir	<i>Tapirus indicus</i>

Applicant: Gary Wiechens, Roll, AZ; Permit No. 62714D

The applicant requests a permit to import the sport-hunted trophy of one male scimitar-horned oryx (*Oryx dammah*) culled from a captive herd in Mexico, for the purpose of enhancing the propagation or survival of the species.

Applicant: Richard Roark, Marshall, TX; Permit No. 72865D

The applicant requests a permit to import a sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancing the propagation or survival of the species.

IV. Next Steps

After the comment period closes, we will make decisions regarding permit issuance. If we issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**. You may locate the notice announcing the permit issuance by searching <http://www.regulations.gov> for the permit number listed above in this document. For example, to find information about the potential issuance of Permit No. 12345A, you would go to [regulations.gov](http://www.regulations.gov) and search for "12345A".

V. Authority

We issue this notice under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and its implementing regulations.

Timothy MacDonald,

Government Information Specialist, Branch of Permits, Division of Management Authority.

[FR Doc. 2021-06575 Filed 3-30-21; 8:45 am]

BILLING CODE 4333-15-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R3-ES-2021-N018; FXES11130300000-201-FF03E00000]

Endangered and Threatened Species; Receipt of Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received applications for permits to conduct activities intended to enhance the propagation or survival of endangered or threatened species under the Endangered Species Act. We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

DATES: We must receive your written comments on or before April 30, 2021.

ADDRESSES: Document availability and comment submission: Submit requests for copies of the applications and related documents, as well as any comments, by one of the following methods. All requests and comments should specify the applicant name(s) and application number(s) (e.g., TEXXXXXX; see table in

SUPPLEMENTARY INFORMATION):

- *Email:* permitsR3ES@fws.gov. Please refer to the respective application number (e.g., Application No. TEXXXXXX) in the subject line of your email message.

- *U.S. Mail:* Regional Director, Attn: Nathan Rathbun, U.S. Fish and Wildlife Service, Ecological Services, 5600 American Blvd. West, Suite 990, Bloomington, MN 55437-1458.

FOR FURTHER INFORMATION CONTACT:

Nathan Rathbun, 612-713-5343 (phone); permitsR3ES@fws.gov (email). Individuals who are hearing or speech impaired may call the Federal Relay Service at 1-800-877-8339 for TTY assistance.

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), prohibits certain activities with endangered and threatened species unless authorized by a Federal permit. The ESA and our implementing regulations in part 17 of title 50 of the

Code of Federal Regulations (CFR) provide for the issuance of such permits and require that we invite public comment before issuing permits for activities involving endangered species.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with endangered species for

scientific purposes that promote recovery or for enhancement of propagation or survival of the species. Our regulations implementing section 10(a)(1)(A) for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for

endangered plant species, and 50 CFR 17.72 for threatened plant species.

Permit Applications Available for Review and Comment

We invite local, State, and Federal agencies; Tribes; and the public to comment on the following applications:

Application No.	Applicant	Species	Location	Activity	Type of Take	Permit action
PER0003286	Elaine Evans, Saint Paul, MN.	Rusty patched bumble bee (<i>Bombus affinis</i>).	MN, WI	Conduct presence/absence surveys, document habitat use, conduct population monitoring, evaluate impacts, bio-sample.	Capture, handle, release; Pollen sampling, genetic sampling, fecal sampling.	Amend
PER0003023	Samuel Schratz, Villa Park, IL.	Gray bat (<i>Myotis grisescens</i>), northern long-eared bat (<i>M. septentrionalis</i>).	CT, DE, DC, FL, LA, ME, MI, NE, NH, ND, RI, SC, SD, WI, WY.	Conduct presence/absence surveys, document habitat use, conduct population monitoring, evaluate impacts.	Capture, handle, mist-net, harp trap, band, radio-tag, PIT tag, collect wing biopsy samples, release.	New
PER0003405	Crystal Griffin, Overland Park, KS.	Gray bat (<i>Myotis grisescens</i>), Indiana bat (<i>M. sodalis</i>), northern long-eared bat (<i>M. septentrionalis</i>), Ozark big-eared bat (<i>Corynorhinus townsendii ingens</i>), Virginia big-eared bat (<i>C.t. virginianus</i>).	AL, AR, CT, DE, GA, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, VT, VA, WV, WI.	Conduct presence/absence surveys, document habitat use, conduct population monitoring, evaluate impacts.	Capture, handle, mist-net, harp trap, band, radio-tag, collect hair and wing biopsy samples, release.	New
PER0003488	Brooke Hines, Littlejohn, CO.	Gray bat (<i>Myotis grisescens</i>), Indiana bat (<i>M. sodalis</i>), northern long-eared bat (<i>M. septentrionalis</i>), Virginia big-eared bat (<i>Corynorhinus townsendii virginianus</i>).	AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, VT, VA, WV, WI.	Conduct presence/absence surveys, document habitat use, conduct population monitoring, evaluate impacts.	Capture, handle, mist-net, harp trap, band, radio-tag, light ta, PIT tag, collect hair, fugal lift tape, swab and wing biopsy samples, enter hibernacula and maternity roost caves, release, salvage.	Renew
PER0003355	Josiah Maine, Kansas City, MO.	Add: Gray bat (<i>Myotis grisescens</i>) to existing permitted species: Indiana bat (<i>Myotis sodalis</i>) and northern long-eared bat (<i>M. septentrionalis</i>).	AR, CT, DC, DE, IA, IN, KY, KS, MA, ME, MD, MI, MN, MO, NH, NJ, NY, OH, OK, PA, RI, SD, TN, VA, VT, WI, WV.	Conduct presence/absence surveys, document habitat use, conduct population monitoring, evaluate impacts.	Capture, handle, hold, mist-net, band, radio-tag, release.	Amend and renew
PER0003135	Katie Baker, Arlington Heights, IL.	Gray bat (<i>Myotis grisescens</i>), Indiana bat (<i>M. sodalis</i>), northern long-eared bat (<i>M. septentrionalis</i>), Ozark big-eared bat (<i>Corynorhinus townsendii ingens</i>), Virginia big-eared bat (<i>C.t. virginianus</i>).	AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, VT, VA, WV, WI, WY.	Conduct presence/absence surveys, document habitat use, conduct population monitoring, evaluate impacts.	Capture, handle, mist-net, band, radio-tag, collect hair and wing biopsy samples, release, salvage.	New
PER0003373	Stantec Consulting Services, Inc., Columbus, OH.	Gray bat (<i>Myotis grisescens</i>), Indiana bat (<i>M. sodalis</i>), northern long-eared bat (<i>M. septentrionalis</i>).	AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, VT, VA, WV, WI, WY.	Conduct presence/absence surveys, document habitat use, conduct population monitoring, evaluate impacts.	Capture, handle, mist-net, harp trap, band, radio-tag, enter hibernacula or maternity roost caves.	Amend and renew
PER0003201	Braden Hoffman, Daniels, WV.	Indiana bat (<i>Myotis sodalis</i>), gray bat (<i>M. grisescens</i>), northern long-eared bat (<i>M. septentrionalis</i>), Virginia big-eared bat (<i>Corynorhinus townsendii virginianus</i>).	AL, AK, CT, FL, GA, IA, IL, IN, KY, KS, MA, MD, MI, MO, MS, NC, NJ, NY, OH, OK, PA, TN, VA, VT, WV.	Conduct presence/absence surveys, document habitat use, conduct population monitoring, evaluate impacts.	Capture, handle, mist-net, harp trap, band, radio-tag, release.	Renew

Application No.	Applicant	Species	Location	Activity	Type of Take	Permit action
PER0002967	Donald Solick, Fort Collins, CO.	Gray bat (<i>Myotis grisescens</i>), Indiana bat (<i>M. sodalis</i>), northern long-eared bat (<i>M. septentrionalis</i>).	AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, VT, VA, WV, WI, WY.	Conduct presence/absence surveys, document habitat use, conduct population monitoring, evaluate impacts.	Capture, handle, mist-net, harp trap, band, radiotag, release.	New
TE64080B	Michigan Natural Features Inventory, Lansing, MI.	Add: Eastern Massasauga Rattlesnake (<i>Sistrurus catenatus</i>) and Rusty patched bumble bee (<i>Bombus affinus</i>) to existing permitted species: Indiana bat (<i>Myotis sodalis</i>), northern long-eared bat (<i>M. septentrionalis</i>), copperbelly water snake (<i>Nerodia erythrogaster neglecta</i>), American burying beetle (<i>Nicrophorus americanus</i>), Hine's emerald dragonfly (<i>Somatochlora hineana</i>), Karner blue butterfly (<i>Somatochlora hineana</i>), Mitchell's satyr (<i>Neonympha mitchellii mitchellii</i>), poweshiek skipperling (<i>Oarisma poweshiek</i>), white cat's paw (<i>Epioblasma obliquata perobliqua</i>), northern riffleshell (<i>Epioblasma torulosa rangiana</i>), snuffbox (<i>Epioblasma triquetra</i>), clubshell (<i>Pleurobema clava</i>), rayed bean (<i>Villosa fabalis</i>), American Hart's-tongue fern (<i>Asplenium scolopendrium</i> var. <i>americanum</i>), pitcher's thistle (<i>Cirsium pitcher</i>), lakeside daisy (<i>Hymenoxys herbacea</i>), dwarf lake iris (<i>Iris lacustris</i>), small whorled pogonia (<i>Isotria medeoloides</i>), Michigan monkey flower (<i>Mimulus michiganensis</i>), eastern prairie fringed orchid (<i>Platanthera leucophaea</i>), Houghton's goldenrod (<i>Solidago houghtonii</i>).	MI	Conduct presence/absence surveys, document habitat use, conduct population monitoring, evaluate impacts.	Capture, handle, hold, pit-tag, blood sample, release.	Amend and renew
PER0003114	Timothy Brust, Greenup, KY.	Eastern massasauga rattlesnake (<i>Sistrurus catenatus</i>).	IA, IN, MI, MN, NY, OH, PA, WI.	Conduct presence/absence surveys, document habitat use, conduct population monitoring, evaluate impacts.	Capture, handle, release.	New
PER0003423	The Ohio State University, Columbus, OH.	Clubshell (<i>Pleurobema clava</i>), rayed bean (<i>Villosa fabalis</i>), rabbitsfoot (<i>Quadrula cylindrica cylindrica</i>).	OH	Conduct presence/absence surveys, document habitat use, conduct population monitoring, evaluate impacts.	Long-term hold	New

Public Availability of Comments

Written comments we receive become part of the administrative record associated with this action. 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 request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Moreover, all submissions from organizations or businesses, and from individuals identifying themselves as

representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Next Steps

If we decide to issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**.

Authority

We publish this notice under section 10(c) of the Endangered Species Act of

1973, as amended (16 U.S.C. 1531 *et seq.*).

Lori Nordstrom,
Assistant Regional Director, Ecological Services.

[FR Doc. 2021-06603 Filed 3-30-21; 8:45 am]

BILLING CODE 4333-15-P

DEPARTMENT OF THE INTERIOR**Bureau of Indian Affairs**

[212A2100DD/AAKC001030/
AOA501010.999900; OMB Control Number
1076-NEW]

**Agency Information Collection
Activities; Submission to the Office of
Management and Budget; Tribal
Enrollment Count**

AGENCY: Bureau of Indian Affairs,
Interior.

ACTION: Notice of information collection;
request for comment.

SUMMARY: In accordance with the
Paperwork Reduction Act of 1995, we,
the Bureau of Indian Affairs (BIA), are
requesting the Office of Management
and Budget (OMB) to conduct an
emergency review of a new information
collection.

DATES: Interested persons are invited to
submit comments on or before April 30,
2021.

ADDRESSES: Send written comments on
this information collection request (ICR)
by mail to Jeanette Hanna, Deputy
Bureau Director of the Office of Indian
Services, jeanette.hanna@bia.gov.
Please reference OMB Control Number
1076-NEW in the subject line of your
comments.

FOR FURTHER INFORMATION CONTACT: To
request additional information about
this ICR, contact Jeanette Hanna by
email at jeanette.hanna@bia.gov, or by
telephone at (202) 208-2874. You may
also view the ICR at [http://
www.reginfo.gov/public/do/PRAMain](http://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.

We are soliciting comments on the
proposed ICR that is described below.
We are especially interested in public
comment addressing the following
issues: (1) Is the collection necessary to
the proper functions of the BIA; (2) will
this information be processed and used
in a timely manner; (3) is the estimate
of burden accurate; (4) how might the
BIA enhance the quality, utility, and
clarity of the information to be
collected; and (5) how might the BIA

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: Enrollment data is an
important source of information which
allows the Indian Affairs and other
Federal agencies to equitably distribute
resources because it is a quantifiable
representation of a Tribe's population.
Different population sizes generally
require different levels of services and
resources. BIA must collect this
information immediately to ensure
effective, accurate, and timely
distribution of assistance to respond to
the coronavirus pandemic in Indian
Country, as provided in the American
Rescue Plan which was recently signed
into law. Specifically, enrollment data
will be a primary data source to inform
Indian Affairs' allocation of \$900
million in assistance to Tribal nations,
as well as \$19 billion to be distributed
by the Department of the Treasury.
Timely collection is especially critical
as Treasury must allocate their funding
within 60 days of enactment of the
American Rescue Plan.

Title of Collection: Tribal Enrollment
Count.

OMB Control Number: 1076- NEW.
Form Number: None.

Type of Review: New information
collection.

Respondents/Affected Public: Indian
Tribes.

**Total Estimated Number of Annual
Respondents:** 574 per year.

**Total Estimated Number of Annual
Responses:** 574 per year.

**Estimated Completion Time per
Response:** 1 hour.

**Total Estimated Number of Annual
Burden Hours:** 574 hours.

Respondent's Obligation: Voluntary.

Frequency of Collection: Once.

**Total Estimated Annual Nonhour
Burden Cost:** \$0.

Additional Information: An
emergency clearance approval for this
information collection is due to the
following conditions: Under the current
unprecedented national health
emergency, Congress and the President

have come together by passing the
American Rescue Plan to offer relief to
the public and, relevant to this
information collection, to Tribes
affected by the COVID-19 pandemic.
BIA must collect this information
immediately to ensure effective,
accurate, and timely distribution of
assistance to respond to the coronavirus
pandemic in Indian Country, as
provided in the American Rescue Plan.

An agency may not conduct or
sponsor and a person is not required to
respond to a collection of information
unless it displays a currently valid OMB
control number.

The authority for this action is the
Paperwork Reduction Act of 1995 (44
U.S.C. 3501 *et seq.*)

Elizabeth K. Appel,

*Director, Office of Regulatory Affairs and
Collaborative Action—Indian Affairs.*

[FR Doc. 2021-06593 Filed 3-30-21; 8:45 am]

BILLING CODE 4337-15-P

DEPARTMENT OF JUSTICE

**Bureau of Alcohol, Tobacco, Firearms
and Explosives**

[OMB Number 1140-0008]

**Agency Information Collection
Activities; Proposed eCollection of
eComments Requested; Revision of a
Currently Approved Collection;
Application and Permit for Permanent
Exportation of Firearms (National
Firearms Act)—ATF Form 9 (5320.9)**

AGENCY: Bureau of Alcohol, Tobacco,
Firearms and Explosives, Department of
Justice.

ACTION: 30-day notice.

SUMMARY: The Bureau of Alcohol,
Tobacco, Firearms and Explosives
(ATF), Department of Justice (DOJ) will
submit the following information
collection request to the Office of
Management and Budget (OMB) for
review and approval in accordance with
the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and
will be accepted for an additional 30
days until April 30, 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](http://www.reginfo.gov/public/do/PRAMain). Find this particular
information collection by selecting
“Currently under 30-day Review—Open
for Public Comments” or by using the
search function.

SUPPLEMENTARY INFORMATION: Written
comments and suggestions from the

public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- 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;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; 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.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *The Title of the Form/Collection:* Application and Permit for Permanent Exportation of Firearms (National Firearms Act).

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*
Form number: ATF Form 9 (5320.9).
Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.
Other: Federal Government.

Abstract: The Application and Permit for Permanent Exportation of Firearms (National Firearms Act)—ATF Form 9 (5320.9) is completed by Federal firearms licensees who have paid the special (occupational) tax, when requesting authorization to deal, manufacture and/or import NFA firearms.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 2,373 respondents will use the form annually, and it will take each respondent approximately 18 minutes to complete their responses.

(6) *An estimate of the total public burden (in hours) associated with the*

collection: The estimated annual public burden associated with this collection is 712 hours, which is equal to 2,373 (# of respondents) * .3 (18 minutes).

(7) *An Explanation of the Change in Estimates:* Due to a higher volume of industry submissions for this information collection, both the total respondents and burden hours have increased by 590 and 177 hours respectively since the last renewal in 2017.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: March 26, 2021.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2021-06611 Filed 3-30-21; 8:45 am]

BILLING CODE 4410-14-P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140-0106]

Agency Information Collection Activities; Proposed eCollection of eComments Requested; Extension Without Change of a Currently Approved Collection; Arson and Explosives Training Registration Request for Non-ATF Employees—ATF Form 6310.1

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Department of Justice (DOJ) will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for an additional 30 days until April 30, 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.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- 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;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; 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.

Overview of this information collection:

(1) *Type of Information Collection:* Extension without change of a currently approved collection.

(2) *The Title of the Form/Collection:* Arson and Explosives Training Registration Request for Non-ATF Employees.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*
Form number: ATF Form 6310.1.
Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Federal Government and State, Local or Tribal Government.

Other: None.

Abstract: The Arson and Explosives Training Registration Request for Non-ATF Employees—ATF Form 6310.1 is used by Federal, State, local, military, and international law enforcement investigators to apply to attend or obtain program information about arson and explosives training provided by the Bureau of Alcohol Tobacco, Firearms and Explosives (ATF).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to*

respond: An estimated 500 respondents will use the form annually, and it will take each respondent approximately 6 minutes to complete their responses.

(6) *An estimate of the total public burden (in hours) associated with the collection*: The estimated annual public burden associated with this collection is 50 hours, which is equal to 500 (# of respondents) * .1 (6 minutes).

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: March 26, 2021.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2021-06586 Filed 3-30-21; 8:45 am]

BILLING CODE 4410-14-P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140-0068]

Agency Information Collection Activities; Proposed eCollection of eComments Requested; Extension Without Change of a Currently Approved Collection; Police Check Inquiry—ATF F 8620.42

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-day notice.

SUMMARY: The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Department of Justice (DOJ) will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for an additional 30 days until April 30, 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.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning

the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- 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;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; 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.

Overview of This Information Collection

(1) *Type of Information Collection*: Extension, without change, of a currently approved collection.

(2) *The Title of the Form/Collection*: Police Check Inquiry.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection*:
Form number: ATF Form 8620.42.
Component: Bureau of Alcohol,

Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract*:

Primary: Individuals or households.

Other: None.

Abstract: The Police Check Inquiry—ATF Form 8620.42 is used to collect personally identifiable information (PII) to determine if non-ATF personnel meet the basic requirements for escorted access to ATF facilities, non-sensitive information and/or construction sites.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond*: An estimated 1,000 respondents will use the form annually, and it will take each respondent approximately 4.98 minutes to complete their responses.

(6) *An estimate of the total public burden (in hours) associated with the collection*: The estimated annual public burden associated with this collection is 83 hours, which is equal to 1,000 (# of respondents) * .083 (4.98 minutes).

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: March 26, 2021.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2021-06609 Filed 3-30-21; 8:45 am]

BILLING CODE 4410-14-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 17-45]

Ester Mark, M.D.; Decision and Order

On July 7, 2017, a former Assistant Administrator of the Drug Enforcement Administration (hereinafter, DEA or Government), issued an Order to Show Cause (hereinafter, OSC) to Ester Mark, M.D., (hereinafter, Respondent) of Newport Beach, California.

Administrative Law Judge Exhibit 1, (OSC) at 1. The OSC proposed to revoke her DEA Certificate of Registration (hereinafter, COR) No. BM5370123, and deny her pending application COR No. W15069021C pursuant to 21 U.S.C. 823(f) and 824(a)(4) for the reason that Respondent’s “continued registration is inconsistent with the public interest.” *Id.*

In response to the OSC, Respondent timely requested a hearing before an Administrative Law Judge. ALJ-2. The hearing in this matter was held in Santa Ana, California, on January 23–24, 2018. On April 5, 2018, Administrative Law Judge Charles Wm. Dorman (hereinafter, ALJ) issued Recommended Rulings, Findings of Fact, Conclusions of Law and Decision (hereinafter, Recommended Decision or RD), and on May 9, 2018, the Respondent filed exceptions (hereinafter, Resp Exceptions) to the Recommended Decision. The Government did not file any exceptions to the Recommended Decision or a response to Respondent’s exceptions. Having reviewed the entire record, I find the Respondent’s Exceptions without merit and I adopt the ALJ’s rulings, findings of fact, as modified, conclusions of law and recommended sanction with minor modifications, where noted herein.*A

*A I have made minor modifications to the RD. I have substituted initials or titles for the names of witnesses and patients to protect their privacy and I have made minor, nonsubstantive, grammatical

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. BM5370123 issued to Ester Mark, M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(f), I hereby deny the pending application, control number W15069021C, for renewal or modification of this registration, as well as any other pending application by Ester Mark, M.D., for registration in Florida or California. This Order is effective April 30, 2021.

D. Christopher Evans,
Acting Administrator.

The Respondent's Exceptions

Respondent filed Exceptions to the RD on May 9, 2018. Exceptions “shall include a statement of supporting reasons for such exceptions, together with evidence of record (including specific and complete citations of the pages of the transcript and exhibits) and citations of the authorities relied upon.” 21 CFR 1316.66. For the most part, the Respondent's Exceptions not only fail to comply with this regulatory requirement, but also lack evidentiary support in the Administrative Record. I am addressing some of these Exceptions in the beginning and have included some throughout the record where relevant. Others are repetitive of Respondent's Post-Hearing Brief and were addressed by the ALJ in the adopted Recommended Decision herein.

Respondent's Exceptions to the Findings of Fact

The Respondent lists sixty-eight “Proposed Findings of Fact,” which fall in two categories: Proposed findings that mirror those made by the ALJ, and those that supplement the findings of fact made by the ALJ. As to the former, the Respondent, in essence, adopts the ALJ's findings of fact. Consequently, I decline to consider those proposed findings, if intended as exceptions. As to the latter, I reject the Respondent's proposed factual findings that differ from those made by the ALJ.*^B Those

changes. Where I have made substantive changes, omitted language for brevity or relevance, or where I have added to or modified the ALJ's opinion, I have noted the edits with an asterisk, and I have included specific descriptions of the modifications in brackets following the asterisk or in footnotes marked with an asterisk and a letter.

*^B Specifically, I reject the following proposed findings of fact as there is no evidence in the record to support them or because they were irrelevant: Law enforcement personnel executed a search warrant at her residence on June 12, 2014 (Resp Exceptions, Proposed Finding of Fact I.6, at 5);

findings conflict with the Respondent's pre-hearing stipulations, lack evidentiary support in the Administrative Record, have no relevance to the allegations sustained by the ALJ, or constitute arguments rather than factual allegations.

Lastly, the Respondent's proposed findings of fact omit many factual findings made by the ALJ. To the extent Respondent intended such omissions as exceptions to those factual findings, I reject those exceptions, having concluded that the Administrative Record supports the ALJ's factual findings, as modified by this Decision and Order.

Storage Violations

The ALJ sustained the allegation that Respondent violated 21 CFR 1301.75(b). RD, at 33. Although the controlled substances observed in Respondent's office on two occasions were not stored in a securely locked, substantially constructed cabinet, as required by 21

testosterone is a Schedule IV controlled substance (*id.* at I.13.5); Respondent's office “was a separate, closed of [sic] area from where patients were seen” (*id.* at 5)(the record does not support this finding—her sworn statement says she sees them “in my—you know, downstairs” GE–12, at 34); the Respondent's husband agreed to purchase a safe (Resp Exceptions, Proposed Finding of Fact II.8, at 6); with the exception of the first sentence, the Respondent's discussion of patient charts (Resp Exceptions, Proposed Finding of Fact II.13, at 6–7); the Respondent provided investigators a dispensing log (Resp Exceptions, Proposed Finding of Fact II.14, at 7); the Government did not introduce in evidence a property receipt for invoices (Resp Exceptions, Proposed Finding of Fact II.18, at 7); investigators neglected to determine the expiration dates of the controlled substances they inventoried (Resp Exceptions, Proposed Finding of Fact II.19, at 7); reference to the Respondent's Medical Board interview (Resp Exceptions, Proposed Finding of Fact II.22, at 8); the Respondent called the pharmacy to order medications (Resp Exceptions, Proposed Finding of Fact III.3, at 8); the investigator never mentioned prescriptions (Resp Exceptions, Proposed Finding of Fact III.6, at 9); the Government did not introduce in evidence the search warrant (Resp Exceptions, Proposed Finding of Fact IV.1, at 9); the Government took an additional inventory for which it did not include a property receipt—the receipt is found in GE–14 for the inventory referenced in the cited transcript pages (Resp Exceptions, Proposed Finding of Fact IV.6, at 10); records of medications ordered by the Respondent (Resp Exceptions, Proposed Finding of Fact V.2, at 11); the respondent's discussion about the standard of care in California (Resp Exceptions, Proposed Finding of Fact V.4–V.9, at 11); the prescriptions in Exhibit 7 did not include any prescriptions written by the Respondent (Resp Exceptions, Proposed Finding of Fact V.10, at 11); the Respondent's discussion about dosing instructions (Resp Exceptions, Proposed Finding of Fact V.11, at 11); seven prescriptions were not obtained outside the California standard of care (Resp Exceptions, Proposed Finding of Fact V.12, at 12); the Respondent's discussion about E-Compounding and corresponding responsibility (Resp Exceptions, Proposed Finding of Fact V.13, at 12); and the Respondent's discussion about Dr. Munzing's expert testimony (Resp Exceptions, Proposed Finding of Fact V.14, at 12).

CFR 1301.75(b), Respondent argues that her extra security measures demonstrate substantial compliance with this regulation. Resp Exceptions, at 13–17. She further argues that DEA has not established *prima facie* case on this allegation due to the absence of evidence regarding whether her office door had a lock. *Id.* Respondent refers to her sworn interview, where she described a variety of security measures on her home and office, but the ALJ concluded that the probative value of such testimony is substantially diminished because the DEA was not a party to the proceeding. RD, at 31, n.14. The ALJ also determined that any evidence of an office door lock would be inconsequential, where the room was not set aside solely for the storage of controlled substances. *Id.* at 31. I agree with the ALJ's decision as outlined below, and I note that in particular, even if the Respondent could claim confusion as to whether her storage of controlled substances provided adequate security to be in compliance with the regulatory requirements, the record supports a finding that she was told by DEA and state investigators very clearly on several occasions that it was not. *See e.g.*, GE–12, at 79 (transcript of sworn interview on April 4, 2014, “just so you know, the Federal regulations require that they be stored in a metal locked cabinet”); *see also* Tr. 23, 36, 130 (DEA and state investigators testifying that Respondent was told on March 14, 2014, to purchase a safe to store the controlled substances). Despite being told repeatedly that her security was not adequate, at the time that the search warrant was executed on June 13, 2014, Respondent had done nothing to further secure the controlled substances.*^C

Recordkeeping and Prescribing

Respondent contends that state and federal investigators “never told [her] or advised [her] to make sure [she] had an inventory readily available.” *Id.* at 18. The regulations clearly require that Respondent maintain an inventory, and furthermore, that “every inventory and other records required to be kept under this part must be kept by the registrant and be available, for at least 2 years from the date of such inventory or records, for inspection and copying by authorized employees of the Administration.” 21 CFR 1304.04. Respondent never produced an inventory as the regulations required. Respondent contends in her Exceptions

*^C Additionally, the unrebutted evidence regarding Respondent's other violations of law are enough to support the finding that Respondent's continued registration is inconsistent with the public interest.

that DEA and state investigators should have “help[ed] her fix [her] mistakes or give[n her] a deadline to update [her] recordkeeping.” Resp Exceptions, at 18. DEA’s statutory mandate is to ensure compliance with the CSA and its implementing regulations. Respondent showed little aptitude for coming into compliance given that she did not secure her controlled substances after repeated notifications that the storage was not adequate.

Respondent also contends that she keeps dispensing records both in the log that she introduced and also in her patient files; however, she introduced no patient files to explain the discrepancies in her stock of controlled substances. *Id.* at 19. I find that the ALJ addressed all of the arguments in Respondent’s Exceptions related to the dispensing logs herein.

Regarding her prescribing practices, Respondent contends that the AMA Code of Ethics “does not forbid practitioners from treating themselves nor prescribing controlled substances. In general, physicians should not treat themselves or members of their own families, but it is acceptable in some circumstances.” *Id.* at 23. She then lists circumstances where it might be appropriate to so prescribe, none of which have any relevance here, because she has presented no evidence on the record as to her rationale for issuing the prescriptions to her husband, and she failed to maintain proper documentation supporting those prescriptions by which their legitimacy could be assessed. *See* FF 45. Additionally, even if there were a legitimate reason for her to have prescribed to her husband, there is more than enough evidence that Respondent issued these prescriptions outside the usual course of the professional practice and beneath the standard of care due to the fact that she violated state law in both not documenting a physical examination and not maintaining a medical file on her husband. *See infra* Discussion.

Pill Count

Respondent argues that all of the pill counts were inaccurate. Resp Exceptions, at 27. She states, “For example, the agents failed to recognize the different dosages of the same medication, which amounted in a larger amount of pills for the same medication (Temazepam 15 mg & 30 mg) in the first count compared to the second count.” *Id.* However, Temazepam is listed on the first count, at 30 mg, *see* GE–3, at 1, and the second count for Temazepam lists both 15 mg and 30 mg, *see* GE–14, at 11, and the different dosages on GE–

14 include different corresponding National Drug Code (NDC) numbers; therefore, I see no evidence to support her claim that the counts were inaccurate. Further, even if the two dosages had been conflated during the first search, she would still have an unexplained shortage. It is also noted that Respondent argues that the Government’s Exhibit 14 is “not signed, dated or witnessed;” however, the first page of the exhibit includes a signed, dated and sworn statement of the “itemized and individually described account of evidence seized” GE–14, at 1.

Finally, Respondent contends that the investigators counted more Apap Codeine in GE–14 than in GE–3, and that “[o]nly mistakes could logically account for an increase in the same medication at the second count.” It is illogical to assume that only a mistake in the count could explain an overage. The record reflects other overages, so Respondent could have acquired additional controlled substances between the two searches. *See infra* n.30. Additionally, the reason that it is difficult to determine the cause for the overages is that Respondent’s recordkeeping was inadequate, which is also the reason why the overages and shortages are relevant to this case.

Statute of Limitations

The Respondent seeks to apply a five-year statute of limitations to this proceeding and cites 18 U.S.C. 3282, 19 U.S.C. 1621 and 28 U.S.C. 2462.*^D Resp Exceptions, at 32. However, none of these provisions apply. Prior agency decisions have long stated that neither the law nor federal regulations governing DEA administrative adjudications prescribe a statute of limitations. *See Edmund Chein, M.D.*, 72 FR 6580, 6590 n.17 (2007) (“there is no statute of limitations applicable to these proceedings, which are remedial in nature and are instituted to protect the public interest”); *see also Pettigrew Rexall Drugs*, 64 FR 8855, 8859 (1999). Additionally, Respondent argues that the time lapse in the investigation “does not align with the DEA being concerned with [Respondent’s] prescribing behavior or misconduct,” and she points out that she was allowed to renew her registration during the investigation. Resp Exceptions, at 33. However, the agency has clear discretion regarding whether to bring an enforcement action, and it defies reason to construe the fact that the agency permitted Respondent to continue to

*^D Respondent also cites “USCA Sec. 525”, but it is unclear to which law she is referring.

prescribe during the pendency of the investigation, before giving her procedural due process, to imply that no violation occurred. *See Frank Joseph Stirlacci M.D.*, 85 FR 45,229, 45,236 (2019).

Accepting Responsibility

Respondent contends that she “clearly accepted responsibility and demonstrated remedial measures when she stopped ordering from E-Compounding pharmacies, storing controlled substance, prescribing controlled substances to family members, and self-prescribing, as well as when she closed her practice to work as a medical director for another practice without prescribing controlled substances and improving her recordkeeping to meet the proper requirements of federal and state laws” Resp Exceptions, at 2. Respondent presented no evidence establishing these remedial measures on the record and did not testify regarding the allegations. Furthermore, even in making these written statements, Respondent has not accepted responsibility for her actions. Even if I fully considered her post-hearing, off-the-record statement that she “accept[s] full responsibility for being less than accurate in [her] recordkeeping duties during the time [she] was dispensing to patients,” her recordkeeping violations were not limited to dispensing and she makes no attempt at taking responsibility for her other violations of law. Furthermore, she passes blame on DEA for not telling her how to comply with recordkeeping requirements, *id.* at 18, and she passes blame on the pharmacy for filling her “office use” prescriptions, *id.* at 26. I find that there is no adequate or credible acceptance of responsibility on the record and I further find that the ALJ appropriately considered Respondent’s lack of acceptance of responsibility in his sanction recommendation. *See Pharmacy Doctors Enterprises, Inc. v. Drug Enf’t Admin.*, 789 F. App’x 724, 732 (2019); *Jones Total Health Care Pharmacy, LLC v. Drug Enf’t Admin.*, 881 F.3d 823, 830 (11th Cir. 2018) (citing *MacKay v. Drug Enf’t Admin.*, 664 F.3d 808, 820 (10th Cir. 2011) (“The DEA may properly consider whether a physician admits fault in determining if the physician’s registration should be revoked.”)); *see also Jeffrey Stein, M.D.*, 84 FR 46,968, 46,972–73 (2019) (unequivocal acceptance of responsibility); *Jayam Krishna-Iyer, M.D.*, 74 FR 459, 463 (2009) (collecting cases).

The issue before the Administrator is whether the record as a whole

establishes that it would be inconsistent with the public interest under 21 U.S.C. 824(a)(4) and 823(f) to allow Respondent to retain her DEA COR and/or to grant her pending application.

The decision below is based on my consideration of the entire Administrative Record, including all of the testimony, admitted exhibits, and the oral and written arguments of counsel. I adopt the ALJ's Recommended Decision with noted modifications.

Paul A. Dean, Esq. and John E. Beerbower, Esq., for the Government
Ester Mark, M.D., for the Respondent

Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge

The Allegations

1. On March 13, 2014, DEA investigators served an Administrative Inspection Warrant ("AIW") at Respondent's then-registered address: 22391 Sunbrook, Mission Viejo, California 92692. Then on June 13, 2014, DEA investigators, in conjunction with investigators from the California Medical Board, ("Medical Board")^{*E} executed a search warrant at the same location. On both dates, investigators found a variety of controlled substances located on open shelves, on top of the office copier, and in unlocked glass cabinets. In addition, on June 13, 2014, the investigators also found marijuana in Respondent's home. Respondent's COR did not authorize her to possess marijuana. Further, investigators could not lock the door to Respondent's office. None of the controlled substances found at Respondent's registered address were secured in a locked cabinet, in violation of 21 CFR 1301.75(a) and (b). ALJ-1, at 2, para. 3, 5.

2. In association with the March 13, 2014 AIW, investigators attempted to conduct a physical inventory of the controlled substances located at Respondent's registered location. The investigators were not able to locate an initial inventory or a biennial inventory. The only records Respondent was able to provide were invoices from May 23, 2013, through March 13, 2014. Therefore, Respondent did not maintain complete and accurate records, including receiving records (such as DEA 222 Forms), dispensing logs, or the required inventories, in violation of state and federal law. In addition, at the time of the execution of the search warrant on June 13, 2014, Respondent did not maintain any of these required records. ALJ-1, at 2, para. 4, 5.

3. There were differences in the inventories of the controlled substances found in Respondent's office on March 13, 2014, and June 13, 2014. Specifically, the following items were missing without any record of their dispensation: 25 Alprazolam 1 mg, 30 count bottles; 10 Clonazepam 1 mg, 30 count bottles; 3 Diethylpropion HCl 25 mg, 28 count bottles; 3 Hydrocodone 10/325 mg, 30 count bottles; 2 Hydrocodone/IBU 7.5/200 mg, 30 count bottles; 64 Phentermine 37.5 mg, 30 count bottles; 3 Temazepam 30 mg, 30 count bottles; 12 Zolpidem 10 mg, 30 count bottles; and 10 vials of various anabolic steroid and testosterone-related products. Respondent was unable to account for the discrepancies through the production of required dispensing logs. ALJ-1, at 3, para. 6.

4. During the search on June 13, 2014, investigators found prescription bottles in Respondent's possession bearing the names of at least five other individuals. The bottles were located on her office desk, in violation of the California Health and Safety Code § 11350, and 21 CFR 1306.04. Specifically, the following controlled substances issued to other individuals were discovered: Alprazolam 2 mg (90 dosage units) issued to L.F.; Testosterone cypionate (1 bottle 2500 mg/10 mL) issued to B.S.; Testosterone cypionate (1 bottle 1000 mg/10 mL) issued to B.S.; Testosterone cypionate (1 vial 200 mg) issued to B.S.; Testosterone cypionate (3 bottles 2500 mg/10 mL) issued to D.V.; Xanax 2 mg (15 dosage units) issued to J.W.; Testosterone cypionate (1 vial 200 mg/10 mL) issued to J.W.; and Xanax 2 mg (15 dosage units) issued to D.D. ALJ-1, at 3, para. 7.

5. Between February 16, 2010, and July 13, 2015, Respondent unlawfully issued over 75 prescriptions for controlled substances that were for other than a legitimate medical purpose or outside the usual course of professional practice. Specifically, Respondent illegally prescribed controlled substances to herself and to her current husband, S.P., as set forth below:

a. Between February 16, 2010, and November 29, 2012, Respondent unlawfully issued at least 40 prescriptions to herself for controlled substances "for office use" in violation of the California Health and Safety Code § 11170 and 21 CFR 1306.04(a) and (b). ALJ-1, at 3, para. 8(a).

b. Respondent issued at least 35 prescriptions to her husband, S.P., outside the usual course of professional practice or for other than legitimate medical purposes in violation of state and federal law. From April 21, 2012,

through June 12, 2014, Respondent issued prescriptions to S.P. without any documentation or examination. California regulations explicitly provide that the failure to medically evaluate a patient to determine his or her need for a controlled substance before prescribing a controlled substance, or to document such an evaluation in the patient's records, means that the physician is not prescribing in the usual course of professional practice. Respondent's actions violated state and federal law. ALJ-1, at 3-4, para. 8(b).

6. Respondent also engaged in other conduct which may threaten the public health and safety in violation of 21 U.S.C. 823(f)(5). Specifically, Respondent displayed a lack of candor during DEA's investigation. In March 2014, Respondent told DEA investigators that patient files they requested "were not there," and that at least some of the missing files were at a location in Lake Forest, California, for which she did not know the address. During subsequent questioning, Respondent again stated that the charts requested by the DEA were at another location, but she did not know the location. Respondent also stated that the dispensing log that DEA requested was actually with the missing charts. In fact, the charts in question, and the dispensing log, did not exist. Then in June 2014, Respondent told a Medical Board investigator that she did not know who owned the marijuana that was found in a suitcase in the garage of her registered location. She made this statement despite the fact that additional stashes of marijuana and large amounts of cash were discovered throughout her registered location, and she and her husband were the only individuals who lived there. ALJ-1, at 4, para. 9.

Witnesses

I. The Government's Witnesses

The Government presented its case through the testimony of five witnesses. First, the Government presented the testimony of a Diversion Investigator (hereinafter, DI 1). Tr. 13-61, 317-319. DI 1 has been a Diversion Investigator for 14 years, and has been assigned to the DEA office in Riverside, California, for the past 7 years. *Id.* at 14. DI 1 provided testimony concerning her training and duties as a Diversion Investigator. *Id.* at 14-17. DI 1 began an investigation of Respondent after the DEA had received a complaint. *Id.* at 18. In the initial stages of the investigation, DI 1 conducted a search of the California prescription monitoring program ("PMP"), called CURES. *Id.*

*E The Medical Board also assisted in the execution of the March 13, 2014 AIW.

That search revealed that Respondent had written prescriptions to herself and to her family members. *Id.* DI 1 then contacted the Medical Board and requested the issuance of an Administrative Inspection Warrant (“AIW”). *Id.* at 19. Subsequently, DI 1 participated in the execution of the AIW, and later the execution of a search warrant at Respondent’s home, which also doubled as her registered location. *Id.* at 19, 37. DI 1 provided testimony concerning the execution of the AIW and the search warrant and what was requested of Respondent, and what was found at Respondent’s home during the AIW and the search warrant. *Id.* at 19.

I find DI 1’s testimony to be thorough, detailed, and internally consistent. Therefore, I merit it as credible in this Recommended Decision.

Second, the Government presented the testimony of a Special Agent of the California Department of Justice (hereinafter, SA 1). *Id.* at 63–101. SA 1 has held her current position since July 2014. *Id.* at 63. Prior to her current position, and during the relevant period of this case, SA 1 had been an investigator for the Medical Board from October 2009 until July 2014. *Id.* SA 1 received specialized training to serve as an investigator for the Medical Board. *Id.* at 64. SA 1 provided testimony concerning her participation with the DEA during the execution of the AIW and the search warrant. *Id.* at 65–68, 80–99. SA 1 also testified concerning an interview she conducted with Respondent on April 4, 2014. *Id.* at 69–80.

I find SA 1’s testimony to be thorough and internally consistent. Therefore, I merit SA 1’s testimony as credible in this Recommended Decision.

The third Government witness was a Special Agent with the California Department of Justice (hereinafter, SA 2). *Id.* at 103–19. SA 2 had been a Special Agent for three years, and prior to that he served as an investigator with the Medical Board. *Id.* at 104. SA 2 provided testimony concerning his participation in the execution of the AIW as well as the execution of the search warrant. *Id.* at 105–12, 116–17. SA 2 also testified concerning records he obtained from the E-Compounding Pharmacy and other pharmacies concerning prescriptions Respondent had written. *Id.* at 113–16.

I find SA 2’s testimony to be thorough and internally consistent. Therefore, I merit SA 2’s testimony as credible in this Recommended Decision.

The fourth witness the Government called to testify was a second Diversion Investigator (hereinafter, DI 2). *Id.* at 120–36, 321. DI 2 has been a diversion

investigator for five years, after having been employed by DEA in other capacities. *Id.* at 120–21. DI 2 attended 12 weeks of diversion investigator training at Quantico, Virginia, following that training he was assigned to the DEA office in Riverside, California. *Id.* at 121. DI 2 provided testimony concerning his participation in the execution of the AIW, noting what he observed and statements made by Respondent during the AIW. *Id.* at 121–30. He also testified concerning his participation in the execution of the search warrant, noting what he observed and statements made by Respondent during the search. *Id.* at 130–32.

I find DI 2’s testimony to be thorough and internally consistent. Therefore, I merit DI 2’s testimony as credible in this Recommended Decision.

Finally, the Government presented the testimony of Dr. Timothy Munzing, M.D. (hereinafter, Dr. Munzing). *Id.* at 158–295. Dr. Munzing is currently a family physician and the Director of the Family Medicine Residency Program at Kaiser Permanente Orange County. *Id.* at 158–59. Government Exhibit 9 is a copy of Dr. Munzing’s curriculum vitae. *Id.* at 163–64. Dr. Munzing obtained his medical degree from the UCLA School of Medicine in 1982, followed by a three-year residency in family medicine. *Id.* at 159. Dr. Munzing is licensed to practice medicine in California and he is board-certified in family medicine. *Id.* at 159, 163. Dr. Munzing is a full clinical professor at UC-Irvine College of Medicine, where he has taught medical students for 25 years. *Id.* at 160–61, 166. Dr. Munzing was accepted as an expert, without objection, in the field of “primary care and family medicine, pain management and prescribing controlled substances with respect to the standard of care in the state of California.” *Id.* at 171.

Dr. Munzing testified about the standard of care in California. *Id.* at 174–80. He specifically testified that a doctor who does not maintain a medical record of his or her patient violates the standard of care in California by issuing a prescription for a controlled substance to that patient. *Id.* at 176, 178–80. Thus, the prescriptions Respondent wrote to her husband, without having a medical chart for her husband, fell outside the standard of care. *Id.* at 182–99. Dr. Munzing also testified that the California standard of care provides that a doctor cannot self-prescribe or issue prescriptions for office use. *Id.* at 200–01, 229, 289. Thus, the prescriptions that Respondent wrote to herself or for office use also fell outside the standard of care. *Id.* at 203–23, 225–28, 243–44.

I find Dr. Munzing’s testimony to be thorough, detailed, and internally consistent.*F Therefore, I merit it as credible in this Recommended Decision.

II. The Respondent’s Witness

Respondent presented her case through her own testimony, which she limited to the identification of two documents. *Id.* at 302–13. Through her testimony, Respondent offered a copy of her dispensing log that was seized during the search of her home on June 13, 2014. *Id.* at 306; RE–1. Respondent also offered a copy of her Florida medical license, which had expired in January 2017. Tr. 307; RE–2.

While Respondent’s testimony laid the foundation for the admission of her two exhibits, on cross-examination her answers were somewhat combative, confusing, and evasive. For example, Respondent was asked in several different ways whether she had provided DEA with her dispensing log in March 2014, and she avoided actually answering the question, finally stating “I don’t recall.” Tr. 309–12. Respondent also clearly distorted the facts when she testified that Respondent’s Exhibit 1 concerned prescriptions between March 13, 2014, and June 13, 2014, because the first entry on the dispensing log is January 21, 2014. *Id.* at 310–11; RE–1.*G Combativeness, confusion, and evasiveness tend to undermine the credibility of a witness, and they did with respect to Respondent’s testimony that she was asked no questions by DEA on June 13, 2014. Tr. 312.

When Respondent was asked if investigators requested a dispensing log on June 13, 2014, Respondent answered, “[N]obody asked me anything. They broke down my door, I was detained. So there was no—nobody asked me

*F [Respondent questioned Dr. Munzing’s credibility in her Exceptions. Resp Exceptions, at 31. The fact that Dr. Munzing has testified for DEA in previous cases does not alter the finding that his testimony in this case was credible and un rebutted. Most of the allegations in this case were proven by Respondent’s recordkeeping failures, and were not reliant solely on Dr. Munzing’s testimony regarding the standard of care. Her prescribing to her husband lacked any documentation at all on which to assess the legitimacy of those prescriptions. She alleged that the “Government did not provide sufficient evidence for the expert witness to conclude if [Respondent’s] prescribing [was] unlawful,” *id.*, but her failure to maintain records resulted in no evidence to conclude that her prescribing was *lawful* and that failure by itself violated state law and the standard of care. I reject her Exceptions as to Dr. Munzing’s credibility and the basis of his opinions.]

*G [Respondent took exception to this description of her statement, claiming that the earlier date coverage shows that the log “is actually more inclusive.” Resp Exceptions, at 20. However, she misses the ALJ’s point that because the logs were created at an earlier date, they should have been made available to DEA in March of 2014.]

anything.” *Id.* at 312. DI 1, however, testified that she did ask Respondent for a dispensing log on that date. *Id.* at 39. DI 2 also believed that the DEA asked Respondent for her dispensing log on that date. *Id.* at 132. SA 1 also testified that Respondent had been asked questions about the location of the patient chart for Respondent’s husband, and Respondent stated that the chart was in pieces around the house. *Id.* at 91. Thus, while I find Respondent’s testimony credible on issues related to laying the foundation for the admission of Respondent’s Exhibits 1 and 2, I do not find it credible concerning whether she was asked any relevant questions during the search of her home on June 13, 2014.

The factual findings below are based on a preponderance of the evidence, including the detailed, credible, and competent testimony of the aforementioned witnesses, the exhibits entered into evidence, and the record before me.

The Facts

I. Stipulations

The parties agreed to 14 stipulations (“Stip.”), which are accepted as facts in these proceedings:

1. Respondent is registered with the DEA as a practitioner to handle Controlled Substances in Schedules II–V under DEA COR #BM5370123 at Beautymark Wellness Center, 361 Hospital Road, Suite 324, Newport Beach, California 92663. This DEA COR is due to expire by its terms on January 31, 2018. ALJ–9, 24, 25.

2. On August 5, 2015, Respondent sought to transfer her DEA registration to 8409 N. Military Trail, Suite 126, West Palm Beach, Florida 33410. DEA assigned control number W15069021C to Respondent’s pending application for transfer. ALJ–9, 24, 25.

3. Respondent is licensed to practice medicine in California under license number 55272. Respondent’s California medical license is due to expire May 31, 2019. ALJ–9, 24, 25.

4. On or about September 26, 2013, Respondent changed her DEA registration address to Beautymark Wellness Center, 22391 Sunbook (sic), Mission Viejo, California. On or about August 19, 2014, Respondent changed her DEA registration address to 361 Hospital Road, Suite 324, Newport Beach, California. ALJ–9, 24, 25.

5. On or about March 13, 2014, law enforcement officials (including DEA investigators) served an administrative inspection warrant (AIW) at Respondent’s then-registered address and residence, Beautymark Wellness

Center, 22391 Sunbook, Mission Viejo, California 92692. ALJ–9, 24, 25.

6. On or about June 13, 2014, law enforcement officials (including DEA investigators) executed a search warrant at Respondent’s then-registered address and residence, Beautymark Wellness Center, 22391 Sunbook, Mission Viejo, California 92692. ALJ–9, 24, 25.

7. DEA lists Alprazolam (Xanax) as a Schedule IV controlled substance. ALJ–44; Tr. 6.

8. DEA lists Clonazepam (Klonopin) as a Schedule IV controlled substance. ALJ–44; Tr. 6.

9. DEA lists Diethylpropion hydrochloride as a Schedule IV controlled substance. ALJ–44; Tr. 6.

10. During the events at issue, DEA listed Hydrocodone as a Schedule III controlled substance. ALJ–44; Tr. 6.

11. DEA lists Phentermine as a Schedule IV controlled substance. ALJ–44; Tr. 6.

12. DEA lists Temazepam as Schedule IV controlled substance. ALJ–44; Tr. 6.

13. DEA lists Testosterone as a Schedule III controlled substance. ALJ–44; Tr. 6.

14. DEA lists Zolpidem as a Schedule IV controlled substance. ALJ–44; Tr. 6.

II. Findings of Fact

Administrative Inspection Warrant (“AIW”)

1. DEA and Medical Board personnel participated in the execution of the AIW on March 13, 2014, at Respondent’s home. Tr. 20, 65, 94.

2. DI 1, SA 1, SA 2, and DI 2 participated in the execution of the AIW on March 13, 2014, at Respondent’s home. *Id.* at 19, 65, 105, 121–22.

3. During the execution of the AIW, Respondent identified the area of her home that she used as her office. *Id.* at 22.

4. During the execution of the AIW, multiple bottles of controlled substances were found on the desk, on the shelf, and on the printer in Respondent’s office. *Id.* at 22, 66, 105–06, 123.

5. The controlled substances found in Respondent’s office were not secured in any way, and there did not appear to be any place to secure them in her office. *Id.* at 22, 66, 106, 124.

6. Some of the controlled substances found in Respondent’s home during the AIW were in prescription bottles that bore labels from commercial pharmacies, indicating that the prescriptions were for individuals who did not live in Respondent’s home. *Id.* at 123–24.

7. DI 1 did not notice a lock on Respondent’s door. Tr. 39. SA 1 does

not believe there was a lock on Respondent’s office door.¹ *Id.* at 66–67.

8. The DEA investigators requested that Respondent purchase some type of safe in which to store the controlled substances,² and Respondent indicated that one would be purchased that day. *Id.* at 23, 36, 130.

9. DEA investigators took an inventory of the controlled substances they found in Respondent’s office. *Id.* at 25, 125. Government Exhibit 3 is a copy of that physical inventory. *Id.* at 25–26, 125.

10. DEA investigators asked Respondent to provide them with patient charts during the execution of the AIW. *Id.* at 21, 54, 127.

11. Some patient charts were located in Respondent’s garage, a location where the investigators looked while trying to locate the charts of specific patients. *Id.* at 66, 95–96, 106.

12. Respondent did not provide all of the patient records requested by DEA during the AIW. Tr. 23, 54. Respondent told the DEA investigators that the patient records were at a storage facility in Lake Forest, California, but she did not know the address of the facility or where it was located.³ *Id.* at 23–24, 54, 56, 67, 127–28, 135–36.

13. Respondent never provided to DEA copies of all of the patient charts that DEA had requested. *Id.* at 31–32, 35, 54, 128.

14. The DEA investigators asked Respondent for her dispensing logs and Respondent told them that her dispensing logs were with her patient charts in the storage facility. Tr. 24, 54,

¹ DI 2 testified that there may have been a lock on the door, but the door was wide open. Tr. 124.

² DI 1 testified that she told Respondent she needed to purchase a safe to store controlled substances. *Id.* at 23, 35. I asked DI 1 at the hearing why she advised Respondent to obtain a safe when the regulation only refers to a “cabinet.” *Id.* at 51. DI 1 then acknowledged that DEA regulations do not specifically mandate that controlled substances be stored in a safe. *Id.* at 51. Thus, the fact that Respondent did not purchase a safe to store her controlled substances does not by itself necessitate a finding that Respondent violated 21 CFR 1301.75(b). I note, however, that DEA regulations do include heightened security for thiafentanil, carfentanil, etorphine hydrochloride, and diprenorphine. Those controlled substances must be kept “in a safe or steel cabinet equivalent to a U.S. Government Class V security container.” 21 CFR 1301.75(e). Those substances, however, are not involved in this case.

³ DI 1 attributed these statements to Respondent. Tr. 23–24, 54, 56. SA 1 testified that she asked Respondent about the missing charts and she deferred to her husband, who stated that the charts might be in a storage facility. Tr. 67. There is no evidence, however, that Respondent corrected her husband’s statement. **[See also* GE–12, at 82–83. Respondent told the state investigator that the dispensing logs and charts were all in her garage during the sworn interview and seemed reluctant to speak about her mother-in-law’s house or to confirm where it was. *Id.* at 27–28]

128. The storage facility was at her mother-in-law's house. *Id.* at 55.

15. The DEA investigators asked Respondent to provide them with an initial inventory and a biennial inventory, but Respondent did not provide either of them to the DEA. *Id.* at 24.

16. Without an initial or biennial inventory it is not possible to conduct a reasonable inventory of controlled substances. *Id.* at 25.

17. The DEA investigators asked Respondent for copies of invoices for controlled substances that she had received and Respondent provided some. *Id.* at 28. Government Exhibit 2 contains copies of the invoices Respondent provided. *Id.* at 29–30.

18. Respondent should have had more invoices than she provided to the DEA investigators because the invoices she provided did not account for all the controlled substances that were found in her office on March 13, 2014. *Id.* at 31.

19. An invoice for controlled substances needs to be kept for two years. *Id.* at 51. DEA does not know if any of the controlled substances found in Respondent's home were more than two years old. *Id.*

20. At the conclusion of the execution of the AIW, DI 1 had a discussion with Respondent concerning the missing patient charts and dispensing logs, as well as the security of controlled substances. *Id.* at 35. Respondent was informed that controlled substances needed to be locked in a cabinet or safe. *Id.* at 35, 129–30.

21. As an investigator for the Medical Board, SA 1 was concerned about how Respondent was storing her controlled substances, and on March 13, 2014, SA 1 informed Respondent that controlled substances needed to be locked-up. *Id.* at 67, 94.

22. During the AIW, Respondent told SA 1 that she ordered prescriptions in her own name for office use and that she dispensed them to her patients. *Id.* at 68.

23. During the AIW, it was determined that only two individuals lived in Respondent's home; those individuals were Respondent and her husband, S.P. *Id.* at 107–08.

24. During the AIW, three pistols were found in Respondent's home, two of them belonged to Respondent, but the ownership of the third was undetermined. *Id.* at 109.

25. During the AIW, SA 1 asked Respondent if she would be willing to be interviewed regarding the Medical Board case that SA 1 was investigating. *Id.* at 68–69.

Interview

26. Government Exhibit 12 is a copy of the transcript of the interview SA 1 conducted with Respondent on April 4, 2014. *Id.* at 69. During the interview, Respondent was represented by counsel and Respondent was under oath. *Id.* at 68–69.

27. During the interview, Respondent stated that she stored some office equipment and furniture in her mother-in-law's garage, but all of her patient charts were in her own garage. Tr. 71, 78; GE–12, at 28, 82–84.

28. During the interview, Respondent stated that she had prescribed an antibiotic to herself. Tr. 73; GE–12, at 55. Respondent also said that she prescribed testosterone in her own name, but that the medication was for office use. *Id.*

29. During the interview, Respondent also stated that she prescribed phentermine and alprazolam to herself *[for office use.]*^H Tr. 74; GE–12, at 60.

30. During the interview, Respondent explained that she would often dispense medication to her patients if they were using it for the first time. Tr. 74; GE–12, at 62. Respondent also stated that if the medication worked well for the patient she would then possibly write the patient a prescription for the medicine. *Id.*

31. During the interview, SA 1 had a discussion with Respondent concerning the fact that when Respondent dispensed controlled substances to patients those prescriptions would not show up in the PMP report. Tr. 74–75; GE–12, at 63. SA 1 also explained to Respondent that a patient could be placed in danger because the prescriptions Respondent provided to patients would not be in the PMP system. *Id.* In response, Respondent indicated that she did not see that to be a problem.⁴ *Id.*

32. During the interview, SA 1 asked Respondent if she had taken any steps to secure the controlled substances in her home, and Respondent indicated that she had not. Tr. 77; GE–12, at 77–78.

Search Warrant

33. After the interview, SA 1 believed that she had sufficient probable cause to draft a search warrant for Respondent's

^H [I agree with Respondent that this finding of fact as stated could be misleading, and that in her interview, she implied that these prescriptions were also for office use, so I have changed it accordingly. See Resp Exceptions, at 9 (citing GE–12, at 60).]

⁴ See also Tr. 202 (Dr. Munzing testifying that there is a potential of placing the patient at risk when a doctor dispenses controlled substances to a patient without entering that prescription in the PMP system).

residence. Tr. 80. After drafting the search warrant, SA 1 had it signed by a judge. Tr. 81.

34. DI 1, SA 1, SA 2, and DI 2 returned to Respondent's home on June 13, 2014, when the Medical Board executed a search warrant of Respondent's office and residence. *Id.* at 38, 82, 110, 129.

35. Government Exhibit 5 consists of photographs taken at Respondent's home on June 13, 2014, when the search warrant was executed. *Id.* at 82. Some of the bottles depicted in Government Exhibit 5 are bottles of controlled substances. *Id.* at 83.

36. The condition of Respondent's office on June 13, 2014, looked the same as it did on March 13, 2014, with controlled substances being found all over the office area. *Id.* at 38, 111, 130–31. There was no safe in Respondent's office on June 13, 2014. *Id.* at 38–39, 131. A bottle of controlled substances was also found in Respondent's kitchen. *Id.* at 41, 58–59.

37. Some of the controlled substances found in Respondent's home on June 13, 2014, were in prescription bottles that bore labels from commercial pharmacies, indicating that the prescriptions were for individuals who did not live in Respondent's home. *Id.* at 40, 53–54; GE–14, at 11–12.

38. On June 13, 2014, DEA asked Respondent for her dispensing log.⁵ Tr. 39, 132.

39. On June 13, 2014, DEA took another inventory of the controlled substances that were found in Respondent's home and that inventory revealed a significant difference from the March 13, 2014 inventory. *Id.* at 40–41, 131–32. The June 13, 2014 inventory showed that Respondent was missing controlled substances that had been present on March 13, 2014. *Id.* at 41.

40. On June 13, 2014, marijuana was discovered in a suitcase in Respondent's garage. Tr. 45, 111. Marijuana was also found in Respondent's kitchen and bedroom. *Id.* at 112, 132. Marijuana is a Schedule I controlled substance. *Id.* at 46.

41. Government Exhibit 10 contains photographs taken at Respondent's home during the execution of the search warrant that depict marijuana that was found there. *Id.* at 84.

⁵ Both DI 1 and DI 2 testified that Respondent was asked about her dispensing log at the time the search warrant was executed on June 13, 2014, and that Respondent did not provide it. Tr. 39, 132. Respondent, however, was in no position to "provide" anything during the search, she was handcuffed. Tr. 110; see also Tr. 312 (Respondent testifying that she was detained at the time). The search, however, resulted in locating a dispensing log in Respondent's home office. GE–14, at 9; RE–1.

42. On June 13, 2014, SA 1 asked both Respondent and her husband whether either of them had a valid recommendation for medical marijuana. *Id.* at 90. Respondent told SA 1 that her recommendation had expired, and Respondent's husband said that his had probably expired as well. *Id.*

43. Respondent was questioned about the marijuana and she denied knowledge of how it came to be in her house. *Id.* at 91.

44. Government Exhibit 11 contains photographs taken at Respondent's home during the execution of the search warrant that depict the patient charts that were found there. *Id.* at 86.

45. SA 1 questioned Respondent about the location of missing patient charts, to include the chart for Respondent's husband. *Id.* at 91. Respondent stated that her husband's chart was in pieces around the house, but she had no explanation for where two other missing charts were located. *Id.* Respondent, however, stated that all of her charts were in her home. *Id.* at 92.

46. During the June 13, 2014 search of Respondent's home, the investigators found \$26,100 in cash. *Id.* at 91.

47. Government Exhibit 14 is the search warrant return that SA 1 filed with the Orange County Superior Court after the search warrant was executed, along with property receipts of the items that were seized from Respondent's home during the search. *Id.* at 87–88. Government Exhibit 14 also contains a full accounting of the controlled substances found within Respondent's home on June 13, 2014. *Id.* at 89.

Prescriptions

48. Government Exhibit 13 is a copy of a PMP report that the DEA obtained from the California Department of Justice concerning prescriptions written by Respondent. *Id.* at 32–34. The inclusive dates of the PMP report are February 27, 2014 through February 27, 2017. GE–13, at 1.

49. Government Exhibit 7 contains copies of records from the E-Compounding Pharmacy concerning prescriptions written by Respondent for herself. Tr. 113.

50. Government Exhibit 8 contains copies of prescriptions and related documents concerning prescriptions that Respondent wrote for her husband, S.P., that were obtained from various pharmacies. *Id.* at 115–16.

51. The standard of care in California requires that during an initial visit with a patient a doctor must: Obtain a history from the patient concerning the patient's current complaint; review the symptoms of the patient's current complaint; determine the cause of the

patient's current condition and how long the patient has had the condition; obtain a medical history from the patient; determine what medications the patient has been taking, both prescriptions and over-the-counter medications; determine the patient's drug and alcohol history; perform a general overall physical examination of the patient, and a detailed examination of the area of the patient's body that is the focus of the current complaint; determine whether any laboratory or other type of testing is needed; determine whether a referral to a specialist is needed; advise the patient of the risks and benefits of prescribed medications; and document what had been performed. *Id.* at 174–76.

52. The standard of care in California requires that during a follow-up visit with a patient that a doctor must: Get an updated history to determine if there have been changes in the patient's condition; determine whether the treatment is working; determine current drug and alcohol usage; and monitor the patient through use of PMP reports and urine screening. *Id.* at 178–79.

53. The standard of care in California requires that a doctor have a medical record for a patient to whom prescriptions are issued. *Id.* at 180.

54. The standard of care in California requires that a doctor include the following items in a patient's medical record: History, exam, consent, diagnosis, management plan; results of laboratory testing; results of imaging studies; prescriptions issued; PMP reports run for the patient; and/or results of urine screening. *Id.* at 179–80.

55. Assuming there is no medical record for S.P., the 27 prescriptions⁶ for controlled substances written by Respondent to S.P. between April 21, 2012 and June 12, 2014, contained in Government Exhibit 8, are outside the standard of care in California. *Id.* at 182–99; GE–8, at 3, 12 (2 prescriptions), 28–29, 34, 38–39, 76, 78, 80, 82, 83, 85, 87, 89, 91, 93, 95, 97, 99, 111, 113, 125, 128, 130, 132–34.

56. The prescriptions in Government Exhibit 8 are outside the standard of care because of the absence of a medical record that documents that the doctor has performed the type of medical examination that must be performed before the doctor issues a prescription. *Id.* at 184.

57. The California standard of care and California Health and Safety Code

§ 11170 provide that a doctor may not self-prescribe controlled substances. Tr. 134, 200. In addition, the American Medical Association Code of Ethics says that a doctor cannot self-prescribe or prescribe to close relatives. *Id.* at 200.

58. Unless a California doctor follows the proper procedures for obtaining a controlled substance “for office use,” it is outside the standard of care in California as well as the course of professional practice for a doctor to write a prescription for a controlled substance “for office use.” *Id.* at 200–01, 229, 289.

59. A prescription for 300, 450, or 600 tablets of phentermine would be a very large quantity if the prescription was for office use. Tr. 207, 212–13, 247. If a patient needed that much phentermine, the patient could be issued a prescription that would then be reported to the PMP system. Tr. 207, 210–11, 215, 242. A prescription written for office use of such large quantity of phentermine would be outside the standard of care in California. *Id.* at 247.

60. A prescription for office use of 300 tablets of Ambien would be an excessive number of tablets and outside the standard of care in California. *Id.* at 245–46; GE–7, at 35.

61. Respondent wrote four prescriptions for hydrocodone for office use. GE–7, at 12, 13, 36 (2 prescriptions). Hydrocodone should not be dispensed from the office because it would not provide immediate relief, but might cause the patient to become drowsy. Tr. 241–42. Thus, prescribing hydrocodone for office use is outside the standard of care in California. *Id.* at 242.

62. The 69 prescriptions for controlled substances written by Respondent to herself, contained in Government Exhibit 7, are outside the standard of care in California. Tr. 203–23, 225–28, 243–44; GE–7, at 5, 23, 25, 26, 29, 31 (4 prescriptions), 33, 34, 37, 40 (2 prescriptions), 41 (4 prescriptions), 42–45, 47, 49, 51, 52, 54, 57, 59–61, 63 (2 prescriptions), 64, 67–70, 72–74, 86, 87, 89, 95 (4 prescriptions), 99, 101, 107, 110, 112–14, 122, 130, 133, 135, 139, 140 (3 prescriptions), 153 (2 prescriptions), 158, 169, 179 (2 prescriptions).

63. Four prescriptions that Respondent wrote to herself for controlled substances also included dosing instructions. Tr. 226–28; GE–7, at 40 (2 prescriptions), 47, 158. Dosing instructions on a prescription would be inconsistent with a prescription issued for office use because dosing instructions would be determined at the time the medication was prescribed to a

⁶ The Government presented testimony concerning 32 prescriptions that Respondent issued to S.P., but 5 of those prescriptions fell outside the date range contained in the OSC. Tr. 182–86, 194; ALJ–1, at 3, para. 8(b); GE–8, at 10, 27, 31 and 37, 67 (2 prescriptions).

patient, not when it was being ordered for the office. Tr. 226.

64. Seven prescriptions that Respondent wrote for controlled substances contain no patient name, nor do they indicate that they were for office use. Tr. 224–25; GE–7, at 16, 22, 24, 28 (3 prescriptions), 30. These seven prescriptions were issued outside the California standard of care because there is no listed patient, nor is there any stated reason for any of the prescriptions. Tr. 224–25.

65. Twenty-four^{*1} prescriptions that Respondent wrote for controlled substances contain no patient name but they were written for office use. Tr. 228–37; GE–7, at 146, 150, 152 (3 prescriptions), 156 (1 prescription), 160 (3 prescriptions), 162 (2 prescriptions), 166 (2 prescriptions), 171 (2 prescriptions), 173, 175, 177 (2 prescriptions), 178 (5 prescriptions). These 24 prescriptions were issued outside the California standard of care because Respondent did not follow the proper procedures for ordering controlled substances for office use. Tr. 229.

66. Seventy prescriptions that Respondent wrote to herself for controlled substances contain a notation that the prescription was for office use. *Id.* at 237–66; GE–7, at 4, 6–15, 17–21, 27, 32, 35, 36 (3 prescriptions), 38, 39, 46, 50, 53, 55, 56, 58, 62, 65, 71, 75, 80 (4 prescriptions), 84, 85, 90, 91, 93, 96 (2 prescriptions), 97, 102, 103, 105, 108, 115 (3 prescriptions), 117 (2 prescriptions), 119, 120 (3 prescriptions), 123, 126, 128, 131, 137, 142, 144, 148 (4 prescriptions). These 70 prescriptions were issued outside the California standard of care because Respondent did not follow the proper procedures for ordering controlled substances for office use. Tr. 250.

67. Respondent wrote two prescriptions for controlled substances where she listed the patient's name as "office use." *Id.* at 266–67; GE–7, at 48, 164. These two prescriptions were issued outside the California standard of care because Respondent did not follow the proper procedures for ordering controlled substances for office use. Tr. 200–01, 250.

Analysis

To revoke a respondent's registration, the Government must prove, by a preponderance of the evidence, that the regulatory requirements for revocation are satisfied. *Steadman v. SEC*, 450 U.S. 91, 100–02 (1981); 21 CFR 1301.44(e).

^{*1}[There was one additional prescription between GE–7, at 156 and 160 that appeared to be neglected in the final count in the RD.]

Under 21 U.S.C. 824(a)(4), the DEA may revoke a registrant's COR if the registrant acted in a way that renders continued registration "inconsistent with the public interest." The DEA considers the following five factors to determine whether continued registration is in the public interest:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The [registrant's] experience in dispensing, or conducting research with respect to controlled substances.

(3) The [registrant's] conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

21 U.S.C. 823(f).

These public interest factors are considered separately. *See Robert A. Leslie, M.D.*, 68 FR 15,227, 15,230 (2003). Each factor is weighed on a case-by-case basis. *Morall v. DEA*, 412 F.3d 165, 173–74 (D.C. Cir. 2005). Any one factor, or combination of factors, may be decisive. *David H. Gillis, M.D.*, 58 FR 37,507, 37,508 (1993). Thus, there is no need to enter findings on each of the factors. *Hoxie v. DEA*, 419 F.3d 477, 482 (6th Cir. 2005). Further, there is no requirement to consider a factor in any given level of detail. *Trawick v. DEA*, 861 F.2d 72, 76–77 (4th Cir. 1988). When deciding whether registration is in the public interest, the totality of the circumstances must be considered. *See generally Joseph Gaudio, M.D.*, 74 FR 10,083 (2009).

The Government bears the initial burden of proof and must justify revocation by a preponderance of the evidence. *Steadman*, 450 U.S. at 100–03. If the Government presents a *prima facie* case for revocation, the burden of proof shifts to the registrant to show that revocation would be inappropriate. *Med. Shoppe—Jonesborough*, 73 FR 364, 387 (2008). A registrant may prevail by successfully attacking the veracity of the Government's allegations or evidence. Alternatively, a registrant may rebut the Government's *prima facie* case for revocation by accepting responsibility for wrongful behavior and by taking remedial measures to "prevent the re-occurrence of similar acts." *Jeri Hassman, M.D.*, 75 FR 8194, 8236 (2010). In addition, when assessing the appropriateness and extent of sanctioning, the DEA considers the egregiousness of the offenses and the DEA's interest in specific and general

deterrence. *David A. Ruben, M.D.*, 78 FR 38,363, 38,385 (2013).

I. The Government's Position

The Government filed its Post-Hearing Brief on March 19, 2018.⁷ In its introduction, the Government highlighted the allegations against Respondent. ALJ–50, at 2. The Government asserts that between January 2010 and June 2014 Respondent: Prescribed controlled substances to her husband, S.P., "without maintaining a patient file" for him; prescribed controlled substances to herself for "'office use' in order to dispense controlled substances" to patients; violated security and recordkeeping requirements; and displayed a lack of candor to DEA investigators during their investigation. *Id.* The Government requests that Respondent's COR be revoked. *Id.*

The Government argues that its evidence is "largely uncontested and entirely unrebutted." ALJ–50, at 12. Specifically, the Government claims that it offered unrebutted evidence under Factors Two, Four, and Five. *Id.* at 14.

Under Factors Two and Four, the Government argues that the evidence shows that Respondent "routinely prescribed controlled substances without a patient chart," issued prescriptions for controlled substances to herself, and violated storage and recordkeeping requirements under state and federal law. ALJ–50, at 15. After citing the DEA's prescription requirement, the Government notes that California has adopted the same requirement as set forth in 21 CFR 1306.04(a), that a prescription must be issued for a "'legitimate medical purpose'" and in the "'usual course of . . . professional practice.'" *Id.* (citing Cal. Health & Safety Code § 11153(a)). The Government then highlights the testimony of its expert witness, Dr. Munzing, who explained that the standard of practice in California requires a physician to "maintain a complete and accurate patient file, which documents examinations performed and treatments provided." ALJ–50, at 15. The State of California has codified the requirement that a physician maintain complete patient files. *Id.* at 15–16 (citing Cal. Bus. & Prof. Code § 2266 and Cal. Health & Safety Code § 11190).

Looking at the prescriptions in Government's Exhibit 8, the Government argues that it is undisputed that Respondent wrote at least 50

⁷ The Government's Post-Hearing Brief has been marked as ALJ–50.

prescriptions⁸ for controlled substances to her husband, S.P. ALJ–50, at 16. DEA investigators requested S.P.’s patient file during execution of the AIW in March 2014, and state investigators requested S.P.’s file during service of the search warrant in June 2014. *Id.* The Government then notes that during the inspection in March, Respondent told investigators that some of the requested patient records were located at a storage facility in Lake Forest, California. ALJ–50, at 4, 16. Respondent, however, claimed that she did not know the address of the facility and “did not know where it was.” ALJ–50, at 4. When interviewed by a state investigator in April 2014, however, Respondent stated that all her patient files were kept at her registered address. ALJ–50, at 16. The Government notes that Respondent “never provided a patient file for Patient S.P.,” investigators never found a patient file for S.P. in March or June 2014, and Respondent never produced a patient file for S.P. “in connection with this proceeding.” *Id.* The Government reasons that “[t]he only logical conclusion is that [Respondent] did not keep a patient file for Patient S.P.” *Id.* The Government further reasons that based on Dr. Munzing’s testimony that physicians must keep complete and accurate patient records, the 50 prescriptions Respondent issued to S.P. fell below the standard of care in California and violated state law. *Id.*

Next, looking at Government Exhibit 7, the Government argues that Respondent issued at least 179 prescriptions for controlled substances to herself between January and December 2012. ALJ–50, at 17. The Government notes that many of the prescriptions in Government Exhibit 7 were issued “for office use” while others listed Respondent’s name as the patient. *Id.* State and federal law prohibits a physician from prescribing controlled substances to herself. *Id.* (citing Cal. Health & Safety Code § 11170 and 21 CFR 1306.04(b)). The Government notes that the state prohibition is “categorical” and that self-prescribing controlled substances violates state law “irrespective of purpose.” *Id.* n.2. Further, the Government notes that Dr. Munzing testified that writing a prescription for a controlled substance in order to obtain it “for office use” is considered unprofessional practice in California. *Id.* at 17. Thus, Dr. Munzing opined that the prescriptions in Government Exhibit 7 “were issued outside of the usual course of professional practice and beneath the standard of care.” *Id.* The

Government notes that Dr. Munzing’s expert opinion is unrebutted. *Id.* at 18.

The Government then discusses the recordkeeping and storage violations discovered during service of the AIW and search warrant. ALJ–50, at 18–19. The Government contends that Respondent “was not able to produce either an initial or biennial inventory of the controlled substances stored at her registered address.” ALJ–50, at 18. Additionally, Respondent never provided investigators with a dispensing log.⁹ *Id.* The Government argues that Respondent’s failure to maintain a proper inventory and a dispensing log violates state and federal recordkeeping requirements. *Id.* at 19.

With respect to the storage violation, the Government argues that Respondent ignored the attempts made by DEA and state investigators “to bring her into compliance with” DEA’s storage requirements. ALJ–50, at 19. During the inspection in March 2014, Respondent assured DEA investigators that she would promptly secure the controlled substances in her office. *Id.* At the interview in April, however, Respondent admitted that she had not done so. *Id.* When state investigators conducted the search in June, the controlled substances in her office were still unsecured. *Id.* The Government urges that Respondent’s

⁹ State investigators, however, seized a document entitled “Class III Meds Dispensing Log,” marked as Respondent’s Exhibit 1, during execution of the search warrant. Tr. 304–06; GE–14, at 9. The Government argues that neither Government counsel nor DEA investigators were provided with a copy of Respondent’s Exhibit 1 before the hearing. ALJ–50, at 18–19 n.4. The Government claims that “the California Medical Board declined to provide the evidence that was seized from” Respondent’s home during the search, and that the DEA failed in its attempts to obtain the release of the evidence by subpoena in state court. *Id.* I give no weight to this explanation, however, because there is no evidence in the record supporting the Government’s claim that the California Medical Board refused to disclose evidence to DEA. Statements made in post-hearing briefs are not evidence. *See Samuel Mintlow, M.D.*, 80 FR 3630, 3653 n.33 (2015) (concluding promises made by respondent in exceptions to the recommended decision were not in evidence and were never attested to under oath during the hearing); *Surinder Dang, M.D.*, 76 FR 51,417, 51,423 n.25 (2011) (“[S]tatements of counsel in a brief are not evidence.” (citing *INS v. Phinpathya*, 464 U.S. 183, 186 n.6 (1984))).

*Respondent implies that the Government’s failure to produce this dispensing log indicates bad faith on the part of the investigators. Resp Exceptions, at 3,19–20. The investigators testified that they had not previously seen this document and that they had asked Respondent repeatedly for her dispensing logs and she had not produced them. I do not see any indication on the record nor from the ALJ’s characterization of the investigators’ testimony that their actions were anything but honest. Ultimately, the document was admitted into evidence and the ALJ used the document to lessen the number of found discrepancies in controlled substances.]

“noncompliance is aggravated by her obduracy.” *Id.*

Based on the prescriptions in Government Exhibits 7 and 8, and the evidence that Respondent failed to keep complete records and properly secure controlled substances, the Government argues that “Factors Two and Four weigh heavily in favor of revoking” Respondent’s COR. ALJ–50, at 20.

Citing DEA precedent, the Government next asserts that Respondent’s lack of candor supports an “adverse finding” under Factor Five. ALJ–50, at 20. The Government claims that Respondent “attempted to mislead federal and state investigators” during their investigation by making a “series of misleading statements.” ALJ–50, at 13. For instance, the Government points to the inconsistent statements Respondent made to investigators regarding her patient file for S.P. ALJ–50, at 20. During the March inspection, Respondent stated that all patient files were located at an off-site facility. *Id.* A month later, however, she told a state investigator that all patient files were stored at her registered address. *Id.* The Government interprets these inconsistent statements as evidence of Respondent’s “deliberate effort to impede the investigation.” ALJ–50, at 21.

The Government then examines the marijuana, cash, and firearms discovered in Respondent’s home. ALJ–50, at 21. The Government notes that Respondent lacked the authority to possess marijuana, a Schedule I controlled substance, “in the course of her professional practice.” ALJ–50, at 21. Additionally, when investigators found a suitcase of marijuana in her garage, Respondent denied having any knowledge of its presence at her home. *Id.* The Government argues that this represents either a lack of candor or “a troubling situation in which [Respondent] was actually unaware of the presence of Schedule I controlled substances at her registered address.” *Id.* The Government then argues that the presence of \$26,000 in cash, firearms, and marijuana at Respondent’s registered location is “highly suspicious and raises serious concerns about [Respondent’s] ability to maintain a [COR].” *Id.*

Because Respondent failed to offer “substantive testimony” at the hearing, the Government argues that she “cannot be viewed as having accepted responsibility.” ALJ–50, at 22. By failing to accept responsibility, the Government contends that Respondent “has not met her burden” to rebut the Government’s *prima facie* case. ALJ–50, at 14. Specifically, the Government argues that

⁸ See *supra* n.6.

Respondent's refusal to testify demonstrates that she "knowingly violated the Controlled Substances Act." ALJ-50, at 2. The Government requests that I draw an adverse inference from Respondent's decision to not testify at the hearing. ALJ-50, at 2, 22. The Government reasons that "because [Respondent] failed to introduce any evidence that would rebut the Government's evidence showing that [Respondent] violated state and federal law relating to controlled substances, such evidence does not exist." ALJ-50, at 22 (citing *T.J. McNichol, M.D.*, 77 FR 57133, 57150 (2012)).

With respect to the DEA's interest in specific and general deterrence, the Government contends that "[a] refusal to sanction [Respondent's] prolonged and egregious violations here would send the wrong message to other practitioners." ALJ-50, at 23. The Government concludes that the DEA's interest in deterrence weighs in favor of revoking Respondent's COR. ALJ-50, at 24.

II. The Respondent's Position

Respondent submitted her Post-Hearing Brief on March 19, 2018.¹⁰ Much of Respondent's position lacks evidentiary support in the Administrative Record.¹¹ Respondent opens her brief by describing events beginning in May 2013, when she "abruptly close[d] [her] office due to extreme hardship caused by a very contentious divorce that still continues . . . to this day." ALJ-51, at 2. Respondent explains that closing her medical office triggered a "stressful chain of events," culminating in eviction from her office and incurring "unforeseen [moving] expenses." *Id.* After closing her practice, Respondent moved medical equipment, office furniture, and cabinets to her mother-in-law's garage. *Id.* Respondent also moved "approximately 700 patient charts" to her home in Mission Viejo which

doubled as her registered address beginning in September 2013. *Id.* at 2-3. Respondent then began seeing patients at her home. *Id.*

With respect to the controlled substances that were observed unsecured in her home office, Respondent explains that many of them were "expired and waiting to be safely disposed." ALJ-51, at 5, 14. Additionally, she states that "[n]o patients ever went inside the office," patients were never left unattended, only one patient was allowed in her home at a time, and she and her husband, S.P., were the only individuals living in the home. *Id.* at 8. Respondent further describes the security in place at her home, explaining that her registered address is located "in a very safe gated community with 24/7 security patrols." *Id.* at 9. She further argues that her home has a "sophisticated security system" that sounds a "highly audible notification" when doors are opened. *Id.* She also receives email notifications when doors are opened. *Id.* Additionally, Respondent asserts that there is a security camera in her office and in the hallway outside the office. *Id.* Respondent argues that she explained the features of her security system to SA 1 during the April interview. *Id.* at 9, 11. Respondent contends that the security in place at her home was adequate, especially in light of the fact that she intended to relocate her practice to a new office. *Id.* Respondent also claims that she consulted a "pharmaceutical supplier[]," who visited her residence and deemed the security at her home sufficient. *Id.* at 11. Respondent explains that she never obtained a safe because she planned on practicing out of her home temporarily and was "actively negotiating for a new office space." *Id.*

In regard to the allegation that Respondent failed to maintain adequate inventories, Respondent asserts that she "kept all the medication purchase orders as an inventory guide." ALJ-51, at 6. Respondent acknowledges that these purchase orders are not in evidence and contends that she assumed, as a *pro se* litigant, the Government would introduce the documents into evidence. *Id.* at 7.

Respondent also addresses the alleged inconsistencies in her statements to investigators regarding the location of her patient files. She believed some of the missing patient files could have been left in the cabinets or office furniture that were moved into storage after the abrupt closing of her practice. ALJ-51, at 8. She also contends that investigators never requested that she take them to the storage location and

further notes that the search warrant authorized investigators to search the storage facility, but they never did. *Id.*

Respondent also discusses the CURES reports that DEA and state investigators ran of her prescribing history. ALJ-51, at 11. Respondent acknowledges that "[Agent] SA 1's concerns were legitimate"; however, the CURES reports "clearly showed" that Respondent's patients "did not fit the category for high potential for abuse, addiction or diversion." *Id.* Respondent does not explain why her patients do not fit this category. *Id.* She also recognizes that urine screening and patient contracts are useful, but argues that such precautions only "need to be implemented" on an individual basis "as determined by medical judgment." *Id.* at 12. Respondent asserts that reporting to CURES "was not mandatory at first for dispensing physicians." *Id.* Respondent states that she understands the importance of reporting prescriptions to CURES, and that doing so "helps to provide the best care for our patients and avoid harm." *Id.*

Respondent provides an explanation regarding the prescription bottles with labels that bore patients' names that were found in her office during service of the search warrant. She argues that it is not uncommon for "patients [to] leave prescriptions with their doctors" for a variety of reasons. ALJ-51, at 14. Without pointing to a specific example, Respondent claims that a patient may leave a prescription bottle with her for it to be administered in the office, to pick it up at a later date, or for "issues of privacy." *Id.*

Regarding the discrepancies between the controlled substances inventoried by investigators in March and June, Respondent argues that the missing controlled substances were dispensed and documented in a dispensing log, patient chart, or both. ALJ-51, at 14. Presumably, the dispensing log she refers to is Respondent's Exhibit 1.

Respondent argues that the large amount of cash discovered at her home during the search warrant represented "some savings [she] had put away through the years." ALJ-51, at 15. Respondent also states, as she did to investigators, that she was unaware of the marijuana in the suitcase in her garage.¹² *Id.* The firearms found during the search were obtained lawfully for purposes of self-defense "after violence and threats of violence committed by [her] ex-husband." *Id.* Respondent responds that the idea that the firearms

¹⁰ Respondent's Post-Hearing Brief has been marked as ALJ-51. The Office of Administrative Law Judges received a hard copy of Respondent's brief by mail on March 22, 2018. There are minor, non-substantive differences between the hard copy received by mail on March 22 and the copy received by fax on March 19. For example, the formatting is different between the two copies and Respondent corrected a few misspellings in the hard copy. I will use the faxed copy of Respondent's Post-Hearing Brief because it was the first copy received and the only variations are typographical in nature.

¹¹ Because statements contained in post-hearing briefs are not evidence, I give no weight to comments made by Respondent in her post-hearing brief that are not supported by evidence in the Administrative Record. See *Surinder Dang, M.D.*, 76 FR at 51,423 n.25.

¹² Respondent does not explain any of the other marijuana found in other locations of her home.

played a role in her medical practice is “absurd and slanderous.” *Id.*

Addressing the allegation of self-prescribing, Respondent explains that the prescriptions in Government Exhibit 7 were phoned in by either herself or a staff member calling under her supervision. ALJ-51, at 15. According to Respondent, the dispensing pharmacy, E-Compounding, used “generic prescription forms,” instead of the proper order form, and incorrectly wrote Respondent’s “name on the prescriptions as if [she] were the patient.” *Id.* at 15–16. Respondent contends that the pharmacy “failed to adhere to the standard practice of transferring from a pharmacy to any licensing entity, [such] as a medical doctor, when ordering medications for office stocking, thus mischaracterizing the transactions.” *Id.* at 16. Further, Respondent explains the pharmacy “should have used an invoice form and not a prescription when [she] was ordering for office stock.” *Id.* In her defense, Respondent argues that “[i]f [the pharmacy] recorded my orders as office use using prescriptions under my name I had no way to know.” *Id.* Respondent faults the pharmacy for its “poor record keeping” and notes that the pharmacist was “disciplined for that violation among others.” *Id.* Respondent states that she never used E-Compounding Pharmacy after December 2012. *Id.*

In response to the issue of prescribing to S.P., Respondent argues that “[t]here are no specific regulations or laws prohibiting physicians from treating family members.” ALJ-51, at 17. She then cites the American Medical Association’s Code of Medical Ethics to support the proposition that physicians may provide medical care to family members in emergencies or “isolated settings where there are no other qualified physicians available.” *Id.* Respondent contends that she has always maintained records for her patients and that she obtained S.P.’s previous medical records before treating him as a patient. *Id.* at 18. She also claims, without citing any evidence of record, that some of S.P.’s records were located during the search warrant. *Id.* She then argues that Dr. Munzing gave an expert opinion based solely on CURES reports. *Id.* at 18–19. In essence, Dr. Munzing “gave an opinion on evidence he was not provided with.” *Id.* at 19. Respondent’s argument seems to rest on the assumption that medical files for S.P. were in fact created and never given to Dr. Munzing for review; however, Respondent fails to explain where those records are located and why she has not produced them either

during the investigation or these proceedings. *Id.*

Throughout her brief, Respondent cites to ongoing issues in her personal life. Respondent opines that “circumstances of extreme duress in [her] personal life should have been taken into consideration.” ALJ-51, at 12. She also highlights “harassment and stalking” and threats of violence made by her ex-husband. *Id.* at 3, 10, 15. Respondent assures that even during challenging times, she was “trying hard to get back to normal.” *Id.* Additionally, Respondent asserts that she has never been the subject of a medical malpractice lawsuit or a patient complaint. *Id.* at 4. In conclusion, Respondent argues that the Administrative Record does not establish by a preponderance of the evidence that allowing her to retain her COR is “[in]consistent with the public interest.” *Id.* at 19.

Factors One & Three: The Recommendation of the Appropriate State Licensing Board or Professional Disciplinary Authority, and Conviction Record Under Federal or State Laws Relating to the Manufacture, Distribution, or Dispensing of Controlled Substances

In this case, it is undisputed that Respondent holds a valid and current state license to practice medicine in California. Stip. 3. The record contains no evidence of a recommendation regarding Respondent’s medical privileges by a relevant state licensing board or professional disciplinary authority. However, possession of a state license does not entitle a holder of that license to a DEA registration. *Mark De La Lama, P.A.*, 76 FR 20,011, 20,018 (2011). Rather, a state medical board’s decision to allow a doctor to practice medicine is not dispositive as to whether the doctor’s DEA registration is consistent with the public interest. *Patrick W. Stodola, M.D.*, 74 FR 20,727, 20,730 n.16 (2009).

At the hearing, the Government presented evidence that Respondent is not currently licensed to practice medicine in Florida. Tr. 133. Respondent presented Respondent’s Exhibit 2, her expired Florida medical license. “[The Government Prehearing Statement alleged, “Respondent is presently not licensed to practice medicine in Florida.” ALJ-9, at 3.*] I

*The RD found that the issue of Respondent’s loss of state authority in Florida was not sufficiently noticed, but the Government had noticed it prior to the hearing in its Prehearing Statement, and the Respondent presented arguments regarding her state authority at the hearing; therefore, I find that based on her own submissions during the

address the lack of Respondent’s state authority further below; however, as it relates to Factor One it is noted that there is nothing on the record to indicate that the Florida Medical Board has taken any action on Respondent’s medical license.]

DEA precedent establishes that where the record contains no evidence of a recommendation by a state licensing board that absence does not weigh for or against revocation. *See Roni Dreszer, M.D.*, 76 FR 19,434, 19,444 (2011) (“The fact that the record contains no evidence of a recommendation by a state licensing board does not weigh for or against a determination as to whether continuation of the Respondent’s DEA certification is consistent with the public interest.”). Accordingly, Factor One does not weigh for or against revocation of Respondent’s California registration in this matter.

As to Factor Three, there is no evidence that Respondent has been convicted of an offense under either federal or California law “relating to the manufacture, distribution, or dispensing of controlled substances.” 21 U.S.C. 823(f)(3). However, there are a number of reasons why even a person who has engaged in criminal misconduct may never have been convicted of an offense or even prosecuted for one. *Dewey C. MacKay, M.D.*, 75 FR 49,956, 49,973 (2010), *pet. for rev. denied, MacKay v. DEA*, 664 F.3d 808, 822 (10th Cir. 2011). The DEA has, therefore, held that “the absence of such a conviction is of considerably less consequence in the public interest inquiry” and is therefore not dispositive. *Id.* Accordingly, Factor Three neither weighs for nor against revocation in this case.

Factors Two & Four: The Respondent’s Experience in Dispensing Controlled Substances and Compliance With Applicable State, Federal, or Local Laws Relating to Controlled Substances

Factors Two and Four are often analyzed together. *See, e.g., Fred Samimi, M.D.*, 79 FR 18,698, 18,709 (2014); *John V. Scalera, M.D.*, 78 FR 12,092, 12,098 (2013). Under Factor Two, the DEA analyzes a registrant’s “experience in dispensing . . . controlled substances.” 21 U.S.C. 823(f)(2). Factor Two analysis focuses on an applicant’s acts that are inconsistent with the public interest, rather than on an applicant’s neutral or positive acts and experience. *Randall L. Wolff, M.D.*, 77 FR 5106, 5121 n.25

proceeding, Respondent had adequate notice that her lack of state authority in Florida was at issue. *See Hatem M. Ataya, M.D.*, 81 FR 8221, 8244 (2016).

(2012) (explaining that “every registrant can undoubtedly point to an extensive body of legitimate prescribing over the course of [the registrant’s] professional career”) (quoting *Jayam Krishna-Iyer, M.D.*, 74 FR 459, 463 (2009)). Similarly, under Factor Four, the DEA analyzes an applicant’s compliance with federal and state controlled substance laws. 21 U.S.C. 823(f)(4). Factor Four analysis focuses on violations of state and federal laws and regulations. *Volkman v. DEA*, 567 F.3d 215, 223–24 (6th Cir. 2009) (citing *Gonzales v. Oregon*, 546 U.S. 243, 272, 274 (2006)); see *Joseph Gaudio, M.D.*, 74 FR 10,083, 10,090–91 (2009).

Here, the Government alleges that revocation of Respondent’s COR and denial of her pending application is appropriate under Factors Two and Four (as well as Factor Five) for the following reasons: (1) Improper storage; (2) failing to maintain proper inventories and dispensing logs; (3) possession of controlled substances with the names of other individuals on the bottle; (4) improperly prescribing controlled substances “for office use”; (5) prescribing to S.P. without maintaining a medical record for S.P.; and (6) displaying a lack of candor during the investigation. ALJ–1, at 2–4.

The Allegations

Improper Storage

Concerning improper storage of controlled substances, the Government asserts that Respondent was found to be improperly storing controlled substances on March 13, 2014, and again on June 13, 2014, in violation of 21 CFR 1301.75(a) and (b). ALJ–1, at 2, paras. 3, 5. Specifically, the Government claims that on both dates, investigators found a variety of controlled substances located on open shelves, on top of the office copier or desk, and in unlocked glass cabinets in Respondent’s office. *Id.* The Government alleges that “[n]one of the controlled substances found at Respondent’s registered address were secured in a locked cabinet,” as required by 21 CFR 1301.75(b). ALJ–1, at 2, para. 3. In addition, the Government claims that on June 13, 2014, the investigators also found marijuana in Respondent’s home. ALJ–1, at 2, para. 5. The Government further asserts that the door to Respondent’s office where the controlled substances were observed could not be locked. ALJ–1, at 2, para. 3.

DEA regulations provide that controlled substances “shall be stored in a securely locked, substantially constructed cabinet.” 21 CFR 1301.75(a), (b). The regulations do not

define the term “substantially constructed cabinet.” *Peter F. Kelly, D.P.M.*, 82 FR 28,676, 28,689 (2017). DEA decisions, however, provide some indication that a locked room with adequate security features is sufficient to satisfy the storage requirement of Section 1301.75. See *id.* (finding that the Government failed to meet its burden where controlled substances were left in a locked room “[dedicated to the storage of controlled substances] with an alarm system). Additionally, as noted in *Kelly*, at least one dictionary supports the interpretation of “cabinet” as a small room. *Id.*

Controlled substances were observed in Respondent’s office on two occasions: During service of the AIW in March 2014 and during execution of the search warrant in June 2014. Between those dates, Respondent’s COR authorized her to possess and prescribe controlled substances in Schedules II–V. GE–1, at 1.

During the inspection in March, investigators found multiple bottles of controlled substances on the desk, on the shelf, and on the printer in Respondent’s office. FF 4. In fact, the investigators found “a great deal of controlled substances” in Schedules III–V. Tr. 22; GE–3, at 1–2. Furthermore, the controlled substances found in Respondent’s office were not secured in any way, and there did not appear to be any place to secure them in her office. FF 5. During the inspection, DEA investigators requested that Respondent purchase some type of safe in which to store the controlled substances and Respondent indicated that one would be purchased that day. FF 8. Following the inspection, SA 1 informed Respondent that controlled substances needed to be locked-up. FF 21.

On June 13, 2014, when DEA investigators returned to Respondent’s office the condition of her office looked the same as it did on March 13, 2014, with controlled substances being found all over the office area. FF 35, 36. There was no safe in Respondent’s office on June 13, 2014. *Id.* A bottle of controlled substances was also found in Respondent’s kitchen. *Id.* During the June 13, 2014 search of Respondent’s home, marijuana was discovered in a suitcase in Respondent’s garage. FF 39. Marijuana was also found in Respondent’s kitchen and bedroom. *Id.* [Omitted language from RD.]*κ

Although the record is clear that controlled substances were not “stored in a securely locked, substantially constructed cabinet,” 21 CFR 1301.75(a) and (b), at the time of the inspection and

search, the evidence is less than clear concerning whether the door to Respondent’s office could be locked. In response to Government counsel’s question about whether she noticed a lock on the office door, FF 8, DI 1 responded, “No.” Tr. 39. SA 1 was unsure whether there was a lock on the door, stating “I do not believe there was.” Tr. 67. DI 2 testified, however, that “[t]here may have been” a lock on the door, but it was open when investigators entered the home to serve the AIW. Tr. 124. The fact that the door was already open when investigators entered the home, however, could be easily explained by the fact that a separate team of officers made the initial entry into the home to clear the way for investigators. Tr. 20, 110, 122; see *Jack A. Danton, D.O.*, 76 FR 60,900, 60,908 (2011) (noting DI “was not the first to see the [unlocked] closet” alleged to be in violation of storage requirement).

It is also troubling that investigators had two opportunities to photograph the door to the office and did not do so. Investigators took extensive photographic evidence of the office during service of the search warrant and could have easily turned the camera on the door. Furthermore, the fact that three investigators who inspected Respondent’s office on two occasions were unable to testify with confidence that the office door could not be locked undermines the Government’s allegation that the “investigators could not lock . . . [the] office door.” ALJ–1, at 2, para. 3. If there was a lock on the office door, as DI 2 believes there may have been, Tr. 124, the office could have been locked. The question then becomes, if Respondent could lock her office door, would the manner in which she stored her controlled substances in her office be in compliance with 21 CFR 1301.75(b). Compare *Jeffery J. Baker, D.D.S.*, 77 FR 72,387, 72,394, 72405 (2012) (finding violation where controlled substances were routinely left unattended on a counter in an unlocked room)¹³ with *Peter F. Kelly, D.P.M.*, 82 FR 28,676, 28,689 (2017) (finding no violation where controlled substances were left outside safe but in a locked room “[dedicated to the storage of controlled substances]”); see also *United States v. Poulin*, 926 F. Supp. 246, 253 (D. Mass. 1996) (reasoning that controlled substances kept “in an

¹³ The storage violation in *Becker* “played little or no role in the disciplinary decision” because the respondent introduced evidence that the deficiencies had been corrected. *Becker v. DEA*, 541 Fed. App’x 587, 589 (6th Cir. 2013). That is not the case here.

*κ [See *infra* n.16]

unlocked area” violated Section 1301.75). I find that it would not.

In a fairly recent case, the Administrator concluded that a registrant was in substantial compliance with 21 CFR 1301.75(b) when he left a small amount of controlled substances outside a safe overnight so they could be administered in the morning, but where the controlled substances were also in a small locked room and the office was protected by a security alarm system. *Kelly*, 82 FR at 28,689. In *Kelly*, however, the controlled substances at issue involved medications that the registrant occasionally left “out overnight for his office manager to administer to patients who were undergoing procedures the following morning.” *Id.* at 28,678. In addition, the decision “noted that the room in which the medications were kept was locked, that only the Respondent and his office manager had a key, that the room had a steel reinforced door and steel doorframe with a deadbolt, that Respondent’s office was protected by a security system, and that there was no evidence that the room ‘was used for any purpose other than to store controlled substances’” *Id.*

Unlike Dr. Kelly, who occasionally set out medications in a room that was only used to store controlled substances so that his office manager could administer the medication to early arriving patients, Respondent had controlled substances continually strewn all about her office. FF 3; *see* GE–5; GE–11, at 7–9. Even though Respondent stated in a sworn interview that “[. . .] her office

is protected by an alarm system,¹⁴ the area where she was storing her controlled substances was her actual office, it was not an area set aside for the storage of controlled substances.¹⁵ * [I am omitting a section of the RD and footnote 20 based on relevance and omitting the RD’s analysis related to marijuana under Factors 2 and 4.¹⁶

Furthermore, the evidence on the record demonstrates that Respondent was fully on notice that her office did not constitute adequate secure storage under DEA regulations, because she was informed of that fact by both SA 1 and DI 1 on March 13, 2014, and she made no effort to correct this violation by June 13, 2014. FF 20 & 21.]

Accordingly, the allegation contained in Paragraphs 3 and 5 of the OSC that Respondent violated 21 CFR 1301.75(b) on both March 13, 2014, and June 13, 2014, when investigators found a variety of controlled substances located on open shelves, on top of the office copier or desk, and in unlocked glass cabinets in Respondent’s office is *sustained*. These sustained allegations weigh in favor of revoking Respondent’s registration, and denying her pending application. * [Omitted, *see infra* n.16].¹⁷ 18

¹⁴ Because the DEA was not a party to the proceeding in which Respondent gave this sworn statement concerning the security of her office, the weight that can be given to the statement is “substantially diminished.” *Lon F. Alexander, M.D.*, 82 FR 49,704, 49,730 n.54. (2017).

¹⁵ * [Omitted. It is noted that there was also evidence that contradicted her off-the-record claims about the level of security of her home in that there was a suitcase of marijuana about which she allegedly had no knowledge in her garage, and she felt the need to have three firearms for protection from her ex-husband.]

¹⁶ In its Post-Hearing Brief, the Government has made no distinction between how Respondent should have been storing the Schedule III–V controlled substances found in her office and the marijuana, none of which was found in her office. ALJ–50, at 18–19. While the OSC specifically addresses Respondent’s failure to properly store controlled substances, “including marijuana,” ALJ–1, at 2, para. 5, with respect to storage the Government’s Post-Hearing Brief focused only upon “the controlled substances that were located in her office.” ALJ–50, at 19. Rather than addressing marijuana as a storage concern, in its Post-Hearing Brief the Government argues, for the first time, that Respondent’s possession of marijuana should be considered under Factor 5. ALJ–50, at 21. * [The RD stated that “[t]he Government also seemingly alleged that [Respondent] violated 21 CFR 1301.75(a) by failing to keep marijuana, a Schedule I controlled substance, ‘in a securely locked, substantially constructed cabinet.’” RD, at 32 (citing ALJ–1, at 2, para. 5). I find that the OSC was unclear as to the legal basis of the allegation related to marijuana; therefore, I am omitting the RD’s analysis under Factors 2 and 4 about whether the storage requirement would apply to the marijuana in Respondent’s home as irrelevant.]

¹⁷ * [Omitted]

¹⁸ * [Omitted]

Recordkeeping

The Government next alleges that Respondent failed to “maintain complete and accurate records,” in violation of Cal. Bus. & Prof. Code § 2266; Cal. Health & Safety Code § 11190; 21 U.S.C. 827(a)(1), and (a)(3); 21 U.S.C. 842(a)(5); 21 CFR 1304.03(b), 1304.04(a), 1306.04, 1304.11(c), 1304.21(a), and 1304.22(c). ALJ–1, at 2, paras. 4–5. Specifically, the Government contends that during the March inspection and June search, investigators were unable to find an initial inventory; biennial inventory; 222 Forms; or dispensing log, for Respondent’s controlled substances. *Id.* The Government claims that the only records Respondent provided to investigators “were a series of invoices from on or about May 23, 2013 through March 13, 2014.” *Id.* The Government also alleges that the controlled substances inventoried in Respondent’s office in June varied from what was counted in March, and that Respondent failed to account for the discrepancies through the production of dispensing records, in violation of 21 CFR 1304.22(c) and 1306.04, and Cal. Health & Safety Code § 11190. ALJ–1, at 3, para. 6.

Inventories

Registrants are required to keep inventories for two years from the date of their creation. *Margy Temponeras, M.D.*, 77 FR 45,675, 45,678 (2012) (citing 21 U.S.C. 827(b)); 21 CFR 1304.04(a). Respondent changed her registered address on September 26, 2013, to 22391 Sunbrook, Mission Viejo, California, the location that investigators searched in March and June of 2014. Stip. 4; GE–1, at 4. At the time of executing both the AIW and search warrant, two years had not lapsed from the date that Respondent changed her registered location to her residence in Mission Viejo. Thus, Respondent should have had an initial inventory available for inspection if it existed. 21 U.S.C. 827(b); 21 CFR 1304.04(a); *see also Zvi H. Perper, M.D.*, 77 FR 64,131, 64,141 (2012) (finding that “Respondent failed to conduct the required initial inventory after moving to a new practice location”).¹⁹

During the March inspection, DI 1 asked Respondent to provide the initial and biennial inventories of controlled substances used at her registered address. FF 14. Respondent did not

¹⁹ 21 CFR 1304.11(a) requires that “[a] separate inventory shall be made for each registered location”

¹⁴ [The ALJ found that Respondent had stated during her interview that she always kept her office locked, but I do not find that the record supports this statement. She stated that when she was in her previous office (before she moved her office to her home), the door where she “stored medication, was all the time locked See right now it’s my house, so I’m—I’m only there, uh—uh, with my husband, and I have an alarm system But I had in mind to change the lock.” GE–12, at 78. When SA 1 pointed out that there could be patients that walk by the office unsupervised, Respondent stated, “[y]eah, the door is locked all—I mean closed at all times.” *Id.* at 81. The exhibit supports that if there was a lock on the office door, Respondent was only keeping it closed at all times, not locked, and whatever lock might have been on the door for some reason needed to be changed. Further, although Respondent claimed that for her office, “[e]very time you open the door, there’s a sensor, so it makes a noise and it communicates to my phone,” GE–12, at 79, there was also a large window depicted in the pictures of her office, for which she did not describe any security. GE–5, at 1. Even if I could take the security measures that she described as true, her office does not appear to be similar to a locked room dedicated to the storage of controlled substances, and most importantly, she was specifically told that her security was inadequate and did nothing to remedy it. The record does not support a finding that Respondent’s office could constitute a locked cabinet in order to comply with DEA regulations.]

provide them.²⁰ *Id.* Although DI 1 could not recall if she requested the initial inventory again in June, she testified that Respondent did not provide one at that time. Tr. 39; GE-14. If Respondent had created an initial inventory, it is not in the Administrative Record. In fact, there is no evidence in the record indicating that Respondent ever provided DEA with copies of her initial inventory.

Although there is no direct evidence that Respondent failed to create an initial inventory of the controlled substances she maintained at her Mission Viejo address,²¹ the fact that Respondent did not provide an inventory to the investigators and has not produced one during the course of these proceedings strongly suggests that Respondent never took an initial inventory at that location. *See Odette L. Campbell, M.D.*, 80 FR 41,062, 41,078 (2015) (reasoning that investigator's inability to find 222 Forms and registrant's failure to provide them demonstrates non-compliance). Further, inventories must be made "available . . . for inspection and copying" upon request by DEA investigators, which Respondent failed to do when requested by DI 1. 21 U.S.C. 827(b); Tr. 24, 39.

Accordingly, the allegation that Respondent failed to maintain an initial inventory, in violation of 21 U.S.C. 827(b) and 21 CFR 1304.04(a), as alleged in paragraph 4 of the OSC, is *sustained*. This sustained allegation weighs in favor of revoking Respondent's registration, and denying her pending application. *[Omitted].

Dispensing Logs

One of a registrant's recordkeeping responsibilities under Federal law includes the requirement to document each instance in which the registrant dispenses a controlled substance to a patient.²² 21 CFR 1304.22(c). Stated differently, registrants must document dispensing activity²³ by maintaining

²⁰ *[Omitted footnote. The ALJ did not sustain the allegation related to the biennial inventory and I agree.]

²¹ The DI testified that she asked Respondent for her initial and biennial inventories, and not whether she ever made an initial inventory in the first place. *See* Tr. 24-25; *Margy Temponeras, M.D.*, 77 FR 45,675, 45,678 (2012) (noting respondent admitted to state inspector that an initial inventory had never been made).

²² The Government's Post-Hearing Brief provides little in the way of argument or analysis on this issue. The Government addresses this allegation in one sentence and without any citations to DEA decisions. ALJ-50, at 18-19.

²³ For purposes of Section 1304.22(c), "dispensing" refers to a situation where the registrant transfers the controlled medication from the registrant's possession directly to the patient. *Margy Temponeras, M.D.*, 77 FR 45,675, 45,676,

"complete and accurate" dispensing logs. 21 U.S.C. 827(a)(3); 21 CFR 1304.22(c). To be compliant, a dispensing log must include, among other things: "the name of the substance;" "the name and address of the person to whom [the substance] was dispensed;" "the date of dispensing;" and "the number of units or volume dispensed." *Id.* at § 1304.22(a)(2)(i), (c). California law imposes similar requirements on practitioners to document information such as the patient's name, address, and telephone number, as well as certain details about the substance, when the practitioner dispenses controlled substances in Schedules II, III, or IV. Cal. Health & Safety Code § 11190(c)(1).

The record shows that DI 1 asked Respondent for her dispensing logs on March 13, 2014, and Respondent did not provide any. FF 12, 14. Respondent said the dispensing logs were at her mother-in-law's home in Lake Forest, California. FF 14. DI 1 again requested dispensing records at the time of conducting the June search, and again DI 1 testified that Respondent failed to provide investigators with her dispensing logs or tell them where such records were kept.²⁴ FF 38. Likewise, DI 2 testified that investigators asked Respondent in both March and June for her dispensing records and that she never provided any. Tr. 128, 132, 322.

Although DI 1 and DI 2 testified they never received a dispensing log from Respondent, Tr. 24, 35-36, 39, 49-50, 128, 132, the property receipt from the June 2014 search indicates that a "Class III Med log" was seized from Respondent's office. GE-14, at 9. The Government did not introduce the "Class III Med log" into evidence. At the hearing, however, Respondent produced a 10-page photocopied document that she testified was seized during the search. Tr. 302-03; RE-1. "Class III Meds Dispensing Log" is written on the cover of the exhibit. RE-1, at 1. Respondent testified that she received copies of the document in 2016 from the district attorney prosecuting her criminal case.²⁵ Tr. 302-03. DI 1 and DI

456,86 (2012) (describing how registrant purchased controlled substances for her practice location and then dispensed the medication from that location to patients, and discussing the requirements of Section 1304.22).

²⁴ Although being handcuffed during the search may have prevented Respondent from retrieving her dispensing log and handing it over to investigators, Respondent could have told them where to find it. Tr. 110, 312.

²⁵ I admitted the document into evidence over Government's objection even though Respondent failed to disclose in her prehearing statements that she intended to introduce the document into evidence. Tr. 303-04. While Respondent offered her

2 testified that they had never seen the document before. Tr. 318, 322.

Assuming Respondent's Exhibit 1 is Respondent's dispensing log, it fails to satisfy her recordkeeping responsibility under Section 1304.22(c) for a number of reasons. First, it fails to explain the variances discovered in Respondent's office stock between March and June 2014 when investigators counted the controlled substances on-hand in her home office. The DI testified that "[t]here were missing controlled substances" in June compared to the inventory taken in March. Tr. 40-41, 57-58. DI 1 characterized the discrepancy as significant. Tr. 40. DEA precedent establishes that the inability to account for controlled substances missing from a registrant's inventory by production of dispensing records constitutes a violation of Section 1304.22(c). *Paul Weir Battershell, N.P.*, 76 FR 44,359, 44,366-67 (2011). In other words, a practitioner violates DEA regulations where she is unable to produce dispensing records explaining overages or shortages in the practitioner's supply of controlled substances. *Id.* at 44,366 n.23. For example, in *Daniel Koller, D.V.M.*, the Administrator found a violation of 21 CFR 1304.22(c) where respondent failed to provide dispensing records notwithstanding the fact that respondent possessed controlled substances at his home and was dispensing controlled substances from that location. 71 FR 66,975, 66,982 (2006). Such is the case here.

Comparing Respondent's Exhibit 1 to the inventories taken during the March and June searches reveals that Respondent's dispensing log fails to account for several controlled substances. RE-1; GE-3; GE-14, at 11-12; *see Paul Weir Battershell, N.P.*, 76 FR at 44,366 n.23 (finding violation where missing controlled substances could not be accounted for by dispensing records); *Satinder Dang, M.D.*, 76 FR 51,424, 51,429 (2011) (deeming it inconsistent with the public interest where dispensing logs failed to include all instances of dispensing). Here, Respondent's Exhibit 1 fails to explain the discrepancies found in Respondent's stock of the following substances: 360 tablets of alprazolam; 22 tablets of diethylpropion; *[57.5] tablets of hydrocodone 10/325 mg; 60 tablets of hydrocodone 7.5/200 mg; 90

inexperience for her failure to disclose the document, the Government knew of the document's existence. Tr. 305; GE-14, at 9. In fact, the log is identified in the Government's own exhibit. *See* GE-14, at 9, and *supra* note 9.

tablets of temazepam; and 90 tablets of zolpidem tartrate.²⁶

To the extent that there are unresolved discrepancies between the controlled substances counted during the March inspection and the June search, the logical conclusion based on the lack of additional dispensing records in evidence is that Respondent failed to maintain the required records. Notwithstanding Respondent's Exhibit 1, the fact that investigators never found other dispensing records that could reconcile the variances between March and June, despite asking multiple times for her dispensing logs, is "persuasive proof of non-compliance." *Odette L. Campbell, M.D.*, 80 FR at 41,078. Where investigators are unable to find dispensing records for certain medications, it is reasonable to infer that such records were never created. *Id.* Further, whether the discrepancies "are attributable to outright diversion" or simply "the failure to maintain accurate records," is not relevant. *Ideal Pharmacy Care, Inc., d/b/a Esplanade Pharmacy*, 76 FR 51,415, 51,416 (2011). What matters to the public interest inquiry is the fact that Respondent could not account for a significant number of controlled substances by adequate documentation. *Id.*

Second, Respondent's Exhibit 1 does not contain patient addresses or phone numbers, as required by 21 CFR 1304.22(c) and California law. RE-1, at 2-10; Cal. Health & Safety Code § 11190(c)(1); *Satinder Dang, M.D.*, 76

FR at 51,429 (dispensing records lacked patient addresses). Finally, Respondent's Exhibit 1 does not contain dispensing information going back to the date that Respondent relocated her office to her home, as required by DEA's inventory regulations. *Paul H. Volkman*, 73 FR 30,630, 30,643-44 (2008) (DEA unable to locate dispensing records for one year); *Edmund Chein, M.D.*, 72 FR 6580, 6593 (2007) (dispensing log covered only seven months); 21 CFR 1304.04(a). In fact, Respondent's Exhibit 1 documents about 70 instances of dispensing over a period of 6 months. RE-1, at 2-10. While Respondent indicates in her post-hearing brief that she documented instances of dispensing in patient charts and not a separate dispensing log, ALJ-51, at 14, even if true, that statement cannot be treated as evidence. *See supra* note 11. Additionally, Respondent never provided testimony on this point while under oath²⁷ at the hearing and did not introduce any patient charts demonstrating that she did in fact record the dispensing of controlled substances in patient charts.*M Without any evidence in the record supporting Respondent's post-hearing contention, the Government's evidence on this allegation stands un rebutted.

Failure to provide DEA with accurate records which correctly reflect the controlled substances dispensed by a registrant constitutes a recordkeeping violation and is *[evidence that Respondent's registration is]

inconsistent with the public interest. *The Medicine Shoppe*, 79 FR 59,504, 59,516 (2014) (citing *Jack A. Danton, D.O.*, 76 FR 60,900, 60,919 (2011)). In light of the foregoing, the allegation that Respondent failed to maintain "complete and accurate" dispensing records, as set forth in paragraph 4 of the OSC, in violation of 21 U.S.C. 827(a)(3), 21 CFR 1304.22(c), and Cal. Health & Safety Code § 11190, is *sustained*. This sustained allegation weighs in favor of revoking Respondent's registration and denying her pending application.

Receiving Records

The Government's next recordkeeping allegation concerns receiving records. ALJ-1, at 2, para. 4. Specifically, the Government contends that Respondent was unable to provide any receiving records, such as DEA 222 Forms, to investigators in March and June 2014, other than a series of invoices, in violation of 21 U.S.C. 827 and 842(a)(5), and 21 CFR 1304.21(a). ALJ-1, at 2, para. 4.

During the inspection in March 2014, DI 1 requested recordkeeping documents from Respondent, specifically invoices. FF 17. The invoices that Respondent provided are contained in Government Exhibit 2. *Id.* Those invoices show that between May 23, 2013, and March 7, 2014, Respondent received the following controlled substances:

Controlled substance	Total quantity received	Reference
Hydrocodone 10/325 mg	300 tablets	GE-2, at 1-3.
Phentermine 37.5 mg	2,520 tablets	GE-2, at 1-3; 4, 6-7; 5.
Furosemide 20 mg	2,000 tablets	GE-2, at 8-9.
Testosterone 100 mg/ml 10 ml	3 vials	GE-2, at 11.
Testosterone Propionate 100 mg/ml 10 ml	4 vials	GE-2, at 11.
Stanozolol 50 mg/ml 10 ml	3 vials	GE-2, at 11.
Tri-Testosterone 200/50/200 mg/ml 10 ml	6 vials	GE-2, at 11.
Anastrozole 1 mg	1,350 tablets	GE-2, at 12-18.
Fluoxetine 20 mg	300 tablets	GE-2, at 12-14.
Clonidine .1 mg	600 tablets	GE-2, at 15, 17-18.

²⁶ Investigators counted 750 tablets of alprazolam in March and 0 tablets in June, and Respondent's Exhibit 1 indicates 390 tablets were dispensed between those dates, meaning 360 tablets of alprazolam are not accounted for in Respondent's Exhibit 1. GE-3, at 1; GE-14, at 11-12. Investigators counted 106 tablets of diethylpropion in March and 0 tablets in June, and Respondent's Exhibit 1 indicates 84 tablets had been dispensed between those dates, meaning 22 tablets of diethylpropion are not accounted for in Respondent's Exhibit 1. GE-3, at 2; GE-14, at 11-12. Investigators counted *[462] tablets of hydrocodone 10/325 mg in March and 344.5 tablets in June, and Respondent's Exhibit 1 indicates 60 tablets had been dispensed between those dates, meaning *[57.5] tablets of hydrocodone 10/325 mg are not accounted for in Respondent's

Exhibit 1. GE-3, at 1; GE-14, at 11. Investigators counted 60 tablets of hydrocodone 7.5/200 mg in March and 0 tablets in June, and Respondent's Exhibit 1 indicates 0 tablets had been dispensed between those dates, meaning 60 tablets of hydrocodone 7.5/200 mg are not accounted for in Respondent's Exhibit 1. GE-3, at 1; GE-14, at 11-12. Investigators counted 263 tablets of temazepam in March and 173 tablets in June, and Respondent's Exhibit 1 indicates 0 tablets had been dispensed between those dates, meaning 90 tablets of temazepam are not accounted for in Respondent's Exhibit 1. GE-3, at 1; GE-14, at 11. Investigators counted 360 tablets of zolpidem tartrate in March and 0 tablets in June, and Respondent's Exhibit 1 indicates 270 tablets had been dispensed between those dates, meaning 90 tablets of zolpidem are not

accounted for in Respondent's Exhibit 1. GE-3, at 1; GE-14, at 11-12. *See infra* pp. 41-44.

²⁷ Although Respondent did not offer this argument in her sworn testimony at the hearing, she did explain to SA 1 in the April interview, which was under oath, that she documented dispensing of controlled substances in patient charts. GE-12, at 69. I cannot consider Respondent's statement as evidence, however, because it was not made at the DEA's hearing. *See Lon F. Alexander, M.D.*, 82 FR 49,704, 49,730 n.56 (2017) ("[A] respondent is required to present his evidence in the Agency's proceeding.>").

*M [I agree with the ALJ and find that his analysis here addresses the same argument that Respondent made in her Exceptions. Resp Exceptions, at 19.]

On March 13, 2014, however, Respondent possessed quantities of 11 different controlled substances for which she had no invoices, and she also possessed 462 tablets of hydrocodone. Compare GE-3, at 1-2, with the above table. Based on the controlled substances that were counted in the office during the inspection, Respondent should have had more invoices than the 9 invoices she provided.²⁸ FF 18.

While the Government also alleged that Respondent did not produce any DEA 222 Forms, none of the investigators provided any testimony regarding 222 Forms. Based on the testimony of all four investigators, it is not possible to discern whether they were looking for 222 Forms, whether Respondent should have kept 222 Forms, or whether they asked for receiving records other than invoices. Furthermore, Respondent did not possess any Schedule I or II controlled substances on March 13, 2014. See GE-3, at 1-2. Since DEA 222 Forms are only used to order Schedule I and II controlled substances, there is no evidence before me suggesting that Respondent was missing any DEA 222 Forms. See 21 CFR 1305.03.

Accordingly, the allegation that Respondent failed to maintain receiving records, as alleged in paragraph 4 of the OSC, in violation of 21 CFR 1304.21(a), is *sustained*. This sustained allegation weighs in favor of revoking Respondent's registration, and denying her pending application. The allegation that Respondent failed to maintain DEA 222 Forms, however, as alleged in

paragraph 4 of the OSC, is *not sustained*, because Respondent did not possess any Schedule I or II controlled substances on March 13, 2014.

Variance

The Government also alleged that when Respondent's controlled substances were inventoried on June 13, 2014, she was unable to account for some of the controlled substances that she possessed on March 13, 2014. ALJ-1, at 3, para. 6. Specifically, the Government alleges that Respondent was not able to account for:

- 25 bottles of Alprazolam 1 mg, containing 30 tablets (750 tablets)
- 10 bottles of Clonazepam 1 mg, containing 30 tablets (300 tablets)
- 3 bottles of Diethylpropion HCl 25 mg, containing 28 tablets (84 tablets)
- 3 bottles of Hydrocodone 10/325 mg, containing 30 tablets (90 tablets)
- 2 bottles of Hydrocodone/IBU 7.5/200 mg, containing 30 tablets (60 tablets)
- 64 bottles of Phentermine 37.5 mg, containing 30 tablets (1,920 tablets)
- 3 bottles of Temazepam 30 mg, containing 30 tablets (90 tablets)
- 12 bottles of Zolpidem 10 mg, containing 30 tablets (360 tablets)
- 10 vials of various anabolic steroid and testosterone-related products

Id. The Government did not allege that Respondent's inability to account for these controlled substances was an independent violation of law or regulations, but asserted that she was unable to account for the controlled substances because she did not have any dispensing logs. *Id.* In support of this allegation the Government cited to 21

CFR 1304.22(c), 21 CFR 1306.04, and Cal. Health and Safety Code § 11190. *Id.*

It is the Government's responsibility to "sift through the records and highlight that information which is probative of the issues in the proceeding." *Top RX Pharmacy*, 78 FR 26,069, 26,069-70 n.7 (2013) (quoting *Gregg & Son Distribs.*, 74 FR 17517, 17517-18 n.1 (2009)); see also *James William Eisenberg, M.D.*, 77 FR 45,663, 45,674 n.47 (2012). To prove the variance, the Government introduced Government Exhibits 3 and 14. In addition, the Government presented testimony that in comparing the quantity of controlled substances that Respondent had in her office on March 13, 2014, to those found in her office on June 13, 2014, that there was "[a] fair amount" fewer controlled substances in Respondent's office in June. Tr. 131-32; see also ALJ-50, at 7, para. 26. The Government, however, has made absolutely no effort to explain how it determined the variances it alleged in paragraph 6 of the OSC.

The following table lists the specific controlled substances the Government alleged that Respondent could not account for on June 13, 2014. The table compares the inventory of those controlled substances taken by the DEA on March 13, 2014, with the inventory taken on June 13, 2014 from Respondent's office. In addition, the table includes the number of these controlled substances that Respondent dispensed between those two dates, as indicated by her dispensing log that was seized during the search on June 13, 2014.

Controlled substance	AIW on March 13, 2014	Search warrant on June 13, 2014	Dispensed ²⁹	Reference
Alprazolam 1 mg	750 tablets	0 tablets	390 tablets	GE-3, at 1; GE-14, at 11-12; RE-1, at 5-9.
Clonazepam 1 mg	300 tablets	300 tablets	0 tablets	GE-3, at 1; GE-14, at 11.
Diethylpropion 25 mg	106 tablets	0 tablets	84 tablets	GE-3, at 2; GE-14, at 11-12; RE-1, at 5.
Hydrocodone 10/325 mg	462 tablets ^N	344.5 tablets	60 tablets	GE-3, at 1; GE-14, at 11; RE-1, at 6.
Hydrocodone 7.5/200 mg	60 tablets	0 tablets	0 tablets	GE-3, at 1; GE-14, at 11-12.
Phentermine 37.5 mg	616 tablets	187 tablets	660 tablets	GE-3, at 2; GE-14, at 11; RE-1, at 5-9.
Temazepam 30 mg	263 tablets	173 tablets	0 tablets	GE-3, at 2; GE-14, at 11-12.
Zolpidem 10 mg	360 tablets	0 tablets	270 tablets	GE-3, at 2; GE-14, at 11-12; RE-1, at 6-9.

While this table reveals that Respondent could not account for some of the controlled substances she was missing on June 13, 2014, the numbers

are not as large as those alleged by the Government. For example, Respondent was not missing any clonazepam, and she actually accounted for more

phentermine on June 13, 2014, than she started with on March 13, 2014.³⁰ In addition, while the Government alleged that Respondent could not account for

²⁸ Government Exhibit 2 consists of 18 invoices, but several of the invoices are duplicates.

²⁹ This column reflects controlled substances reportedly dispensed by Respondent between March 13, 2014, and June 13, 2014, as reported in Respondent's Exhibit 1. There is no evidence that the Respondent received any new controlled substances between March 13, 2014 and June 13, 2014.

^N The ALJ noted 810 tablets, but upon review, I counted 15 bottles of 30 count and 12 tablets as 462 tablets.

³⁰ Although the Government alleged that Respondent possessed 1,920 tablets of phentermine on March 13, 2014, ALJ-1, at 3, para. 6, the inventory that was conducted that day only shows she had 616 tablets that day. GE-3, at 1. The Government offered no evidence to support the

allegation that on March 13, 2014, Respondent possessed 64 bottles of phentermine, each containing 30 tablets. Further, as the below table illustrates, Respondent had other controlled substances where she had more of those substances on June 13, 2014, than she did on March 13, 2014. These overages also cannot be explained by evidence in the Administrative Record.

“10 vials of various anabolic steroid and testosterone-related products,” ALJ–1, at 3, para. 6, the March 13, 2014 inventory lists no such products. GE–3, at 1–2. Nevertheless, despite the Government’s

failure to explain where it came up with some of the quantities of controlled substances in paragraph 6 of the OSC that it alleged Respondent could not account for, the direct comparison

detailed in the above table demonstrates that on June 13, 2014, Respondent was not able to account for “[a] fair amount” of the controlled substances she possessed on March 13, 2014. Tr. 131.

Controlled substance	AIW on March 3, 2014	Search warrant on June 13, 2014	Reference
Hydrocodone 7.5/500 mg	120 tablets	150 tablets	GE–3, at 1; GE–14, at 11.
Temazepam 15 mg	0 tablets	115 tablets	GE–3, at 1–2; GE–14, at 11.
APAP Codeine 300/30 mg	266 tablets	295 tablets	GE–3, at 1; GE–14, at 11.

None of the regulations cited by the Government in the OSC, 21 CFR 1304.22(c), 21 CFR 1306.04, and Cal. Health and Safety Code § 11190, require that Respondent be able to account for her controlled substances. Both 21 CFR 1304.22(c) and Cal. Health and Safety Code § 11190 address the requirement to maintain dispensing logs. The other cited regulation, 21 CFR 1306.04, addresses the requirements for issuing prescriptions and has no relevance to Respondent’s inability to account for her controlled substances. The inability to account for a significant number of dosage units, however, creates a grave risk of diversion. *The Medicine Shoppe*, 79 FR 59,504, 59,516 (2014) (citing *Medicine Shoppe-Jonesborough*, 73 FR 364, 367 (2008) (finding 50 dosage units a significant amount)). In this case, because Respondent was unable to account for more than 50 dosage units of several controlled substances, I find that she was unable to account for a significant amount of controlled substances.

[*Omitted. The violations of law have been considered with regard to her lack of complete dispensing logs.] *o

Illegal Prescribing to Self and to S.P.

The Government next alleged that Respondent unlawfully issued over 75 prescriptions between February 16, 2010, and July 13, 2015.³¹ ALJ–1, at 3, para. 8. The Government alleges that the prescriptions for controlled substances that Respondent issued to herself and to her husband, S.P., during this period were issued for “other than a legitimate

medical purpose or outside the usual course of professional practice.” *Id.*

Under the Controlled Substances Act (“CSA”), it is unlawful for a person to distribute controlled substances, except as authorized under the CSA. 21 U.S.C. 841(a)(1). To combat abuse and diversion of controlled substances, “Congress devised a closed regulatory system making it unlawful to manufacture, distribute, dispense, or possess any controlled substance except in a manner authorized by the CSA.” *Gonzales v. Raich*, 545 U.S. 1, 13 (2005). To maintain this closed regulatory system, controlled substances may only be prescribed if a DEA registrant writes a valid prescription. *Carlos Gonzalez, M.D.*, 76 FR 63,118, 63,141 (2011). As the Supreme Court explained, “the prescription requirement . . . ensures that patients use controlled substances under the supervision of a doctor so as to prevent addiction and recreational abuse. As a corollary, [it] also bars doctors from peddling to patients who crave the drugs for those prohibited uses.” *Gonzales v. Oregon*, 546 U.S. at 274 (2006) (citing *United States v. Moore*, 423 U.S. 122, 135, 143 (1975)).

A controlled substance prescription is not valid unless it is “issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.” 21 CFR 1306.04(a). Federal regulations further provide that “[a]n order purporting to be a prescription issued not in the usual course of professional treatment . . . is not a prescription within the meaning and intent of [21 U.S.C. 829] and . . . the person issuing it[] shall be subject to the penalties provided for violations of [controlled substance laws].” *Id.*; see 21 U.S.C. 842(a)(1) (establishing that, under the CSA, it is illegal for a person to distribute or dispense controlled substances without a prescription, as is required under 21 U.S.C. 829).

There are four ways to prove that a practitioner violated the prescription requirements of 21 CFR 1306.04(a): (1) By providing expert testimony that the prescription was not issued for a

legitimate medical purpose or in the usual course of professional practice; (2) by showing that a practitioner violated “a state medical practice standard which is sufficiently tied to a state law finding of illegitimacy to support a similar finding under Federal law”; (3) by demonstrating that the respondent “knowingly diverted drugs”; and/or (4) by showing that the respondent violated a state medical practice standard “which has a substantial relationship to the CSA’s purpose of preventing substance abuse and diversion.” *Jack A. Danton, D.O.*, 76 FR 60,900, 60,901 (2011); see also *Joe W. Morgan, D.O.*, 78 FR 61,961, 61,978 (2013).

In this case, the Government has presented evidence that touches on two of the four methods of proving a violation of 21 CFR 1306.04(a). First, the Government presented the expert testimony of Dr. Munzing that the prescriptions that Respondent issued to both herself and S.P. were not issued for a legitimate medical purpose and that they were also issued outside the usual course of professional practice. FF 55–62, 64–67. Second, the Government’s evidence suggests that by failing to properly keep records of the controlled substances Respondent stored in her office and the manner in which she prescribed controlled substances, she violated state standards which have a substantial relationship to the CSA’s goal of preventing diversion. See Cal. Health & Safety Code §§ 11153(a), 11170, and 11190.

California Law

California law echoes federal standards and provides that “[a] prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice.” Cal. Health & Safety Code § 11153(a). State law further adds that prescribing a controlled substance without first conducting a proper medical examination “constitutes unprofessional conduct.” Cal. Bus. & Prof. Code § 2242(a). California law prohibits a

^o[The RD also noted that the OSC had alleged violations of 21 CFR 1306.04 and Cal. Health & Safety Code § 11350 based on Respondent’s possession of prescription pill bottles belonging to at least five other individuals, L.F., B.S., D.V., J.W., and D.D. RD, at 44–45 (citing ALJ–1, at 3, para. 7). I am omitting this section, but I agree with the RD that there is not substantial evidence on the record to support these allegations. *Id.*]

³¹The Government did not address any prescription written on July 13, 2015. The most recent prescription the Government identified during the hearing was written by Respondent to her husband, S.P., on September 16, 2014. GE–8, at 27.

practitioner from prescribing “a controlled substance for himself.” Cal. Health & Safety Code § 11170.

California’s controlled substance laws set forth several requirements related to the documentation and reporting of prescriptions. Specifically, California practitioners must document certain information when they prescribe or administer a controlled substance, depending on the schedule of the drug. Cal. Health & Safety Code § 11190. Additionally, failing “to maintain adequate and accurate records relating to the provision of services to [] patients constitutes unprofessional conduct.” *Id.* at § 2266. [*Omitted.]

Self-Prescribing

The Government alleged that between February 16, 2010, and November 29, 2012, Respondent issued at least 40 prescriptions to herself for controlled substances “for office use,” in violation of 21 CFR 1306.04(a) and (b), and Cal. Health & Safety Code § 11170. ALJ–1, at 3, para. 8(a). It is further alleged that the prescriptions Respondent wrote “for office use” were without a legitimate medical purpose and were written outside the course of professional practice. *Id.*

DEA regulations prohibit a practitioner from obtaining controlled substances “for the purpose of general dispensing to patients.” 21 CFR 1306.04(b). This makes sense in light of the requirement that for a prescription to be valid, it must be written for a “medical purpose” in the ordinary course of professional practice. *Id.* at § 1306.04(a). [*Omitted]. Relatedly, under California law, “[n]o person shall prescribe, administer, or furnish a controlled substance for himself.” Cal. Health & Safety Code § 11170; Tr. 134, 200. As for the standard of care, Dr. Munzing explained that if a practitioner intends to obtain controlled substances for office use, simply writing “for office use” on the prescription is not the proper procedure in California.³² Tr. 200–01. Dr. Munzing also testified that the American Medical Association’s Code of Ethics forbids a practitioner from prescribing controlled substances to herself. *Id.* at 200.

Government Exhibit 7 contains 168 prescriptions³³ authorized by

³² The Administrative Record contains no evidence explaining the proper procedure a practitioner must use to obtain controlled substances for office use.

³³ In its Post-Hearing Brief, the Government asserts that Respondent wrote 179 prescriptions to herself, but makes no effort to explain how it came up with that number, except citing to Government Exhibit 7. ALJ–50, at 8, 17. During the hearing, the Government only addressed 168 such prescriptions. I have identified each of those prescriptions in my

Respondent between February 16, 2010, and November 29, 2012, that were either written for herself or for office use instead of a particular patient. FF 61–62, 65–67; GE–7, at 4, 177. The Government further alleged that the prescriptions Respondent issued to herself violated DEA’s prescription requirement because they lacked a legitimate medical purpose and were issued outside the course of professional practice. ALJ–1, at 3, para. 8(a) (citing 21 CFR 1306.04(a)). A prescription violates Section 1306.04(a) if it lacks a legitimate medical purpose or was issued outside the course of professional practice in the practitioner’s state. *United States v. Nelson*, 383 F.3d 1227, 1233 (10th Cir. 2004). At the very least, testimony and documentary evidence demonstrate that the prescriptions in Government Exhibit 7 were not issued in the course of professional practice. For example, in addressing these prescriptions Dr. Munzing testified that it is outside the standard of care and the course of professional practice in California for a prescription to list “office use” instead of the patient’s name. Tr. 201.

At the hearing, the Government directed Dr. Munzing’s attention to several prescriptions in Government Exhibit 7 that appear to be examples of prohibited self-prescribing. Dr. Munzing opined that these prescriptions were issued outside the California standard of care. FF 62. As Dr. Munzing noted at the hearing, these prescriptions do not contain any indication they were intended for office use, and instead represent instances of Respondent prescribing a controlled drug to herself, in violation of California law and the California standard of care. FF 57; Tr. 206–10; Cal. Health & Safety Code § 11170. [*Omitted.]

Several of the prescriptions were also issued outside the standard of care in California to the extent that they prescribed an extremely high number of pills. FF 59–60. Three prescriptions authorized by Respondent for herself were written for 300, 450, and 600 tablets of phentermine, respectively. FF 59. Phentermine is a Schedule IV controlled substance. Stip. 11. Dr. Munzing testified that 600 tablets of phentermine is “an incredibly high number.” Tr. 213. Further, he added that 450 pills of phentermine are excessive, and a prescription for 450 phentermine tablets would be outside the standard of care in California. Tr. 247–48.

It is also significant that, according to Dr. Munzing, four of the prescriptions

Findings of Fact. See FF 61–62, 65–67; GE–7, at 4, 177.

Respondent issued to herself contained dosing instructions. FF 63. Because dosing instructions are typically tailored to the patient’s needs at the time of seeing the patient, as opposed to when the substance is obtained, the fact that these four prescriptions are accompanied with specific dosing directions strongly suggests that the prescribed substances were intended to be used by the named patient (*i.e.*, Respondent) and not used as office stock from which to supply other patients. Tr. 226–27.

Thus, Dr. Munzing’s assessment of the prescriptions in Government Exhibit 7 demonstrate that Respondent issued numerous prescriptions outside the course of professional practice in California by prescribing controlled substances to herself, and in a few instances, by prescribing an “incredibly high number” of tablets to herself. *Id.* at 213. In evaluating these prescriptions, Dr. Munzing referred repeatedly to the standard of care in California and based his expert opinion on the assessment that these prescriptions were not issued in the course of professional practice. Essentially, Dr. Munzing’s testimony regarding Government Exhibit 7 overlooked the second aspect of the prescription requirement, namely that a prescription must be issued for legitimate medical treatment to be valid. The fact that Dr. Munzing’s testimony focused almost exclusively on only one end of the equation, however, is inconsequential. See *Wesley Pope, M.D.*, 82 FR 14,944, 14,967 n.38 (2017) (explaining “there is no material difference between” the dual criteria of Section 1306.04(a)). Prescribing a controlled substance outside the course of professional practice is enough to violate DEA’s prescription requirement. *Id.*

Further, Respondent’s post-hearing attempt to blame the pharmacy for incorrectly filling the “office use” prescriptions cannot be considered as evidence. See *supra* note 9; ALJ–51, at 15–16.*P

*P [Respondent argues that the prescriptions to herself were the fault of E-Compounding Pharmacy’s record systems and that the pharmacy “should have used an invoice and not a prescription number when billing [her] orders.” Resp Exceptions, at 25. Regardless of whether the pharmacy also erred in filling these prescriptions in this manner, Respondent cannot pass all of the blame on the pharmacy and expect that she absolves herself of responsibility. I do not find her argument credible that she would have no way of knowing that the pharmacy was recording her prescriptions this way. ALJ–51, at 15. The evidence contains several fax cover sheets from her office, “Beauty Mark Wellness Center,” listing prescription orders and indicating “Office Use.” See *e.g.*, GE–7, at 146, 150, 152, 160, 166, 171, 173, 175, 177, 178. Further, the evidence also includes a prescription

Accordingly, the allegation that Respondent issued at least 40 prescriptions to herself for controlled substances between February 16, 2010, and November 29, 2012, outside the course of professional practice and without a legitimate medical purpose, as alleged in paragraph 8(a) of the OSC, and in violation of 21 CFR 1306.04(a) and (b), and Cal. Health & Safety Code § 11170, is *sustained*. This sustained allegation weighs in favor of revoking Respondent's registration and denying her pending application.

Prescribing to S.P.

The Government also alleged that between April 21, 2012, through June 12, 2014,³⁴ Respondent issued at least 35 prescriptions³⁵ to S.P. outside the course of professional practice or for other than a legitimate medical purpose, in violation of 21 CFR 1306.04(a), Cal. Bus. & Prof. Code § 2242(a), and Cal. Health & Safety Code § 11153(a). ALJ-1, at 3-4, para. 8(b). Specifically, the Government alleged that Respondent issued the prescriptions to S.P. without conducting a medical examination or documenting a medical examination in S.P.'s patient record.³⁶ ALJ-1, at 4, para. 8(b).

Title 21 CFR 1306.04(a) details the requirements for issuing a valid prescription. That section states that for a prescription to be effective it "must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of [her] professional practice." 21 CFR 1306.04(a). That section further provides that "[a]n order purporting to be a prescription issued

not in the usual course of professional treatment . . . is not a prescription within the meaning and intent of [the Controlled Substances Act]." *Id.* The Cal. Health & Safety Code § 11153(a) closely parallels the language contained in 21 CFR 1306.04(a). Furthermore, the Cal. Health & Safety Code § 2242(a) provides that "[p]rescribing, dispensing, or furnishing dangerous drugs . . . without an appropriate prior examination and a medical indication, constitutes unprofessional conduct."

Dr. Munzing testified that under the standard of care in California, a practitioner must maintain a medical record for a patient to whom controlled substances are prescribed. FF 51-53; Tr. 180. Specifically, to meet the California standard of care, the patient's medical record must contain: Details of the medical exam, such as medical history, informed consent, diagnosis, and management plan; results of laboratory testing or imaging; PMP reports; and results of drug tests. FF 54. Notes pertaining to the medical examination itself would likely comprise the bulk of the patient's file, and would narrate details of the patient-physician encounter, including: Current complaint; review of symptoms; cause of the complaint; patient's history of drug and alcohol use; physical examination; and risk and benefits of treatment options. Tr. 176-80.

In this case, the DEA investigators asked Respondent for patient charts when they first went to her home on March 13, 2014. FF 10. While Respondent did have some patient charts in her home, she did not have all of the charts that DEA wanted. FF 11-13. Then again on June 13, 2014, investigators were in Respondent's home looking for specific patient charts, to include a chart for Respondent's husband, S.P. FF 44; Tr. 107. The chart for S.P. was not located during either the AIW or the execution of the search warrant. FF 13, 44. Further, S.P.'s patient file is not part of the Administrative Record. As with the initial inventory, the fact that Respondent did not provide S.P.'s medical file when requested to do so by the investigators and has not produced it during the course of these proceedings strongly suggests that Respondent never created a medical file for her husband. *See Odette L. Campbell, M.D.*, 80 FR 41,062, 41,078 (2015) (reasoning that investigator's inability to find 222 Forms and registrant's failure to provide them demonstrates non-compliance).

Here, the Administrative Record demonstrates that between April 21, 2012, and June 12, 2014, Respondent wrote at least 27 prescriptions for

controlled substances for S.P. FF 55; GE-8, at 27. Unfortunately, there is no medical record documenting that Respondent performed "an appropriate prior examination" and formulated "a medical indication" concerning S.P. before issuing him prescriptions for controlled substances. *See* Cal. Health & Safety Code § 2242(a). By issuing those 27 prescriptions to S.P., without documenting the required medical examination, Respondent engaged in "unprofessional conduct." *Id.* Further, because there is no medical record for S.P., the 27 prescriptions that Respondent issued to S.P. for controlled substances were issued outside the standard of care in California. FF 55.

Accordingly, that portion of the Government's allegation that Respondent wrote 27 prescriptions for controlled substances to S.P. outside the course of professional practice and for other than a legitimate medical purpose, as alleged in paragraph 8(b) of the OSC, in violation of 21 CFR 1306.04(a), Cal. Bus. & Prof. Code § 2242(a), and Cal. Health & Safety Code § 11153(a) is *sustained*. This sustained allegation weighs in favor of revoking Respondent's registration and denying her pending application. [*Omitted.]

*[*Lack of Candor*

The Government alleged that the Respondent's lack of candor during the investigation should be considered under Factor Five to provide further weight that Respondent's continued registration is not in the public interest. ALJ-1, at 4, para. 9. The ALJ considered this evidence accordingly under Factor Five, and although I agree with both the ALJ and the Government that in prior DEA decisions,³⁷ I have often weighed lack of candor under Factor Five, I find it appropriate in this case, given the nature of Respondent's lack of candor, to consider this under my sanctions analysis. I am retaining the ALJ's analysis of the allegation regarding lack

³⁷Q [The RD stated that "[t]he DEA has consistently held that "[c]andor during DEA investigations, regardless of the severity of the violations alleged, is considered by the DEA to be an important factor when assessing whether a physician's registration is consistent with the public interest." *Hassman*, 75 FR at 8236 (internal citations and quotations omitted); *see also Hoxie*, 419 F.3d at 483. For example, the DEA held that a respondent's lack of candor weighed against his registration under Factor Five when he lied to DEA investigators "when first confronted" about his wrongful conduct. *Scalera*, 78 FR at 12,100. The DEA "places great weight on a registrant's candor, both during an investigation and in any subsequent proceeding." *Robert F. Hunt, D.O.*, 75 FR 49,995, 50,004 (2010) (citing *The Lawsons, Inc.*, 72 FR 74334, 74338 (2007)). Thus, the DEA may consider a respondent's lack of candor to be a threat to public health and safety. *Annicol Marrocco, M.D.*, 80 FR 28,695, 28,705 (2015)." RD, at 52.]

signed by Respondent from her prescription pad indicating, "Office Use." GE-7, at 164. Therefore, the evidence on the record does not support Respondent's contention that the blame for the manner in which these prescriptions were recorded and filled lies with the pharmacy and not on her, and I agree with the ALJ's findings regarding these prescriptions.]

³⁴ The Government has not identified which prescriptions match these dates. Of the prescriptions identified by the Government at the hearing, the earliest prescription was written on March 30, 2012, and the most recent was written on September 16, 2014. GE-8, at 27, 67.

³⁵ In its Post-Hearing Brief, the Government asserts that Respondent wrote "approximately 50 prescriptions for controlled substances" to S.P., ALJ-50, at 9, 16, but makes no effort to explain how it came up with that number, except citing to Government Exhibit 8. *See supra* note 6.

³⁶ The OSC also alleged that California regulations "explicitly provide that the failure to . . . document . . . an evaluation in a patient's record, means that the physician is not prescribing in the usual course of professional practice." ALJ-1, at 4, para. 8. Neither the OSC nor the Government's Post-Hearing Brief identify any California regulation that supports this allegation. ALJ-1, at 4; ALJ-50, at 16. Rather, the Government's Post-Hearing Brief focuses on Respondent's failure to produce the medical record for S.P. ALJ-50, at 16.

of candor and will consider it more thoroughly in the Sanctions below.]

Here, the Government alleged that Respondent displayed a lack of candor during DEA's investigation. ALJ-1, at 4, para. 9. Specifically, the Government alleged that in March 2014 Respondent told DEA investigators that patient files they requested "were not there," and that at least some of the missing files were at a location in Lake Forest, California, for which she did not know the address. *Id.* The Government also alleged that during subsequent questioning, Respondent again stated that the charts requested by the DEA were at another location, and that the dispensing log that DEA requested were with the missing charts, but she did not know the location. *Id.* Finally, the Government alleged that in June 2014, Respondent told a Medical Board investigator that she did not know who owned the marijuana that was found in a suitcase in the garage of her registered location, despite the fact that additional stashes of marijuana and large amounts of cash were discovered throughout her registered location and she and her husband were the only individuals who lived there. *Id.*³⁷

As with any allegation, the Government bears the burden of proof regarding its claim that Respondent "displayed a lack of candor during DEA's investigation." ALJ-1, at 4, para. 9. Concerning this allegation, the Government primarily focuses on statements that Respondent made to investigators while they were at her home on both March 13, 2014, and June 13, 2014. FF 10, 12, 14, 27, 38, 43, 45.

When DEA investigators were at Respondent's home on March 13, 2014, they asked her for some patient charts. FF 10. While Respondent apparently provided some patient charts, which were in her garage, FF 11, she also told the DEA investigators that other requested patient records were at a storage facility in Lake Forest, California, but she did not know the address of the facility or where it was located. FF 12. Respondent had similar conversations with the DEA investigators concerning her dispensing logs. FF 14. She informed the investigators that her dispensing logs were with the patient records in a storage facility. *Id.* Apparently, these statements were not true.

In a subsequent interview conducted by Special Agent SA 1, Respondent told her that all of the patient charts were located in Respondent's garage. FF 27.

³⁷ * [Omitted. I find it unnecessary to consider the marijuana, firearms and cash under Factor Five in this case.]

Subsequently, on June 13, 2014, Respondent's dispensing log, what there was of it, was found and seized from Respondent's office. GE-14, at 9; RE-1.*^R During that search, Respondent also told the investigators that her husband's medical chart was located in pieces around her house, but the file was never found. FF 45. In addition, during the search on June 13, 2014, a significant amount of marijuana was found in Respondent's home, though none was found in her office. FF 40-41; GE-14, at 4, 14. Despite the quantity of marijuana that was seized and the fact that marijuana was found in the kitchen and bedroom of Respondent's home, as well as in the garage, she claimed she had no knowledge of how it came to be in her home. FF 43. All of this evidence is un rebutted.

The Administrative Record established by a preponderance of the evidence that Respondent was not truthful in her dealings with DEA investigators when they were at her home on March 13, 2014, and again on June 13, 2014. When questioned about missing patient charts and dispensing records, Respondent initially stated that the charts and records were not at her registered location, but rather were at another location. She also professed no knowledge of where that location was. Later, it was determined that the location was the home of her mother-in-law, a location she surely knew. Eventually, her dispensing log was found in her office, rather than at the home of her mother-in-law. When questioned about the marijuana found in her home, Respondent claimed she had no idea where it came from. As

*^R [Respondent notes that "all three agents testified that they never seized the dispensing log of Ex. 1, when in fact they did." Resp Exceptions, at 20. She implies that the facts demonstrate lack of candor on the Government's behalf, rather than her own. I disagree. It is clear that the reason that the Government did not possess the dispensing log was not adequately explained in the record; however, I agree with the ALJ that the testimony that the Government witnesses presented was credible that they had not seen the log prior to the hearing. I have fully considered the dispensing log in Respondent's favor. Regarding Respondent's candor, there is un rebutted testimony that Respondent made a variety of inconsistent statements about the whereabouts of her records, and when Respondent was testifying on cross examination, she avoided questions regarding the dispensing log before ultimately saying that she did not recall whether or not she provided the dispensing log to the investigators. Tr. 309-12. Also, there is no dispute that no dispensing log was provided to or located by the investigators in March, when the dates on the dispensing log suggest that it existed during the AIW. Ultimately, I am not considering Respondent's lack of candor under the public interest analysis, but I am considering her lack of cooperation with the investigation and inconsistent statements in my decision regarding whether she can be entrusted with a DEA registration below.]

stated earlier, given the quantity and the locations of where the marijuana was found in Respondent's home, her claimed lack of knowledge strains credibility.

Accordingly, the Government's allegation, contained in paragraph 9 of the OSC, that Respondent displayed a lack of candor during the DEA investigation is *sustained*. * [Omitted. As previously stated, I am considering Respondent's lack of candor under the Sanction section below.]

* [Lack of State Authority in Florida

According to Florida's online records, of which I take official notice, Respondent's license is "delinquent." *^S Florida Department of Health License Verification, <https://mqa-internet.doh.state.fl.us/MQASearchServices/HealthCareProviders> (last visited date of signature of this Order). Respondent confirmed that her license to practice medicine in Florida had expired. Tr. 307; RE-2. Accordingly, I find that Respondent currently is not licensed to engage in the practice of medicine in Florida, the state in which Respondent has applied to transfer her DEA registration.

According to Florida statute, "A practitioner, in good faith and in the course of his or her professional practice only, may prescribe, administer, [or] dispense . . . a controlled substance." Fla. Stat. Ann. § 893.05(1)(a). Further, "practitioner," as defined by Florida statute, includes "a physician licensed under chapter 458." Fla. Stat. Ann. § 893.02(23). *^T

Here, the undisputed evidence in the record is that Respondent's license to practice medicine in Florida is currently delinquent. As such, she is not a "practitioner" as that term is defined by Florida statute. As already discussed, however, a physician must be a practitioner to dispense a controlled substance in Florida. Thus, because

*^S [Under the Administrative Procedure Act, an agency "may take official notice of facts at any stage in a proceeding—even in the final decision." United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), "[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary." Accordingly, Registrant may dispute my finding by filing a properly supported motion for reconsideration of finding of fact within fifteen calendar days of the date of this Order. Any such motion shall be filed with the Office of the Administrator and a copy shall be served on the Government. In the event Registrant files a motion, the Government shall have fifteen calendar days to file a response. Any such motion and response may be filed and served by email (dea.addo.attorneys@dea.usdoj.gov).]

*^T [Chapter 458 regulates medical practice.]

Respondent lacks authority to practice medicine in Florida, she is not currently authorized to handle controlled substances in Florida. Accordingly, I am ordering that Respondent's application for a DEA registration in Florida be denied both because granting the application would be inconsistent with the public interest and because she lacks the requisite state authority.]

Discussion and Conclusions of Law

With minor modification I have sustained all of the Government's allegations against Respondent concerning her: (1) Improper storage of controlled substances; (2) failing to maintain proper inventories and dispensing logs; (3) improperly prescribing controlled substances to herself and "for office use"; (4) improperly prescribing to S.P. without maintaining a medical record for S.P.; and (5) displaying a lack of candor during the investigation. In sustaining each of these allegations, I have also found that Respondent violated one or more DEA regulations, and one or more regulations of the State of California relating to the practice of medicine and/or controlled substances. I also sustained an allegation that Respondent was unable to account for a significant amount of the controlled substances that she had in her office in March of 2014 when investigators inventoried the controlled substances found in her office on June 13, 2014. Respondent's inability to account for those controlled substances is not a separate violation of DEA regulations, but rather is a result of failure to maintain adequate records as required by both the DEA and the State of California. Finally, although the OSC alleged that Respondent had violated 21 CFR 1306.04 and the Cal. Health and Safety Code § 11350 by possessing controlled substances belonging to other individuals, I did not sustain that allegation.

Specifically, I have found that Respondent failed to properly store a significant amount of controlled substances that she kept in her office in violation of 21 CFR 1301.75(b). Her failure to do so is aggravated by the fact that after being advised on March 13, 2014, and again on April 4, 2014, that her storage was non-compliant, the controlled substances were still improperly stored on June 13, 2014. I have also found that Respondent was deficient in that she: Failed to maintain an initial inventory of the controlled substances she kept at her registered location in violation of 21 U.S.C. 827(b) and 21 CFR 1304.04(a); failed to maintain complete and accurate dispensing records in violation of 21

U.S.C. 827(a)(3), 21 CFR 1304.22(c), and Cal. Health & Safety Code § 11190; and that she failed to maintain receiving records as is required by 21 U.S.C. 827 and 842(a)(5), and 21 CFR 1304.21(a). As a result of Respondent's recordkeeping failures, the DEA was not able to conduct a reliable audit of the controlled substances Respondent stored in her office and she was not able to account for a significant amount of her controlled substances, which creates a grave risk of diversion. *See The Medicine Shoppe*, 79 FR at 59,516. Respondent's inability to account for a significant amount of controlled substances further supports the conclusion that she violated federal law by failing to maintain complete and accurate records of those controlled substances. *Fred Samimi, M.D.*, 79 FR 18,698, 18,712–13 (2014).

In addition, I also found that Respondent had issued numerous prescriptions for no legitimate medical purpose and outside the usual course of professional practice in violation of 21 CFR 1306.04(a) and (b), and Cal. Health & Safety Code § 11170. Specifically, Respondent improperly issued 168 prescriptions between February 16, 2010 and November 29, 2012, that were either written for herself or for office use instead of for a particular patient, and between March 30, 2012 and September 16, 2014, she wrote at least 32 prescriptions for controlled substances for S.P. without having a medical record for him. Finally, I have found that Respondent was less than candid in her dealing with DEA investigators, misleading them concerning the existence and/or the location of records and her knowledge about marijuana that was found in her home.

Prima Facie Showing and Balancing

In this case Factors One and Three weigh neither for nor against revocation. However, Factors Two and Four strongly weigh in favor of revoking Respondent's COR and denying her pending application because of her improper storage, improper recordkeeping, and improper prescribing to herself and her husband. * [Omitted sentence.] Considering the public interest factors in their totality, I find that the Government has made a *prima facie* case showing that Respondent's registration is inconsistent with the public interest.

After the Government presents a *prima facie* case for revocation, a respondent has the burden of production to present "sufficient mitigating evidence" to show why she can be entrusted with a DEA registration. *See Medicine Shoppe—*

Jonesborough, 73 FR 364, 387 (2008) (quoting *Samuel S. Jackson, D.D.S.*, 72 FR 23848, 23853 (2007)). To rebut the Government's *prima facie* case and escape sanction, a respondent must both accept responsibility for her actions and demonstrate that she will not engage in future misconduct. *Patrick W. Stodola, M.D.*, 74 FR 20,727, 20,734–35 (2009). Additionally, a respondent must introduce evidence of remedial measures. *Jeri Hassman, M.D.*, 75 FR 8194, 8235–36 (2010).

A respondent may accept responsibility by providing evidence of her remorse, her efforts at rehabilitation, and her recognition of the severity of her misconduct. *See Robert A. Leslie, M.D.*, 68 FR 15,227, 15,228 (2003). To accept responsibility, a respondent must show "true remorse" for wrongful conduct. *Michael S. Moore, M.D.*, 76 FR 45,867, 45,877 (2011). An expression of remorse includes acknowledgment of wrongdoing. *See Wesley G. Harline, M.D.*, 65 FR 5665, 5671 (2000). A respondent must express remorse for all acts of documented misconduct. *Jeffrey Patrick Gunderson, M.D.*, 61 FR 26,208, 26,211 (1996). Acceptance of responsibility and remedial measures are assessed in the context of the "egregiousness of the violations and the [DEA's] interest in deterring similar misconduct by [the] Respondent in the future as well as on the part of others." *David A. Ruben, M.D.*, 78 FR 38,363, 38,364 (2013).

Here, the Government accurately argued in its Post-Hearing Brief that the "Respondent has not accepted responsibility for her actions." ALJ–50, at 21. While Respondent presented limited testimony to identify Respondent's Exhibits 1 and 2, she presented no testimony concerning the allegations contained in the OSC or concerning whether she accepted responsibility for her conduct that was proven by a preponderance of the evidence. I find, therefore, that Respondent has not accepted any responsibility for the allegations that I have sustained.³⁸

³⁸The Government has also urged that I draw an adverse inference concerning acceptance of responsibility as well as violating Federal and State laws and regulations. ALJ–50, at 22. I decline to do so. I decline simply because it is unnecessary to do so in this case. Even without the adverse inference the preponderance of the evidence establishes each of the allegations I have sustained, and the Administrative Record is already devoid of any acceptance of responsibility. * [Respondent repeatedly notes in her Exceptions that she believes an adverse inference was drawn against her for not presenting testimony at the hearing. *See Resp Exceptions*, at 3, 21, 27. It is noted that although the Government did request such an inference, the ALJ did not draw one.]

Notwithstanding the fact that the Government has made a *prima facie* case for sanction, imposing a sanction is a matter of discretion. *See* 21 U.S.C. 824(a) (“A registration . . . may be suspended or revoked by the Attorney General . . .”) (emphasis added); *Martha Hernandez, M.D.*, 62 FR 61,145, 61,147 (1997) (referring to Administrator’s authority to exercise discretion in issuing the appropriate sanction). Even where a respondent does not accept responsibility, the DEA is still tasked with determining the appropriate sanction, and will examine: (1) “The egregiousness and extent of a registrant’s misconduct,” and (2) the DEA’s interest in specific and general deterrence. *Fred Samimi, M.D.*, 79 FR 18,698, 18,713–14 (2014); *see Daniel A. Glick, D.D.S.*, 80 FR 74,800, 74,810 (2015) (analyzing egregiousness and deterrence even though the registrant failed to tender an unequivocal acceptance of responsibility); *Jacobo Dreszer, M.D.*, 76 FR 19,386, 19,387–88 (2011) (explaining that “even though the Government has made out a *prima facie* case” for sanction, the registrant remains free to argue that “his conduct was not so egregious as to warrant revocation”).

When considering whether Respondent’s continued registration is consistent with the public interest, I must consider both the egregiousness of her violations and the DEA’s interest in deterring future misconduct by both Respondent as well as other registrants. *David A. Ruben, M.D.*, 78 FR 38,363, 38,364 (2013). “In short, this is not a contest in which score is kept; the Agency is not required to mechanically count up the factors and determine how many favor the Government and how many favor the registrant. Rather, it is an inquiry which focuses on protecting the public interest; what matters is the seriousness of the registrant’s misconduct.” *Richard J. Settles, D.O.*, 81 FR 64,940, 64,945 n.17 (2016) (quoting *Jayam Krishna-Iyer, M.D.*, 74 FR 459, 462 (2009)).

I find that Respondent’s multiple and repeated recordkeeping, security, and prescribing violations, coupled with her lack of candor, are sufficiently egregious to warrant revocation. To begin, “[r]ecordkeeping is one of the CSA’s central features; a registrant’s accurate and diligent adherence to this obligation is absolutely essential to protect against diversion of controlled substances.” *Superior Pharmacy I & Superior Pharmacy II*, 81 FR 31,310, 31,321 n.14 (2016) (quoting *Paul H. Volkman, M.D.*, 73 FR 30,630, 30,644 (2008)). Respondent’s recordkeeping shortcomings prevented the DEA from

being able to conduct a reliable audit. Tr. 25. Due to the shortcomings, Respondent was unable to account for a significant number of controlled substances in June 2014, which creates the risk of diversion. *See The Medicine Shoppe*, 79 FR at 59,516. Respondent’s storage violations also raise diversion concerns. The physical security of controlled substances is required to prevent unlawful diversion. *Jerry Neil Rand, M.D.*, 61 FR 28,895, 28,897 (1996).

In addition, while Respondent wrote 200 illegal prescriptions, only a few instances of illegal prescribing can be sufficient to support revocation of a registration. For instance, in *Alan H. Olefsky, M.D.*, the DEA imposed revocation based on evidence of only two fraudulent prescriptions.³⁹ 57 FR 928, 928–29 (1992). In *James Clopton, M.D.*, the DEA denied the respondent’s application on evidence that he wrote only four unlawful prescriptions. 79 FR 2475, 2475–77 (2014). Although the record contained additional evidence of recordkeeping violations, the Administrator viewed the unlawful prescriptions as “reason alone to deny [respondent’s] application.” *Id.* at 2478. [* Omitted.]

Further, when determining whether revocation is appropriate, the DEA “places great weight on an [applicant’s] candor, both during an investigation and in [a] subsequent proceeding.” *Robert F. Hunt, D.O.*, 75 FR 49,995, 50,004 (2010). [* Omitted.] [Respondent’s found lack of candor and inconsistent statements during the investigation demonstrates an unwillingness to cooperate with this agency in future compliance inspections. Truthful cooperation with agency requests for information ensures that agency officials can easily monitor and ensure compliance with the CSA and help to correct violations. *See Jeffrey Stein, M.D.*, 84 FR 46,968, 46,973 (2019) (finding that a registrant’s honesty during law enforcement regulations is “crucial to the Agency’s ability to complete its mission of preventing diversion within such a large regulated population”). In order to entrust Respondent with a registration, I need to know that she will not repeat her dishonest behavior, and in this case,

³⁹ Additionally, in the *Olefsky* case, the registrant argued in his exceptions to the ALJ’s recommended ruling that suspension of his license was disproportionate to the proven misconduct, which was limited to two fraudulent prescriptions presented on one occasion. 57 FR at 929. The Administrator rejected the registrant’s exception and ruled that “[r]evocation [was] an acceptable remedy.” *Id.*

she has given me no reason to believe that I can trust her.

Furthermore, although Registrant contends that DEA and state investigators should have “point[ed] out any of the mistakes [she] made, help[ed] [her] fix her mistakes,” Resp Exceptions, at 18, the evidence on the record demonstrated that even after being explicitly told on at least two occasions that her controlled substances required additional security, she failed to adequately secure them. As such, I cannot be assured that Registrant would amend her behavior in the future to avoid repeating the violations found herein.]

Finally, as well as considering the egregiousness of Respondent’s violations, I must also consider the DEA’s interest in deterring future misconduct by both the respondent as well as other registrants. *David A. Ruben, M.D.*, 78 FR 38,363, 38,364 (2013). “Consideration of the deterrent effect of a potential sanction is supported by the CSA’s purpose of protecting the public interest.” *Joseph Gaudio, M.D.*, 74 FR at 10,094. Further, given all of the above facts, I find that considerations of both specific and general deterrence weigh in favor of revocation in this case.

Recommendation

The Government established that Respondent’s continued registration is inconsistent with the public interest because of her improper: Storage; recordkeeping; and prescribing; and her lack of candor. Once the Government made a *prima facie* case for sanction, the burden shifted to Respondent to demonstrate that she could be entrusted with a DEA COR. For her part, Respondent was required to accept responsibility and demonstrate remedial measures; however, she failed to accept any responsibility for her misconduct. Respondent’s failure to acknowledge any wrongdoing whatsoever exacerbates the egregiously sub-standard manner in which she prescribed controlled substances in this case and her total failure to properly store controlled substances after being told how to do so. A practitioner who refuses to acknowledge the severe deficiencies in her security, recordkeeping, prescribing, and candor cannot be entrusted with the ability to continue prescribing controlled substances. Accordingly, I **RECOMMEND** that Respondent’s DEA COR, Number BM5370123, be **REVOKED**, and that her pending application, control number W15069021C, for renewal or modification of her registration, be **DENIED**.

Dated: April 5, 2018.
 Charles Wm. Dorman,
U.S. Administrative Law Judge.
 [FR Doc. 2021-06583 Filed 3-30-21; 8:45 am]
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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Eric R. Shibley, M.D.; Decision and Order

On October 16, 2020, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (hereinafter, DEA or Government), issued an Order to Show Cause (hereinafter, OSC) to Eric R. Shibley, M.D. (hereinafter, Registrant) of Seattle, Washington. OSC, at 1. The OSC proposed the revocation of Registrant's Certificate of Registration No. FN1977290. It alleged that Registrant is without "authority to handle controlled substances in the State of Washington, the state in which [Registrant is] registered with the DEA." *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).

Specifically, the OSC alleged that the Washington Medical Commission issued an Ex Parte Order of Summary Suspension on August 17, 2020. *Id.* at 1. This Order, according to the OSC, summarily suspended Registrant's state Physician and Surgeon License because of Registrant's "improper prescribing of controlled substances." *Id.* at 1–2. The OSC concluded that because Registrant's medical license was suspended, Registrant lacks the authority to handle controlled substances in the State of Washington. *Id.* at 2.

The OSC notified Registrant of the right to request a hearing on the allegations or to submit a written statement, while waiving the right to a hearing, the procedures for electing each option, and the consequences for failing to elect either option. *Id.* at 2 (citing 21 CFR 1301.43). The OSC also notified Registrant of the opportunity to submit a corrective action plan. OSC, at 2–3 (citing 21 U.S.C. 824(c)(2)(C)).

Adequacy of Service

A DEA Diversion Investigator (hereinafter, DI) served the OSC on Registrant's legal counsel on October 19, 2020. Request for Final Agency Action, dated December 31, 2020 (hereinafter, RFAA), Exhibit (hereinafter, RFAAX) 9 (DI's Declaration). By email dated November 2, 2020, Registrant's counsel informed the DI that "he forwarded a copy of the [OSC] to [Registrant]" and that Registrant "did not plan to contest the matters raised in the [OSC]." *Id.* at

2; see also RFAAX 5 (Email chain—DEA and Registrant's counsel), at 1.

The Government forwarded its RFAA, along with the evidentiary record, to this office on December 31, 2020. In its RFAA, the Government represented that "more than 30-days have passed since Registrant received the [OSC]; however, Registrant has not submitted to DEA a request for hearing."¹ RFAA, at 2. The Government requested an issuance of an agency final order that "(1) holds that Registrant has waived his opportunity for a hearing, and otherwise failed to respond to the OTSC; and (2) revokes Registrant's DEA COR pursuant to 21 U.S.C. 802(21), 823(f) and 824(a)(3)." *Id.* at 2.

Based on the DI's Declaration, the Government's written representations, and my review of the record, I find that the Government accomplished service of the OSC on Registrant by November 2, 2020. I also find that more than thirty days have now passed since the Government accomplished service of the OSC. Further, based on the Government's written representations, I find that neither Registrant, nor anyone purporting to represent the Registrant, requested a hearing, submitted a written statement while waiving Registrant's right to a hearing, or submitted a corrective action plan. Accordingly, I find that Registrant has waived the right to a hearing and the right to submit a written statement and corrective action plan. 21 CFR 1301.43(d) and 21 U.S.C. 824(c)(2)(C). I, therefore, issue this Decision and Order based on the record submitted by the Government, which constitutes the entire record before me. 21 CFR 1301.43(e).

Findings of Fact

Registrant's DEA Registration

Registrant is the holder of DEA Certificate of Registration No. FN1977290 at the registered address of 4700 36th Avenue SW, Seattle, Washington 98126. RFAAX 1, at 1. Pursuant to this registration, Registrant is authorized to dispense controlled substances in schedules II through V as a practitioner. *Id.*

The Status of Registrant's State License

On August 17, 2020, the State of Washington Department of Health Washington Medical Commission (hereinafter, Commission) issued an Ex Parte Order of Summary Suspension (hereinafter, Order of Summary Suspension) suspending Registrant's

¹ The Government also represents that the Registrant has not "otherwise filed a response with the agency following the issuance of the OTSC." RFAA, at 2.

license to practice as a physician and surgeon in Washington State. RFAAX 3, at 1. According to the Order of Summary Suspension, Registrant prescribed controlled substances on multiple occasions from January 2, 2020, to July 1, 2020, while under an Order of Summary Restriction issued by the Commission. *Id.* at 2.

The Order of Summary Restriction issued on January 2, 2020, "demonstrated Respondent's substandard care of patients with regard to his prescribing of controlled substances posed an immediate risk to patients and the public welfare." *Id.* at 2. The Order of Summary Suspension concluded that "[b]ecause [Registrant] has continued to prescribe controlled substances in direct violation of the Commission's Order, he remains an imminent threat to public safety." *Id.*

The Order of Summary Suspension ordered the summary suspension of Registrant's license to practice as a physician and surgeon "pending further disciplinary proceedings by the Commission." *Id.* at 3.

According to Washington's online records, of which I take official notice, Registrant's license is still summarily suspended.² Washington State Department of Health Provider Credential Search, <https://fortress.wa.gov/doh/providercredentialsearch/> (last visited date of signature of this Order). Washington's online records show that Registrant's medical license remains revoked. *Id.*

Accordingly, I find that Registrant currently is neither licensed to engage in the practice of medicine nor registered to dispense controlled substances in Washington, the state in which Registrant is registered with the DEA.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued

² Under the Administrative Procedure Act, an agency "may take official notice of facts at any stage in a proceeding—even in the final decision." United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), "[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary." Accordingly, Registrant may dispute my finding by filing a properly supported motion for reconsideration of finding of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to Office of the Administrator, Drug Enforcement Administration at dea.addo.attorneys@dea.usdoj.gov.

under section 823 of the Controlled Substances Act (hereinafter, CSA) “upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.” With respect to a practitioner, the DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner’s registration. *See, e.g., James L. Hooper, M.D.*, 76 FR 71,371 (2011), *pet. for rev. denied*, 481 F. App’x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.*, 43 FR 27,616, 27,617 (1978).

This rule derives from the text of two provisions of the CSA. First, Congress defined the term “practitioner” to mean “a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.” 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner’s registration, Congress directed that “[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.” 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner’s registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper*, 76 FR at 71,371–72; *Sheran Arden Yeates, M.D.*, 71 FR 39,130, 39,131 (2006); *Dominick A. Ricci, M.D.*, 58 FR 51,104, 51,105 (1993); *Bobby Watts, M.D.*, 53 FR 11,919, 11,920 (1988); *Frederick Marsh Blanton*, 43 FR at 27,617.

According to Washington statute, “A practitioner may dispense or deliver a controlled substance to or for an individual or animal only for medical treatment or authorized research in the ordinary course of that practitioner’s profession.” Wash. Rev. Code § 69.50.308(j) (West, Westlaw current with effective legislation through Chapter 5 of the 2021 Regular Session of the Washington Legislature). Additionally, a “‘prescription’ means

an order for controlled substances issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe controlled substances within the scope of his or her professional practice for a legitimate medical purpose.” Wash. Rev. Code § 69.50.101(nn) (West, Westlaw current with effective legislation through Chapter 5 of the 2021 Regular Session of the Washington Legislature). Further, “practitioner,” as defined by Washington statute, includes, “[a] physician under chapter 18.71 RCW.” *Id.* at 69.50.101(mm)(1).

Here, the undisputed evidence in the record is that Registrant currently lacks authority to practice medicine in Washington. As already discussed, a physician must be a licensed practitioner to dispense or prescribe a controlled substance in Washington. Thus, because Registrant lacks authority to practice medicine in Washington and, therefore, is not authorized to handle controlled substances in Washington, Registrant is not eligible to maintain a DEA registration. Accordingly, I will order that Registrant’s DEA registration be revoked.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. FN1977290 issued to Eric R. Shibley. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(f), I hereby deny any pending application of Eric R. Shibley to renew or modify this registration, as well as any other application of Eric R. Shibley, for additional registration in Washington. This Order is effective April 30, 2021.

D. Christopher Evans,

Acting Administrator.

[FR Doc. 2021–06582 Filed 3–30–21; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 21–4]

Roozbeh Badii, M.D.; Decision and Order

On October 15, 2020, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (hereinafter, DEA or Government), issued an Order to Show Cause (hereinafter, OSC) to Roozbeh Badii, M.D. (hereinafter, Respondent) of McLean, Virginia. OSC, at 1. The OSC proposed the revocation of

Respondent’s Certificate of Registration No. FB0526307. It alleged that Respondent is without “authority to handle controlled substances in the State of Virginia, the state in which [Respondent is] registered with the DEA.” *Id.* at 2. (citing 21 U.S.C. 824(a)(3)).

Specifically, the OSC alleged that the Virginia Department of Health Professions (hereinafter, VDHP) issued an Order of Mandatory Suspension on May 12, 2020. OSC, at 2. This Order, according to the OSC, immediately suspended Respondent’s Virginia state medical license. *Id.* “The VDHP ruling was issued following its finding, *inter alia*, of a prior ruling by the Maryland State Board of Physicians suspending [Respondent’s] medical license in that state.” *Id.*

The OSC notified Respondent of the right to request a hearing on the allegations or to submit a written statement, while waiving the right to a hearing, the procedures for electing each option, and the consequences for failing to elect either option. *Id.* (citing 21 CFR 1301.43). The OSC also notified Respondent of the opportunity to submit a corrective action plan. OSC, at 3. (citing 21 U.S.C. 824(c)(2)(C)).

By letter dated November 19, 2020, Respondent timely requested a hearing.¹ Hearing Request, at 1. According to the Hearing Request, Respondent’s Virginia medical license was suspended because the board of medicine in the state of Maryland believed that Dr. Badii practiced medicine while being impaired psychologically and the state of Virginia, “simply rubber stamped the findings of the state of Maryland.” *Id.* Respondent’s Hearing Request also claimed that “other states do not consider him currently impaired in any capacity,” and that Respondent wanted the opportunity to “prove that he is mentally healthy and no current threat to his patients.” Hearing Request, at 1 and 2.

The Office of Administrative Law Judges put the matter on the docket and assigned it to Chief Administrative Law Judge John J. Mulrooney II (hereinafter, the Chief ALJ). The Chief ALJ issued an Order and Briefing Schedule dated November 23, 2020. The Government timely complied with the Briefing Schedule by filing a Motion for Summary Disposition (hereinafter, MSD) on December 2, 2020. Order

¹ The Hearing Request was filed on November 20, 2020. Order and Briefing Schedule, dated November 23, 2020, at 1. I find that the Government’s service of the OSC on October 26, 2020, was adequate and that the Hearing Request was timely filed on November 20, 2020. *See also* Recommended Decision, at n.1.

Granting Summary Disposition and Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision dated December 15, 2020 (hereinafter, Recommended Decision or RD), at 2. In its motion, the Government stated that Respondent lacks authority to handle controlled substances in Virginia, the state in which he is registered with the DEA and argued that, therefore, DEA must revoke his registration. MSD, at 1–2. The Respondent filed his response, “Respondent’s Reply Brief” (hereinafter, Respondent’s Reply), on December 14, 2020, in which he stated that “[i]n the states where he has no medical license, he is not allowed to prescribe medications to patients in those states. This would include Maryland and Virginia.” Reply Brief, at 3. Therefore, he argued that DEA permit him to “transfer the DEA application process to California,” where he has an active medical license. *Id.*

The Chief ALJ granted the Government MSD finding that “the Government has shown that the Respondent does not currently have authority to practice medicine in Virginia,” and that because “the Respondent does not have authority as a practitioner in Virginia, there is no other fact of consequence for this tribunal to decide in order to determine whether or not he is entitled to hold a [Certificate of Registration].” RD, at 5. The Chief ALJ recommended that Respondent’s DEA Certificate of Registration be revoked based on his lack of state authority. RD, at 6. By letter dated January 12, 2021, the Chief ALJ certified and transmitted the record to me for final Agency action. In that letter, the Chief ALJ advised that neither party filed exceptions.

I issue this Decision and Order based on the entire record before me. 21 CFR 1301.43(e). I make the following findings of fact.

Findings of Fact

Respondent’s DEA Registration

Respondent is registered with DEA under DEA Certification of Registration number FB0526307 at the registered address of 6193 Adeline Court, McLean, Virginia 22101. MSD, at Exhibit 1. Pursuant to this registration, Respondent is authorized to dispense controlled substances in schedules II through V as a practitioner. *Id.* Respondent’s registration “is in an active pending status until the resolution of administrative proceedings.” MSD, Exhibit 2 (Certification of Registration History).

The Status of Respondent’s State License

On May 12, 2020, the VDHP issued an Order of Mandatory Suspension. *Id.* The VDHP ruling was issued following its finding of a prior ruling by the Maryland State Board of Physicians suspending Respondent’s medical license in that state. MSD Exhibit 3 (VDHP Order of Mandatory Suspension).

According to Virginia’s online records, of which I take official notice, Respondent’s license is still suspended.² Virginia Department of Health Professions License Lookup, <https://dhp.virginiainteractive.org/Lookup> (last visited date of signature of this Order). Virginia’s online records show that Respondent’s medical license remains suspended. *Id.*

Accordingly, I find that Respondent currently is neither licensed to engage in the practice of medicine in Virginia, the state in which Respondent is registered with the DEA.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the CSA “upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.” With respect to a practitioner, the DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner’s registration. *See, e.g., James L. Hooper, M.D.*, 76 FR 71,371 (2011), *pet. for rev. denied*, 481 F. App’x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.*, 43 FR 27,616, 27,617 (1978).

² Under the Administrative Procedure Act, an agency “may take official notice of facts at any stage in a proceeding—even in the final decision.” United States Department of Justice, Attorney General’s Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), “[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.” Accordingly, Respondent may dispute my finding by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to Office of the Administrator, Drug Enforcement Administration at dea.addo.attorneys@dea.usdoj.gov.

This rule derives from the text of two provisions of the CSA. First, Congress defined the term “practitioner” to mean “a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.” 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner’s registration, Congress directed that “[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.” 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner’s registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper*, 76 FR at 71,371–72; *Sheran Arden Yeates, M.D.*, 71 FR 39,130, 39,131 (2006); *Dominick A. Ricci, M.D.*, 58 FR 51,104, 51,105 (1993); *Bobby Watts, M.D.*, 53 FR 11,919, 11,920 (1988); *Frederick Marsh Blanton*, 43 FR at 27,617.

Respondent argued that because he holds an active medical license in California, he should be able to transfer his DEA registration in Virginia to that state and avoid revocation. I agree with the Chief ALJ that “as has been long established by Agency precedent, state licensure in a state other than a respondent’s COR registration state is irrelevant to a DEA enforcement proceeding.” RD, at 4 (citing *Craig K. Alhanati, D.D.S.*, 62 FR 32,658, 32,658 (1997)).

Respondent is no longer currently authorized to dispense controlled substances in the Commonwealth of Virginia, the state in which he is registered. Specifically, the Virginia Board of Medicine’s decision to suspend Respondent’s medical license also means that Respondent is currently without authority to dispense controlled substances under the laws of Virginia. *See, e.g., Va. Code Ann. §§ 54.1–2409.1* (2021) (felony to prescribe controlled substances without a current valid license); 54.1–2900 (2021); 54.1–3401 (2021).

Here, the undisputed evidence in the record is that Respondent currently lacks authority to practice medicine in Virginia. As already discussed, a physician must be a licensed practitioner to dispense a controlled

substance in Virginia. Thus, because Respondent lacks authority to practice medicine in Virginia and, therefore, is not authorized to handle controlled substances in Virginia, Respondent is not eligible to maintain a DEA registration. Accordingly, I will order that Respondent's DEA registration be revoked.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. FB0526307 issued to Roozbeh Badii. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(f), I hereby deny any pending application of Roozbeh Badii to renew or modify this registration, as well as any other application of Roozbeh Badii, for additional registration in Virginia. This Order is effective April 30, 2021.

D. Christopher Evans,

Acting Administrator.

[FR Doc. 2021-06584 Filed 3-30-21; 8:45 am]

BILLING CODE 4410-09-P

DEPARTMENT OF JUSTICE

[OMB Number 1121-0309]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection: International Terrorism Victim Expense Reimbursement Program Application

AGENCY: Office for Victims of Crime, Department of Justice.

ACTION: 30 Day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Office for Victims of Crime, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

DATES: The Department of Justice encourages public comment and will accept input until April 30, 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.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Office for Victims of Crime, 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;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; 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.

Overview of This Information Collection

1. *Type of Information Collection:*

Extension of a currently approved collection

2. *The Title of the Form/Collection:*

International Terrorism Victim Expense Reimbursement Program (ITVERP) Application

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

There is no agency form number for this collection. The applicable component within the Department of Justice is the Department of Justice is the Office for Victims of Crime, in the Office of Justice Programs.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals victims, surviving family members or personal representatives. Other: Federal Government. This application will be used to apply for the expense reimbursement by U.S. nationals and U.S. Government employees who are victims of acts of international terrorism that occur(ed) outside of the United States. The application will be used to collect necessary information on the expenses incurred by the applicant, as associated with his or her victimization, as well as other pertinent information, and will be used by OVC to make an award determination.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 100 respondents will complete the certification in approximately 45 minutes.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated total public burden associated with this collection is 75 hours.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: March 26, 2021.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2021-06585 Filed 3-30-21; 8:45 am]

BILLING CODE 4410-18-P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Agency Information Collection Activities; Announcement of OMB Approvals

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Employee Benefits Security Administration (EBSA) announces that the Office of Management and Budget (OMB) has approved certain collections of information, listed in the Supplementary Information section below, following EBSA's submission of requests for such approvals under the Paperwork Reduction Act of 1995 (PRA). This notice describes the approved or re-approved information collections and provides their OMB control numbers and current expiration dates as required by the PRA.

FOR FURTHER INFORMATION CONTACT: G. Christopher Cosby, Office of Regulations and Interpretations, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N-5718, Washington, DC 20210. Telephone: (202) 693-8425 (this is not a toll-free number); Email: cosby.chris@dol.gov.

SUPPLEMENTARY INFORMATION: The PRA and its implementing regulations require Federal agencies to display OMB

control numbers and inform respondents of their legal significance after OMB has approved an agency's information collections. In accordance with those requirements, EBSA hereby notifies the public that the following information collections have been re-approved by OMB following EBSA's submission of an information collection request (ICR) for extension of a prior approval:

- OMB Control No. 1210-0064, Class Exemption for Certain Transactions Involving Purchase of Securities where Issuer May Use Proceeds to Reduce or Retire Indebtedness to Parties in Interest (PTE 1980-83). The expiration date for this information collection is January 31, 2023.

- OMB Control No. 1210-0119, Petition for Finding under the Employee Retirement Income Security Act Section 3(40). The expiration date for this information collection is January 31, 2023.

- OMB Control No. 1210-0123, Notice Requirements of the Health Care Continuation Coverage Provisions. The expiration date for this information collection is January 31, 2023.

- OMB Control No. 1210-0130, Statutory Exemption for Cross-Trading of Securities. The expiration date for this information collection is January 31, 2023.

- OMB Control No. 1210-0137, Model Employer Children's Health Insurance Program Notice. The expiration date for this information collection January 31, 2023.

- OMB Control No. 1210-0145, Plan Asset Transactions Determined by In-House Asset Managers under Prohibited Transaction Class Exemption 96-23. The expiration date for this information collection is January 31, 2023.

- OMB Control No. 1210-0049, Prohibited Transaction Class Exemption for Certain Transactions Between Investment Companies and Employee Benefit Plans (PTE 1977-4). The expiration date for this information collection is February 28, 2023.

- OMB Control No. 1210-0128, Plan Asset Transactions Determined by Independent Qualified Professional Asset Managers under Prohibited Transaction Exemption 1984-14. The expiration date for this information collection is February 28, 2023.

- OMB Control No. 1210-0053, Employee Benefit Plan Claims Procedure Under the Employee Retirement Income Security Act. The expiration date for this information collection is April 30, 2023.

- OMB Control No. 1210-0063, Prohibited Transaction Class Exemption 1992-6: Sale of Individual Life

Insurance or Annuity Contracts by a Plan. The expiration date for this information collection is June 30, 2023.

- OMB Control No. 1210-0149, Notice to Employees of Coverage Options Under Fair Labor Standards Act Section 18B. The expiration date for this information collection is June 30, 2023.

- OMB Control No. 1210-0161, EBSA Participant Assistance Program Customer Survey. The expiration date for this information collection is June 30, 2023;

- OMB Control No. 1210-0040, Employee Retirement Income Security Act Summary Annual Report Requirement. The expiration date for this information collection is July 31, 2023.

- OMB Control No. 1210-0076, Loans to Plan Participants and Beneficiaries Who Are Parties In Interest With Respect to The Plan Regulation. The expiration date for this information collection is July 31, 2023.

- OMB Control No. 1210-0094, Prohibited Transaction Class Exemption 1985-68 to Permit Employee Benefit Plans to Invest in Customer Notes of Employers. The expiration date for this information collection is July 31, 2023.

- OMB Control No. 1210-0039, Summary Plan Description Requirements Under the Employee Retirement Income Security Act of 1974, as amended. The expiration date for this information collection is August 31, 2023.

- OMB Control No. 1210-0090, Disclosures for Participant Directed Individual Account Plans. The expiration date for this information collection is August 31, 2023.

- OMB Control No. 1210-0121, Consent to Receive Employee Benefit Plan Disclosures Electronically. The expiration date for this information collection is August 31, 2023.

- OMB Control No. 1210-0126, Defined Benefit Plan Annual Funding Notice. The expiration date for this information collection is August 31, 2023.

- OMB Control No. 1210-0132, Default Investment Alternatives under Participant Directed Individual Account Plans. The expiration date for this information collection is August 31, 2023.

EBSA also notifies the public that the following new information collection has been approved by OMB following EBSA's submission of an ICR:

- OMB Control No. 1210-0164, Registration Requirements to Serve as a Pooled Plan Provider to Pooled Employer Plans. The expiration date for this information collection is November 30, 2023.

The PRA provides that 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. Publication of this notice satisfies this requirement with respect to the above-listed information collections, as provided in 5 CFR 1320.5(b)(2)(C).

Dated: March 25, 2021.

Ali Khawar,

*Principal Deputy Assistant Secretary,
Employee Benefits Security Administration,
Department of Labor.*

[FR Doc. 2021-06598 Filed 3-30-21; 8:45 am]

BILLING CODE 4510-29-P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection Requests Submitted for Public Comment

AGENCY: Employee Benefits Security Administration, Department of Labor.
ACTION: Notice.

SUMMARY: The Department of Labor (the Department), in accordance with the Paperwork Reduction Act, provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Employee Benefits Security Administration (EBSA) is soliciting comments on the proposed extension of the information collection requests (ICRs) contained in the documents described below. A copy of the ICRs may be obtained by contacting the office listed in the **ADDRESSES** section of this notice. ICRs also are available at [reginfo.gov](http://www.reginfo.gov/public/do/PRAMain) (<http://www.reginfo.gov/public/do/PRAMain>).

DATES: Written comments must be submitted to the office shown in the Addresses section on or before June 1, 2021.

ADDRESSES: G. Christopher Cosby, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW, Room N-5718, Washington, DC 20210, ebbsa.opr@dol.gov, (202) 693-8425 (this is not toll-free numbers).

SUPPLEMENTARY INFORMATION: This notice requests public comment on the

Department's request for extension of the Office of Management and Budget's (OMB) approval of ICRs contained in the rules and prohibited transaction exemptions described below. The Department is not proposing any changes to the existing ICRs at this time. An agency may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a valid OMB control number. A summary of the ICRs and the current burden estimates follows:

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Employee Retirement Income Security Act Section 408(b)(2) Regulation.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210-0133.

Affected Public: Private Sector.

Respondents: 55,703.

Responses: 1,483,062.

Estimated Total Burden Hours: 1,045,680.

Estimated Total Burden Cost (Operating and Maintenance): 1,251,649.

Description: The prohibited transaction described in section 406(a)(1)(C) of ERISA generally prohibits the furnishing of goods, services, or facilities between a plan and a party in interest to the plan. Because ERISA defines any person furnishing services to the plan as a "party in interest" to the plan, a service relationship between a plan and a service provider would constitute a prohibited transaction under section 406(a)(1)(C) in the absence of relief. Section 408(b)(2) of ERISA provides relief, however, for service contracts or arrangements if the contract or arrangement is "reasonable," if the services are necessary for the establishment or operation of the plan, and if no more than "reasonable" compensation is paid for the services.

This information collection relates to the final rule under ERISA section 408(b)(2), which was published in the **Federal Register** on February 3, 2012 (77 FR 5632). Under the final rule, for a contract or arrangement to be "reasonable," certain service providers must disclose specified information to a pension plan, in writing, before the plan may enter into, extend, or renew the contract or arrangement. The Department also issued a class prohibited transaction exemption contained in paragraph (c)(1)(ix) of the final rule, which provides relief from ERISA's prohibited transaction rules for plan fiduciaries that enter into a

contract or arrangement with service providers upon a mistaken belief that they have received all of the disclosures required by the final rule. Upon discovering that a covered service provider failed to disclose all of the required information, the responsible plan fiduciary must take reasonable steps to obtain such information, including requesting in writing that the covered service provider furnish the information in order to rely on the exemption and notify the Department if the service provider fails to comply with the written request within 90 days. The Department has received approval from OMB for this ICR under OMB Control No. 1210-0133. The current approval is scheduled to expire on August 31, 2021.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Employee Retirement Income Security Act Procedure 1976-1; Advisory Opinion Procedure.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210-0066.

Affected Public: Private Sector.

Respondents: 17.

Responses: 17.

Estimated Total Burden Hours: 175.

Estimated Total Burden Cost (Operating and Maintenance): 459,091.

Description: This information collection relates to ERISA Procedure 76-1, which provides specific guidance to the public on issues arising under ERISA, particularly when needed to guide specific transactions involving employee benefit plans and plan assets. The information required by ERISA Procedure 76-1 is used by EBSA to understand and analyze the issues and develop the response, as well as to determine whether EBSA's response should be in the form of an advisory opinion or information letter. Section 6 of ERISA Procedure 76-1 lists the information that must be supplied by the party requesting an advisory opinion. This information includes identifying information (name, type of plan, EIN Number, etc.), a detailed description of the act(s) or transaction(s) with respect to which an advisory opinion is being requested, a discussion of the issues presented by the act(s) or transaction(s), a statement of the party's views concerning the issues to be resolved and the legal basis for such views. The requesting party must also include copies of the relevant documents and may also request a conference with EBSA in the event that EBSA is considering issuing an adverse opinion. The Department has received approval from OMB for this ICR under

OMB Control No. 1210-0066. The current approval is scheduled to expire on November 30, 2021.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Employee Retirement Income Security Act of 1974 Technical Release 1991-1.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210-0084.

Affected Public: Private Sector.

Respondents: 4.

Responses: 26,966.

Estimated Total Burden Hours: 422.

Estimated Total Burden Cost (Operating and Maintenance): 6,917.

Description: Section 101(e) of ERISA establishes notice requirements that must be satisfied before an employer may transfer excess assets from a defined benefit pension plan to a retiree health benefit account, as permitted under the conditions set forth in section 420 of the Internal Revenue Code of 1986, as amended (the Code). On May 8, 1991, the Department published ERISA Technical Release 91-1, to provide guidance on how to satisfy the notice requirements prescribed by this section. This information collection involves third-party disclosures and reporting to the federal government. First, information must be disclosed to plan participants and beneficiaries by plan administrators. This requirement is designed to protect the rights of participants and beneficiaries in their retirement benefits by providing them with advance notice of any anticipated transfer of defined benefit plan assets (under section 420 of the Code). Second, advance notification must also be provided by employers to plan administrators, employee organizations that represent participants, and the Department. Plan administrators and employee organizations have an interest in protecting the interests of plan participants and beneficiaries with their retirement benefits. The Department also has the duty to enforce the protections provided to participants and beneficiaries under ERISA. The Department has received approval from OMB for this ICR under OMB Control No. 1210-0084. The current approval is scheduled to expire on November 30, 2021.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Annual Information Return/Report of Employee Benefit Plan.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210-0110.

Affected Public: Private Sector.

Respondents: 814,000.

Responses: 814,000.

Estimated Total Burden Hours: 582,000.

Estimated Total Burden Cost (Operating and Maintenance): 278,555,000.

Description: This information collection relates to section 104 of ERISA, which requires administrators of employee benefit pension and welfare plans (collectively referred to as employee benefit plans) to file returns or reports annually with the federal government. The Form 5500 return/reports are the principal source of information and data available to the Department, the Internal Revenue Service, and the Pension Benefit Guaranty Corporation (the Agencies) concerning the operation of employee benefit plans. For this reason, the Form 5500 constitutes an integral part of the Agencies' enforcement, research, and policy formulation programs. The Department has received approval from OMB for this ICR under OMB Control No. 1210-0110. The current approval is scheduled to expire on November 30, 2021.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Disclosures by Insurers to General Account Policyholders.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210-0114.

Affected Public: Private Sector.

Respondents: 368.

Responses: 27,009.

Estimated Total Burden Hours: 114,789.

Estimated Total Burden Cost (Operating and Maintenance): 10,128.

Description: Section 1460 of the Small Business Job Protection Act of 1996 (Pub. L. 104-188) (SBJPA) amended ERISA by adding section 401(c). This section requires the Department to promulgate a regulation providing guidance, applicable only to insurance policies issued on or before December 31, 1998, to or for the benefit of employee benefit plans, to clarify the extent to which assets held in an insurer's general account under such contracts are "plan assets" within the meaning of ERISA, because the policies are not "guaranteed benefit policies" within the meaning of section 401(b) of ERISA. SBJPA further directed the Department to set standards for how insurers should manage the specified insurance policies (called Transition Policies). Pursuant to the authority and direction given under SBJPA, the

Department promulgated a final rule on January 5, 2000 (65 FR 714) that is codified at 29 CFR 2550.401c-1.

Regulation section 29 CFR 2550.401(c)-1 imposes specific requirements on insurers that are parties to Transition Policies in order to ensure that the fiduciaries acting on behalf of plans have adequate information and understanding of how the Transition Policies work. This information collection requires that an insurer that issues and maintains a Transition Policy to or for the benefit of an employee benefit plan must disclose to the plan fiduciary, initially upon issuance of the policy and on an annual basis, to the extent that the policy is not a guaranteed benefit policy: (1) The methods by which income and expenses of the insurer's general account are allocated to the policy, the actual annual return to the plan, and other pertinent information; (2) the extent to which alternative arrangements supported by the assets of the insurer's separate accounts are available; (3) any rights under the policy to transfer funds to a separate account and the terms governing such right; and (4) the extent to which support by assets of the insurer's separate accounts might pose differing risks to the plan. The Department has received approval from OMB for this ICR under OMB Control No. 1210-0114. The current approval is scheduled to expire on November 30, 2021.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Registration for EFAST-2 Credentials.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210-0117.

Affected Public: Private Sector.

Respondents: 279,894.

Responses: 279,894.

Estimated Total Burden Hours: 93,298.

Estimated Total Burden Cost (Operating and Maintenance): 0.

Description: ERISA section 104 requires administrators of pension and welfare plans and employers sponsoring certain fringe benefit plans and other plans of deferred compensation to file returns/reports annually with the Secretary of Labor concerning the financial condition and operation of plans. Reporting requirements are satisfied by filing the Form 5500 in accordance with its instructions and the related regulations.

This information collection relates to the ERISA Filing Acceptance System 2 (EFAST-2), which is designed to

simplify and expedite the receipt and processing of the Form 5500 by relying on internet-based forms and electronic filing technologies. In order to file electronically, employee benefit plan Filing authors, Schedule authors, Filing signers, Form 5500 transmitters, and entities developing software to complete and/or transmit the Form 5500 are required to register for EFAST-2 credentials through the EFAST2 website. The information requested for registration includes: Applicant type (Filing Author, Filing Signer, Schedule Author, Transmitter, or software developer); mailing address; fax number (optional); email address; company name, contact person; and daytime telephone number. Registrants must also provide an answer to a challenge question ("What is your date of birth?" or "Where is your place of birth?"), which enables users to retrieve forgotten credentials. In addition, registrants must accept a Privacy Agreement; PIN Agreement; and, under penalty of perjury, a Signature Agreement. The Department has received approval from OMB for this ICR under OMB Control No. 1210-0117. The current approval is scheduled to expire on November 30, 2021.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Employee Retirement Income Security Act Blackout Period Notice.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210-0122.

Affected Public: Private Sector.

Respondents: 48,575.

Responses: 9,439,000.

Estimated Total Burden Hours: 218,553.

Estimated Total Burden Cost (Operating and Maintenance): 2,403,893.

Description: The Sarbanes-Oxley Act (SOA), enacted on July 30, 2002, amended ERISA to include a blackout period disclosure requirement in subsection 101(i). This information collection requires administrators of individual account pension plans (e.g., a profit sharing plan, 401(k) type plan or money purchase pension plan) to provide at least 30 days advance written notice to the affected participants and beneficiaries in advance of any "blackout period" during which their existing rights to direct or diversify their investments under the plan, or obtain a loan or distribution from the plan will be temporarily suspended. The Department has received approval from OMB for this ICR under OMB Control No. 1210-0122. The current approval is

scheduled to expire on November 30, 2021.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Coverage of Certain Preventive Services under the Affordable Care Act—Private Sector.

Type of Review: Extension of a currently approved collection of information.

OMB Number: 1210–0150.

Affected Public: Private Sector.

Respondents: 223.

Responses: 777,363.

Estimated Total Burden Hours: 181.

Estimated Total Burden Cost

(Operating and Maintenance): 197,955.

Description: The Patient Protection and Affordable Care Act, Public Law 111–148, (the Affordable Care Act) was enacted on March 23, 2010 and amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111–152 on March 30, 2010. The Affordable Care Act added section 2713 to the Public Health Service (PHS) Act and incorporated this provision into ERISA and the Code. The Departments of Health and Human Services, Labor, and Treasury first published interim final rules on July 19, 2010, requiring non-grandfathered group health insurance coverage to provide benefits for certain preventive services without cost sharing, including benefits for certain women’s preventive health services as provided for in comprehensive guidelines supported by the Health Resources and Services Administration. Additional interim final rules were issued on November 15, 2018, that finalize expanded exemptions to protect moral and religious beliefs for certain entities and individuals whose health plans are subject to a mandate of contraceptive coverage through guidance issued pursuant to the Affordable Care Act (83 FR 57536 and 83 FR 57592).

The regulations contain the following collections of information:

(1) Each organization seeking to be treated as an eligible organization to use the optional accommodation process offered under the regulation must either notify an issuer or third party administrator using the EBSA Form 700 method of self-certification or provide notice to HHS of its religious or moral objection to coverage of all or a subset of contraceptive services.

(2) A health insurance issuer or third party administrator providing or arranging separate payments for contraceptive services for participants and beneficiaries in insured plans (or student enrollees and covered dependents in student health insurance

coverage) of eligible organizations is required to provide a written notice to plan participants and beneficiaries (or student enrollees and covered dependents) informing them of the availability of such payments. The notice must be separate from but, contemporaneous with (to the extent possible) any application materials distributed in connection with enrollment (or re-enrollment) in group or student coverage of the eligible organization in any plan year to which the accommodation is to apply and will be provided annually. To satisfy the notice requirement, issuers may, but are not required to, use the model language set forth previously or substantially similar language.

(3) An eligible organization may also revoke its use of the accommodation process and must provide participants and beneficiaries written notice of such revocation as soon as possible.

The Department has received approval from OMB for this ICR under OMB Control No. 1210–0150. The current approval is scheduled to expire on November 30, 2021.

Dated: March 25, 2021.

Ali Khawar,

*Principal Deputy Assistant Secretary,
Employee Benefits Security Administration,
Department of Labor.*

[FR Doc. 2021–06599 Filed 3–30–21; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice on Reallocation of Workforce Innovation Opportunity Act (WIOA) Title I Formula Allotted Funds for Dislocated Worker Activities for Program Year (PY) 2020

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Workforce Innovation Opportunity Act (WIOA), requires the Secretary of Labor (Secretary) to conduct reallocation of certain WIOA formula allotted funds based on ETA 9130 financial reports submitted by states as of the end of the prior Program Year (PY). This notice publishes the Dislocated Worker PY 2020 funds for recapture by state and the amount to be reallocated to eligible states.

DATES: This notice is effective March 31, 2021.

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly Vitelli, Administrator, U.S. Department of Labor, Office of

Workforce Investment, Employment and Training Administration, Room C–4510, 200 Constitution Avenue NW, Washington, DC Telephone (202) 693–3980 (this is not a toll-free number) or fax (202) 693–3981.

SUPPLEMENTARY INFORMATION: In the Fiscal Year (FY) 2020 Appropriations Act, Congress appropriated WIOA PY 2020 funds in two portions: (1) Funds available for obligation July 1, 2020 (*i.e.*, PY 2020 “base” funds), and (2) funds available for obligation October 1, 2020 (*i.e.*, FY 2021 “advance” funds). Together, these two portions make up the complete PY 2020 WIOA funding. Training and Employment Guidance Letter (TEGL) No. 16–19 announced WIOA allotments based on this appropriation and TEGL No. 16–18 alerted states to the recapture and reallocation of funds’ provisions based on obligations of PY 2019 funding, as required under WIOA Section 132(c). This section and 127(c) of WIOA requires the Secretary to conduct reallocation of excess unobligated WIOA Adult, Youth, and Dislocated Worker formula funds based on ETA 9130 financial reports submitted by states at the end of the prior program year (*i.e.*, PY 2019).

WIOA regulations at 20 CFR 683.135 describe the procedures the Secretary uses for recapture and reallocation of funds. ETA will not recapture any PY 2020 funds for the Adult and Youth programs because there is no state where PY 2019 unobligated funds exceeds the statutory requirements of 20 percent of state allotted funds. However, for the Dislocated Worker program, Kentucky, Nevada, Puerto Rico, and West Virginia had unobligated PY 2019 funds in excess of 20 percent of their allotments. Therefore, ETA will recapture a total of \$4,993,277 from PY 2020 funding from Kentucky, Nevada, Puerto Rico, and West Virginia, and reallocate those funds to the remaining eligible states, as required by WIOA Section 132(c).

ETA will issue a Notice of Award to the states to reflect the recapture and reallocation of these funds. The adjustment of funds will be made to the FY 2021 advance portion of the PY 2020 allotments, which ETA issued in October 2020. The attached tables display the net changes to PY 2020 formula allotments.

WIOA and its implementing regulations do not provide specific requirements by which states must distribute reallocated funds, so states have flexibility to determine the methodology used. For any state subject to recapture

of funds, WIOA Section 132(c)(5) requires the Governor to prescribe equitable procedures for reacquiring funds from the state and local areas.

As mentioned, the recapture/reallotment adjustments will be made to the FY 2021 advance portion of the PY 2020 allotment. Therefore, for reporting

purposes, states must reflect the recapture/reallotment amount (decrease or increase) in the "Total Federal Funds Authorized" line of any affected FY 2021 ETA 9130 financial reports (State Dislocated Worker Activities, Statewide Rapid Response, Local Dislocated Worker Activities) in a manner

consistent with the method of distribution of these amounts to state and local areas used by the state. The state must include an explanation of the adjustment in the remarks section of the adjusted reports.

I. Attachment A

**U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION WIOA DISLOCATED WORKER ACTIVITIES
PY 2020 REALLOTMENT TO STATES**

	Calculating reallocation amount *			Impact on PY 2020 allotments		
	Excess unobligated PY 2019 funds to be recaptured from PY 2020 funds	Eligible states' PY 2019 ¹ dislocated worker allotments	Reallotment amount for eligible states (based on eligible states' share of PY 2019 allotments)	Total original PY 2020 allotments before reallocation	Recapture/reallotment adjustment to PY 2020 allotments	Revised total PY 2020 allotments
Alabama	\$0	\$18,361,881	\$97,223	\$17,387,399	\$97,223	\$17,484,622
Alaska	0	6,412,959	33,955	8,421,655	33,955	8,455,610
Arizona **	0	30,330,562	160,594	39,830,842	160,594	39,991,436
Arkansas	0	6,238,880	33,034	6,061,513	33,034	6,094,547
California	0	148,077,038	784,039	142,073,567	784,039	142,857,606
Colorado	0	10,076,913	53,355	9,986,612	53,355	10,039,967
Connecticut	0	14,209,646	75,237	13,611,948	75,237	13,687,185
Delaware	0	2,410,156	12,761	2,343,949	12,761	2,356,710
District of Columbia	0	8,460,348	44,796	11,110,338	44,796	11,155,134
Florida	0	52,296,583	276,900	50,853,493	276,900	51,130,393
Georgia	0	38,622,811	204,500	36,871,224	204,500	37,075,724
Hawaii	0	1,609,621	8,523	1,618,611	8,523	1,627,134
Idaho	0	1,963,150	10,394	1,962,590	10,394	1,972,984
Illinois	0	59,630,195	315,730	56,663,539	315,730	56,979,269
Indiana	0	13,705,344	72,567	13,347,305	72,567	13,419,872
Iowa	0	4,129,889	21,867	4,077,392	21,867	4,099,259
Kansas	0	4,634,063	24,536	4,595,051	24,536	4,619,587
Kentucky	2,697,332	0	0	16,051,059	(2,697,332)	13,353,727
Louisiana	0	21,278,087	112,663	20,371,329	112,663	20,483,992
Maine	0	2,607,188	13,805	2,562,857	13,805	2,576,662
Maryland	0	15,311,178	81,070	15,019,525	81,070	15,100,595
Massachusetts	0	15,818,320	83,755	15,428,753	83,755	15,512,508
Michigan	0	28,980,249	153,445	28,103,101	153,445	28,256,546
Minnesota	0	8,647,015	45,784	8,623,882	45,784	8,669,666
Mississippi	0	12,860,111	68,092	16,877,853	68,092	16,945,945
Missouri	0	13,772,288	72,922	13,271,254	72,922	13,344,176
Montana	0	1,590,642	8,422	1,589,906	8,422	1,598,328
Nebraska	0	2,412,598	12,774	2,430,569	12,774	2,443,343
Nevada	466,433	0	0	13,341,178	(466,433)	12,874,745
New Hampshire	0	1,781,465	9,433	1,776,875	9,433	1,786,308
New Jersey	0	31,256,773	165,498	29,962,189	165,498	30,127,687
New Mexico **	0	17,835,113	94,433	18,082,636	94,433	18,177,069
New York	0	50,974,953	269,902	50,005,712	269,902	50,275,614
North Carolina	0	29,197,023	154,592	28,414,511	154,592	28,569,103
North Dakota	0	827,923	4,384	827,550	4,384	831,934
Ohio	0	38,733,523	205,086	37,181,539	205,086	37,386,625
Oklahoma	0	7,602,403	40,253	7,437,134	40,253	7,477,387
Oregon	0	11,287,889	59,767	11,019,838	59,767	11,079,605
Pennsylvania	0	51,213,615	271,166	48,858,998	271,166	49,130,164
Puerto Rico	449,019	0	0	76,202,126	(449,019)	75,753,107
Rhode Island	0	3,976,659	21,056	3,806,076	21,056	3,827,132
South Carolina	0	14,948,152	79,148	14,268,943	79,148	14,348,091
South Dakota	0	1,181,022	6,253	1,190,973	6,253	1,197,226
Tennessee	0	18,224,532	96,495	17,478,205	96,495	17,574,700
Texas	0	61,217,636	324,135	59,820,885	324,135	60,145,020
Utah **	0	4,331,085	22,932	4,261,672	22,932	4,284,604
Vermont	0	868,574	4,599	843,187	4,599	847,786
Virginia	0	13,864,434	73,409	13,694,749	73,409	13,768,158
Washington	0	26,722,692	141,491	26,957,248	141,491	27,098,739
West Virginia	1,380,493	0	0	12,852,260	(1,380,493)	11,471,767
Wisconsin	0	11,469,731	60,730	11,212,132	60,730	11,272,862
Wyoming	0	1,090,070	5,772	1,069,268	5,772	1,075,040
State Total	4,993,277	943,052,982	4,993,277	1,051,713,000	0	1,051,713,000

* Including prior year recapture/reallotment amounts.

** Includes funds allocated to the Navajo Nation.

¹ PY 2019 allotment amounts are used to determine the reallocation amount eligible states receive of the recaptured amount.

II. Attachment B

U.S. DEPARTMENT OF LABOR EMPLOYMENT AND TRAINING ADMINISTRATION WIOA DISLOCATED WORKER ACTIVITIES PY 2020 REVISED ALLOTMENTS WITH REALLOTMENT—PY/FY SPLIT

Table with 10 columns: State, Total allotment (Original, Recapture/reallotment, Revised), Available 7/1/20 (Original, Recapture/reallotment, Revised), Available 10/1/20 (Original, Recapture/reallotment, Revised). Rows include all 50 states and District of Columbia, ending with a State Total row.

* Includes funds allocated to the Navajo Nation

Suzan G. LeVine, Principal Deputy Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2021-06597 Filed 3-30-21; 8:45 am]

BILLING CODE 4510-FR-P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 21-03]

Notice of Open Meeting

AGENCY: Millennium Challenge Corporation.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Federal Advisory Committee Act, the Millennium

Challenge Corporation (MCC) Advisory Council was established as a discretionary advisory committee on July 14, 2016. Its charter was renewed for a second term on July 11, 2018 and third term on July 8, 2020. The MCC Advisory Council serves MCC solely in an advisory capacity and provides insight regarding innovations in infrastructure, technology and sustainability; perceived risks and opportunities in MCC partner countries;

new financing mechanisms for developing country contexts; and shared value approaches. The MCC Advisory Council provides a platform for systematic engagement with the private sector and other external stakeholders and contributes to MCC's mission—to reduce poverty through sustainable, economic growth.

DATES: Tuesday, April 13, 2021, from 10:00 a.m.–12:30 p.m. EDT.

ADDRESSES: The meeting will be held via conference call.

FOR FURTHER INFORMATION CONTACT: Jennifer Rimbach, 202.521.3932, MCCAdvisoryCouncil@mcc.gov or visit <https://www.mcc.gov/about/org-unit/advisory-council>.

SUPPLEMENTARY INFORMATION: Agenda. During the Spring 2021 meeting of the MCC Advisory Council, members will be provided an update from MCC leadership. MCC Advisory Council Co-Chairs will provide updates on a letter to incoming MCC CEO, and council members will provide advice on the threshold program development process and MCC's investment strategy in Solomon Islands.

Public Participation. The meeting will be open to the public. Members of the public may file written statement(s) before or after the meeting. If you plan to attend, please submit your name and affiliation no later than Tuesday, April 6, 2021 to MCCAdvisoryCouncil@mcc.gov to receive dial-in instructions and be placed on an attendee list.

Authority: Federal Advisory Committee Act, 5 U.S.C. App.

Dated: March 24, 2021.

Thomas G. Hohenthaler,
Acting VP/General Counsel and Corporate Secretary.

[FR Doc. 2021-06438 Filed 3-30-21; 8:45 am]

BILLING CODE 9211-03-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NOTICE: 21-019]

Information Collection: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to

comment on proposed and/or continuing information collections.

DATES: Comments are due by June 1, 2021.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 60 days of publication of this notice to www.reginfo.gov/public/do/PRAMain.

Find this particular information collection by selecting "Currently under 60-day Review-Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Claire Little, NASA Clearance Officer, NASA Headquarters, 300 E Street SW, JF0000, Washington, DC 20546, 202-358-2373 or email claire.a.little@nasa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The proposed information collection activity provides a means to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving 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 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.

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.

II. Methods of Collection

The Agency will only submit a collection for approval under this generic clearance if it meets the following conditions:

The collections are voluntary;
The collections are low-burden for respondents (based on considerations of total burden hours, 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;

Information gathered will only be used internally for general service improvement and program management purposes and is not intended for release outside of the Agency;

Information gathered will not be used for the purpose of substantially informing influential policy decisions; and

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.

Feedback collected under this generic clearance provides useful information, but it does not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made; the sampling frame; the sample design (including stratification and clustering); the precision requirements or power calculations that justify the proposed sample size; the expected response rate; methods for assessing potential non-response bias; the protocols for data collection; and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

As a general matter, information collections will not result in any new system of records containing privacy

information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

III. Data

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Number: 2700–0153.

Type of Review: Extension of approval for a collection of information.

Affected Public: Federal Government; Individuals and Households; Businesses and Organization; State, Local, or Tribal Government.

Estimated Annual Number of Activities: 40.

Estimated Number of Respondents per Activity: 2,000.

Annual Responses: 80,000.

Estimated Time per Response: 5 minutes.

Estimated Total Annual Burden Hours: 6,667.

Estimated Total Annual Cost: \$200,000.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Lori Parker,

NASA PRA Clearance Officer.

[FR Doc. 2021–06610 Filed 3–30–21; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 21–018]

NASA Advisory Council; Science Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Science Committee of the NASA Advisory Council (NAC). This Committee reports to the NAC. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Wednesday, April 14, 2021, 12:30–5:00 p.m.; and Thursday, April 15, 2021, 1:00–5:00 p.m.; Eastern Time.

FOR FURTHER INFORMATION CONTACT: Ms. KarShelia Henderson, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–2355 or khenderson@nasa.gov.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public via Webex and telephonically. Webex connectivity information for each day is provided below. For audio, when you join the Webex event, you may use your computer or provide your phone number to receive a call back, otherwise, call the U.S. toll conference number listed for each day.

On Wednesday, April 14, the event address for attendees is: <https://nasaenterprise.webex.com/nasaenterprise/onstage/g.php?MTID=e6bcad84ab11d25ae3be15f5f049ec876>. The event number is 199 910 0118 and the event password is BXeCv3Er*48. If needed, the U.S. toll conference number is 1–415–527–5035 and access code is 199 910 0118.

On Thursday, April 15, the event address for attendees is: <https://nasaenterprise.webex.com/nasaenterprise/onstage/g.php?MTID=eaaad5072c23c72dba00f5ba93cb33d12>. The event number is 199 236 4230 and the event password is 2gVXbrpd*77. If needed, the U.S. toll conference number is 1–415–527–5035 and access code is 199 236 4230. The agenda for the meeting includes the following topics:

—Science Mission Directorate (SMD) Missions, Programs and Activities

It is imperative that the meeting be held on these dates due to the scheduling priorities of the key participants.

Patricia Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2021–06544 Filed 3–30–21; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Notice of Meeting for the Proposal Review Panel for Physics; Correction

ACTION: Notice; correction.

SUMMARY: The National Science Foundation (NSF) published a document in the *Federal Register* of March 26, 2021, concerning a Part-open, 2-day, virtual site visit meeting for the Proposal Review Panel for Physics. The virtual site visit will be changed to a closed meeting.

FOR FURTHER INFORMATION CONTACT: Please contact Crystal Robinson, crrobins@nsf.gov or 703–292–8687.

SUPPLEMENTARY INFORMATION:

Correction

In the *Federal Register* published March 26, 2021, in FR Doc. 2021–06220 (Filed 3–25–21), on page 16239, first column, Type of Meeting Section, please change the meeting type to Closed.

Dated: March 26, 2021.

Crystal Robinson,

Committee Management Officer, National Science Foundation.

[FR Doc. 2021–06622 Filed 3–30–21; 8:45 am]

BILLING CODE 7555–01–P

RAILROAD RETIREMENT BOARD

Actuarial Advisory Committee With Respect to the Railroad Retirement Account; Notice of Public Meeting

Notice is hereby given in accordance with Public Law 92–463 that the Actuarial Advisory Committee will hold a virtual meeting on April 21, 2021, at 12:30 p.m. (Central Daylight Time), on the conduct of the 28th Actuarial Valuation of the Railroad Retirement System. The agenda for this meeting will include a discussion of the assumptions to be used in the 28th Actuarial Valuation. A report containing recommended assumptions and the experience on which the recommendations are based will have been sent by the Chief Actuary to the Committee before the meeting.

The meeting will be open to the public. Persons wishing to submit written statements, make oral presentations, or attend the meeting should address their communications or notices to Patricia Pruitt (Patricia.Pruitt@rrb.gov) so that information on how to join the virtual meeting can be provided.

Dated: March 25, 2021.

Stephanie Hillyard,
Secretary to the Board.

[FR Doc. 2021-06543 Filed 3-30-21; 8:45 am]

BILLING CODE 7905-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-91406; File No. SR-EMERALD-2021-10]

Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX Emerald Fee Schedule To Adopt an Excessive Quoting Fee

March 25, 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 March 12, 2021, MIAX Emerald, LLC (“MIAX Emerald” or “Exchange”), filed with the Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Emerald Fee Schedule (the “Fee Schedule”) to adopt new Section 1(c), Excessive Quoting Fee.

The text of the proposed rule change is available on the Exchange’s website at <http://www.miaxoptions.com/rule-filings/emerald>, at MIAX’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 amend the Fee Schedule to adopt new Section 1(c), Excessive Quoting Fee.

Background

The Exchange initially filed its proposal to adopt the Excessive Quoting Fee on February 8, 2021.³ On February 22, 2021, the Exchange withdrew the First Proposed Rule Change and now resubmits this proposal to provide additional background information and make further changes due to business reasons.

The Exchange recently completed a significant upgrade to its System’s⁴ network architecture, based on customer demand, which has resulted in the Exchange’s network environment becoming more transparent and deterministic. This project included additional network development in several areas, which resulted in: (i) Minimum latency between multicast market data signals disseminated by the Exchange across the extranet switches; (ii) a reduction in the occurrence of message sequence inversions from Members⁵ to the Exchange quoting gateway processors; (iii) assurance of the optical fiber path for participants within extremely tight tolerances; (iv) a re-architected and engineered participant quoting gateway; and (v) the Exchange being able to better measure the performance of the network and System at extremely tight tolerances and the ability to provide Members with reporting on the performance of their own systems.

Proposal

The Exchange proposes to amend the Fee Schedule to adopt new Section 1(c), Excessive Quoting Fee. The Exchange proposes to assess an Excessive Quoting Fee of \$10,000 per day to any Market Maker⁶ that exceeds 2.5 billion inbound

quotes⁷ sent to the Exchange on that particular day. In counting the total number of quotes for the purposes of the Excessive Quoting Fee, the Exchange proposes to exclude messages that are generated as a result of sending a mass purge message to the Exchange. The Exchange proposes that the 2.5 billion inbound quote limit for the Excessive Quoting Fee will reset each trading day.

The purpose of this proposal is to ensure that Market Makers do not over utilize the Exchange’s System by sending excessive quotes to the Exchange, to the detriment of all other Members of the Exchange. Market Makers that send an excessive number of quotes to the Exchange on any particular day have the potential residual effect of exhausting System resources, bandwidth, and capacity. In turn, this may create latency and impact other Members’ and non-Members’ ability to send messages to the Exchange and receive timely executions.

The Exchange’s high performance network provides unparalleled system throughput and the capacity to handle approximately 38 million messages per second. On an average day, the Exchange handles over approximately 11 billion total messages. These billions of messages per day consume the Exchange’s resources, particularly storage capabilities. The combination of (i) Member quoting behavior, (ii) increased volatility in the marketplace, and (iii) increased number of options products quoted on the Exchange has a significant impact on the total number of quotes sent each trading day, resulting in additional storage capacity. The Exchange believes this proposal will reduce the potential for market participants to engage in excessive quoting behavior that would require the Exchange to increase its storage capacity and will encourage quotes to be made in good faith.

Recognizing that orders and executions often occur in large numbers, the purpose of this proposal is to focus on activity that is truly disproportionate while fairly allocating costs. The proposal contemplates that a Market Maker would have to exceed the high threshold of 2.5 billion inbound quotes before that Market Maker would be charged the proposed fee on that particular trading day. The Exchange

³ See SR-EMERALD-2021-06 (the “First Proposed Rule Change”).

⁴ The term “System” means the automated trading system used by the Exchange for the trading of securities. See Exchange Rule 100.

⁵ “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 the Definitions Section of the Fee Schedule and Exchange Rule 100.

⁶ The term “Market Maker” refers to “Lead Market Maker” (“LMM”), “Primary Lead Market Maker” (“PLMM”) and “Registered Market Maker” (“RMM”), collectively. See the Definitions Section of the Fee Schedule and Exchange Rule 100.

⁷ The term “quote” or “quotation” means a bid or offer entered by a Market Maker that is firm and may update the Market Maker’s previous quote, if any. The Rules of the Exchange provide for the use of different types of quotes, including Standard quotes and eQuotes, as more fully described in Rule 517. A Market Maker may, at times, choose to have multiple types of quotes active in an individual option. See the Definitions Section of the Fee Schedule.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

believes that it is in the interests of all Members and market participants who access the Exchange to not allow other market participants to exhaust System resources, but to encourage efficient usage of network capacity.

The Exchange believes that this concept is not new or novel.⁸ The Exchange notes that although prior similar proposals from other exchanges relating to capacity-type fees focused on flow through capacity, the Exchange has determined to adopt a quote cap methodology at this time for business reasons. The Exchange's proposal is not intended to raise revenue; rather, it is intended to encourage efficient quoting behavior so that market participants do not exhaust System resources.

The Exchange believes adopting the proposed fee will protect the integrity of the MIAX Emerald market and benefit all market participants of MIAX Emerald by ensuring that the Exchange's System is not overloaded from excessive quotes being sent to it each day. The Exchange notes that it will provide Market Makers with daily reports, free of charge, which will detail their quoting activity in order for those firms to be fully aware of the number of quotes they are sending to the Exchange. This will allow firms to ensure that their quoting behavior does not approach the proposed 2.5 billion inbound quote limit.

The Exchange notes that since the launch of MIAX Emerald in March of 2019, no Market Maker has reached approximately more than two thirds of the proposed 2.5 billion inbound quote limit threshold during peak trading days, including days with high volatility in the marketplace. Accordingly, the Exchange does not anticipate that any Market Maker will exceed the proposed 2.5 billion inbound quote limit and become subject to the proposed fee. The

⁸ See Securities Exchange Act Release No. 60117 (June 16, 2009), 74 FR 30190 (June 24, 2009) (SR-AMEX-2009-25) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Schedule of Fees and Charges for Exchange Services by Adding a Ratio Threshold Fee); 64655 (June 13, 2011), 76 FR 35495 (June 17, 2011) (SR-AMEX-2011-37) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Amex Options Fee Schedule To Establish a New Fee Designed To Encourage Efficient Use of Bandwidth by ATP Firms and To Rename a Related Existing Fee); 53522 (March 20, 2006), 71 FR 14975 (March 24, 2006) (SR-ISE-2006-09) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto Relating to Session/API Fees); 55941 (June 21, 2007), 72 FR 35535 (June 28, 2007) (SR-ISE-2007-36) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change as Modified by Amendment No. 1 Thereto Relating to API Fees); 84963 (December 26, 2018), 84 FR 830 (January 31, 2019) (SR-CboeBZX-2018-095) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the BZX Equities Fee Schedule).

Exchange notes that this proposal is not intended to raise revenue for the Exchange; rather, it is intended to ensure that Market Makers are using their quoting methodologies in the most efficient manner possible in light of the Exchange's highly deterministic and transparent infrastructure.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act⁹ in general, and furthers the objectives of Section 6(b)(4) of the Act¹⁰ in particular, in that it is an equitable allocation of reasonable dues, fees, and other charges among its Members and issuers and other persons using its facilities. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act¹¹ in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general protects investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

The Exchange believes that its proposal is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers because it will encourage efficient utilization of the Exchange's highly deterministic and transparent network architecture. The Exchange believes that unfettered usage of System capacity and network resource consumption can have a detrimental effect on all market participants who are potentially compelled to send quote messages to the Exchange on an unlimited basis, to the detriment of all other market participants who access and use the Exchange. Further, the proposed fee and message limit will apply equally to all Market Makers who send quotes to the Exchange in excess of 2.5 billion inbound quotes on any particular trading day.

The Exchange believes that the proposal is not unfairly discriminatory due to the substantial quote limit that the proposal contemplates before the proposed fee kicks in, as well as the normal Market Maker quote traffic that

the Exchange has experienced since it began operations in March of 2019. In addition, the Exchange believes that by excluding messages that are generated from a mass purge message sent to the Exchange from the calculation of the total quotes for the proposed fee is not unfairly discriminatory because it will keep from disadvantaging firms that choose to use mass purges on a regular basis for risk management reasons. The Exchange notes that since the launch of MIAX Emerald in March of 2019, no Market Maker has reached approximately more than two-thirds of the proposed 2.5 billion inbound quote limit threshold during peak trading days, including days with high volatility in the marketplace. The Exchange does not anticipate that any Market Maker will exceed the proposed 2.5 billion inbound quote limit and become subject to the proposed fee.

The Exchange further believes that its proposal is reasonable, equitably allocated and not unfairly discriminatory because it is not intended to raise revenue for the Exchange; rather, it is intended to ensure that Market Makers are using their quoting methodologies in the most efficient manner possible in light of the Exchange's highly deterministic and transparent infrastructure. The Exchange believes that the proposed fee and quote limit is reasonable, equitably allocated and not unfairly discriminatory because this proposal will reduce the potential for market participants to engage in excessive quoting behavior that would require the Exchange to increase its storage capacity and will encourage quotes to be made in good faith. The Exchange notes that other exchanges have implemented similar fees and capacity type-limits in order to deter their firms from over-utilizing their trading systems and exhausting system resources, while encouraging the efficient usage of system resources.¹²

The Exchange therefore believes that the proposed Excessive Quoting Fee both appropriately reflects the benefits to different firms of being able to send quotes into the Exchange's trading System, and facilitates the Commission's goal of ensuring that critical market infrastructure has "levels of capacity, integrity, resiliency, availability, and security adequate to maintain their operational capability and promote the maintenance of fair and orderly markets."¹³

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(4).

¹¹ 15 U.S.C. 78f(b)(5).

¹² See *supra* note 8.

¹³ See Securities Exchange Act Release No. 73639 (November 19, 2014), 79 FR 72251 (December 5,

The Exchange will also review the quoting behavior of all firms on a regular basis to ensure that the inbound quote limit remains significantly higher than the average firm quoting behavior, while taking into account varying market conditions. The Exchange will regularly monitor prevailing market conditions to ensure that the inbound quote limit is sufficiently flexible and could not inadvertently result in higher than anticipated fees being charged to firms that are providing liquidity in volatile, high volume markets. The Exchange does not want to discourage such liquidity provision and believes that it should be able to adjust the inbound quote limit on a monthly basis if need be.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Intra-Market Competition

The Exchange believes that the proposal does not put any market participants at a relative disadvantage compared to other market participants because the proposed fee and message limit will apply equally to all Market Makers who send quotes to the Exchange in excess of 2.5 billion inbound quotes on any particular trading day. The Exchange also believes that the proposed fee neither favors nor penalizes one or more categories of market participants in a manner that would impose an undue burden on competition. Rather, the proposal seeks to benefit all market participants by encouraging the efficient utilization of the Exchange's highly deterministic and transparent network architecture. Further, the Exchange notes that since the launch of MIAX Emerald in March of 2019, no Market Maker has reached approximately more than two-thirds of the proposed 2.5 billion inbound quote limit threshold during peak trading days, including days with high volatility in the marketplace. Accordingly, the Exchange does not anticipate that any Market Maker will exceed the proposed 2.5 billion inbound quote limit and become subject to the proposed fee. Accordingly, the Exchange believes that the proposed Excessive Quoting Fee does not favor certain categories of market participants in a manner that would impose a burden on competition.

Inter-Market Competition

The Exchange believes the proposal does not place an undue burden on competition on other self-regulatory organizations that is not necessary or appropriate because of the availability of numerous substitute options exchanges. There are 15 other options exchanges where market participants can become members and send quotes if they deem the 2.5 billion inbound quote limit to be too restrictive for their quoting behavior. In addition, the Exchange does not believe the proposal will impose any burden on inter-market competition as the proposal does not address any competitive issues; rather, it is intended to protect all market participants of MIAX Emerald by ensuring that the Exchange's System is not overloaded from excessive quotes being sent to it each day.

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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,¹⁴ and Rule 19b-4(f)(2)¹⁵ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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-2021-10 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-2021-10. 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-2021-10 and should be submitted on or before April 21, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2021-06562 Filed 3-30-21; 8:45 am]

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2014) (File No. S7-01-13) (Regulation SCI Adopting Release).

¹⁴ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁵ 17 CFR 240.19b-4(f)(2).

¹⁶ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91409; File No. SR–NYSE–2021–19]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Price List To Extend the Waiver of Equipment and Related Service Charges and Trading License Fees for NYSE Trading Floor-Based Member Organizations

March 25, 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 March 17, 2021, New York Stock Exchange LLC (“NYSE” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List to extend the waiver of equipment and related service charges and trading license fees for NYSE Trading Floor-based member organizations through the earlier of the first full month of a full reopening of the Trading Floor facilities to Floor personnel or June 2021. The Exchange proposes to implement the fee changes effective April 1, 2021. The proposed rule change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries,

set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List to extend the waiver of equipment and related service charges and trading license fees for NYSE Trading Floor-based member organizations through the earlier of the first full month of a full reopening of the Trading Floor facilities to Floor personnel or June 2021.

As proposed, the Exchange would continue to waive 50% of the Telephone System charges and Service Charges (except for the internet Equipment Monthly Hosting Fee) and trading license fees for member organizations that meet the waiver criteria set forth in footnotes 11 and 15 of the Price List, respectively, commencing January 1, 2021 through the earlier of the first full month of a full reopening of the Trading Floor facilities to Floor personnel or June 2021.

The Exchange proposes to implement the fee changes effective April 1, 2021.

Background

Current Market and Competitive Environment

Beginning in March 2020 and continuing into 2021, in order to slow the spread of the novel coronavirus (“COVID–19”) through social distancing measures, significant limitations were placed on large gatherings throughout the country. As a result, on March 18, 2020, the Exchange determined that beginning March 23, 2020, the physical Trading Floor facilities located at 11 Wall Street in New York City would close and that the Exchange would move, on a temporary basis, to fully electronic trading.⁴ Following the temporary closure of the Trading Floor, the Exchange waived certain equipment fees for the booth telephone system on the Trading Floor and associated service charges for the months of April and May.⁵

On May 14, 2020, the Exchange announced that on May 26, 2020 trading operations on the Trading Floor would

⁴ See Press Release, dated March 18, 2020, available here: <https://ir.theice.com/press/press-releases/allcategories/2020/03-18-2020-204202110>.

⁵ See Securities Exchange Act Release No. 88602 (April 8, 2020), 85 FR 20730 (April 14, 2020) (SR–NYSE–2020–27); Securities Exchange Act Release No. 88874 (May 14, 2020), 85 FR 30743 (May 20, 2020) (SR–NYSE–2020–29). See footnote 11 of the Price List.

resume on a limited basis to a subset of Floor brokers, subject to health and safety measures designed to prevent the spread of COVID–19.⁶ On June 15, 2020, the Exchange announced that on June 17, 2020, the Trading Floor would reintroduce a subset of DMMs, also subject to health and safety measures designed to prevent the spread of COVID–19.⁷ Following this partial reopening of the Trading Floor, the Exchange extended the equipment fee waiver for the months of June 2020 through March 2021.⁸ The Trading Floor continues to operate with reduced headcount and additional health and safety precautions.⁹

Proposed Rule Change

In response to the unprecedented events surrounding the spread of COVID–19 in 2020, the Exchange waived certain equipment and related service charges and trading license fees for NYSE Trading Floor-based member organizations through March 2021. Specifically, the Exchange extended the waiver of 50% of the Annual Telephone Line Charge of \$400 per phone number; the \$129 fee for a single line phone, jack, and data jack; the related service charges (\$161.25 to install single jack (voice or data); \$107.50 to relocate a jack; \$53.75 to remove a jack; \$107.50 to install voice or data line; \$53.75 to disconnect data line; \$53.75 to change a phone line subscriber; and miscellaneous telephone charges billed at \$106 per hour in 15 minute increments); and the monthly portion of all applicable annual fees through March 2021 for member organizations that

⁶ See Trader Update, dated May 14, 2020, available here: <https://www.nyse.com/traderupdate/history#110000251588>.

⁷ See Trader Update, dated June 15, 2020, available here: <https://www.nyse.com/traderupdate/history#110000272018>.

⁸ See Securities Exchange Act Release No. 89050 (June 11, 2020), 85 FR 36637 (June 17, 2020) (SR–NYSE–2020–49); Securities Exchange Act Release No. 89324 (July 15, 2020), 85 FR 44129 (July 21, 2020) (SR–NYSE–2020–59); Securities Exchange Act Release No. 89754 (September 2, 2020), 85 FR 55550 (September 8, 2020) (SR–NYSE–2020–71); Securities Exchange Act Release No. 89798 (September 9, 2020), 85 FR 57263 (September 15, 2020) (SR–NYSE2020–72); Securities Exchange Act Release No. 90161 (October 13, 2020), 85 FR 66370 (October 19, 2020) (SR–NYSE–2020–81); Securities Exchange Act Release No. 90391 (November 10, 2020), 85 FR 73326 (November 17, 2020) (SR–NYSE2020–92); Securities Exchange Act Release No. 90744 (December 21, 2020), 85 FR 85712 (December 29, 2020) (SR–NYSE–2020–102); Securities Exchange Act Release No. 91082 (February 9, 2021), 86 FR 9546 (February 16, 2021) (SR–NYSE–2021–10).

⁹ See Trader Update, dated June 15, 2020, available here: <https://www.nyse.com/traderupdate/history#110000272018>.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b–4.

- meet the current requirements of having at least one trading license, a physical trading Floor presence and Floor broker executions accounting for 40% or more of the member organization's combined adding, taking, and auction volumes during March 1 to March 20, 2020 or, if not a member organization during March 1 to March 20, 2020, based on the member organization's combined adding, taking, and auction volumes during its first month as a member organization on or after May 26, 2020, and

- are unable to operate at more than 50% of their March 2020 on-Floor staffing levels or, for member organizations that began Floor operations after March 2020, are unable to operate at more than 50% of their Exchange-approved on-Floor staffing levels, both excluding part-time Floor brokers known as "flex brokers" (hereinafter, "Qualifying Firms").

Because the Trading Floor continues to operate with reduced capacity, and in order to further reduce costs for member organizations with a Trading Floor presence, the Exchange proposes to extend the fee waiver for Qualifying Firms through the earlier of the first full month of a full reopening of the Trading Floor facilities to Floor personnel or June 2021. The proposed fee change is designed to reduce monthly costs for all Qualifying Firms whose operations continue to be disrupted even though the Trading Floor has partially reopened. The Exchange does not propose any substantive changes to the current waiver requirements set forth in footnotes 11 and 15 of the Price List. The Exchange believes that all Qualifying Firms would benefit from the proposed fee change.

The proposed changes are not otherwise intended to address other issues, and the Exchange is not aware of any significant problems that market participants would have in complying with the proposed changes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,¹⁰ in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,¹¹ in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."¹²

While Regulation NMS has enhanced competition, it has also fostered a "fragmented" market structure where trading in a single stock can occur across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that "such competition can lead to the fragmentation of order flow in that stock."¹³ Indeed, equity trading is currently dispersed across 16 exchanges,¹⁴ 31 alternative trading systems,¹⁵ and numerous broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly available information, no single exchange has more than 16% market share.¹⁶ Therefore, no exchange possesses significant pricing power in the execution of equity order flow. More specifically, the Exchange's market share of trading in Tape A, B and C securities combined is less than 10%.

The Proposed Change is Reasonable

The proposed extension of the waiver of equipment and related service fees and the applicable monthly trading license fee for Qualified Firms through the earlier of the first full month of a full reopening of the Trading Floor facilities to Floor personnel or June 2021 is reasonable in light of the continued partial closure of the NYSE Trading

Floor as a result of spread of COVID-19. The proposed change is reasonable because it would extend reduction of monthly costs for all Qualifying Firms whose operations have been disrupted despite the fact that the Trading Floor has partially reopened because of the social distancing requirements and/or other health concerns related to resuming operation on the Trading Floor. In reducing this monthly financial burden, the proposed change would allow Qualifying Firms that are unable to operate at more than 50% of their March 2020 or Exchange-approved on-Floor staffing levels to reallocate funds to assist with the cost of shifting and maintaining their prior fully-staffed on-Floor operations to off-Floor and recoup losses resulting from the partial reopening of the Trading Floor.

The Proposal is an Equitable Allocation of Fees

The Exchange believes the proposed extension of the waiver of equipment and related service fees and the applicable monthly trading license fee for Qualified Members for the proposed time period is an equitable allocation of fees. The proposed waivers apply to all Trading Floor-based firms meeting specific requirements during the specified period that the Trading Floor remains partially open. The Exchange believes the proposed rule change is an equitable allocation of its fees and credits as it continues the previous fee waiver for Qualifying Firms, which affects fees charged only to Floor participants and does not apply to participants that conduct business off-Floor. The Exchange believes it is an equitable allocation of fees and credits to extend the fee waiver for Qualifying Firms because such firms have no more than half of their Floor staff (as measured by either the March 2020 or Exchange-approved) levels, and this reduction in staffing levels on the Trading Floor impacts the speed, volume and efficiency with which these firms can operate, to their financial detriment.

The Proposal is Not Unfairly Discriminatory

The Exchange believes that the proposal is not unfairly discriminatory because the proposed continuation of the fee waiver would affect all similarly situated market participants on an equal and non-discriminatory basis. The Exchange is not proposing to waive the Trading Floor-related fees indefinitely, but rather during the specified period during which the Trading Floor is not fully open. As noted, the proposed fee

¹² See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37495, 37499 (June 29, 2005) (S7-10-04) (Final Rule) ("Regulation NMS").

¹³ See Securities Exchange Act Release No. 61358, 75 FR 3594, 3597 (January 21, 2010) (File No. S7-02-10) (Concept Release on Equity Market Structure).

¹⁴ See Cboe Global Markets, U.S. Equities Market Volume Summary, available at http://markets.cboe.com/us/equities/market_share/. See generally <https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html>.

¹⁵ See FINRA ATS Transparency Data, available at <https://otctransparency.finra.org/otctransparency/AtsIssueData>. A list of alternative trading systems registered with the Commission is available at <https://www.sec.gov/foia/docs/atlist.htm>.

¹⁶ See Cboe Global Markets U.S. Equities Market Volume Summary, available at http://markets.cboe.com/us/equities/market_share/.

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(4) & (5).

change is designed to ease the financial burden on Trading Floor-based member organizations that cannot fully conduct Floor operations.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,¹⁷ the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for member organizations. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."¹⁸

Intramarket Competition. The proposed continued waiver of equipment and related service fees and the applicable monthly trading license fee for Qualified Firms is designed to reduce monthly costs for those Floor participants whose operations continue to be impacted by the COVID-19 pandemic despite the fact that the Trading Floor has partially reopened. In reducing this monthly financial burden, the proposed change would allow Qualifying Firms that had Floor operations in March 2020 to reallocate funds to assist with the cost of shifting and maintaining their previously on-Floor operations to off-Floor. Absent this change, all Qualifying Firms may experience an unintended increase in the cost of doing business on the Exchange, given that the Trading Floor has only reopened in a limited capacity. The Exchange believes that the proposed waiver of fees for Qualifying Firms would not impose a disparate burden on competition among market participants on the Exchange because off-Floor market participants are not subject to these Floor-based fixed fees. In addition, Floor-based firms that are not subject to the extent of staffing shortfalls as are Qualifying Firms, *i.e.*, firms that have more than 50% of their March 2020, or Exchange-approved

staffing levels on the Trading Floor, do not face the same operational level of disruption and potential financial impact during the partial reopening of the Trading Floor. As noted, the proposal would apply to all similarly situated member organizations on the same and equal terms, who would benefit from the changes on the same basis. Accordingly, the proposed change would not impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition. As noted above, the Exchange operates in a highly competitive market in which market participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. The Exchange believes that the proposed rule change reflects this competitive environment because it permits impacted member organizations to continue to conduct market-making operations on the Exchange and avoid unintended costs of doing business on the Exchange while the Trading Floor is not fully open, which could make the Exchange a less competitive venue on which to trade as compared to other equities markets. In reducing this monthly financial burden, the proposed change would allow affected participants to reallocate funds to assist with the cost of shifting and maintaining their prior fully staffed on-Floor operations to off-Floor. Absent this change, Qualifying Firms may experience an unintended increase in the cost of doing business on the Exchange, which would make the Exchange a less competitive venue on which to trade as compared to other options exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)¹⁹ of the Act and subparagraph (f)(2) of Rule 19b-4²⁰ thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the

Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)²¹ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NYSE-2021-19 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSE-2021-19. 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.

¹⁷ 15 U.S.C. 78f(b)(8).

¹⁸ Regulation NMS, 70 FR at 37498-99.

¹⁹ 15 U.S.C. 78s(b)(3)(A).

²⁰ 17 CFR 240.19b-4(f)(2).

²¹ 15 U.S.C. 78s(b)(2)(B).

Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2021–19 and should be submitted on or before April 21, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²²

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2021–06558 Filed 3–30–21; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91408; File No. SR–GEMX–2021–01]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Various Rules in Options 3

March 25, 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 March 12, 2021, Nasdaq GEMX, LLC (“GEMX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend various rules in Options 3.

The text of the proposed rule change is available on the Exchange’s website at <https://listingcenter.nasdaq.com/rulebook/gemx/rules>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for

the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend various rules in Options 3. The proposed changes consist of conforming existing rules to current System technology, amending rule text to add greater detail on how certain Exchange functionality operate today. Furthermore, the proposed changes are intended to harmonize the Exchange’s rules where appropriate with the rules of the Exchange’s affiliated options markets, including by using consistent language to describe identical functionality.³ As such, no System changes to existing functionality are being made pursuant to this proposal. Rather, this proposal is designed to reduce any potential investor confusion as to the features and applicability of certain functionality presently available on the Exchange. These changes are described in detail below, and include amending Exchange rules governing: (1) The Block Order Mechanism (“Block”),⁴ (2) the Facilitation Mechanism (“Facilitation”),⁵ (3) the Solicited Order Mechanism (“Solicitation”),⁶ (4) the Price Improvement Mechanism (“PIM”),⁷ and (5) Anti-Internalization.⁸

Universal Changes

In September 2019, the Exchange amended its regular allocation rule in Options 7, Section 10 (Priority of Quotes and Orders) to make non-substantive changes, among other changes, to replace references to Professional interest with non-Priority Customer interest.⁹ The Exchange now proposes to make similar changes to replace all

instances of “Professional” interest with “non-Priority Customer” interest throughout its auction allocation rules in Options 3, Section 11 and Section 13 to align with the changes made in SR–GEMX–2019–10.¹⁰ While the term “Professional Orders” is defined within Options 1, Section 1(a)(38) as an order that is for the account of a person or entity that is not a Priority Customer, the Exchange believes that using the term “non-Priority Customer” is more clear in describing the types of market participant to which the allocation applies, and also reduces confusion regarding any reference to Professional Orders or Professional Customer orders.

In addition, the Exchange proposes to make universal changes in its Facilitation and Solicitation rules¹¹ to clearly delineate between orders and Responses¹² of the same capacity. For example, where the existing rule text currently states “Priority Customer bids (offers),” the Exchange proposes instead to state “Priority Customer Orders and Priority Customer Responses to buy (sell).” The Exchange notes that this is merely a non-substantive change as auction orders and Responses of the same capacity do not get treated differently for allocation purposes today. With the proposed changes, the Exchange is merely seeking to bring greater transparency around how allocation takes place in those auction mechanisms today.

Block Order Mechanism

The Exchange proposes minor changes to the current descriptions of the Block execution and allocation process in Options 3, Section 11(a). As discussed below, the proposed Block changes are non-substantive in nature, and are intended to harmonize with the Block rule on its affiliated market, BX Options (“BX”) in order to ensure rule consistency between the Exchange and its affiliate offering identical functionality.

First, the Exchange proposes to add “up to the size of the block order” at the end of subsection (a)(2)(i). As amended, the rule will provide that bids (offers) on the Exchange at the time the block order is time the block order is executed

³ The Exchange’s affiliate, Nasdaq ISE, LLC (“ISE”) recently filed a substantially similar rule change as part of this exercise. See Securities Exchange Act Release No. 91223 (February 26, 2021) (SR–ISE–2021–01).

⁴ See Options 3, Section 11(a).

⁵ See Options 3, Section 11(b).

⁶ See Options 3, Section 11(d).

⁷ See Options 3, Section 13.

⁸ See Options 3, Section 15(a)(3)(A).

⁹ See Securities Exchange Act Release No. 86946 (September 12, 2019), 84 FR 49158 (September 18, 2019) (SR–GEMX–2019–10).

¹⁰ Specifically in Options 3, Section 11, the Exchange will amend current subsections (a)(2)(ii), (b)(3)(i)–(iii) (renumbered to (b)(4)(i)–(iii) under this proposal), and (d)(2)(iii) (renumbered to (d)(3)(iii) under this proposal). In Options 3, Section 13, the Exchange will amend current subsections (d)(1)–(3).

¹¹ Specifically in Options 3, Section 11, subsections (b)(3)(i)–(iii) (renumbered to (b)(4)(i)–(iii)), and (d)(2)(i) and (iii) (renumbered to (d)(3)(i) and (iii)) will be updated.

¹² A “Response” is an electronic message that is sent by Members in response to a broadcast message. See Options 3, Section 11.

²² 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

that are priced higher (lower) than the block execution price, as well as Responses that are priced higher (lower) than the block execution price, will be executed in full at the block execution price *up to the size of the block order*. The Exchange is making this non-substantive change to align with BX's Block rule,¹³ which will ensure rule consistency for identical functionality across affiliated markets. The language states that better priced interest gets executed in full only if there is sufficient size to execute against such interest, which is how block orders are executed and priced on the Exchange and BX today.

Second, the Exchange proposes a non-substantive change in the first sentence of subsection (a)(2)(ii) to replace "first and in time priority" with "first in price time priority." As amended, the rule will provide that at the block execution price, Priority Customer Orders and Priority Customer Responses will be executed *first in price time priority*. This is not a change to the current Block allocation methodology, but rather a non-substantive change for better readability, and to align with BX's Block rule¹⁴ in order to ensure rule consistency for identical functionality across affiliated markets. Block orders will continue to trade at a single execution price that allows the maximum number of contracts of the block order to be executed against both the Responses entered to trade against the order and unrelated interest on the Exchange's order book.

Example 1

Block order is entered to buy 50 contracts @1.50

The following Responses are received:
Priority Customer Response 1 to sell 40 contracts @ 1.40

Priority Customer Response 2 to sell 10 contracts @ 1.40

Priority Customer Response 3 to sell 10 contracts @ 1.39

The block execution price would be \$1.40 (*i.e.*, the price at which the maximum number of contracts could be executed) and would be executed as follows:

Block order trades 10 with Priority Customer Response 3 @1.40

Block order trades 40 with Priority Customer Response 1 @1.40

As shown above, Priority Customer Response 3 would be executed in full since it is priced better than the block execution price and there is sufficient size to execute Response 3 against the

block order, while Priority Customer Responses 1 and 2, which are priced at the block execution price, would participate in price time priority—*i.e.*, the remaining 40 contracts would go to Response 1, which was received before Response 2.

Facilitation Mechanism

The Exchange proposes a number of changes to its Facilitation rule, none of which will change the current operation of this technology offering.

In Options 3, Section 11(b), the Exchange proposes to add new subsection (b)(1),¹⁵ which will provide that Orders must be entered into the Facilitation Mechanism at a price that is (A) equal to or better than the NBBO on the same side of the market as the agency order unless there is a Priority Customer order on the same side Exchange best bid or offer, in which case the order must be entered at an improved price; and (B) equal to or better than the ABBO¹⁶ on the opposite side. Orders that do not meet these requirements are not eligible for the Facilitation Mechanism and will be rejected. The Exchange is not proposing any other changes to the current entry requirements for Facilitation. The new subsection (b)(1) would simply provide additional detail about Facilitation's existing entry checks.

Example 2

Assume the following market:
Exchange BBO: 1 × 2 (also NBBO)
CBOE: 0.75. × 2.25 (next best exchange quote)

Facilitation order is entered to buy 50 contracts @ 2.05

No Responses are received.

The Facilitation order executes with resting 50 lot quote @2. In this instance, the Facilitation order is able to begin crossed with the contra side Exchange BBO because in execution, the resting 50 lot quote @2 is able to provide price improvement to the facilitation order.

In renumbered subsection (b)(3), the Exchange proposes to replace the words "must not exceed" with "will only be considered up to." This change more accurately describes current behavior in that the System will cap Responses to the size of the auction for purposes of allocation methodology.

In renumbered subsections (b)(4)(ii) and (b)(4)(iii), the Exchange proposes to

¹⁵ As a result, current subsections (b)(1)–(3) will be renumbered as (b)(2)–(4). The Exchange will also renumber current subsection (b)(3)(iv) as subsection (b)(5).

¹⁶ The term "Away Best Bid or Offer" or "ABBO" means the displayed National Best Bid or Offer not including the Exchange's Best Bid or Offer. See Options 1, Section 1(a)(4).

amend the rule to provide that the facilitating Member will be allocated up to forty percent (40%) (or such lower percentage requested by the Member) of the original size of the facilitation order. If the Member requests a lower allocation percentage, the contra-side order would receive an allocation consistent with the percentage requested by the Member. Regardless of the Member's request, the contra-side order would still be responsible for executing up to the full size of the agency order if there is not enough interest to execute the agency order at a particular price.¹⁷

The Exchange also proposes to more accurately describe Facilitation's auto-match functionality, which provides an enhanced price improvement opportunity for the agency order by permitting the contra-side order to further participate in the cross by auto-matching the price and size of competing interest providing price improvement from other market participants. The Exchange adopted Facilitation (and its auto-match functionality) as part of its application to be registered as a national securities exchange.¹⁸ In approving Facilitation, the Commission noted that it was largely based on similar functionality offered by ISE.¹⁹ The rule currently provides that upon entry of an order into the Facilitation Mechanism, the facilitating Electronic Access Member can elect to automatically match the price and size of orders, quotes and responses received during the exposure period up to a specified limit price or without specifying a limit price. In this case, the facilitating Electronic Access Member will be allocated its full size at each price point, or at each price point within its limit price is a limit is specified, until a price point is reached

¹⁷ Other options exchanges such as BX provide similar functionality that allows members using an auction mechanism to configure allocation priority. See, e.g., BX Options 3, Section 13, which provides a similar feature for the BX Options Price Improvement Auction ("PRISM") called "Surrender." ISE also recently amended its Facilitation rule in ISE Options 3, Section 11(b), which governs identical functionality on ISE as the Exchange's Facilitation Mechanism, to make the same change as proposed herein. See *supra* note 3.

¹⁸ See Securities Exchange Act Release No. 70050 (July 26, 2013), 78 FR 46622 (August 1, 2013) (File No. 10–209).

¹⁹ ISE adopted its auto-match functionality in 2010. See Securities Exchange Act Release No. 62644 (August 4, 2010), 75 FR 48395 (August 10, 2010) (SR–ISE–2010–61) ("Auto-Match Filing"). As discussed later in this filing, the Auto-Match Filing also introduced the auto-match feature on ISE's PIM, which is functionally identical to the Exchange's PIM. As such, the Exchange is proposing to make similar changes in PIM's auto-match rule as proposed for Facilitation's auto-match rule.

¹³ See BX Options 3, Section 11(a)(2)(A).

¹⁴ See BX Options 3, Section 11(a)(2)(B).

where the balance of the order can be fully executed.²⁰ The Exchange proposes to state that if a Member elects to auto-match, the facilitating Electronic Access Member will be allocated *the aggregate size of all competing quotes, orders, and Responses* (instead of “its full size”) at each price point, or at each price point up to the specified limit price (instead of “within its limit price”) if a limit is specified, until a price point is reached where the balance of the order can be fully executed. The Exchange believes that the modified language more accurately explains how the functionality works today, and better aligns with how this feature is described in the Auto-Match Filing.²¹

Lastly, the Exchange proposes to add at the end of Supplementary Material .01 to Options 3, Section 11 that any solicited contra orders entered by Members into the Facilitation Mechanism to trade against Agency Orders may not be for the account of an Exchange Market Maker that is assigned to the options class.²² This language was included in the approval order to SR-ISE-2006-78 to allow solicited transactions in ISE’s Facilitation Mechanism. As discussed above, the Exchange’s Facilitation Mechanism is functionally identical to ISE’s Facilitation Mechanism. As such, the Exchange seeks to import the same prohibition into the Exchange’s rule text for greater transparency.

Solicited Order Mechanism

The Exchange proposes the below changes to its Solicitation rule, none of which will change the current operation of this technology offering.

In Options 3, Section 11(d), the Exchange proposes to add new subsection (d)(1),²³ which will provide that orders must be entered into the Solicited Order Mechanism at a price that is equal to or better than the NBBO on both sides of the market; provided that, if there is a Priority

Customer order on the Exchange best bid or offer, the order must be entered at an improved price. Orders that do not meet these requirements are not eligible for the Solicited Order Mechanism and will be rejected. The Exchange is not proposing any other changes to the current entry requirements for Solicitation. The new subsection (d)(1) would simply provide additional detail about Solicitation’s existing entry checks.

Example 3

Assume the following market:
Exchange BBO: 1 × 2 (also NBBO)
CBOE: 0.75. × 2.25 (next best exchange quote)
Solicitation order is entered to buy 500 contracts @2.05

The Solicitation order is rejected upon entry for being crossed with the NBBO on the contra side. In contrast to Example 2 above for Facilitation, the Solicitation order in this instance is not able to begin crossed with the contra side Exchange BBO because of the all-or-none contingency of the Solicitation order.²⁴

Price Improvement Mechanism

The Exchange proposes a number of changes to the PIM rule, none of which will change the current operation of this technology offering. As noted above, many of these modifications are similar to the changes proposed for Facilitation.

The Exchange proposes in Options 3, Section 13(b)(2) to delete “national best bid or offer” as NBBO is already defined in subsection (b)(1) above. The Exchange proposes in subsection (c)(2) to provide that responses in the PIM (*i.e.*, “Improvement Orders”) *will only be considered* up to the size of the Agency Order. The proposed amendment will specify that the System will cap the size of the Improvement Orders to the auction size for purposes of the allocation methodology. This is similar to the change proposed above for Facilitation. The Exchange also proposes in subsection (c)(3) to amend the internal numbering from (1) and (2) to (i) and (ii) for greater numbering consistency within the PIM rule.

In subsection (d)(3), which describes how allocation and execution takes place in PIM, the Exchange proposes that the Counter-Side Order will be allocated the greater of one contract or 40% (*or such lower percentage requested by the Member*) of the initial size of the Agency Order. Similar to Facilitation as discussed above, the

System currently permits Members entering orders into PIM to elect to receive a percentage allocation that is less than 40%, although the current rule is silent in this regard. If the Member requests a lower allocation percentage, the Counter-Side Order would receive an allocation consistent with the percentage requested by the Member. Regardless of the Member’s request, the Counter-Side Order would still be responsible for executing up to the full size of the agency order if there is not enough interest to execute the agency order at a particular price.²⁵

The Exchange also proposes to more accurately describe PIM’s auto-match functionality in a similar manner as Facilitation’s auto-match functionality, as discussed above. In this instance, the Exchange proposes to amend the third sentence of subsection (d)(3) to provide: “If a Member elects to auto-match, the Counter-Side Order will be allocated the aggregate size of all competing quotes, orders, and Responses at each price point up to the specified limit price if a limit is specified, until a price point is reached where the balance of the order can be fully executed.” Similar to the proposed amendments to Facilitation’s auto-match, the Exchange believes that the proposed language for PIM’s auto-match more clearly explains how the functionality works today, and better aligns with how this feature is described in the Auto-Match Filing.

The Exchange further proposes technical amendments in subsection (d)(3) to replace all instances of “Counter-Side order” as “Counter-Side Order” to use the correct terminology.

Anti-Internalization

The Exchange proposes to amend its anti-internalization (“AIQ”) rule in Options 3, Section 15(a)(3)(A). Specifically, the Exchange proposes to add that AIQ does not apply during the opening process or reopening process following a trading halt pursuant to Options 3, Section 8 to provide more specificity on how this functionality currently operates. The Exchange notes that the same procedures used during the opening process are used to reopen an option series after a trading halt, and therefore proposes to specify that AIQ will not apply during *an Opening Process* (*i.e.*, the opening and halt reopening process) in addition to an auction, as currently within the Rule. AIQ is unnecessary during an Opening Process due to the high level of control that Market Makers exercise over their quotes during this process. The

²⁰ See Options 3, Section 11(b)(3)(iii) (renumbered to Section 11(b)(4)(iii) under this proposal).

²¹ The Auto-Match Filing describes the auto-match feature as allowing the initiating member to submit a contra-side order that will automatically match the price and size set forth by the competing interest from other market participants (*i.e.*, auction responses, quotes, and orders) at any price level during the auction or up to a specified limit price if a limit is specified.

²² See Securities Exchange Act Release No. 55557 (March 29, 2007), 72 FR 16838 (April 5, 2007) (SR-ISE-2006-78) (Order Granting Approval of Proposed Rule Change Relating to Facilitation Mechanism).

²³ As a result, current paragraphs (d)(1)–(3) will be renumbered accordingly. The Exchange will also renumber current paragraph (d)(2)(iv) as paragraph (d)(4).

²⁴ See Options 3, Section 11(d) (requiring that each Solicitation order be designated as all-or-none).

²⁵ As noted above, BX has a similar feature called Surrender for its PRISM auction. See *supra* note 17.

proposed changes will align the Exchange's AIQ rule with BX's AIQ rule, which sets forth materially identical functionality.²⁶

Technical Amendments

The Exchange proposes two technical changes in the Supplementary Material to Options 3, Section 11. First, the Exchange proposes in Supplementary Material .03 to update an incorrect cross-cite from Options 3, Section 22(d) to Section 22(b), which limits principal transactions. Second, the Exchange proposes in Supplementary Material .05 to update the reference to "Block Mechanism" to "Block Order Mechanism" to use the correct terminology.

Lastly, the Exchange proposes to retitle General 4 (currently titled "Regulation") to "Registration Requirements" to harmonize its General Rule titles with that of its affiliates The Nasdaq Stock Market LLC and Nasdaq BX, Inc.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,²⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act,²⁸ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that its proposal is consistent with the protection of investors and public interest as all of the proposed changes will increase transparency around how various existing Exchange mechanisms work today. As such, no System changes to existing functionality are being made pursuant to this proposal. Rather, this proposal is designed to reduce any potential investor confusion as to the features and applicability of certain functionality presently available on the Exchange.

Furthermore, the proposed changes seek to provide greater harmonization between the rules of the Exchange and its affiliates.²⁹ The Exchange believes that these harmonizing changes would result in greater uniformity, and ultimately less burdensome and more efficient regulatory compliance by market participants. As such, the proposed rule change would foster cooperation and coordination with

persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange also believes that more consistent rules will increase the understanding of the Exchange's operations for Members that are also members on the Exchange's affiliates, thereby contributing to the protection of investors and the public interest.

Specifically, the Exchange believes that the proposed universal changes to replace all instances of Professional interest with non-Priority Customer interest throughout the Exchange's auction allocation rules will add greater consistency within the Exchange's rules. As discussed above, the Exchange previously made the same modifications within its standard allocation rule in Options 7, Section 10, so the proposed changes will promote more consistent terminology in the rules and make them easier for market participants to navigate and comprehend. The Exchange also believes that using the term "non-Priority Customer" reduces any potential confusion regarding any reference to Professional Orders or Professional Customer orders. In addition, the Exchange believes that clearly delineating between orders and Responses of the same capacity in the Facilitation and Solicitation rules will bring clarity and transparency around how allocation takes place in those auction mechanisms today. The Exchange is simply adding more granularity within its rules and specifying the capacity of such order or Response. As noted above, the Exchange is not changing the current allocation methodology, and auction orders and Responses of the same capacity do not get treated differently for allocation purposes today.

The Exchange believes that the proposed changes to the Block rule are consistent with the protection of investors and the public interest as the modifications will more accurately reflect the handling of auctions in Block, specifically as it relates to execution and allocation. The proposed changes will specify that better priced interest entered into Block gets executed in full only if there is sufficient size to execute against such interest, and that Priority Customer interest gets executed first in price time priority. This specificity will be helpful to market participants utilizing Block and provide greater certainty as to how their Block orders will be executed and allocated. The Exchange also believes that the proposed changes will continue to ensure a fair and orderly market by

maintaining and protecting the priority of Priority Customer orders, while still affording the opportunity for all market participants to seek liquidity and potential price improvement during each Block auction commenced on the Exchange. As noted above, the Exchange is not proposing any changes to the current execution or allocation methodology but believes that the changes will promote consistency with the rulebook of its affiliated exchange BX, which offers identical functionality.³⁰

Similarly, the Exchange believes that specifying the entry checks for Facilitation and Solicitation is consistent with the protection of investors and the public interest by bringing more transparency around how the entry checks operate today. The Exchange is not amending the current Facilitation and Solicitation entry checks; rather, the proposed changes are simply intended to add a more robust description of current System behavior in the Exchange's rules. The Exchange also believes it is appropriate to require that the Facilitation order be entered at an improved price if there is a Priority Customer order on the same side Exchange best bid or offer as the agency order. The Exchange believes this will ensure a fair and orderly market by maintaining priority of orders and quotes and protecting Priority Customer orders, while still affording the opportunity to seek liquidity and for potential price improvement during each Facilitation auction commenced on the Exchange. For the same reasons, the Exchange believes that it is appropriate to require that the Solicitation order be entered at an improved price if there is a Priority Customer order on the Exchange best bid or offer.

The proposed changes to replace "must not exceed" with "will only be considered up to" in the Facilitation and PIM rules are intended to more accurately describe that the System will cap the size of Responses to the size of the agency order for purposes of allocation. The Exchange is not amending current System behavior; rather, the modifications will more clearly articulate the handling of Responses by the System.

The Exchange believes that its proposal to specify in the Facilitation and PIM rules that an initiating Member may elect to receive a percentage allocation lower than 40% is consistent with the Act. This feature provides an initiating Member that submits an order into Facilitation or PIM with the flexibility to configure its allocation

³⁰ See *supra* notes 13–14, and accompanying text.

²⁶ See BX Options 3, Section 15(c)(1).

²⁷ 15 U.S.C. 78f(b).

²⁸ 15 U.S.C. 78f(b)(5).

²⁹ See *supra* note 3.

percentage up to the full 40% entitlement. The Exchange notes that regardless of the Member's instruction, the contra-side order would still be responsible for executing up to the full size of the agency order if there is not enough interest to execute the agency order at a particular price. The Exchange continues to believe that the 40% allocation entitlement is consistent with the statutory standards for competition and free and open markets by promoting price competition within Facilitation and PIM as Members would still have a reasonable opportunity to compete for a significant percentage of the incoming order. The Exchange also notes that the configurable 40% allocation entitlement for Facilitation and PIM is consistent with the configurable allocation entitlements in place on its affiliated exchanges.³¹ Accordingly, the Exchange believes that the proposed changes will promote consistency across the rulebooks of exchanges offering identical functionality.

With respect to the proposed changes to the Facilitation and PIM auto-match feature, the Exchange is amending the current rule text so that it more accurately explains how the Exchange will allocate an order designated for auto-match today. As discussed above, the Exchange is not making any substantive changes to the allocation procedure itself; rather the proposed changes are intended to better align how this feature is described in the Auto-Match Filing.³² Similarly, the Exchange believes that the proposed change in Supplementary Material .01 to Options 3, Section 11 to add the provision that any solicited contra orders entered by Members into the Facilitation Mechanism to trade against Agency Orders may not be for the account of an Exchange Market Maker that is assigned to the options class will better align the rule text with SR-ISE-2006-78. As discussed above, this restriction was included in the approval order to the rule filing that allowed solicited transactions in ISE's Facilitation Mechanism, which is identical to the Exchange's Facilitation Mechanism, so the Exchange will import that language into the rule text for greater transparency.³³

The Exchange believes its proposal to provide that AIQ will not apply during an Opening Process (*i.e.*, the opening process or halt reopening process) will more accurately state how this functionality currently operates. AIQ

prevents Market Makers from trading against their own quotes and orders. While the Exchange believes that this protection is useful for Market Makers to manage their trading during regular market hours, applying AIQ is unnecessary during an Opening Process due to the high level of control that Market Makers already exercise over their quotes during this process. Furthermore, the proposed AIQ changes will promote consistency with the rulebook of its affiliated exchange BX, which offers identical functionality.³⁴

The Exchange further believes that the technical changes it is proposing throughout Options 3 are non-substantive changes intended to enhance the accuracy of the Exchange's Rulebook, which will alleviate potential confusion as to the applicability of its rules. As discussed above, these changes consist of updating cross-cites and using correct terminology. Lastly, the Exchange believes that the harmonizing change to retitle General 4, as discussed above, will serve to further harmonize its Rule titling with that of its affiliates, thereby promoting efficiency and conformity of its processes with those of its affiliated exchanges.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. As indicated above, no System changes to existing functionality are being made pursuant to this proposal; rather, this proposal is designed to reduce any potential investor confusion as to the features and applicability of certain functionality presently available on the Exchange. Therefore, the proposed changes are designed to enhance clarity and consistency in the Exchange's Rulebook.

Furthermore, many of the proposed changes seek to provide greater harmonization between the rules of the Exchange and its affiliates, and therefore promotes fair competition among the options exchanges. In particular, the proposed changes discussed above for Block and AIQ are based on BX rules governing identical functionality.³⁵ The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues who offer similar functionality. The Exchange believes that the proposed rule change will enhance competition

among the various markets for auction execution, potentially resulting in more active trading in auction mechanisms across all options exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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)(iii) of the Act³⁶ and subparagraph (f)(6) of Rule 19b-4 thereunder.³⁷

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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-GEMX-2021-01 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange

³⁶ 15 U.S.C. 78s(b)(3)(A)(iii).

³⁷ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

³¹ See *supra* note 17.

³² See *supra* note 21.

³³ See *supra* note 22.

³⁴ See *supra* note 26.

³⁵ See BX Options 3, Section 11(a) (Block) and Section 15(c)(1) (AIQ).

Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-GEMX-2021-01. 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-GEMX-2021-01, and should be submitted on or before April 21, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁸

J. Matthew DeLesDernier,
Assistant Secretary.

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BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-91407; File No. SR-MRX-2021-01]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Various Rules in Options 3

March 25, 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 March 12, 2021, Nasdaq MRX, LLC (“MRX” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to amend various rules in Options 3.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/mrx/rules>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend various rules in Options 3. The proposed changes consist of conforming existing rules to current System technology, amending rule text to add greater detail on how certain Exchange functionality operate today. Furthermore, the proposed changes are intended to harmonize the Exchange's rules where appropriate with the rules of the Exchange's affiliated options markets, including by using consistent language to describe identical functionality.³ As such, no

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Exchange's affiliate, Nasdaq ISE, LLC (“ISE”) recently filed a substantially similar rule change as part of this exercise. See Securities Exchange Act Release No. 91223 (February 26, 2021) (SR-ISE-2021-01).

System changes to existing functionality are being made pursuant to this proposal. Rather, this proposal is designed to reduce any potential investor confusion as to the features and applicability of certain functionality presently available on the Exchange. These changes are described in detail below, and include amending Exchange rules governing: (1) The Block Order Mechanism (“Block”),⁴ (2) the Facilitation Mechanism (“Facilitation”),⁵ (3) the Solicited Order Mechanism (“Solicitation”),⁶ (4) the Price Improvement Mechanism (“PIM”),⁷ (5) Trade Value Allowance (“TVA”),⁸ and (6) Anti-Internalization.⁹

Universal Changes

In September 2019, the Exchange amended its regular allocation rule in Options 7, Section 10 (Priority of Quotes and Orders) to make non-substantive changes, among other changes, to replace references to Professional interest with non-Priority Customer interest.¹⁰ The Exchange now proposes to make similar changes to replace all instances of “Professional” interest with “non-Priority Customer” interest throughout its auction allocation rules in Options 3, Section 11 and Section 13 to align with the changes made in SR-MRX-2019-17.¹¹ While the term “Professional Orders” is defined within Options 1, Section 1(a)(38) as an order that is for the account of a person or entity that is not a Priority Customer, the Exchange believes that using the term “non-Priority Customer” is more clear in describing the types of market participant to which the allocation applies, and also reduces confusion regarding any reference to Professional Orders or Professional Customer orders.

In addition, the Exchange proposes to make universal changes in its Facilitation and Solicitation rules¹² to clearly delineate between orders and

⁴ See Options 3, Section 11(a).

⁵ See Options 3, Section 11(b).

⁶ See Options 3, Section 11(d).

⁷ See Options 3, Section 13.

⁸ See Supplementary Material .03 to Options 3, Section 14.

⁹ See Options 3, Section 15(a)(3)(A).

¹⁰ See Securities Exchange Act Release No. 86949 (September 12, 2019), 84 FR 49151 (September 18, 2019) (SR-MRX-2019-17).

¹¹ Specifically in Options 3, Section 11, the Exchange will amend current subsections (a)(2)(ii), (b)(3)(i)-(iii) (renumbered to (b)(4)(i)-(iii) under this proposal), (c)(7)(A)-(C), (d)(2)(iii) (renumbered to (d)(3)(iii) under this proposal), and (e)(4)(D). In Options 3, Section 13, the Exchange will amend current subsections (d)(1)-(3) and (e)(5)(i)-(iii).

¹² Specifically in Options 3, Section 11, subsections (b)(3)(i)-(iii) (renumbered to (b)(4)(i)-(iii)), and (d)(2)(i) and (iii) (renumbered to (d)(3)(i) and (iii)) will be updated.

³⁸ 17 CFR 200.30-3(a)(12).

Responses¹³ of the same capacity. For example, where the existing rule text currently states “Priority Customer bids (offers),” the Exchange proposes instead to state “Priority Customer Orders and Priority Customer Responses to buy (sell).” The Exchange notes that this is merely a non-substantive change as auction orders and Responses of the same capacity do not get treated differently for allocation purposes today. The rules for complex Facilitation and Solicitation already distinguish between orders and Responses, so the Exchange is simply amending those complex rules to clearly state how, for example, Priority Customer Complex Orders and *Priority Customer Responses* get allocated today.¹⁴ With the proposed changes, the Exchange seeks to include a similar level of detail within its simple and complex Facilitation and Solicitation rules in order to bring transparency around how allocation takes place in those auction mechanisms today.

Block Order Mechanism

The Exchange proposes minor changes to the current descriptions of the Block execution and allocation process in Options 3, Section 11(a). As discussed below, the proposed Block changes are non-substantive in nature, and are intended to harmonize with the Block rule on its affiliated market, BX Options (“BX”) in order to ensure rule consistency between the Exchange and its affiliate offering identical functionality.

First, the Exchange proposes to add “up to the size of the block order” at the end of subsection (a)(2)(i). As amended, the rule will provide that bids (offers) on the Exchange at the time the block order is time the block order is executed that are priced higher (lower) than the block execution price, as well as Responses that are priced higher (lower) than the block execution price, will be executed in full at the block execution price *up to the size of the block order*. The Exchange is making this non-substantive change to align with BX’s Block rule,¹⁵ which will ensure rule consistency for identical functionality across affiliated markets. The language states that better priced interest gets executed in full only if there is sufficient size to execute against such interest, which is how block orders are executed and priced on the Exchange and BX today.

¹³ A “Response” is an electronic message that is sent by Members in response to a broadcast message. See Options 3, Section 11.

¹⁴ See Options 3, Section 11(c)(7) and (e)(4).

¹⁵ See BX Options 3, Section 11(a)(2)(A).

Second, the Exchange proposes a non-substantive change in the first sentence of subsection (a)(2)(ii) to replace “first and in time priority” with “first in price time priority.” As amended, the rule will provide that at the block execution price, Priority Customer Orders and Priority Customer Responses will be executed *first in price time priority*. This is not a change to the current Block allocation methodology, but rather a non-substantive change for better readability, and to align with BX’s Block rule¹⁶ in order to ensure rule consistency for identical functionality across affiliated markets. Block orders will continue to trade at a single execution price that allows the maximum number of contracts of the block order to be executed against both the Responses entered to trade against the order and unrelated interest on the Exchange’s order book.

Example 1

Block order is entered to buy 50 contracts @1.50

The following Responses are received:

Priority Customer Response 1 to sell 40 contracts @1.40

Priority Customer Response 2 to sell 10 contracts @1.40

Priority Customer Response 3 to sell 10 contracts @1.39

The block execution price would be \$1.40 (*i.e.*, the price at which the maximum number of contracts could be executed) and would be executed as follows:

Block order trades 10 with Priority

Customer Response 3 @1.40

Block order trades 40 with Priority

Customer Response 1 @1.40

As shown above, Priority Customer Response 3 would be executed in full since it is priced better than the block execution price and there is sufficient size to execute Response 3 against the block order, while Priority Customer Responses 1 and 2, which are priced at the block execution price, would participate in price time priority—*i.e.*, the remaining 40 contracts would go to Response 1, which was received before Response 2.

Facilitation Mechanism

The Exchange proposes a number of changes to its Facilitation rule, none of which will change the current operation of this technology offering. Many of the proposed changes are intended to align the simple Facilitation rule in Options 3, Section 11(b) with the complex Facilitation rule in Options 3, Section 11(c) where relevant. In May 2019, the

¹⁶ See BX Options 3, Section 11(a)(2)(B).

Exchange received SEC approval to adopt complex order functionality, which included complex auction mechanisms like complex Facilitation.¹⁷ As adopted, the complex auction rules contain a more robust description of the operation and applicability of this functionality compared to the existing simple auction rules. Accordingly, the Exchange seeks to make aligning changes and update its simple auction mechanism rules to similarly provide the level of detail that now exists in its complex auction mechanism rules. The Exchange also proposes to more accurately describe how orders will be allocated in Facilitation’s “auto-match” functionality.

In Options 3, Section 11(b), the Exchange proposes to add new subsection (b)(1),¹⁸ which will provide that Orders must be entered into the Facilitation Mechanism at a price that is (A) equal to or better than the NBBO on the same side of the market as the agency order unless there is a Priority Customer order on the same side Exchange best bid or offer, in which case the order must be entered at an improved price; and (B) equal to or better than the ABBO¹⁹ on the opposite side. Orders that do not meet these requirements are not eligible for the Facilitation Mechanism and will be rejected. The Exchange is not proposing any other changes to the current entry requirements for Facilitation. The new subsection (b)(1) would simply provide additional detail about simple Facilitation’s existing entry checks, and align to the level of detail currently within the complex Facilitation rule regarding entry checks.²⁰

¹⁷ See Securities Exchange Act Release No. 85935 (May 24, 2019), 84 FR 25332 (May 31, 2019) (SR-MRX-2019-08) (“Complex Order Filing”). As discussed later in this filing, the Complex Order Filing also adopted complex Solicitation and PIM, and the Exchange is proposing to align the simple Solicitation and PIM rules with the complex rules where possible.

¹⁸ As a result, current subsections (b)(1)–(3) will be renumbered as (b)(2)–(4). The Exchange will also renumber current subsection (b)(3)(iv) as subsection (b)(5).

¹⁹ The term “Away Best Bid or Offer” or “ABBO” means the displayed National Best Bid or Offer not including the Exchange’s Best Bid or Offer. See Options 1, Section 1(a)(4).

²⁰ See Options 3, Section 11(c)(1) and (c)(2). Complex Facilitation refers to the Exchange’s best bid or offer instead of the NBBO or ABBO. There is no NBBO for complex orders as complex orders may be executed without consideration of any prices that might be available on other exchanges trading the same options contracts. See Options 3, Section 14(d). Additionally, executions of legs of complex orders are exceptions to the prohibition on trade-throughs. See ISE Options 5, Section 2(b)(7) (incorporated by reference into the Exchange’s Rulebook).

Example 2

Assume the following market:

Exchange BBO: 1 × 2 (also NBBO)

CBOE: 0.75 × 2.25 (next best exchange quote)

Facilitation order is entered to buy 50 contracts @2.05

No Responses are received.

The Facilitation order executes with resting 50 lot quote @2. In this instance, the Facilitation order is able to begin crossed with the contra side Exchange BBO because in execution, the resting 50 lot quote @2 is able to provide price improvement to the facilitation order.

In renumbered subsection (b)(3), the Exchange proposes to replace the words “must not exceed” with “will only be considered up to” in order to align with identical language in the complex Facilitation rule.²¹ This change more accurately describes that the System will cap Responses to the size of the auction for purposes of allocation methodology.

In renumbered subsections (b)(4)(ii) and (b)(4)(iii), the Exchange proposes to amend the rule to provide that the facilitating Member will be allocated up to forty percent (40%) (or such lower percentage requested by the Member) of the original size of the facilitation order. If the Member requests a lower allocation percentage, the contra-side order would receive an allocation consistent with the percentage requested by the Member. Regardless of the Member’s request, the contra-side order would still be responsible for executing up to the full size of the agency order if there is not enough interest to execute the agency order at a particular price. Similar language indicating that the Member may request a lower allocation percentage than 40% is currently included in the complex Facilitation rule, which operate in the same way as the simple Facilitation in this manner.²² For greater consistency between its simple and complex Facilitation rules, the Exchange also proposes to make aligning, non-substantive changes in the complex Facilitation rule to provide that the Member will “be allocated up to” forty percent. The current complex

Facilitation language provides that the Member will “execute at least forty percent” or that the Member will “be allocated at least forty percent.”²³ The non-substantive language proposed for complex Facilitation will therefore serve to harmonize the complex rule with the amended simple rule.

The Exchange also proposes to more accurately describe Facilitation’s auto-match functionality, which provides an enhanced price improvement opportunity for the agency order by permitting the contra-side order to further participate in the cross by auto-matching the price and size of competing interest providing price improvement from other market participants. The Exchange adopted Facilitation (and its auto-match functionality) as part of its application to be registered as a national securities exchange.²⁴ In approving Facilitation, the Commission noted that it was largely based on similar functionality offered by ISE.²⁵ The rule currently provides that upon entry of an order into the Facilitation Mechanism, the facilitating Electronic Access Member can elect to automatically match the price and size of orders, quotes and responses received during the exposure period up to a specified limit price or without specifying a limit price. In this case, the facilitating Electronic Access Member will be allocated its full size at each price point, or at each price point within its limit price is a limit is specified, until a price point is reached where the balance of the order can be fully executed.²⁶ The Exchange proposes to state that if a Member elects to auto-match, the facilitating Electronic Access Member will be allocated *the aggregate size of all competing quotes, orders, and Responses* (instead of “its full size”) at each price point, or at each price point *up to the specified limit price* (instead of “within its limit price”) if a limit is specified, until a price point is reached where the balance of the order can be fully executed. The Exchange believes that the modified

²³ *Id.*

²⁴ See Securities Exchange Act Release No. 76998 (January 29, 2016), 81 FR 6066 (February 4, 2016) (File No. 10–221).

²⁵ ISE adopted its auto-match functionality in 2010. See Securities Exchange Act Release No. 62644 (August 4, 2010), 75 FR 48395 (August 10, 2010) (SR–ISE–2010–61) (“Auto-Match Filing”). As discussed later in this filing, the Auto-Match Filing also introduced the auto-match feature on ISE’s PIM, which is functionally identical to the Exchange’s PIM. As such, the Exchange is proposing to make similar changes in PIM’s auto-match rule as proposed for Facilitation’s auto-match rule.

²⁶ See Options 3, Section 11(b)(3)(iii) (renumbered to Section 11(b)(4)(iii) under this proposal).

language more accurately explains how the functionality works today, and better aligns with how this feature is described in the Auto-Match Filing.²⁷ For greater consistency within its Rulebook, the Exchange will also make the same changes in the complex Facilitation auto-match rule in Options 3, Section 11(c)(7)(C).

Lastly, the Exchange proposes to add at the end of Supplementary Material .01 to Options 3, Section 11 that any solicited contra orders entered by Members into the Facilitation Mechanism to trade against Agency Orders may not be for the account of an Exchange Market Maker that is assigned to the options class.²⁸ This language was included in the approval order to SR–ISE–2006–78 to allow solicited transactions in ISE’s Facilitation Mechanism. As discussed above, the Exchange’s Facilitation Mechanism is functionally identical to ISE’s Facilitation Mechanism. As such, the Exchange seeks to import the same prohibition into the Exchange’s rule text for greater transparency.

Solicited Order Mechanism

The Exchange proposes the below changes to its Solicitation rule, none of which will change the current operation of this technology offering.

In Options 3, Section 11(d), the Exchange proposes to add new subsection (d)(1),²⁹ which will provide that orders must be entered into the Solicited Order Mechanism at a price that is equal to or better than the NBBO on both sides of the market; provided that, if there is a Priority Customer order on the Exchange best bid or offer, the order must be entered at an improved price. Orders that do not meet these requirements are not eligible for the Solicited Order Mechanism and will be rejected. The Exchange is not proposing any other changes to the current entry requirements for Solicitation. The new subsection (d)(1) would simply provide additional detail about simple Solicitation’s existing entry checks, and align to the level of

²⁷ The Auto-Match Filing describes the auto-match feature as allowing the initiating member to submit a contra-side order that will automatically match the price and size set forth by the competing interest from other market participants (*i.e.*, auction responses, quotes, and orders) at any price level during the auction or up to a specified limit price if a limit is specified.

²⁸ See Securities Exchange Act Release No. 55557 (March 29, 2007), 72 FR 16838 (April 5, 2007) (SR–ISE–2006–78) (Order Granting Approval of Proposed Rule Change Relating to Facilitation Mechanism).

²⁹ As a result, current paragraphs (d)(1)–(3) will be renumbered accordingly. The Exchange will also renumber current paragraph (d)(2)(iv) as paragraph (d)(4).

²¹ See Options 3, Section 11(c)(6).

²² See Options 3, Section 11(c)(7)(B) and (C). Other options exchanges such as BX provide similar functionality that allows members using an auction mechanism to configure allocation priority. See, e.g., BX Options 3, Section 13, which provides a similar feature for the BX Options Price Improvement Auction (“PRISM”) called “Surrender.” ISE also recently amended its Facilitation rule in ISE Options 3, Section 11(b), which governs identical functionality on ISE as the Exchange’s Facilitation Mechanism, to make the same change as proposed herein. See *supra* note 3.

detail currently within the complex Solicitation rule regarding entry checks.³⁰

Example 3

Assume the following market:

Exchange BBO: 1×2 (also NBBO)
CBOE: 0.75×2.25 (next best exchange quote)

Solicitation order is entered to buy 500 contracts @2.05

The Solicitation order is rejected upon entry for being crossed with the NBBO on the contra side. In contrast to Example 2 above for Facilitation, the Solicitation order in this instance is not able to begin crossed with the contra side Exchange BBO because of the all-or-none contingency of the Solicitation order.³¹

Price Improvement Mechanism

The Exchange proposes a number of changes to the PIM rule, none of which will change the current operation of this technology offering. As noted above, many of these modifications are similar to the changes proposed for Facilitation.

The Exchange proposes in Options 3, Section 13(b)(2) to delete “national best bid or offer” as NBBO is already defined in subsection (b)(1) above. The Exchange proposes in subsection (c)(2) to provide that responses in the PIM (*i.e.*, “Improvement Orders”) *will only be considered* up to the size of the Agency Order. The proposed amendment will specify that the System will cap the size of the Improvement Orders to the auction size for purposes of the allocation methodology. This is similar to the change proposed above for simple Facilitation, and also aligns to identical language in the complex PIM rule.³² The Exchange also proposes in subsection (c)(3) to amend the internal numbering from (1) and (2) to (i) and (ii) for greater numbering consistency within the PIM rule.

In subsection (d)(3), which describes how allocation and execution takes place in simple PIM, the Exchange proposes that the Counter-Side Order will be allocated the greater of one contract or 40% (*or such lower percentage requested by the Member*) of the initial size of the Agency Order. Similar to Facilitation as discussed above, the System currently permits

Members entering orders into PIM to elect to receive a percentage allocation that is less than 40%, although the current rule is silent in this regard. If the Member requests a lower allocation percentage, the Counter-Side Order would receive an allocation consistent with the percentage requested by the Member. Regardless of the Member’s request, the Counter-Side Order would still be responsible for executing up to the full size of the agency order if there is not enough interest to execute the agency order at a particular price. Complex PIM, which shares the same allocation feature as simple PIM, already has this concept within the rule, so the proposed changes will align the simple PIM rule with the complex PIM rule.³³

The Exchange also proposes to more accurately describe PIM’s auto-match functionality in a similar manner as Facilitation’s auto-match functionality, as discussed above. In this instance, the Exchange proposes to amend the third sentence of subsection (d)(3) to provide: “If a Member elects to auto-match, the Counter-Side Order will be allocated the aggregate size of all competing quotes, orders, and Responses at each price point up to the specified limit price if a limit is specified, until a price point is reached where the balance of the order can be fully executed.” Similar to the proposed amendments to simple Facilitation’s auto-match, the Exchange believes that the proposed language for simple PIM’s auto-match more clearly explains how the functionality works today, and better aligns with how this feature is described in the Auto-Match Filing. For greater consistency within its Rulebook, the Exchange will also make the same changes in the complex PIM auto-match rule in Options 3, Section 13(e)(5)(iii).

The Exchange further proposes technical amendments in subsection (d)(3) to replace all instances of “Counter-Side order” as “Counter-Side Order” to use the correct terminology. Lastly, the Exchange proposes to provide in Supplementary Material .04 to Options 3, Section 13 that PIMs will not queue or overlap in any manner, *except as described in Options 3, Section 11(f) and (g)*. Sections 11(f) and (g) set forth the governing provisions for concurrent complex auctions and concurrent complex and simple auctions. The proposed changes to add in the cross-cites to Sections 11(f) and (g) will make clear that two simple or two complex PIM auctions are not

permitted to run concurrently, but that a simple PIM auction may run concurrently with a complex PIM auction.

Trade Value Allowance

The Exchange proposes a non-substantive change to amend the TVA rule in Supplementary Material .03 to Options 3, Section 14 to add a cross-cite to the complex PIM rule in Options 3, Section 13, which was inadvertently omitted when the Exchange relocated the complex auctions rules in a prior filing.³⁴ In SR-MRX-2019-15, the original cross-cite within the TVA rule was updated from Supplementary Material .08 to Rule 722 to Rule 716 (now Options 3, Section 11). Supplementary Material .08 to Rule 722 set forth the complex auction mechanism rules, namely complex Facilitation, Solicitation, and PIM. SR-MRX-2019-15 relocated complex Facilitation and Solicitation to Rule 716 (now Options 3, Section 11), but moved complex PIM to Rule 723 (now Options 3, Section 13). As such, the original cross-cite in the TVA rule should have been updated to include complex PIM in Rule 723 but was inadvertently omitted.

TVA is a functionality that allows complex orders to trade outside of their expected notional trade amount by a specified amount. The amount of TVA permitted may be determined by the Member, or a default value determined by the Exchange and announced to Members.³⁵ The TVA rule currently provides, however, that any amount of TVA is permitted in auction mechanisms pursuant to Options 3, Section 11 when auction orders do not trade solely with their contra-side order. The Exchange now proposes to add a cross-cite to Options 3, Section 13 to specify that TVA also applies to complex PIM auctions in this manner. The Exchange will also provide that TVA applies to “complex” mechanisms in the cited rules. These changes will align the rule text to how TVA is presently implemented in the System. The Exchange notes that its complex auction mechanisms provide an opportunity for market participants to respond with better-priced interest that could execute against an Agency Order. As such, the Exchange believes that it is appropriate to ensure that paired orders entered into complex Facilitation, Solicitation and PIM that are broken up due to better-priced interest are actually

³⁰ See Options 3, Section 11(e)(1). Complex Solicitation refers to the Exchange’s best bid or offer instead of the NBBO. As noted above, there is no NBBO for complex orders, and executions of legs of complex orders are exceptions to the prohibition of trade-throughs. See *supra* note 20.

³¹ See Options 3, Section 11(d) (requiring that each Solicitation order be designated as all-or-none).

³² See Options 3, Section 13(e)(4)(i).

³³ See Options 3, Section 13(e)(5)(iii). As noted above, BX has a similar feature called Surrender for its PRISM auction. See *supra* note 22.

³⁴ See Securities Exchange Release No. 86424 (July 22, 2019), 84 FR 36134 (July 26, 2019) (SR-MRX-2019-15).

³⁵ See Supplementary Material .03 to Options 3, Section 14.

executed against such better-priced interest, and are not restricted from trading due to TVA settings of one or more Members.

Anti-Internalization

The Exchange proposes to amend its anti-internalization (“AIQ”) rule in Options 3, Section 15(a)(3)(A). Specifically, the Exchange proposes to add that AIQ does not apply during the opening process or reopening process following a trading halt pursuant to Options 3, Section 8 to provide more specificity on how this functionality currently operates. The Exchange notes that the same procedures used during the opening process are used to reopen an option series after a trading halt, and therefore proposes to specify that AIQ will not apply during an *Opening Process* (i.e., the opening and halt reopening process) in addition to an auction, as currently within the Rule. AIQ is unnecessary during an Opening Process due to the high level of control that Market Makers exercise over their quotes during this process. The proposed changes will align the Exchange’s AIQ rule with BX’s AIQ rule, which sets forth materially identical functionality.³⁶

Technical Amendments

The Exchange proposes two technical changes in the Supplementary Material to Options 3, Section 11. First, the Exchange proposes in Supplementary Material .03 to update an incorrect cross-cite from Options 3, Section 22(d) to Section 22(b), which limits principal transactions. Second, the Exchange proposes in Supplementary Material .05 to update the reference to “Block Mechanism” to “Block Order Mechanism” to use the correct terminology.

Lastly, the Exchange proposes some harmonizing changes throughout its Rulebook to align with the rule numbering and titles with that of its affiliates. Specifically, the Exchange proposes to add a new Options 4B and reserve it in the Rulebook in order to harmonize its Options Rule numbering with that of its affiliates, Nasdaq GEMX, LLC and Nasdaq PHLX LLC. The Exchange also proposes to retitle General 4 (currently titled “Regulation”) to “Registration Requirements” to harmonize its General Rule titles with that of its affiliates The Nasdaq Stock Market LLC and Nasdaq BX, Inc.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b)

of the Act,³⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act,³⁸ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that its proposal is consistent with the protection of investors and public interest as all of the proposed changes will increase transparency around how various existing Exchange mechanisms work today. As such, no System changes to existing functionality are being made pursuant to this proposal. Rather, this proposal is designed to reduce any potential investor confusion as to the features and applicability of certain functionality presently available on the Exchange.

Furthermore, the proposed changes seek to provide greater harmonization between the rules of the Exchange and its affiliates,³⁹ and between the Exchange’s own simple and complex auction rules.⁴⁰ The Exchange believes that these harmonizing changes would result in greater uniformity, and ultimately less burdensome and more efficient regulatory compliance by market participants. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange also believes that more consistent rules will increase the understanding of the Exchange’s operations for Members that are also members on the Exchange’s affiliates, thereby contributing to the protection of investors and the public interest.

Specifically, the Exchange believes that the proposed universal changes to replace all instances of Professional interest with non-Priority Customer interest throughout the Exchange’s auction allocation rules will add greater consistency within the Exchange’s rules. As discussed above, the Exchange previously made the same modifications within its standard allocation rule in Options 7, Section 10, so the proposed changes will promote more consistent terminology in the rules and make them easier for market participants to

navigate and comprehend. The Exchange also believes that using the term “non-Priority Customer” reduces any potential confusion regarding any reference to Professional Orders or Professional Customer orders. In addition, the Exchange believes that clearly delineating between orders and Responses of the same capacity in the Facilitation and Solicitation rules will bring clarity and transparency around how allocation takes place in those auction mechanisms. The complex Facilitation and Solicitation rules currently differentiate between orders and Responses,⁴¹ so the Exchange is aligning the simple rule to the level of granularity already found in the complex rule while also specifying the capacity of such order or Response within the simple and complex rules. As noted above, the Exchange is not changing the current allocation methodology, and auction orders and Responses of the same capacity do not get treated differently for allocation purposes today.

The Exchange believes that the proposed changes to the Block rule are consistent with the protection of investors and the public interest as the modifications will more accurately reflect the handling of auctions in Block, specifically as it relates to execution and allocation. The proposed changes will specify that better priced interest entered into Block gets executed in full only if there is sufficient size to execute against such interest, and that Priority Customer interest gets executed first in price time priority. This specificity will be helpful to market participants utilizing Block and provide greater certainty as to how their Block orders will be executed and allocated. The Exchange also believes that the proposed changes will continue to ensure a fair and orderly market by maintaining and protecting the priority of Priority Customer orders, while still affording the opportunity for all market participants to seek liquidity and potential price improvement during each Block auction commenced on the Exchange. As noted above, the Exchange is not proposing any changes to the current execution or allocation methodology but believes that the changes will promote consistency with the rulebook of its affiliated exchange BX, which offers identical functionality.⁴²

Similarly, the Exchange believes that specifying the entry checks for simple Facilitation and Solicitation is consistent with the protection of

³⁷ 15 U.S.C. 78f(b).

³⁸ 15 U.S.C. 78f(b)(5).

³⁹ See *supra* note 3.

⁴⁰ As noted above, the Exchange seeks to add granularity to its simple auction rules to align with the level of detail that currently exists within its complex auction rules. See *supra* note 17.

⁴¹ See *supra* note 14.

⁴² See *supra* notes 15–16, and accompanying text.

³⁶ See BX Options 3, Section 15(c)(1).

investors and the public interest by providing greater consistency to the level of granularity currently within the complex Facilitation and Solicitation entry checks.⁴³ The Exchange is not amending the current entry checks for simple Facilitation and Solicitation; rather, the proposed changes are simply intended to add a more robust description of current System behavior in the Exchange's rules. The Exchange also believes it is appropriate to require that the Facilitation order be entered at an improved price if there is a Priority Customer order on the same side Exchange best bid or offer as the agency order. The Exchange believes this will ensure a fair and orderly market by maintaining priority of orders and quotes and protecting Priority Customer orders, while still affording the opportunity to seek liquidity and for potential price improvement during each Facilitation auction commenced on the Exchange. For the same reasons, the Exchange believes that it is appropriate to require that the Solicitation order be entered at an improved price if there is a Priority Customer order on the Exchange best bid or offer.

The proposed changes to replace "must not exceed" with "will only be considered up to" in the simple Facilitation and PIM rules are intended to more accurately describe that the System will cap the size of Responses to the size of the agency order for purposes of allocation. The Exchange is not amending current System behavior; rather, the modifications will more clearly articulate the handling of Responses by the System. In addition, the proposed changes will serve to harmonize the simple and complex auction rules, thereby resulting in greater uniformity and ultimately less burdensome and more efficient regulatory compliance by market participants.⁴⁴

The Exchange believes that its proposal to specify in the simple Facilitation and PIM rules that an initiating Member may elect to receive a percentage allocation lower than 40% is consistent with the Act. This feature provides an initiating Member that submits an order into Facilitation or PIM with the flexibility to configure its allocation percentage up to the full 40% entitlement. The Exchange notes that regardless of the Member's instruction, the contra-side order would still be responsible for executing up to the full size of the agency order if there is not enough interest to execute the agency

order at a particular price. The Exchange continues to believe that the 40% allocation entitlement is consistent with the statutory standards for competition and free and open markets by promoting price competition within Facilitation and PIM as Members would still have a reasonable opportunity to compete for a significant percentage of the incoming order. The Exchange also notes that the configurable 40% allocation entitlement for simple Facilitation and PIM is consistent with the configurable allocation entitlements in place on complex Facilitation and PIM as well as on its affiliated exchanges.⁴⁵ Accordingly, the Exchange believes that the proposed changes will promote consistency across the rulebooks of exchanges offering identical functionality and within its own Rulebook as well.

With respect to the proposed changes to the Facilitation and PIM auto-match feature, the Exchange is amending the current rule text so that it more accurately explains how the Exchange will allocate an order designated for auto-match today. As discussed above, the Exchange is not making any substantive changes to the allocation procedure itself; rather the proposed changes are intended to better align how this feature is described in the Auto-Match Filing.⁴⁶ Similarly, the Exchange believes that the proposed change in Supplementary Material .01 to Options 3, Section 11 to add the provision that any solicited contra orders entered by Members into the Facilitation Mechanism to trade against Agency Orders may not be for the account of an Exchange Market Maker that is assigned to the options class will better align the rule text with SR-ISE-2006-78. As discussed above, this restriction was included in the approval order to the rule filing that allowed solicited transactions in ISE's Facilitation Mechanism, which is identical to the Exchange's Facilitation Mechanism, so the Exchange will import that language into the rule text for greater transparency.⁴⁷

The proposed change in Supplementary Material .04 to Options 3, Section 13 to provide that PIMs will not queue or overlap in any manner, except as described in Options 3, Section 11(f) and (g) will make clear that two simple or complex PIM auctions are not permitted to run concurrently, but that a simple PIM auction may run concurrently with a complex PIM auction. The Exchange believes that this

change will reduce any potential confusion around how simultaneous PIM auctions are processed by the System.

The Exchange believes that the proposed change to the TVA rule is a non-substantive change to say that any amount of TVA is permitted in complex PIM (in addition to all of the other complex auction mechanisms in Options 3, Section 11). This is a corrective change as the cross-cite to complex PIM within the TVA rule was inadvertently dropped in a prior filing that relocated the complex auction rules.⁴⁸ As noted above, the Exchange's complex auction mechanisms provide an opportunity for market participants to respond with better-priced interest that could execute against an Agency Order. Accordingly, the Exchange believes that it is appropriate to ensure that paired orders entered into complex Facilitation, Solicitation and PIM that are broken up due to better-priced interest are actually executed against such better-priced interest, and are not restricted from trading due to TVA settings of one or more Members.

The Exchange believes its proposal to provide that AIQ will not apply during an Opening Process (*i.e.*, the opening process or halt reopening process) will more accurately state how this functionality currently operates. AIQ prevents Market Makers from trading against their own quotes and orders. While the Exchange believes that this protection is useful for Market Makers to manage their trading during regular market hours, applying AIQ is unnecessary during an Opening Process due to the high level of control that Market Makers already exercise over their quotes during this process. Furthermore, the proposed AIQ changes will promote consistency with the rulebook of its affiliated exchange BX, which offers identical functionality.⁴⁹

The Exchange further believes that the technical changes it is proposing throughout Options 3 are non-substantive changes intended to enhance the accuracy of the Exchange's Rulebook, which will alleviate potential confusion as to the applicability of its rules. As discussed above, these changes consist of updating cross-cites and using correct terminology. Lastly, the Exchange believes that the harmonizing changes to add a new Options 4B in its Rulebook and to retitle General 4, each as discussed above, will serve to further harmonize its Rule numbering and titling with that of its affiliates, thereby promoting efficiency and conformity of

⁴³ See *supra* notes 20 and 30, and accompanying text.

⁴⁴ See *supra* notes 21 and 32.

⁴⁵ See *supra* notes 22 and 33.

⁴⁶ See *supra* note 27.

⁴⁷ See *supra* note 28.

⁴⁸ See *supra* note 34.

⁴⁹ See *supra* note 36.

its processes with those of its affiliated exchanges.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. As indicated above, no System changes to existing functionality are being made pursuant to this proposal; rather, this proposal is designed to reduce any potential investor confusion as to the features and applicability of certain functionality presently available on the Exchange. Therefore, the proposed changes are designed to enhance clarity and consistency in the Exchange's Rulebook.

Furthermore, many of the proposed changes seek to provide greater harmonization between the rules of the Exchange and its affiliates, and therefore promotes fair competition among the options exchanges. In particular, the proposed changes discussed above for Block and AIQ are based on BX rules governing identical functionality.⁵⁰ The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues who offer similar functionality. The Exchange believes that the proposed rule change will enhance competition among the various markets for auction execution, potentially resulting in more active trading in auction mechanisms across all options exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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)(iii) of the Act⁵¹ and subparagraph (f)(6) of Rule 19b-4 thereunder.⁵²

⁵⁰ See BX Options 3, Section 11(a) (Block) and Section 15(c)(1) (AIQ).

⁵¹ 15 U.S.C. 78s(b)(3)(A)(iii).

⁵² 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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-MRX-2021-01 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-MRX-2021-01. 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

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.

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-MRX-2021-01, and should be submitted on or before April 21, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁵³

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2021-06561 Filed 3-30-21; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

DATES: Submit comments on or before June 1, 2021.

ADDRESSES: Send all comments to Cynthia Pitts, Director, Disaster Administrative Services, Office of Disaster Assistance, Small Business Administration.

FOR FURTHER INFORMATION CONTACT: Cynthia Pitts, Director, Disaster Administrative Services, Disaster Assistance, cynthia.pitts@sba.gov 202-205-7570, or Curtis B. Rich, Management Analyst, 202-205-7030, curtis.rich@sba.gov.

SUPPLEMENTARY INFORMATION: Application for benefits (loan) used to determine eligibility and credit worthiness of small businesses or not for profit organization who seek Federal assistance in a declared disaster. Respondents are disaster survivors seeking disaster assistance.

⁵³ 17 CFR 200.30-3(a)(12).

Solicitation of Public Comments

SBA is requesting comments on (a) Whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information. SBA proposes to revise the application form to collect information regarding race, ethnicity, and veteran status. Submission of this information is entirely voluntary and would not be a factor in processing the loan. The sole purpose for collecting this information is to help SBA determine the extent to which businesses owned and operated by veterans or members of racial and ethnic groups are benefitting from this disaster assistance program, and develop strategies and policies that could fill any perceived gaps and expand the program's reach.

Summary of Information Collection

PRA 3245-0017

(1) *Title:* Disaster Business Loan Application.

Description of Respondents: Disaster victims seeking disaster assistance.

Form Number: SBA Form 5.

Total Estimated Annual Responses: 2,970.

Total Estimated Annual Hour Burden: 6,295.

Curtis Rich,

Management Analyst.

[FR Doc. 2021-06587 Filed 3-30-21; 8:45 am]

BILLING CODE 8026-03-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36497]

D&I Railroad Company—Acquisition and Operation Exemption—in Lincoln and Union Counties, S.D., and Lyon, Sioux, and Plymouth Counties, Iowa

D&I Railroad Company (D&I), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from the State of South Dakota, acting by and through its Department of Transportation (SDDOT), and operate approximately 68 miles of rail line, consisting of two interconnected lines: (1) From milepost 0.0 at East Wye Switch, S.D., to milepost 49.40 in Canton, S.D.; and (2) from milepost 0.00

at Hawarden, Iowa, to milepost 18.60 in Beresford, S.D. (the Lines).¹

The verified notice states that D&I and SDDOT have negotiated terms for the transfer of the Lines pursuant to a sale agreement the parties executed on February 2, 2021, with closing to occur following the effective date of the exemption.

D&I certifies that its projected annual revenues as a result of this transaction will not result in D&I's becoming a Class II or Class I rail carrier, but that its current annual revenues exceed \$5 million. Pursuant to 49 CFR 1150.42(e), if a carrier's projected annual revenues will exceed \$5 million, it must, at least 60 days before this exemption is to become effective, post a notice of its intent to undertake the proposed transaction at the workplace of the employees on the affected lines, serve a copy of the notice on the national offices of the labor unions with employees on the affected lines, and certify to the Board that it has done so. However, D&I has filed a petition for waiver of the 60-day advance labor notice requirements. D&I's waiver request will be addressed in a separate decision. The Board will establish the effective date of the exemption in its separate decision on the waiver request.

D&I also certifies that the proposed acquisition and operation of the Line does not involve a provision or agreement that may limit future interchange with a third-party connecting carrier.

If the 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 for stay must be filed no later than April 7, 2021.

All pleadings, referring to Docket No. FD 36497, 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 D&I's representative, Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

According to D&I, this action is categorically excluded from

¹ According to the verified notice, D&I has operated the first segment of the Lines since 1982 and the second since 1986, pursuant to modified certificates. See *D&I R.R.—Operation—Between Sioux Falls, S.D. & Sioux City, Iowa—Modified Rail Certificate*, FD 29910 (ICC served May 2, 1982); *D&I R.R.—Operation—Between Hawarden, Iowa & Beresford, S.D.*, FD 30940 (ICC served Nov. 24, 1986). D&I states that it will give notice that it intends to terminate service under the modified certificates pursuant to 49 CFR 1150.24.

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: March 26, 2021.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Aretha Laws-Byrum,

Clearance Clerk.

[FR Doc. 2021-06635 Filed 3-30-21; 8:45 am]

BILLING CODE 4915-01-P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR-2021-0005]

Proposed Action in Section 301 Investigation of Spain's Digital Services Tax

AGENCY: Office of the United States Trade Representative.

ACTION: Request for comments and notice of public hearing.

SUMMARY: The Office of the United States Trade Representative (USTR) requests written comments regarding a potential trade action in connection with the Section 301 investigation of Spain's Digital Services Tax (DST). USTR also will convene virtual public hearings and accept rebuttal comments in relation to the potential action.

DATES:

April 21, 2021: To be assured of consideration, submit requests to appear at a hearing, along with a summary of the testimony, by this date.

April 30, 2021: To be assured of consideration, submit written comments by this date.

May 3, 2021: Multi-jurisdictional virtual hearing on proposed actions.

May 6, 2021 at 9:30 a.m.: Virtual hearing on Spain DST proposed action.

May 10, 2021: To be assured of consideration, submit multi-jurisdictional hearing rebuttal comments by this date.

May 13, 2021: To be assured of consideration, submit Spain DST hearing rebuttal comments by this date.

ADDRESSES: Submit documents in response to this notice, including written comments and hearing appearance requests, through the online USTR portal: <https://comments.ustr.gov/s/>.

FOR FURTHER INFORMATION CONTACT: For questions concerning the investigation, please contact Ben Allen or Patrick Childress, Assistant General Counsels at (202) 395-9439 and (202) 395-9531,

respectively; Robert Tanner, Director, Services and Investment at (202) 395-6125; or Michael Rogers, Director, Europe and the Middle East at (202) 395-2684. For issues with on-line submissions, please contact the USTR Section 301 line at (202) 395-5725.

SUPPLEMENTARY INFORMATION:

I. Proceedings in the Investigation

Spain has adopted a DST that applies a three percent tax on certain digital services revenues related to online advertising services, online intermediary services, and data transmission services. Companies with worldwide revenues of €750 million or more and €3 million in certain digital services revenues are subject to the DST.

On June 2, 2020, the U.S. Trade Representative initiated an investigation of Spain's DST pursuant to section 302(b)(1)(A) of the Trade Act of 1974, as amended (Trade Act). See 85 FR 34709 (June 5, 2020) (notice of initiation). The notice of initiation solicited written comments on, *inter alia*, the following aspects of Spain's DST: Discrimination against U.S. companies; retroactivity; and possibly unreasonable tax policy. With respect to tax policy, USTR solicited comments on, *inter alia*, whether the DST diverged from principles reflected in the U.S. and international tax systems including extraterritoriality; taxing revenue not income; and a purpose of penalizing particular technology companies for their commercial success. Interested persons filed over 380 written submissions in response. The public submissions are available on www.regulations.gov in docket number USTR-2020-0022.

Under section 303 of the Trade Act, the U.S. Trade Representative requested consultations with the government of Spain regarding the issues involved in the investigation. Consultations were held on December 17, 2020.

Based on information obtained during the investigation, USTR prepared a comprehensive report on Spain's DST (Spain DST Report). The Spain DST Report is posted on the USTR website at <https://ustr.gov/issue-areas/enforcement/section-301-investigations/section-301-digital-services-taxes>. The report includes a full description of Spain's DST, and supports findings that Spain's DST is unreasonable and discriminatory and burdens or restricts U.S. commerce.

On January 14, 2021, based on the information obtained during the investigation and the advice of the Section 301 Committee, the U.S. Trade Representative determined that Spain's DST is unreasonable or discriminatory

and burdens or restricts U.S. commerce, and therefore is actionable under sections 301(b) and 304(a) of the Trade Act (19 U.S.C. 2411(b) and 2414(a)). See 86 FR 6407 (January 21, 2021).

II. Proposed Action

Section 301(b) provides that upon determining that the acts, policies, and practices under investigation are actionable and that action is appropriate, the U.S. Trade Representative shall take all appropriate and feasible action authorized under section 301(c), subject to the specific direction, if any, of the President regarding such action, and all other appropriate and feasible action within the power of the President that the President may direct the U.S. Trade Representative to take under section 301(b), to obtain the elimination of that act, policy, or practice.

Section 301(c)(1)(B) of the Trade Act authorizes the U.S. Trade Representative to impose duties on the goods of the foreign country subject to the investigation. Pursuant to sections 301(b) and (c), USTR proposes that the U.S. Trade Representative should determine that action is appropriate and that appropriate action would include the imposition of additional *ad valorem* tariffs on certain products of Spain.

In particular, USTR proposes to impose additional tariffs of up to 25 percent *ad valorem* on an aggregate level of trade that would collect duties on goods of Spain in the range of the amount of the DST that Spain is expected to collect from U.S. companies. Initial estimates indicate that the value of the DST payable by U.S.-based company groups to Spain will be up to approximately \$155 million per year.

USTR further proposes that the goods of Spain subject to additional tariffs would be drawn from the preliminary list of products in the Annex to this notice, as specified by the listed eight-digit tariff subheadings.

III. Request for Public Comments

In accordance with section 304(b) of the Trade Act (19 U.S.C. 2414(b)), USTR invites comments from interested persons with respect to whether action is appropriate, and if so, the appropriate action to be taken.

USTR requests comments with respect to any issue related to the action to be taken in this investigation. With respect to the proposed tariff action outline above, USTR specifically invites comments regarding:

- The level of the burden or restriction on U.S. commerce resulting from Spain's DST, including the amount

of DST payments owed by U.S. companies, the annual growth rate of such payments, and other effects, such as compliance costs.

- The appropriate aggregate level of trade to be covered by additional duties.
- The level of the increase, if any, in the rate of duty.

- The specific products to be subject to increased duties, including whether the tariff subheadings listed in the Annex should be retained or removed, or whether tariff subheadings not currently on the list should be added.

In commenting on the inclusion or removal of particular products on the preliminary list of products subject to the proposed additional duties, USTR requests that commenters address specifically whether imposing increased duties on a particular product would be practicable or effective to obtain the elimination of Spain's acts, policies, and practices, and whether imposing additional duties on a particular product would cause disproportionate economic harm to U.S. interests, including small- or medium-size businesses and consumers.

Simultaneously with this notice, USTR also is requesting public comments on proposed trade actions in five other DST investigations initiated at the same time as the Spain DST investigation. Certain interested persons may wish to provide written comments or oral testimony on multi-jurisdictional issues common to two or more investigations. To avoid duplication, the USTR portal will have a separate docket for multi-jurisdictional submissions, and USTR will hold a separate multi-jurisdictional hearing.

To be assured of consideration, you must submit written comments on the proposed action by April 30, 2021, and post-hearing rebuttal comments by May 10, 2021 for the multi-jurisdictional hearing, and by May 13, 2021 for the Spain DST hearing.

IV. Hearing Participation

The Section 301 Committee will convene a virtual public hearing for comments pertaining to the Spain DST proposed action on May 6, 2021, beginning at 9:30 a.m. Those requesting to appear at this hearing should have comments applicable only to the Spain DST proposed action.

The Section 301 Committee will convene a virtual public hearing for comments pertaining to multiple jurisdictions on May 3, 2021, beginning at 9:30 a.m. Those requesting to appear at the multi-jurisdictional hearing should have comments that are applicable to two or more DST investigations.

For either hearing, you must submit a request to appear at the specific hearing using the electronic portal at <https://comments.ustr.gov/s/>. You will be able to view a docket entitled ‘Request to Appear at Hearing on Proposed Actions in Section 301 Investigation of Spain’s Digital Services Tax.’ Requests to appear must include a summary of testimony, and may be accompanied by a pre-hearing submission. Remarks at the hearing are limited to five minutes to allow for possible questions from the Section 301 Committee. All submissions must be in English. To be assured of consideration, USTR must receive your request to appear by April 21, 2021.

V. Procedures for Written Submissions

You must submit written comments, rebuttal comments, and requests to appear at the hearing using the electronic portal at <https://comments.ustr.gov/s/>. You will be able to view a docket entitled ‘Comments Concerning Proposed Action in Section 301 Investigation of Spain’s Digital Services Tax’ on the portal, docket number USTR–2021–0005.

You do not need to establish an account to submit comments. Fields with a gray (BCI) notation are for Business Confidential Information and the information entered will not be publicly available. Required fields are marked ‘Required’ and will have a red asterisk (*). Fields with a green (Public) notation will be viewable by the public.

The first screen of the portal requires you to enter identification and contact information. Third party organizations

such as law firms, trade associations, or customs brokers, should identify the full legal name of the organization they represent, and identify the primary point of contact for the submission. The remaining fields of the form are optional.

After entering the identification and contact information, you can complete the remainder of the questionnaire, or any portion of it by clicking ‘Next.’ You can comment on multiple products in a single entry, or submit multiple comments. You will be able to navigate through each screen of the form by clicking ‘Next,’ with or without entering a response to each field on an individual screen or page. Additionally, you will be able to upload documents at the end of the form and designate whether USTR should treat the documents as business confidential or public information.

For uploads containing BCI, the file name of the business confidential version should begin with the characters ‘BCI’. Any page containing BCI must be clearly marked ‘BUSINESS CONFIDENTIAL’ on the top of that page and the submission should clearly indicate, via brackets, highlighting, or other means, the specific information that is BCI. If you request business confidential treatment, you must certify in writing that disclosure of the information would endanger trade secrets or profitability, and that the information would not customarily be released to the public. Parties uploading attachments containing BCI also must submit a public version of their

comments. The file name of the public version, which must be uploaded on <https://comments.ustr.gov/s/>, should begin with the character ‘P’. The ‘BCI’ and ‘P’ should be followed by the name of the person or entity submitting the comments or rebuttal comments. If these procedures are not sufficient to protect BCI or otherwise protect business interests, please contact the USTR Section Hotline 301 line at (202) 395–5725 to discuss whether alternative arrangements are possible. USTR will post attachments uploaded to the docket for public inspection, except for attachments marked as business confidential.

You can view all public submissions on the USTR portal at <https://comments.ustr.gov/s/>.

Greta Peisch,

General Counsel, Office of the United States Trade Representative.

Annex

Note: All products that are classified in the eight-digit subheadings of the Harmonized Tariff Schedule of the United States (HTSUS) that are listed in this Annex are covered by the proposed action. The product descriptions that are contained in this Annex are provided for informational purposes only, and are not intended to delimit in any way the scope of the proposed action. Any questions regarding the scope of a particular HTSUS subheading should be referred to U.S. Customs and Border Protection. In the product descriptions, the abbreviation “nesoi” means “not elsewhere specified or included”.

HTSUS subheading	Product description
0306.16.00	Cold-water shrimps and prawns, cooked in shell or uncooked, dried, salted or in brine, frozen.
0306.17.00	Other shrimps and prawns, cooked in shell or uncooked, dried, salted or in brine, frozen.
0307.51.00	Octopus, live, fresh or chilled.
0307.52.00	Octopus, frozen.
0307.59.01	Octopus, dried, salted or in brine.
1605.21.05	Shrimp & prawns not in airtight containers: Fish meat and prepared meals.
1605.21.10	Shrimp & prawns not in airtight containers: Other than fish meat and prepared meals.
1605.55.05	Octopus, as containing fish meat or prepared meals.
1605.55.60	Octopus, prepared or preserved.
4202.21.90	Handbags, with or without shoulder strap or without handle, with outer surface of leather, composition or patent leather, nesoi, over \$20 ea.
4202.22.15	Handbags, with or without shoulder straps or without handle, with outer surface of sheeting of plastics.
4203.30.00	Belts and bandoliers with or without buckles, of leather or of composition leather.
6402.99.31	Footwear w/outer soles & uppers of rubber or plastics, nesoi, n/cov. ankle, w/ext. surf. of uppers o/90% rubber or plastics, nesoi.
6403.51.30	Footwear w/outer soles and uppers of leather, nesoi, covering the ankle, welt.
6403.51.60	Footwear w/outer soles and uppers of leather, nesoi, covering the ankle, n/welt, for men, youths and boys.
6403.51.90	Footwear w/outer soles and uppers of leather, nesoi, covering the ankle, n/welt, for persons other than men, youths and boys.
6403.59.15	Turn or turned footwear w/outer soles and uppers of leather, not covering the ankle.
6403.59.30	Footwear w/outer soles and uppers of leather, not covering the ankle, welt, nesoi.
6403.59.60	Footwear w/outer soles and uppers of leather, not cov. ankle, n/welt, for men, youths and boys.
6403.59.90	Footwear w/outer soles and uppers of leather, not cov. ankle, n/welt, for persons other than men, youths and boys.
6403.91.90	Footwear w/outer soles of rubber/plastics/comp. leather & uppers of leather, cov. ankle, n/welt, for persons other than men/youths/boys.
6403.99.60	Footwear w/outer soles of rubber/plastics/comp. leather & uppers of leather, n/cov. ankle, n/welt, for men, youths and boys, nesoi.

HTSUS subheading	Product description
6403.99.90	Footwear w/outer soles of rubber/plastics/comp. leather & uppers of leather, n/cov. ankle, for women/child./infants, val. over \$2.50/pair.
6404.19.39	Footwear w/outer sole rub./plast. & upp. textile, nesoi, w/open toes/heels or slip-on, >10% by wt. rub./plast. not subj note 5 ch 64.
6404.20.40	Footwear w/outer soles of leather/comp. leath., n/o 50% by wt. rub./plast. or rub./plast./text. & 10%+ by wt. rub./plast., val. o/\$2.50/pr.
6404.20.60	Footwear w/outer soles of leather/comp. leather & uppers of textile, nesoi.
6405.90.90	Footwear, nesoi, w/outer soles and uppers o/than leather or comp. leather, not disposable.
6504.00.60	Hats and headgear, plaited or assembled from strips of veg. fibers or unspun fibrous veg. materials and/or paper yarn, not sewed.
6505.00.04	Hats and headgear of fur felt made from hat forms and hat bodies of 6501.
6505.00.08	Hats and headgear made from hat forms and hat bodies of 6501, except of fur felt.
6505.00.15	Hats and headgear, of cotton and/or flax, knitted.
6505.00.30	Hats and headgear, of wool, knitted or crocheted or made up from knitted or crocheted fabric.
6505.00.60	Hats and headgear, of man-made fibers, knitted or crocheted or made up from knitted or crocheted fabrics, not in part of braid.
7013.99.50	Glassware for toilet/office/indoor decor. or similar purposes, nesoi, valued over \$0.30 but n/over \$3 each.
7013.99.80	Glassware for toilet/office/indoor decor. or similar purposes, nesoi, n/cut or engraved, valued over \$3 but n/over \$5 each.
7013.99.90	Glassware for toilet/office/indoor decor. or similar purposes, nesoi, n/cut or engraved, valued over \$5 each.

[FR Doc. 2021-06617 Filed 3-30-21; 8:45 am]

BILLING CODE 3290-F1-P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR-2021-0002]

Proposed Action in Section 301 Investigation of Austria's Digital Services Tax

AGENCY: Office of the United States Trade Representative.

ACTION: Request for comments and notice of public hearing.

SUMMARY: The Office of the United States Trade Representative (USTR) requests written comments regarding a potential trade action in connection with the Section 301 investigation of Austria's Digital Services Tax (DST). USTR also will convene virtual public hearings and accept rebuttal comments in relation to the potential action.

DATES:

April 21, 2021: To be assured of consideration, submit requests to appear at a hearing, along with a summary of the testimony, by this date.

April 30, 2021: To be assured of consideration, submit written comments by this date.

May 3, 2021: Multi-jurisdictional virtual hearing on proposed actions.

May 10, 2021: To be assured of consideration, submit multi-jurisdictional hearing rebuttal comments by this date.

May 11, 2021 at 9:30 a.m.: Virtual hearing on Austria DST proposed action.

May 18, 2021: To be assured of consideration, submit Austria DST hearing rebuttal comments by this date.

ADDRESSES: Submit documents in response to this notice, including written comments and hearing appearance requests, through the online USTR portal: <https://comments.ustr.gov/s/>.

FOR FURTHER INFORMATION CONTACT: For questions concerning the investigation, please contact Ben Allen or Patrick Childress, Assistant General Counsels at (202) 395-9439 and (202) 395-9531, respectively; Robert Tanner, Director, Services and Investment at (202) 395-6125; or Michael Rogers, Director, Europe and the Middle East at (202) 395-2684. For issues with on-line submissions, please contact the USTR Section 301 line at (202) 395-5725.

SUPPLEMENTARY INFORMATION:

I. Proceedings in the Investigation

Austria has adopted a DST that imposes a 5% tax on gross revenues from digital advertising services provided in Austria. The DST applies only to companies with annual global revenues of €750 million or more, and annual revenues from digital advertising services in Austria of €25 million or more.

On June 2, 2020, the U.S. Trade Representative initiated an investigation of Austria's DST pursuant to section 302(b)(1)(A) of the Trade Act of 1974, as amended (Trade Act). See 85 FR 34709 (June 5, 2020) (notice of initiation). The notice of initiation solicited written comments on, *inter alia*, the following aspects of Austria's DST: Discrimination against U.S. companies; retroactivity; and possibly unreasonable tax policy. With respect to tax policy, USTR solicited comments on, *inter alia*, whether the DST diverged from principles reflected in the U.S. and international tax systems including extraterritoriality; taxing revenue not

income; and a purpose of penalizing particular technology companies for their commercial success. Interested persons filed over 380 written submissions in response. The public submissions are available on www.regulations.gov in docket number USTR-2020-0022.

Under section 303 of the Trade Act, the U.S. Trade Representative requested consultations with the government of Austria regarding the issues involved in the investigation. Consultations were held on December 21, 2020.

Based on information obtained during the investigation, USTR prepared a comprehensive report on Austria's DST (Austria DST Report). The Austria DST Report is posted on the USTR website at <https://ustr.gov/issue-areas/enforcement/section-301-investigations/section-301-digital-services-taxes>. The report includes a full description of Austria's DST, and supports findings that Austria's DST is unreasonable and discriminatory and burdens or restricts U.S. commerce.

On January 14, 2021, based on the information obtained during the investigation and the advice of the Section 301 Committee, the U.S. Trade Representative determined that Austria's DST is unreasonable or discriminatory and burdens or restricts U.S. commerce, and therefore is actionable under sections 301(b) and 304(a) of the Trade Act (19 U.S.C. 2411(b) and 2414(a)). See 86 FR 6406 (January 21, 2021).

II. Proposed Action

Section 301(b) provides that upon determining that the acts, policies, and practices under investigation are actionable and that action is appropriate, the U.S. Trade Representative shall take all appropriate

and feasible action authorized under section 301(c), subject to the specific direction, if any, of the President regarding such action, and all other appropriate and feasible action within the power of the President that the President may direct the U.S. Trade Representative to take under section 301(b), to obtain the elimination of that act, policy, or practice.

Section 301(c)(1)(B) of the Trade Act authorizes the U.S. Trade Representative to impose duties on the goods of the foreign country subject to the investigation. Pursuant to sections 301(b) and (c), USTR proposes that the U.S. Trade Representative should determine that action is appropriate and that appropriate action would include the imposition of additional *ad valorem* tariffs on certain products of Austria.

In particular, USTR proposes to impose additional tariffs of up to 25 percent *ad valorem* on an aggregate level of trade that would collect duties on goods of Austria in the range of the amount of the DST that Austria is expected to collect from U.S. companies. Initial estimates indicate that the value of the DST payable by U.S.-based company groups to Austria will be up to approximately \$45 million per year.

USTR further proposes that the goods of Austria subject to additional tariffs would be drawn from the preliminary list of products in the Annex to this notice, as specified by the listed eight-digit tariff subheadings.

III. Request for Public Comments

In accordance with section 304(b) of the Trade Act (19 U.S.C. 2414(b)), USTR invites comments from interested persons with respect to whether action is appropriate, and if so, the appropriate action to be taken.

USTR requests comments with respect to any issue related to the action to be taken in this investigation. With respect to the proposed tariff action outline above, USTR specifically invites comments regarding:

- The level of the burden or restriction on U.S. commerce resulting from Austria's DST, including the amount of DST payments owed by U.S. companies, the annual growth rate of such payments, and other effects, such as compliance costs.
- The appropriate aggregate level of trade to be covered by additional duties.
- The level of the increase, if any, in the rate of duty.
- The specific products to be subject to increased duties, including whether the tariff subheadings listed in the Annex should be retained or removed,

or whether tariff subheadings not currently on the list should be added.

In commenting on the inclusion or removal of particular products on the preliminary list of products subject to the proposed additional duties, USTR requests that commenters specifically address whether imposing increased duties on a particular product would be practicable or effective to obtain the elimination of Austria's acts, policies, and practices, and whether imposing additional duties on a particular product would cause disproportionate economic harm to U.S. interests, including small- or medium-size businesses and consumers.

Simultaneously with this notice, USTR also is requesting public comments on proposed trade actions in five other DST investigations initiated at the same time as the Austria DST investigation. Certain interested persons may wish to provide written comments or oral testimony on multi-jurisdictional issues common to two or more investigations. To avoid duplication, the USTR portal will have a separate docket for multi-jurisdictional submissions, and USTR will hold a separate multi-jurisdictional hearing.

To be assured of consideration, you must submit written comments on the proposed action by April 30, 2021, and post-hearing rebuttal comments by May 10, 2021 for the multi-jurisdictional hearing, and by May 18, 2021 for the Austria DST hearing.

IV. Hearing Participation

The Section 301 Committee will convene a virtual public hearing for comments pertaining to the Austria DST proposed action on May 11, 2021, beginning at 9:30 a.m. Those requesting to appear at this hearing should have comments applicable only to the Austria DST proposed action.

The Section 301 Committee will convene a virtual public hearing for comments pertaining to multiple jurisdictions on May 3, 2021, beginning at 9:30 a.m. Those requesting to appear at the multi-jurisdictional hearing should have comments that are applicable to two or more DST investigations.

For either hearing, you must submit a request to appear at the specific hearing using the electronic portal at <https://comments.ustr.gov/s/>. You will be able to view a docket entitled 'Request to Appear at Hearing on Proposed Action in Section 301 Investigation of Austria's Digital Services Tax.' Requests to appear must include a summary of testimony, and may be accompanied by a pre-hearing submission. Remarks at the hearing are limited to five minutes to

allow for possible questions from the Section 301 Committee. All submissions must be in English. To be assured of consideration, USTR must receive your request to appear by April 21, 2021.

V. Procedures for Written Submissions

You must submit written comments, rebuttal comments, and requests to appear at the hearing using the electronic portal at <https://comments.ustr.gov/s/>. You will be able to view a docket entitled 'Comments Concerning Proposed Action in Section 301 Investigation of Austria's Digital Services Tax' on the portal, docket number USTR-2021-0002.

You do not need to establish an account to submit comments. Fields with a gray (BCI) notation are for Business Confidential Information and the information entered will not be publicly available. Required fields are marked 'Required' and will have a red asterisk (*). Fields with a green (Public) notation will be viewable by the public.

The first screen of the portal requires you to enter identification and contact information. Third party organizations such as law firms, trade associations, or customs brokers, should identify the full legal name of the organization they represent, and identify the primary point of contact for the submission. The remaining fields of the form are optional.

After entering the identification and contact information, you can complete the remainder of the questionnaire, or any portion of it by clicking 'Next.' You can comment on multiple products in a single entry, or submit multiple comments. You will be able to navigate through each screen of the form by clicking 'Next,' with or without entering a response to each field on an individual screen or page. Additionally, you will be able to upload documents at the end of the form and designate whether USTR should treat the documents as business confidential or public information.

For uploads containing BCI, the file name of the business confidential version should begin with the characters 'BCI'. Any page containing BCI must be clearly marked 'BUSINESS CONFIDENTIAL' on the top of that page and the submission should clearly indicate, via brackets, highlighting, or other means, the specific information that is BCI. If you request business confidential treatment, you must certify in writing that disclosure of the information would endanger trade secrets or profitability, and that the information would not customarily be released to the public. Parties uploading attachments containing BCI also must

submit a public version of their comments. The file name of the public version, which must be uploaded on <https://comments.ustr.gov/s/>, should begin with the character ‘P’. The ‘BCI’ and ‘P’ should be followed by the name of the person or entity submitting the comments or rebuttal comments. If these procedures are not sufficient to protect BCI or otherwise protect business interests, please contact the USTR Section Hotline 301 line at (202) 395–5725 to discuss whether alternative arrangements are possible. USTR will

post attachments uploaded to the docket for public inspection, except for attachments marked as business confidential.

You can view all public submissions on the USTR portal at <https://comments.ustr.gov/s>.

Greta Peisch,

General Counsel, Office of the United States Trade Representative.

Annex

Note: All products that are classified in the eight-digit subheadings of the Harmonized

Tariff Schedule of the United States (HTSUS) that are listed in this Annex are covered by the proposed action. The product descriptions that are contained in this Annex are provided for informational purposes only, and are not intended to delimit in any way the scope of the proposed action. Any questions regarding the scope of a particular HTSUS subheading should be referred to U.S. Customs and Border Protection. In the product descriptions, the abbreviation “nesoi” means “not elsewhere specified or included”.

HTSUS subheading	Product description
4107.99.70	Bovine (not buffalo) and equine leather, not whole, nesoi, without hair on, not fancy, prepared after tanning or crusting, not heading 4114.
4203.40.60	Clothing accessories of leather or of composition leather, nesoi.
4205.00.80	Articles of leather or of composition leather, nesoi, excluding reptile leather.
5209.12.00	Unbleached 3- or 4-thread twill fabrics of cotton, including cross twill, 85 percent or more cotton by weight, weighing more than 200 g/m ² .
5402.49.91	Other yarns, monofil; multifil, untwisted or twisted > or = to 5, not exceeding 50 turns per meter of other synthetic, not for retail sale.
5404.19.10	Racket strings of synthetic monofilament of 67 decitex or more and of which no cross-sectional dimension exceeds 1 mm.
5404.19.80	Synthetic monofilament (exc. polypropylene), of 67 decitex or more and with no cross-sectional dimension > 1 mm, nesoi.
5603.94.10	Nonwoven floor covering underlays (not of man-made filaments), weighing >150 g/square m, whether or not impreg, coated, cov or laminated.
5603.94.90	Nonwovens nesoi (not of man-made filaments), weighing >150 g/square m, whether or not impregnated, coated, covered but not laminated.
6903.20.00	Refractory ceramic goods (o/than of siliceous fossil meals or earths), nesoi, cont. by wt. o/50% alumina or mix. or comp. of Al ₂ O ₃ & SiO ₃ .
7013.22.50	Stemware drinking glasses of lead crystal, valued over \$5 each.
7013.28.20	Stemware, o/than of pressed and toughened glass, o/than lead crystal, valued o/\$0.30 but n/over \$3 each.
7013.28.50	Stemware, o/than of pressed and toughened glass, o/than lead crystal, not cut or engraved, valued o/\$3 but n/over \$5 each.
7013.28.60	Stemware, o/than of pressed and toughened glass, o/than lead crystal, not cut or engraved, valued over \$5 each.
7013.37.20	Drinking glasses, nesoi, o/than of pressed and toughened glass, o/than lead crystal, valued o/\$0.30 but n/over \$3 each.
7013.37.60	Drinking glasses, nesoi, o/than of pressed and toughened glass, o/than lead crystal, not cut or engraved, valued over \$5 each.
7013.41.50	Glassware for table or kitchen purposes (o/than drinking glasses), of lead crystal, valued over \$5 each.
7013.49.60	Glassware for table or kitchen purposes (o/than drinking glasses), nesoi, n/cut or engraved, valued over \$5 each.
7013.91.50	Glassware for toilet/office/indoor decor. & similar purposes, of lead crystal, valued over \$5 each.
7019.90.10	Woven glass fiber articles (other than fabrics), nesoi.
7019.90.50	Glass fibers (including glass wool), nesoi, and articles thereof, nesoi.
7105.90.00	Natural or synthetic precious (except diamond) or semiprecious stone dust and powder.
7403.29.01	Copper alloys (o/than copper-zinc, copper-tin alloys), unwrought nesoi.
8305.20.00	Base metal staples in strips (e.g., for offices, upholstery, packaging).
8418.10.00	Combined refrigerator-freezers, fitted with separate external doors, electric or other.
8504.90.65	Printed circuit assemblies of the goods of subheading 8504.40 or 8504.50 for telecommunication apparatus.
8504.90.75	Printed circuit assemblies of electrical transformers, static converters and inductors, nesoi.
8515.80.00	Electric welding apparatus nesoi, and electric machines and apparatus for hot spraying metals or sintered metal carbides.
8526.10.00	Radar apparatus.
9003.11.00	Frames and mountings, of plastics, for spectacles, goggles or the like.
9005.10.00	Binoculars.
9005.80.40	Optical telescopes, including monoculars.
9005.80.60	Monoculars and astronomical instruments other than binoculars and optical telescopes but not including instruments for radio-astronomy.
9010.60.00	Projection screens.
9012.10.00	Microscopes other than optical microscopes; diffraction apparatus.
9015.40.80	Photogrammetrical surveying instruments and appliances, other than electrical.
9015.80.20	Optical surveying, hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, nesoi.
9027.50.80	Nonelectrical instruments and apparatus using optical radiations (ultraviolet, visible, infrared), nesoi.
9030.40.00	Instruments and apparatus specially designed for telecommunications.
9201.20.00	Grand pianos.

[FR Doc. 2021-06625 Filed 3-30-21; 8:45 am]

BILLING CODE 3290-F1-P

**OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE****[Docket Number USTR-2021-0004]****Proposed Action in Section 301
Investigation of Italy's Digital Services
Tax****AGENCY:** Office of the United States
Trade Representative.**ACTION:** Request for comments and
notice of public hearing.**SUMMARY:** The Office of the United
States Trade Representative (USTR)
requests written comments regarding a
potential trade action in connection
with the Section 301 investigation of
Italy's Digital Services Tax (DST). USTR
also will convene virtual public
hearings and accept rebuttal comments
in relation to the potential action.**DATES:***April 21, 2021:* To be assured of
consideration, submit requests to appear
at a hearing, along with a summary of
the testimony, by this date.*April 30, 2021:* To be assured of
consideration, submit written comments
by this date.*May 3, 2021:* Multi-jurisdictional
virtual hearing on proposed actions.*May 5, 2021 at 9:30 a.m.:* Virtual
hearing on Italy DST proposed action.*May 10, 2021:* To be assured of
consideration, submit multi-
jurisdictional hearing rebuttal
comments by this date.*May 12, 2021:* To be assured of
consideration, submit Italy DST hearing
rebuttal comments by this date.**ADDRESSES:** Submit documents in
response to this notice, including
written comments and hearing
appearance requests, through the online
USTR portal: [https://
comments.ustr.gov/s/](https://comments.ustr.gov/s/).**FOR FURTHER INFORMATION CONTACT:** For
questions concerning the investigation,
please contact Ben Allen or Patrick
Childress, Assistant General Counsels at
(202) 395-9439 and (202) 395-9531,
respectively; Robert Tanner, Director,
Services and Investment at (202) 395-
6125; or Michael Rogers, Director,
Europe and the Middle East at (202)
395-2684. For issues with on-line
submissions, please contact the USTR
Section 301 line at (202) 395-5725.**SUPPLEMENTARY INFORMATION:****I. Proceedings in the Investigation**Italy has adopted a DST that applies
to companies that during the previouscalendar year, generated €750 million or
more in worldwide revenues and €5.5
million or more in revenues deriving
from the provision of digital services in
Italy.On June 2, 2020, the U.S. Trade
Representative initiated an investigation
of Italy's DST pursuant to section
302(b)(1)(A) of the Trade Act of 1974, as
amended (Trade Act). See 85 FR 34709
(June 5, 2020) (notice of initiation). The
notice of initiation solicited written
comments on, *inter alia*, the following
aspects of Italy's DST: Discrimination
against U.S. companies; retroactivity;
and possibly unreasonable tax policy.
With respect to tax policy, USTR
solicited comments on, *inter alia*,
whether the DST diverged from
principles reflected in the U.S. and
international tax systems including
extraterritoriality; taxing revenue not
income; and a purpose of penalizing
particular technology companies for
their commercial success. Interested
persons filed over 380 written
submissions in response. The public
submissions are available on
www.regulations.gov in docket number
USTR-2020-0022.Under section 303 of the Trade Act,
the U.S. Trade Representative requested
consultations with the government of
Italy regarding the issues involved in
the investigation. Consultations were
held on November 10, 2020.Based on information obtained during
the investigation, USTR prepared a
comprehensive report on Italy's DST
(Italy DST Report). The Italy DST Report
is posted on the USTR website at
[https://ustr.gov/issue-areas/
enforcement/section-301-investigations/
section-301-digital-services-taxes](https://ustr.gov/issue-areas/enforcement/section-301-investigations/section-301-digital-services-taxes). The
report includes a full description of
Italy's DST, and supports findings that
Italy's DST is unreasonable and
discriminatory and burdens or restricts
U.S. commerce.On January 6, 2021, based on the
information obtained during the
investigation and the advice of the
Section 301 Committee, the U.S. Trade
Representative determined that Italy's
DST is unreasonable or discriminatory
and burdens or restricts U.S. commerce,
and therefore is actionable under
sections 301(b) and 304(a) of the Trade
Act (19 U.S.C. 2411(b) and 2414(a)). See
86 FR 2477 (January 12, 2021).**II. Proposed Action**Section 301(b) provides that upon
determining that the acts, policies, and
practices under investigation are
actionable and that action is
appropriate, the U.S. Trade
Representative shall take all appropriate
and feasible action authorized undersection 301(c), subject to the specific
direction, if any, of the President
regarding such action, and all other
appropriate and feasible action within
the power of the President that the
President may direct the U.S. Trade
Representative to take under section
301(b), to obtain the elimination of that
act, policy, or practice.Section 301(c)(1)(B) of the Trade Act
authorizes the U.S. Trade
Representative to impose duties on the
goods of the foreign country subject to
the investigation. Pursuant to sections
301(b) and (c), USTR proposes that the
U.S. Trade Representative should
determine that action is appropriate and
that appropriate action would include
the imposition of additional *ad valorem*
tariffs on certain products of Italy.In particular, USTR proposes to
impose additional tariffs of up to 25
percent *ad valorem* on an aggregate
level of trade that would collect duties
on goods of Italy in the range of the
amount of DST that Italy is expected to
collect from U.S. companies. Initial
estimates indicate that the value of the
DST payable by U.S.-based company
groups to Italy will be up to
approximately \$140 million per year.USTR further proposes that the goods
of Italy subject to additional tariffs
would be drawn from the preliminary
list of products in the Annex to this
notice, as specified by the listed eight-
digit tariff subheadings.**III. Request for Public Comments**In accordance with section 304(b) of
the Trade Act (19 U.S.C. 2414(b)), USTR
invites comments from interested
persons with respect to whether action
is appropriate, and if so, the appropriate
action to be taken.USTR requests comments with
respect to any issue related to the action
to be taken in this investigation. With
respect to the proposed tariff action
outline above, USTR specifically invites
comments regarding:

- The level of the burden or restriction on U.S. commerce resulting from Italy's DST, including the amount of DST payments owed by U.S. companies, the annual growth rate of such payments, and other effects, such as compliance costs.
- The appropriate aggregate level of trade to be covered by additional duties.
- The level of the increase, if any, in the rate of duty.
- The specific products to be subject to increased duties, including whether the tariff subheadings listed in the Annex should be retained or removed, or whether tariff subheadings not currently on the list should be added.

In commenting on the inclusion or removal of particular products on the preliminary list of products subject to the proposed additional duties, USTR requests that commenters specifically address whether imposing increased duties on a particular product would be practicable or effective to obtain the elimination of Italy’s acts, policies, and practices, and whether imposing additional duties on a particular product would cause disproportionate economic harm to U.S. interests, including small- or medium-size businesses and consumers.

Simultaneously with this notice, USTR also is requesting public comments on proposed trade actions in five other DST investigations initiated at the same time as the Italy DST investigation. Certain interested persons may wish to provide written comments or oral testimony on multi-jurisdictional issues common to two or more investigations. To avoid duplication, the USTR portal will have a separate docket for multi-jurisdictional submissions, and USTR will hold a separate multi-jurisdictional hearing.

To be assured of consideration, you must submit written comments on the proposed action by April 30, 2021, and post-hearing rebuttal comments by May 10, 2021 for the multi-jurisdictional hearing, and by May 12, 2021 for the Italy DST hearing.

IV. Hearing Participation

The Section 301 Committee will convene a virtual public hearing for comments pertaining to the Italy DST proposed action on May 5, 2021, beginning at 9:30 a.m. Those requesting to appear at this hearing should have comments applicable only to the Italy DST proposed action.

The Section 301 Committee will convene a virtual public hearing for comments pertaining to multiple jurisdictions on May 3, 2021, beginning at 9:30 a.m. Those requesting to appear at the multi-jurisdictional hearing should have comments that are applicable to two or more DST investigations.

For either hearing, you must submit a request to appear at the specific hearing using the electronic portal at <https://comments.ustr.gov/s/>. You will be able to view a docket entitled ‘Request to

Appear at Hearing on Proposed Action in Section 301 Investigation of Italy’s Digital Services Tax.’ Requests to appear must include a summary of testimony, and may be accompanied by a pre-hearing submission. Remarks at the hearing are limited to five minutes to allow for possible questions from the Section 301 Committee. All submissions must be in English. To be assured of consideration, USTR must receive your request to appear by April 21, 2021.

V. Procedures for Written Submissions

You must submit written comments, rebuttal comments, and requests to appear at the hearing using the electronic portal at <https://comments.ustr.gov/s/>. You will be able to view a docket entitled ‘Comments Concerning Proposed Action in Section 301 Investigation of Italy’s Digital Services Tax’ on the portal, docket number USTR–2021–0004.

You do not need to establish an account to submit comments. Fields with a gray (BCI) notation are for Business Confidential Information and the information entered will not be publicly available. Required fields are marked ‘Required’ and will have a red asterisk (*). Fields with a green (Public) notation will be viewable by the public.

The first screen of the portal requires you to enter identification and contact information. Third party organizations such as law firms, trade associations, or customs brokers should identify the full legal name of the organization they represent, and identify the primary point of contact for the submission. The remaining fields of the form are optional.

After entering the identification and contact information, you can complete the remainder of the questionnaire, or any portion of it by clicking ‘Next.’ You can comment on multiple products in a single entry, or submit multiple comments. You will be able to navigate through each screen of the form by clicking ‘Next,’ with or without entering a response to each field on an individual screen or page. Additionally, you will be able to upload documents at the end of the form and designate whether USTR should treat the documents as business confidential or public information.

For uploads containing BCI, the file name of the business confidential version should begin with the characters ‘BCI’. Any page containing BCI must be clearly marked ‘BUSINESS CONFIDENTIAL’ on the top of that page and the submission should clearly indicate, via brackets, highlighting, or other means, the specific information that is BCI. If you request business confidential treatment, you must certify in writing that disclosure of the information would endanger trade secrets or profitability, and that the information would not customarily be released to the public. Parties uploading attachments containing BCI also must submit a public version of their comments. The file name of the public version—which must be uploaded on <https://comments.ustr.gov/s/>, should begin with the character ‘P’. The ‘BCI’ and ‘P’ should be followed by the name of the person or entity submitting the comments or rebuttal comments. If these procedures are not sufficient to protect BCI or otherwise protect business interests, please contact the USTR Section Hotline 301 line at (202) 395–5725 to discuss whether alternative arrangements are possible. USTR will post attachments uploaded to the docket for public inspection, except for attachments marked as business confidential.

You can view all public submissions on the USTR portal at <https://comments.ustr.gov/s/>.

Greta Peisch,

General Counsel, Office of the United States Trade Representative.

Annex

Note: All products that are classified in the eight-digit subheadings of the Harmonized Tariff Schedule of the United States (HTSUS) that are listed in this Annex are covered by the proposed action. The product descriptions that are contained in this Annex are provided for informational purposes only, and are not intended to delimit in any way the scope of the proposed action. Any questions regarding the scope of a particular HTSUS subheading should be referred to U.S. Customs and Border Protection. In the product descriptions, the abbreviation “nesoi” means “not elsewhere specified or included”.

HTSUS subheading	Product description
0305.63.60	Anchovies, in brine or salted but not dried or smoked, other than in immediate containers weighing with their contents 6.8 kg or less each.
1604.16.20	Anchovies, whole or in pieces but not minced, in oil, in airtight containers.
1604.16.40	Prepared or preserved anchovies, whole or in pieces, not minced, not in oil, in immediate containers with their contents 6.8 kg or less ea.
1604.31.00	Caviar.
1604.32.40	Caviar substitutes prepared from fish eggs, nesoi.

HTSUS subheading	Product description
3303.00.20	Perfumes and toilet waters, other than floral or flower waters, not containing alcohol.
3307.90.00	Depilatories and other perfumery, cosmetic or toilet preparations. nesoi.
4202.29.10	Handbags w. or w/o shld. strap or w/o handle of mat. (o/t leather, shtng. of plas., tex. mat., vul. fib. or paperbd.), paper cov., of plas.
4202.29.50	Handbags w. or w/o shld. strap or w/o handle of mat. (o/t leather, shtng. of plas., tex. mat., vul. fib. or paperbd.), pap.cov.,of mat. nesoi.
4202.29.90	Handbags with or without shoulder straps or without handle, with outer surface of vulcanized fiber or of paperboard, not covered with paper.
4202.31.30	Articles of a kind normally carried in the pocket or handbag, with outer surface of reptile leather.
4203.29.30	Men's gloves, mittens and mitts of leather or composition leather, nesoi, seamed.
4203.29.40	Gloves, mittens and mitts of leather or composition leather, nesoi, not lined, for persons other than men.
4203.29.50	Gloves, mittens and mitts of leather or composition leather, nesoi, lined, for persons other than men.
6103.10.10	Men's or boys' suits, knitted or crocheted, of wool or fine animal hair.
6103.31.00	Men's or boys' suit-type jackets and blazers, knitted or crocheted, of wool or fine animal hair.
6103.32.00	Men's or boys' suit-type jackets and blazers, knitted or crocheted, of cotton.
6103.33.20	Men's or boys' suit-type jackets and blazers, knitted or crocheted, of synthetic fibers, nesoi.
6103.39.80	Men's or boys' suit-type jackets and blazers, of textile mats, (except wool, cotton, or mmf), cont less than 70% by wt of silk, knitted/croc.
6104.31.00	Women's or girls' suit-type jackets and blazers, knitted or crocheted, of wool or fine animal hair.
6104.32.00	Women's or girls' suit-type jackets and blazers, knitted or crocheted, of cotton.
6104.33.20	Women's or girls' suit-type jackets and blazers, knitted or crocheted, of synthetic fibers, nesoi.
6110.30.10	Sweaters, pullovers, sweatshirts and similar articles, knitted or crocheted, of man-made fibers, cont. 25% or more by weight of leather.
6117.80.20	Ties, bow ties and cravats, containing 70% or more by weight of silk or silk waste, knitted or crocheted.
6117.80.87	Ties, bow ties and cravats, containing under 70% by weight of silk or silk waste, knitted or crocheted.
6117.80.95	Made up clothing accessories (excl shawl, scarve, and like, tie, cravat, headband, ponytail holder and like), cont < 70% wt of silk, k/c.
6203.19.10	Men's or boys' suits, not knitted or crocheted, of cotton.
6203.31.90	Men's or boys' suit-type jackets and blazers, of wool or fine animal hair, not knitted or crocheted.
6203.32.10	Men's or boys' suit-type jackets and blazers, not knitted or crocheted, of cotton, containing 36 percent or more of flax fibers.
6203.32.20	Men's or boys' suit-type jackets and blazers, not knitted or crocheted, of cotton, under 36% by weight of flax.
6203.33.10	Men's or boys' suit-type jackets and blazers, not knitted or crocheted, of synthetic fibers, cont. 36% or more of wool or fine animal hair.
6203.33.20	Men's or boys' suit-type jackets and blazers, not knitted or crocheted, of synthetic fibers, under 36% by weight of wool.
6203.39.10	Men's or boys' suit-type jackets and blazers, of artificial fibers, containing 36% or more by weight of wool or fine animal hair, not k/c.
6203.39.20	Men's or boys' suit-type jackets and blazers, not knitted or crocheted, of artificial fibers, under 36% by weight of wool.
6203.39.50	Men's or boys' suit-type jackets and blazers, of textile materials (except wool, cotton or mmf), cont 70% or more by weight of silk, not k/c.
6203.39.90	Men's or boys' suit-type jackets and blazers, of text materials (except wool, cotton or mmf), containing under 70% by weight of silk, not k/c.
6204.31.10	Women's or girls' suit-type jackets & blazers, of wool or fine animal hair, not knitted or crocheted, cont. 30% or more of silk/silk waste.
6204.31.20	Women's or girls' suit-type jackets and blazers, of wool or fine animal hair, not knitted or crocheted, under 30% by weight of silk.
6204.32.20	Women's or girls' suit-type jackets and blazers, of cotton, not knitted or crocheted, under 36% flax.
6204.33.10	Women's or girls' suit-type jackets and blazers, not knitted or crocheted, of synthetic fibers, cont. 30% or more of silk/silk waste.
6204.33.40	Women's or girls' suit-type jackets & blazers, not knitted or crocheted, of synthetic fibers, cont. 36% or more of wool or fine animal hair.
6204.33.50	Women's or girls' suit-type jackets and blazers, not knitted or crocheted, of synthetic fibers, nesoi.
6204.39.20	Women's or girls' suit-type jackets & blazers, not knitted or crocheted, of artificial fibers, cont. 36% or more of wool or fine animal hair.
6204.39.30	Women's or girls' suit-type jackets and blazers, not knitted or crocheted, of artificial fibers, under 36% by weight of wool.
6204.39.60	Women's or girls' suit-type jackets and blazers, not knitted/crocheted, of textile materials nesoi, cont. 70% + of silk or silk waste.
6204.39.80	Women's or girls' suit-type jackets and blazers, not knitted or crocheted, of textile materials nesoi.
6211.39.03	Rec perf outdoorwear, men's or boys' track suits or other garments nesoi, not knitted or crocheted, of wool or fine animal hair.
6211.39.30	Men's or boys' track suits or other garments nesoi, not knitted or crocheted, of wool or fine animal hair, o/than rec perf outdoorwear.
6215.10.00	Ties, bow ties and cravats, not knitted or crocheted, of silk or silk waste.
6215.20.00	Ties, bow ties and cravats, not knitted or crocheted, of man-made fibers.
6215.90.00	Ties, bow ties and cravats, not knitted or crocheted, of textile materials nesoi.
6403.59.60	Footwear w/outer soles and uppers of leather, not cov. ankle, n/welt, for men, youths and boys.
6403.91.60	Footwear w/outer soles of rubber/plastics/composition leather & uppers of leather, covering the ankle, n/welt, for men, youths and boys.
6403.91.90	Footwear w/outer soles of rubber/plastics/comp. leather & uppers of leather, cov. ankle, n/welt, for persons other than men/youths/boys.
6404.20.40	Footwear w/outer soles of leather/comp. leath., n/o 50% by wt. rub./plast. or rub./plast./text. & 10%+ by wt. rub./plast., val. o/\$2.50/pr.
9001.40.00	Spectacle lenses of glass, unmounted.
9001.50.00	Spectacle lenses of materials other than glass, unmounted.
9001.90.40	Lenses nesoi, unmounted.

HTSUS subheading	Product description
9001.90.90	Optical elements nesoi, unmounted.

[FR Doc. 2021-06615 Filed 3-30-21; 8:45 am]

BILLING CODE 3290-F1-P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR-2021-0006]

Proposed Action in Section 301 Investigation of Turkey's Digital Services Tax

AGENCY: Office of the United States
Trade Representative.

ACTION: Request for comments and
notice of public hearing.

SUMMARY: The Office of the United
States Trade Representative (USTR)
requests written comments regarding a
potential trade action in connection
with the Section 301 investigation of
Turkey's Digital Services Tax (DST).
USTR also will convene virtual public
hearings and accept rebuttal comments
in relation to the potential action.

DATES:

April 21, 2021: To be assured of
consideration, submit requests to appear
at a hearing, along with a summary of
the testimony, by this date.

April 30, 2021: To be assured of
consideration, submit written comments
by this date.

May 3, 2021: Multi-jurisdictional
virtual hearing on proposed actions.

May 7, 2021 at 9:30 a.m.: Virtual
hearing on Turkey DST proposed action.

May 10, 2021: To be assured of
consideration, submit multi-
jurisdictional hearing rebuttal
comments by this date.

May 14, 2021: To be assured of
consideration, submit Turkey DST
hearing rebuttal comments by this date.

ADDRESSES: Submit documents in
response to this notice, including
written comments and hearing
appearance requests, through the online
USTR portal: [https://
comments.ustr.gov/s/](https://comments.ustr.gov/s/).

FOR FURTHER INFORMATION CONTACT: For
questions concerning the investigation,
please contact Ben Allen or Patrick
Childress, Assistant General Counsels at
(202) 395-9439 and (202) 395-9531,
respectively; Robert Tanner, Director,
Services and Investment at (202) 395-
6125; or Michael Rogers, Director,
Europe and the Middle East at (202)
395-2684. For issues with on-line
submissions, please contact the USTR
Section 301 line at (202) 395-5725.

SUPPLEMENTARY INFORMATION:

I. Proceedings in the Investigation

Turkey has adopted a DST that
applies to companies that during the
previous calendar year, generated €750
million or more in worldwide revenues
and TRY 20 million or more in revenues
deriving from the provision of digital
services in Turkey.

On June 2, 2020, the U.S. Trade
Representative initiated an investigation
of Turkey's DST pursuant to section
302(b)(1)(A) of the Trade Act of 1974, as
amended (Trade Act). *See* 85 FR 34709
(June 5, 2020) (notice of initiation). The
notice of initiation solicited written
comments on, *inter alia*, the following
aspects of Turkey's DST: Discrimination
against U.S. companies; retroactivity;
and possibly unreasonable tax policy.
With respect to tax policy, USTR
solicited comments on, *inter alia*,
whether the DST diverged from
principles reflected in the U.S. and
international tax systems including
extraterritoriality; taxing revenue not
income; and a purpose of penalizing
particular technology companies for
their commercial success. Interested
persons filed over 380 written
submissions in response. The public
submissions are available on
www.regulations.gov in docket number
USTR-2020-0022.

Under section 303 of the Trade Act,
the U.S. Trade Representative requested
consultations with the government of
Turkey regarding the issues involved in
the investigation. Consultations were
held on September 29, 2020.

Based on information obtained during
the investigation, USTR prepared a
comprehensive report on Turkey's DST
(Turkey DST Report). The Turkey DST
Report is posted on the USTR website
at [https://ustr.gov/issue-areas/
enforcement/section-301-investigations/
section-301-digital-services-taxes](https://ustr.gov/issue-areas/enforcement/section-301-investigations/section-301-digital-services-taxes). The
report includes a full description of
Turkey's DST, and supports findings
that Turkey's DST is unreasonable and
discriminatory and burdens or restricts
U.S. commerce.

On January 6, 2021, based on the
information obtained during the
investigation and the advice of the
Section 301 Committee, the U.S. Trade
Representative determined that Turkey's
DST is unreasonable or discriminatory
and burdens or restricts U.S. commerce,
and therefore is actionable under
sections 301(b) and 304(a) of the Trade

Act (19 U.S.C. 2411(b) and 2414(a)). *See*
86 FR 2480 (January 12, 2021).

II. Proposed Action

Section 301(b) provides that upon
determining that the acts, policies, and
practices under investigation are
actionable and that action is
appropriate, the U.S. Trade
Representative shall take all appropriate
and feasible action authorized under
section 301(c), subject to the specific
direction, if any, of the President
regarding such action, and all other
appropriate and feasible action within
the power of the President that the
President may direct the U.S. Trade
Representative to take under section
301(b), to obtain the elimination of that
act, policy, or practice.

Section 301(c)(1)(B) of the Trade Act
authorizes the U.S. Trade
Representative to impose duties on the
goods of the foreign country subject to
the investigation. Pursuant to sections
301(b) and (c), USTR proposes that the
U.S. Trade Representative should
determine that action is appropriate and
that appropriate action would include
the imposition of additional *ad valorem*
tariffs on certain products of Turkey.

In particular, USTR proposes to
impose additional tariffs of up to 25
percent *ad valorem* on an aggregate
level of trade that would collect duties
on goods of Turkey in the range of the
amount of the DST that Turkey is
expected to collect from U.S.
companies. Initial estimates indicate
that the value of the DST payable by
U.S.-based company groups to Turkey
will be up to approximately \$160
million per year.

USTR further proposes that the goods
of Turkey subject to additional tariffs
would be drawn from the preliminary
list of products in the Annex to this
notice, as specified by the listed eight-
digit tariff subheadings.

III. Request for Public Comments

In accordance with section 304(b) of
the Trade Act (19 U.S.C. 2414(b)), USTR
invites comments from interested
persons with respect to whether action
is appropriate, and if so, the appropriate
action to be taken.

USTR requests comments with
respect to any issue related to the action
to be taken in this investigation. With
respect to the proposed tariff action
outline above, USTR specifically invites
comments regarding:

- The level of the burden or restriction on U.S. commerce resulting from Turkey's DST, including the amount of DST payments owed by U.S. companies, the annual growth rate of such payments, and other effects, such as compliance costs.
- The appropriate aggregate level of trade to be covered by additional duties.
- The level of the increase, if any, in the rate of duty.
- The specific products to be subject to increased duties, including whether the tariff subheadings listed in the Annex should be retained or removed, or whether tariff subheadings not currently on the list should be added.

In commenting on the inclusion or removal of particular products on the preliminary list of products subject to the proposed additional duties, USTR requests that commenters address specifically whether imposing increased duties on a particular product would be practicable or effective to obtain the elimination of Turkey's acts, policies, and practices, and whether imposing additional duties on a particular product would cause disproportionate economic harm to U.S. interests, including small- or medium-size businesses and consumers.

Simultaneously with this notice, USTR also is requesting public comments on proposed trade actions in five other DST investigations initiated at the same time as the Turkey DST investigation. Certain interested persons may wish to provide written comments or oral testimony on multi-jurisdictional issues common to two or more investigations. To avoid duplication, the USTR portal will have a separate docket for multi-jurisdictional submissions, and USTR will hold a separate multi-jurisdictional hearing.

To be assured of consideration, you must submit written comments on the proposed action by April 30, 2021, and post-hearing rebuttal comments by May 10, 2021 for the multi-jurisdictional hearing, and by May 14, 2021 for the Turkey DST hearing.

IV. Hearing Participation

The Section 301 Committee will convene a virtual public hearing for comments pertaining to the Turkey DST proposed action on May 7, 2021, beginning at 9:30 a.m. Those requesting to appear at this hearing should have comments applicable only to the Turkey DST proposed action.

The Section 301 Committee will convene a virtual public hearing for

comments pertaining to multiple jurisdictions on May 3, 2021, beginning at 9:30 a.m. Those requesting to appear at the multi-jurisdictional hearing should have comments that are applicable to two or more DST investigations.

For either hearing, you must submit a request to appear at the specific hearing using the electronic portal at <https://comments.ustr.gov/s/>. You will be able to view a docket entitled 'Request to Appear at Hearing on Proposed Action in Section 301 Investigation of Turkey's Digital Services Tax.' Requests to appear must include a summary of testimony, and may be accompanied by a pre-hearing submission. Remarks at the hearing are limited to five minutes to allow for possible questions from the Section 301 Committee. All submissions must be in English. To be assured of consideration, USTR must receive your request to appear by April 21, 2021.

V. Procedures for Written Submissions

You must submit written comments, rebuttal comments, and requests to appear at the hearing using the electronic portal at <https://comments.ustr.gov/s/>. You will be able to view a docket entitled 'Comments Concerning Proposed Action in Section 301 Investigation of Turkey's Digital Services Tax' on the portal, docket number USTR–2021–0006.

You do not need to establish an account to submit comments. Fields with a gray (BCI) notation are for Business Confidential Information and the information entered will not be publicly available. Required fields are marked 'Required' and will have a red asterisk (*). Fields with a green (Public) notation will be viewable by the public.

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individual screen or page. Additionally, you will be able to upload documents at the end of the form and designate whether USTR should treat the documents as business confidential or public information.

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You can view all public submissions on the USTR portal at <https://comments.ustr.gov/s/>.

Greta Peisch,

General Counsel, Office of the United States Trade Representative.

Annex

Note: All products that are classified in the 8-digit subheadings of the Harmonized Tariff Schedule of the United States (HTSUS) that are listed in this Annex are covered by the proposed action. The product descriptions that are contained in this Annex are provided for informational purposes only, and are not intended to delimit in any way the scope of the proposed action. Any questions regarding the scope of a particular HTSUS subheading should be referred to U.S. Customs and Border Protection. In the product descriptions, the abbreviation "nesoi" means "not elsewhere specified or included".

HTSUS subheading	Product description
5701.10.16	Carpets & other textile floor coverings, hand-knotted or hand-inserted, w/ov 50% by weight of the pile of fine animal hair, nesoi.
5701.10.40	Carpets and other textile floor coverings, of wool or fine animal hair, hand-hooked (tufts were inserted and knotted by hand or hand tool).
5701.10.90	Carpets and other textile floor coverings, of wool or fine animal hair, not hand-hooked, not hand knotted during weaving.
5701.90.10	Carpet and other textile floor covering, knotted, of text. materials (not wool/hair) nesoi, pile inserted & knotted during weaving or knitting.
5702.10.90	Kelem, Schumacks, Karamanie and similar hand-woven rugs, other than certified hand-loomed and folklore products.
5702.31.10	Wilton, velvet and like floor coverings of pile construction, woven, not tufted or flocked, not made up, of wool or fine animal hair.
5702.31.20	Carpets and other textile floor coverings of pile construction, woven, not tufted or flocked, not made up, of wool/fine animal hair, nesoi.
5702.42.10	Wilton, velvet and like floor coverings of pile construction, woven, not tufted or flocked, made up, of man-made textile materials.
5702.49.10	Carpets not other textile floor coverings of pile construction, woven, not tufted or flocked, made up, of cotton.
5702.92.10	Hand-loomed carpet & other textile floor coverings, not of pile construction, woven, made up, of man-made textile materials, nesoi.
5702.92.90	Carpet & other textile floor coverings, not of pile construction, woven, made up, of man-made textile materials, nesoi.
5702.99.05	Hand-loomed carpets and other textile floor coverings, not of pile construction, woven, made up, of cotton.
5702.99.15	Carpets and other textile floor coverings, not of pile construction, woven, made up, of cotton, nesoi.
5703.20.20	Carpets and other textile floor coverings, tufted, whether or not made up, of nylon or other polyamides, nesoi.
5703.30.80	Carpets & other textile floor coverings, tufted, whether or not made up, of man-made textile materials (not nylon/other polyamides), nesoi.
5703.90.00	Carpets and other textile floor coverings, tufted, whether or not made up, of other textile materials nesoi.
6302.22.20	Bed linen, not knitted or crocheted, printed, of manmade fibers, nesoi.
6302.32.20	Bed linen, not knitted or crocheted, not printed, of manmade fibers, nesoi.
6303.91.00	Curtains (including drapes), interior blinds and valances of cotton, not knitted or crocheted.
6802.10.00	Tiles/cubes/similar arts. of natural stone, enclosable in a sq. w/a side less than 7 cm; artificially colored granules, chip-pings & powder.
6802.21.10	Monumental or building stone & arts. thereof, of travertine, simply cut/sawn, w/flat or even surface.
6802.21.50	Monumental or building stone & arts. thereof, of marble & alabaster, simply cut/sawn, w/flat or even surface.
6802.92.00	Monumental or building stone & arts. thereof, of calcareous stone, nesoi, further worked than simply cut/sawn, nesoi.
6907.21.10	Unglazed ceramic tiles, other than those of subheading 6907.30 and 6907.40, of H2O absorp coeff by wt <=0.5%.
6907.21.40	Glazed ceramic tiles having surface area >=38.7cm2, surf area in sq w/side <7cm, of a H2O absorp coeff by wt <=0.5%.
6907.21.90	Glazed ceramic tiles nesoi, of a H2O absorp coeff by wt <=0.5%.
6907.23.90	Glazed ceramic tiles nesoi, of a H2O absorp coeff by wt >10%.
6907.30.20	Glazed ceramic mosaic cubes having <=3229 tiles per m2, surf area in sq w/side <7cm.
6907.30.30	Glazed ceramic mosaic cubes having surface area <38.7cm2, surf area in sq w/side <7cm.
6907.30.90	Glazed ceramic mosaic cubes nesoi, o/t subheading 6907.40.
6907.40.90	Glazed finishing ceramics nesoi.
6910.10.00	Porcelain or china ceramic sinks, washbasins, baths, bidets, water closet bowls, urinals & siml. sanitary fixtures.
6910.90.00	Ceramic (o/than porcelain or china) sinks, washbasins, baths, bidets, water closet bowls, urinals & siml. sanitary fixtures.
6913.10.50	Porcelain or china (o/than bone china) statuettes and other ornamental articles, nesoi.
6913.90.50	Ceramic (o/than porcelain, china or earthenware) ornamental articles, nesoi.
7113.11.20	Silver articles of jewelry and parts thereof, nesoi, valued not over \$18 per dozen pieces or parts.
7113.11.50	Silver articles of jewelry and parts thereof, nesoi, valued over \$18 per dozen pieces or parts.
7113.19.25	Gold mixed link necklaces and neck chains.
7113.19.30	Precious metal (o/than silver) clasps and parts thereof.
7113.19.50	Precious metal (o/than silver) articles of jewelry and parts thereof, whether or not plated or clad with precious metal, nesoi.
7113.20.29	Base metal clad w/gold necklaces and neck chains, nesoi.
7113.20.50	Base metal clad w/precious metal articles of jewelry and parts thereof, nesoi.
7116.20.05	Jewelry articles of precious or semiprecious stones, valued not over \$40 per piece.
7117.19.90	Imitation jewelry (o/than toy jewelry & rope, curb, cable, chain, etc.), of base metal (wheth. or n/plated w/prec.metal), nesoi.
7117.90.90	Imitation jewelry not of base metal or plastics, nesoi, over 20 cents/dozen pcs or pts.

[FR Doc. 2021-06626 Filed 3-30-21; 8:45 am]

BILLING CODE 3290-F1-P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR-2021-0003]

Proposed Action in Section 301 Investigation of India's Digital Services Tax

AGENCY: Office of the United States Trade Representative.

ACTION: Request for comments and notice of public hearing.

SUMMARY: The Office of the United States Trade Representative (USTR) requests written comments regarding a potential trade action in connection with the Section 301 investigation of India's Digital Services Tax (DST). USTR also will convene virtual public hearings and accept rebuttal comments in relation to the potential action.

DATES:

April 21, 2021: To be assured of consideration, submit requests to appear at a hearing, along with a summary of the testimony, by this date.

April 30, 2021: To be assured of consideration, submit written comments by this date.

May 3, 2021: Multi-jurisdictional virtual hearing on proposed actions.

May 10, 2021: To be assured of consideration, submit multi-jurisdictional hearing rebuttal comments by this date.

May 10, 2021 at 9:30 a.m.: Virtual hearing on India DST proposed action.

May 17, 2021: To be assured of consideration, submit India DST hearing rebuttal comments by this date.

ADDRESSES: Submit documents in response to this notice, including written comments and hearing appearance requests, through the online USTR portal: <https://comments.ustr.gov/s/>.

FOR FURTHER INFORMATION CONTACT: For questions concerning the investigation, please contact Ben Allen or Patrick Childress, Assistant General Counsels at (202) 395-9439 and (202) 395-9531, respectively; Robert Tanner, Director, Services and Investment at (202) 395-6125; or Brendan Lynch, Deputy Assistant U.S. Trade Representative for South and Central Asian Affairs at (202) 395-2851. For issues with on-line submissions, please contact the USTR Section 301 line at (202) 395-5725.

SUPPLEMENTARY INFORMATION:

I. Proceedings in the Investigation

India has adopted a DST that imposes a two percent tax on revenue generated from a broad range of digital services offered in India, including digital platform services, digital content sales, digital sales of a company's own goods, data-related services, software-as-a-service, and several other categories of digital services. India's DST only applies to "non-resident" companies.

On June 2, 2020, the U.S. Trade Representative initiated an investigation of India's DST pursuant to section 302(b)(1)(A) of the Trade Act of 1974, as amended (Trade Act). See 85 FR 34709 (June 5, 2020) (notice of initiation). The notice of initiation solicited written comments on, *inter alia*, the following aspects of India's DST: Discrimination against U.S. companies; retroactivity; and possibly unreasonable tax policy. With respect to tax policy, USTR solicited comments on, *inter alia*, whether the DST diverged from principles reflected in the U.S. and international tax systems including extraterritoriality; taxing revenue not income; and a purpose of penalizing particular technology companies for their commercial success. Interested persons filed over 380 written submissions in response. The public submissions are available on www.regulations.gov in docket number USTR-2020-0022.

Under section 303 of the Trade Act, the U.S. Trade Representative requested consultations with the government of India regarding the issues involved in the investigation. Consultations were held on November 5, 2020.

Based on information obtained during the investigation, USTR prepared a comprehensive report on India's DST (India DST Report). The India DST Report is posted on the USTR website at <https://ustr.gov/issue-areas/enforcement/section-301-investigations/section-301-digital-services-taxes>. The report includes a full description of India's DST, and supports findings that India's DST is unreasonable and discriminatory and burdens or restricts U.S. commerce.

On January 6, 2021, based on the information obtained during the investigation and the advice of the Section 301 Committee, the U.S. Trade Representative determined that India's DST is unreasonable or discriminatory and burdens or restricts U.S. commerce, and therefore is actionable under sections 301(b) and 304(a) of the Trade Act (19 U.S.C. 2411(b) and 2414(a)). See 86 FR 2478 (January 12, 2021).

II. Proposed Action

Section 301(b) provides that upon determining that the acts, policies, and practices under investigation are actionable and that action is appropriate, the U.S. Trade Representative shall take all appropriate and feasible action authorized under section 301(c), subject to the specific direction, if any, of the President regarding such action, and all other appropriate and feasible action within the power of the President that the President may direct the U.S. Trade Representative to take under section 301(b), to obtain the elimination of that act, policy, or practice.

Section 301(c)(1)(B) of the Trade Act authorizes the U.S. Trade Representative to impose duties on the goods of the foreign country subject to the investigation. Pursuant to sections 301(b) and (c), USTR proposes that the U.S. Trade Representative should determine that action is appropriate and that appropriate action would include the imposition of additional *ad valorem* tariffs on certain products of India.

In particular, USTR proposes to impose additional tariffs of up to 25 percent *ad valorem* on an aggregate level of trade that would collect duties on goods of India in the range of the amount of DST that India is expected to collect from U.S. companies. Initial estimates indicate that the value of the DST payable by U.S.-based company groups to India will be up to approximately \$55 million per year.

USTR further proposes that the goods of India subject to additional tariffs would be drawn from the preliminary list of products in the Annex to this

notice, as specified by the listed eight-digit tariff subheadings.

III. Request for Public Comments

In accordance with section 304(b) of the Trade Act (19 U.S.C. 2414(b)), USTR invites comments from interested persons with respect to whether action is appropriate, and if so, the appropriate action to be taken.

USTR requests comments with respect to any issue related to the action to be taken in this investigation. With respect to the proposed tariff action outlined above, USTR specifically invites comments regarding:

- The level of the burden or restriction on U.S. commerce resulting from India's DST, including the amount of DST payments owed by U.S. companies, the annual growth rate of such payments, and other effects, such as compliance costs.
- The appropriate aggregate level of trade to be covered by additional duties.
- The level of the increase, if any, in the rate of duty.
- The specific products to be subject to increased duties, including whether the tariff subheadings listed in the Annex should be retained or removed, or whether tariff subheadings not currently on the list should be added.

In commenting on the inclusion or removal of particular products on the preliminary list of products subject to the proposed additional duties, USTR requests that commenters specifically address whether imposing increased duties on a particular product would be practicable or effective to obtain the elimination of India's acts, policies, and practices, and whether imposing additional duties on a particular product would cause disproportionate economic harm to U.S. interests, including small- or medium-size businesses and consumers.

Simultaneously with this notice, USTR also is requesting public comments on proposed trade actions in five other DST investigations initiated at the same time as the India DST investigation. Certain interested persons may wish to provide written comments or oral testimony on multi-jurisdictional issues common to two or more investigations. To avoid duplication, the USTR portal will have a separate docket for multi-jurisdictional submissions, and USTR will hold a separate multi-jurisdictional hearing.

To be assured of consideration, you must submit written comments on the proposed action by April 30, 2021, and post-hearing rebuttal comments by May 10, 2021 for the multi-jurisdictional hearing, and by May 17, 2021 for the India DST hearing.

IV. Hearing Participation

The Section 301 Committee will convene a virtual public hearing for comments pertaining to the India DST proposed action on May 10, 2021, beginning at 9:30 a.m. Those requesting to appear at this hearing should have comments applicable only to the India DST proposed action.

The Section 301 Committee will convene a virtual public hearing for comments pertaining to multiple jurisdictions on May 3, 2021, beginning at 9:30 a.m. Those requesting to appear at the multi-jurisdictional hearing should have comments that are applicable to two or more DST investigations.

For either hearing, you must submit a request to appear at the specific hearing using the electronic portal at <https://comments.ustr.gov/s/>. You will be able to view a docket entitled 'Request to Appear at Hearing on Proposed Action in Section 301 Investigation of India's Digital Services Tax.' Requests to appear must include a summary of testimony, and may be accompanied by a pre-hearing submission. Remarks at the hearing are limited to five minutes to allow for possible questions from the Section 301 Committee. All submissions must be in English. To be assured of consideration, USTR must receive your request to appear by April 21, 2021.

V. Procedures for Written Submissions

You must submit written comments, rebuttal comments, and requests to appear at the hearing using the electronic portal at <https://comments.ustr.gov/s/>. You will be able to

view a docket entitled 'Comments Concerning Proposed Action in Section 301 Investigation of India's Digital Services Tax' on the portal, docket number USTR-2021-0003.

You do not need to establish an account to submit comments. Fields with a gray (BCI) notation are for Business Confidential Information and the information entered will not be publicly available. Required fields are marked 'Required' and will have a red asterisk (*). Fields with a green (Public) notation will be viewable by the public.

The first screen of the portal requires you to enter identification and contact information. Third party organizations such as law firms, trade associations, or customs brokers should identify the full legal name of the organization they represent, and identify the primary point of contact for the submission. The remaining fields of the form are optional.

After entering the identification and contact information, you can complete the remainder of the questionnaire, or any portion of it by clicking 'Next.' You can comment on multiple products in a single entry, or submit multiple comments. You will be able to navigate through each screen of the form by clicking 'Next,' with or without entering a response to each field on an individual screen or page. Additionally, you will be able to upload documents at the end of the form and designate whether USTR should treat the documents as business confidential or public information.

For uploads containing BCI, the file name of the business confidential

version should begin with the characters 'BCI'. Any page containing BCI must be clearly marked 'BUSINESS CONFIDENTIAL' on the top of that page and the submission should clearly indicate, via brackets, highlighting, or other means, the specific information that is BCI. If you request business confidential treatment, you must certify in writing that disclosure of the information would endanger trade secrets or profitability, and that the information would not customarily be released to the public. Parties uploading attachments containing BCI also must submit a public version of their comments. The file name of the public version, which must be uploaded on <https://comments.ustr.gov/s/>, should begin with the character 'P'. The 'BCI' and 'P' should be followed by the name of the person or entity submitting the comments or rebuttal comments. If these procedures are not sufficient to protect BCI or otherwise protect business interests, please contact the USTR Section Hotline 301 line at (202) 395-5725 to discuss whether alternative arrangements are possible. USTR will post attachments uploaded to the docket for public inspection, except for attachments marked as business confidential.

You can view all public submissions on the USTR portal at <https://comments.ustr.gov/s/>.

Greta Peisch,

General Counsel, Office of the United States Trade Representative.

BILLING CODE 3290-F1-P

Annex

Note: All products that are classified in the eight-digit subheadings of the Harmonized Tariff Schedule of the United States (HTSUS) that are listed in this Annex are covered by the proposed action. The product descriptions that are contained in this Annex are provided for informational purposes only, and are not intended to delimit in any way the scope of the proposed action. Any questions regarding the scope of a particular HTSUS subheading should be referred to U.S. Customs and Border Protection. In the product descriptions, the abbreviation "nesoi" means "not elsewhere specified or included".

HTSUS Subheading	Product Description
0306.16.00	Cold-water shrimps and prawns, cooked in shell or uncooked, dried, salted or in brine, frozen
0306.35.00	Cold water shrimps and prawns, shell-on or peeled, live, frozen, or chilled
0306.95.00	Other shrimps and prawns, shell-on or peeled
1006.20.20	Basmati rice, husked
4421.91.40	Blinds, shutters, screens and shades of bamboo, with wooden frames w/o fixed louver boards or slats in the center
4421.91.94	Edge-glued lumber of bamboo
4421.91.97	Other articles, nesoi, of bamboo, incl pencil slats, burial caskets, gates for confining children or pets
4421.99.97	Other articles, nesoi, of wood other than of bamboo, incl pencil slats, burial caskets, gates for confining children or pets,
4503.10.40	Corks and stoppers of natural cork, tapered & of a thickness (or length) greater than the maximum diam., over 19 mm maximum diam., nesoi
4813.10.00	Cigarette paper in the form of booklets or tubes
4813.90.00	Cigarette paper, whether or not cut to size, nesoi
5109.90.90	Yarn of wool nesoi, or fine animal hair nesoi, < 85% of that wool/hair, put up for retail sale, nesoi
6212.10.50	Brassieres containing lace, net or embroidery, containing under 70% by weight of silk or silk waste, whether or not knitted or crocheted
7101.22.30	Cultured pearls, worked, graded and temporarily strung for convenience of transport
7101.22.60	Cultured pearls, worked, not strung, mounted or set
7103.99.50	Precious or semiprecious stones, nesoi, worked, whether or not graded, but n/strung (ex. ungraded temporarily strung), mtd. or set
7104.90.50	Synth. or reconstruct. precious or semiprecious stones, wkd, whether or not graded, but n/strung (ex. ungraded temp. strung), mtd./set, nesoi
7106.10.00	Silver powder
7113.11.20	Silver articles of jewelry and parts thereof, nesoi, valued not over \$18 per dozen pieces or parts
7113.19.21	Gold rope necklaces and neck chains
7113.19.25	Gold mixed link necklaces and neck chains

7113.20.25	Base metal clad w/gold mixed link necklaces and neck chains
7113.20.50	Base metal clad w/precious metal articles of jewelry and parts thereof, nesoi
7114.20.00	Goldsmiths' or silversmiths' wares of base metal clad with precious metal
7116.20.05	Jewelry articles of precious or semiprecious stones, valued not over \$40 per piece
7116.20.15	Jewelry articles of precious or semiprecious stones, valued over \$40 per piece
7116.20.30	Semiprecious stones (except rock crystal), graded and strung temporarily for convenience of transport
7116.20.35	Semiprecious stone (except rock crystal) figurines
7116.20.40	Semiprecious stone (except rock crystal) articles (other than jewelry and figurines)
7116.20.50	Precious stone articles, nesoi
7410.21.30	Refined copper, clad laminates, w/thickness of 0.15 mm or less, backed
7504.00.00	Nickel, powders and flakes
9401.69.20	Seats nesoi, of bent-wood
9401.69.40	Chairs nesoi, w/teak frames, not upholstered
9401.69.60	Chairs nesoi, w/wooden frames (o/than teak), not upholstered
9401.69.80	Seats (o/than chairs) nesoi, w/wooden frames, not upholstered
9403.50.40	Furniture (o/than seats) of bentwood nesoi, of a kind used in the bedroom
9403.50.90	Furniture (o/than seats) of wood (o/than bentwood), of a kind used in the bedroom & not designed for motor vehicle use
9403.83.00	Rattan furniture and parts
9504.30.00	Coin- or token-operated games for arcade, table or parlor (o/than bowling alley equipment) nesoi and parts and accessories thereof

[FR Doc. 2021-06627 Filed 3-30-21; 8:45 am]

BILLING CODE 3290-F1-C

**OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE**

**Termination of Section 301 Digital
Services Tax Investigations of Brazil,
the Czech Republic, the European
Union, and Indonesia**

AGENCY: Office of the United States
Trade Representative (USTR).

ACTION: Notice.

SUMMARY: The U.S. Trade
Representative is terminating the
Section 301 investigations of Digital
Services Taxes (DSTs) under
consideration by Brazil, the Czech
Republic, the European Union, and

Indonesia because these jurisdictions
either have not adopted or not
implemented a DST during the period of
investigation.

FOR FURTHER INFORMATION CONTACT: For
questions concerning the investigations,
please contact Benjamin Allen or
Patrick Childress, Assistant General
Counsels at (202) 395-9439 and (202)
395-9531, respectively; or Robert
Tanner, Director, Services and
Investment at (202) 395-6125. For
jurisdiction-specific questions, please
contact: Courtney Smothers, Deputy
Assistant U.S. Trade Representative for
Latin America at (202) 395-7657 (for
Brazil); Michael Rogers, Director,
Europe and the Middle East at (202)
395-2684 (for the Czech Republic and
the EU); or Bart Thanhauser, Director for

Southeast Asia and the Pacific at (202)
395-4088 (for Indonesia).

DATES: The Section 301 investigations of
DSTs under consideration by Brazil, the
Czech Republic, the European Union,
and Indonesia are terminated as of
March 26, 2021.

SUPPLEMENTARY INFORMATION: On June 2,
2020, the U.S. Trade Representative
initiated investigations pursuant to
section 302(b)(1)(A) of the Trade Act of
1974, as amended, of DSTs under
consideration by Brazil, the Czech
Republic, the European Union, and
Indonesia. 85 FR 34709 (June 5, 2020).

On January 13, 2021, USTR issued a
status update on these four
investigations: [https://ustr.gov/sites/
default/files/files/Press/Releases/Status
Update301InvestigationsBEUIndCR.pdf](https://ustr.gov/sites/default/files/files/Press/Releases/StatusUpdate301InvestigationsBEUIndCR.pdf).
The status update summarizes the DSTs

under consideration, outlines USTR's preliminary concerns with each of the proposed DSTs, and notes that USTR would continue to monitor the status.

As of March 25, 2021, Brazil, the Czech Republic, and the European Union have not adopted DSTs, and Indonesia has not implemented a DST. Under the Section 301 statute, determinations must be made within one year of initiation, or in this case by June 2, 2021. Even if one or more of these jurisdictions were to adopt or implement a DST prior to June 2, USTR would not have sufficient time to determine whether the DST was actionable under Section 301 and, if so, what action, if any, to take to obtain the elimination of the measure.

Accordingly, the U.S. Trade Representative has determined that it is appropriate to terminate these investigations at this time. USTR will continue to monitor the status of any proposed or adopted DST in these four jurisdictions, and may, if appropriate, initiate one or more new Section 301 investigations.

Greta Peisch,

General Counsel, Office of the United States Trade Representative.

[FR Doc. 2021-06612 Filed 3-30-21; 8:45 am]

BILLING CODE 3290-F1-P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR-2021-0007]

Proposed Action in Section 301 Investigation of the United Kingdom's Digital Services Tax

AGENCY: Office of the United States Trade Representative.

ACTION: Request for comments and notice of public hearing.

SUMMARY: The Office of the United States Trade Representative (USTR) requests written comments regarding a potential trade action in connection with the Section 301 investigation of the United Kingdom's Digital Services Tax (DST). USTR also will convene virtual public hearings and accept rebuttal comments in relation to the potential action.

DATES:

April 21, 2021: To be assured of consideration, submit requests to appear at a hearing, along with a summary of the testimony, by this date.

April 30, 2021: To be assured of consideration, submit written comments by this date.

May 3, 2021: Multi-jurisdictional virtual hearing on proposed actions.

May 4, 2021 at 9:30 a.m.: Virtual hearing on the United Kingdom DST proposed action.

May 10, 2021: To be assured of consideration, submit multi-jurisdictional hearing rebuttal comments by this date.

May 11, 2021: To be assured of consideration, submit the United Kingdom DST hearing rebuttal comments by this date.

ADDRESSES: Submit documents in response to this notice, including written comments and hearing appearance requests, through the online USTR portal: <https://comments.ustr.gov/s/>.

FOR FURTHER INFORMATION CONTACT: For questions concerning the investigation, please contact Ben Allen or Patrick Childress, Assistant General Counsels at (202) 395-9439 and (202) 395-9531, respectively; Robert Tanner, Director, Services and Investment at (202) 395-6125; or Michael Rogers, Director, Europe and the Middle East at (202) 395-2684. For issues with on-line submissions, please contact the USTR Section 301 line at (202) 395-5725.

SUPPLEMENTARY INFORMATION:

I. Proceedings in the Investigation

The United Kingdom's has adopted a DST that applies a two percent tax on the revenues of certain search engines, social media platforms and online marketplaces. The United Kingdom's DST applies only to companies with digital services revenues exceeding £500 million and United Kingdom digital services revenues exceeding £25 million.

On June 2, 2020, the U.S. Trade Representative initiated an investigation of the United Kingdom's DST pursuant to section 302(b)(1)(A) of the Trade Act of 1974, as amended (Trade Act). *See* 85 FR 34709 (June 5, 2020) (notice of initiation). The notice of initiation solicited written comments on, *inter alia*, the following aspects of the United Kingdom's DST: Discrimination against U.S. companies; retroactivity; and possibly unreasonable tax policy. With respect to tax policy, USTR solicited comments on, *inter alia*, whether the DST diverged from principles reflected in the U.S. and international tax systems including extraterritoriality; taxing revenue not income; and a purpose of penalizing particular technology companies for their commercial success. Interested persons filed over 380 written submissions in response. The public submissions are available on www.regulations.gov in docket number USTR-2020-0022.

Under section 303 of the Trade Act, the U.S. Trade Representative requested consultations with the government of the United Kingdom regarding the issues involved in the investigation. Consultations were held on December 4, 2020.

Based on information obtained during the investigation, USTR prepared a comprehensive report on the United Kingdom's DST (United Kingdom DST Report). The United Kingdom DST Report is posted on the USTR website at <https://ustr.gov/issue-areas/enforcement/section-301-investigations/section-301-digital-services-taxes>. The report includes a full description of the United Kingdom's DST, and supports findings that the United Kingdom's DST is unreasonable and discriminatory and burdens or restricts U.S. commerce.

On January 14, 2021, based on the information obtained during the investigation and the advice of the Section 301 Committee, the U.S. Trade Representative determined that the United Kingdom's DST is unreasonable or discriminatory and burdens or restricts U.S. commerce, and therefore is actionable under sections 301(b) and 304(a) of the Trade Act (19 U.S.C. 2411(b) and 2414(a)). *See* 86 FR 6406 (January 21, 2021).

II. Proposed Action

Section 301(b) provides that upon determining that the acts, policies, and practices under investigation are actionable and that action is appropriate, the U.S. Trade Representative shall take all appropriate and feasible action authorized under section 301(c), subject to the specific direction, if any, of the President regarding such action, and all other appropriate and feasible action within the power of the President that the President may direct the U.S. Trade Representative to take under section 301(b), to obtain the elimination of that act, policy, or practice.

Section 301(c)(1)(B) of the Trade Act authorizes the U.S. Trade Representative to impose duties on the goods of the foreign country subject to the investigation. Pursuant to sections 301(b) and (c), USTR proposes that the U.S. Trade Representative should determine that action is appropriate and that appropriate action would include the imposition of additional *ad valorem* tariffs on certain products of the United Kingdom.

In particular, USTR proposes to impose additional tariffs of up to 25 percent *ad valorem* on an aggregate level of trade that would collect duties on goods of the United Kingdom in the range of the amount of the DST that the

United Kingdom is expected to collect from U.S. companies. Initial estimates indicate that the value of the DST payable by U.S.-based company groups to the United Kingdom will be up to approximately \$325 million per year.

USTR further proposes that the goods of the United Kingdom subject to additional tariffs would be drawn from the preliminary list of products in the Annex to this notice, as specified by the listed eight-digit tariff subheadings.

III. Request for Public Comments

In accordance with section 304(b) of the Trade Act (19 U.S.C. 2414(b)), USTR invites comments from interested persons with respect to whether action is appropriate, and if so, the appropriate action to be taken.

USTR requests comments with respect to any issue related to the action to be taken in this investigation. With respect to the proposed tariff action outline above, USTR specifically invites comments regarding:

- The level of the burden or restriction on U.S. commerce resulting from the United Kingdom's DST, including the amount of DST payments owed by U.S. companies, the annual growth rate of such payments, and other effects, such as compliance costs.
- The appropriate aggregate level of trade to be covered by additional duties.
- The level of the increase, if any, in the rate of duty.
- The specific products to be subject to increased duties, including whether the tariff subheadings listed in the Annex should be retained or removed, or whether tariff subheadings not currently on the list should be added.

In commenting on the inclusion or removal of particular products on the preliminary list of products subject to the proposed additional duties, USTR requests that commenters specifically address whether imposing increased duties on a particular product would be practicable or effective to obtain the elimination of the United Kingdom's acts, policies, and practices, and whether imposing additional duties on a particular product would cause disproportionate economic harm to U.S. interests, including small- or medium-size businesses and consumers.

Simultaneously with this notice, USTR also is requesting public comments on proposed trade actions in five other DST investigations initiated at the same time as the United Kingdom DST investigation. Certain interested persons may wish to provide written comments or oral testimony on multi-jurisdictional issues common to two or more investigations. To avoid duplication, the USTR portal will have

a separate docket for multi-jurisdictional submissions, and USTR will hold a separate multi-jurisdictional hearing.

To be assured of consideration, you must submit written comments on the proposed action by April 30, 2021, and post-hearing rebuttal comments by May 10, 2021 for the multi-jurisdictional hearing, and by May 11, 2021 for the United Kingdom DST hearing.

IV. Hearing Participation

The Section 301 Committee will convene a virtual public hearing for comments pertaining to the United Kingdom DST proposed action on May 4, 2021, beginning at 9:30 a.m. Those requesting to appear at this hearing should have comments applicable only to the United Kingdom DST proposed action.

The Section 301 Committee will convene a virtual public hearing for comments pertaining to multiple jurisdictions on May 3, 2021, beginning at 9:30 a.m. Those requesting to appear at the multi-jurisdictional hearing should have comments that are applicable to two or more DST investigations.

For either hearing, you must submit a request to appear at the specific hearing using the electronic portal at <https://comments.ustr.gov/s/>. You will be able to view a docket entitled 'Request to Appear at Hearing on Proposed Action in Section 301 Investigation of the United Kingdom's Digital Services Tax.' Requests to appear must include a summary of testimony, and may be accompanied by a pre-hearing submission. Remarks at the hearing are limited to five minutes to allow for possible questions from the Section 301 Committee. All submissions must be in English. To be assured of consideration, USTR must receive your request to appear by April 21, 2021.

V. Procedures for Written Submissions

You must submit written comments, rebuttal comments, and requests to appear at the hearing using the electronic portal at <https://comments.ustr.gov/s/>. You will be able to view a docket entitled 'Comments Concerning Proposed Action in Section 301 Investigation of the United Kingdom's Digital Services Tax' on the portal, docket number USTR-2021-0007.

You do not need to establish an account to submit comments. Fields with a gray (BCI) notation are for Business Confidential Information and the information entered will not be publicly available. Required fields are marked 'Required' and will have a red

asterisk (*). Fields with a green (Public) notation will be viewable by the public.

The first screen of the portal requires you to enter identification and contact information. Third party organizations such as law firms, trade associations, or customs brokers, should identify the full legal name of the organization they represent, and identify the primary point of contact for the submission. The remaining fields of the form are optional.

After entering the identification and contact information, you can complete the remainder of the questionnaire, or any portion of it by clicking 'Next.' You can comment on multiple products in a single entry, or submit multiple comments. You will be able to navigate through each screen of the form by clicking 'Next,' with or without entering a response to each field on an individual screen or page. Additionally, you will be able to upload documents at the end of the form and designate whether USTR should treat the documents as business confidential or public information.

For uploads containing BCI, the file name of the business confidential version should begin with the characters 'BCI'. Any page containing BCI must be clearly marked 'BUSINESS CONFIDENTIAL' on the top of that page and the submission should clearly indicate, via brackets, highlighting, or other means, the specific information that is BCI. If you request business confidential treatment, you must certify in writing that disclosure of the information would endanger trade secrets or profitability, and that the information would not customarily be released to the public. Parties uploading attachments containing BCI also must submit a public version of their comments. The file name of the public version, which must be uploaded on <https://comments.ustr.gov/s/>, should begin with the character 'P'. The 'BCI' and 'P' should be followed by the name of the person or entity submitting the comments or rebuttal comments. If these procedures are not sufficient to protect BCI or otherwise protect business interests, please contact the USTR Section Hotline 301 line at (202) 395-5725 to discuss whether alternative arrangements are possible. USTR will post attachments uploaded to the docket for public inspection, except for attachments marked as business confidential.

You can view all public submissions on the USTR portal at <https://comments.ustr.gov/s>.

Greta Peisch,

General Counsel, Office of the United States Trade Representative.

Annex

Note: All products that are classified in the eight-digit subheadings of the Harmonized

Tariff Schedule of the United States (HTSUS) that are listed in this Annex are covered by the proposed action. The product descriptions that are contained in this Annex are provided for informational purposes only, and are not intended to delimit in any way the scope of the proposed action. Any questions regarding the scope of a particular HTSUS subheading should be referred to U.S. Customs and Border Protection. In the product descriptions, the abbreviation

“nesoi” means “not elsewhere specified or included”.

HTSUS subheading	Product description
3213.90.00	Artists', students' or signboard painters' colors, in tablets, tubes, jars, bottles, pans or in similar packings, not in sets.
3303.00.10	Floral or flower waters, not containing alcohol.
3303.00.20	Perfumes and toilet waters, other than floral or flower waters, not containing alcohol.
3303.00.30	Perfumes and toilet waters, containing alcohol.
3304.10.00	Lip make-up preparations.
3304.20.00	Eye make-up preparations.
3304.30.00	Manicure or pedicure preparations.
3304.91.00	Beauty or make-up powders, whether or not compressed.
3304.99.10	Petroleum jelly put up for retail sale.
3304.99.50	Beauty or make-up preparations & preparations for the care of the skin, excl. medicaments but incl. sunscreen or sun tan preparations, nesoi.
3305.10.00	Shampoos.
3305.20.00	Preparations for permanent waving or straightening the hair.
3305.30.00	Hair lacquers.
3305.90.00	Preparations for use on the hair, nesoi.
3306.90.00	Preparations for oral or dental hygiene, including denture fixative pastes and powders, excluding dentifrices.
3307.10.10	Pre-shave, shaving or after-shave preparations, not containing alcohol.
3307.10.20	Pre-shave, shaving or after-shave preparations, containing alcohol.
3307.30.10	Bath salts, whether or not perfumed.
3307.30.50	Bath preparations, other than bath salts.
3307.49.00	Preparations for perfuming or deodorizing rooms, including odoriferous preparations used during religious rites, nesoi.
3307.90.00	Depilatories and other perfumery, cosmetic or toilet preparations, nesoi.
4201.00.60	Saddlery and harnesses for animals nesoi, (incl. traces, leads, knee pads, muzzles, saddle cloths and bags and the like), of any material.
6104.43.20	Women's or girls' dresses, knitted or crocheted, of synthetic fibers, nesoi.
6201.12.20	Men's or boys' overcoats, carcoats, capes, & similar coats of cotton, not knit or crocheted, not containing 15% or more by wt of down, etc.
6201.92.45	Men's or boys' anoraks, windbreakers & sim articles nesoi, not knit/crochet, cotton, not cont. 15% or more by wt of down, etc, o/than rec perf outwear.
6202.12.20	Women's or girls' overcoats, carcoats, etc, not knitted or crocheted, of cotton, not containing 15% or more by weight of down, etc.
6202.13.40	Women's or girls' overcoats, carcoats, capes, cloaks and similar articles, not knitted or crocheted, of man-made fibers, nesoi.
6202.92.90	Women's/girls' anoraks, windbreakers & similar articles, nt knit/crochet, cotton, nt cont. 15% or more by wt of down, etc, o/ than rec perf outwear.
6204.43.40	Women's or girls' dresses, not knitted or crocheted, of synthetic fibers, nesoi.
6204.44.40	Women's or girls' dresses, not knitted or crocheted, of artificial fibers, nesoi.
6204.49.10	Women's or girls' dresses, not knitted or crocheted, containing 70% or more by weight of silk or silk waste.
6205.20.20	Men's or boys' shirts, not knitted or crocheted, of cotton, nesoi.
6215.10.00	Ties, bow ties and cravats, not knitted or crocheted, of silk or silk waste.
6403.59.30	Footwear w/outer soles and uppers of leather, not covering the ankle, welt, nesoi.
6403.59.90	Footwear w/outer soles and uppers of leather, not cov. ankle, n/welt, for persons other than men, youths and boys.
6403.91.30	Footwear w/outer soles of rubber/plastics/composition leather & uppers of leather, covering the ankle, welt.
6403.99.60	Footwear w/outer soles of rubber/plastics/comp. leather & uppers of leather, n/cov. ankle, n/welt, for men, youths and boys, nesoi.
6404.20.40	Footwear w/outer soles of leather/comp. leath., n/o 50% by wt. rub./plast. or rub./plast./text. & 10%+ by wt. rub./plast., val. o/\$2.50/pr.
6903.90.00	Refractory ceramic goods (o/than of siliceous fossil meals or earths), nesoi.
6907.23.90	Glazed ceramic tiles nesoi, of a H2O absorp coeff by wt >10%.
6907.30.90	Glazed ceramic mosaic cubes nesoi, o/t subheading 6907.40.
6909.19.50	Ceramic wares for laboratory, chemical or other technical uses (o/than of porcelain or china), nesoi.
6910.90.00	Ceramic (o/than porcelain or china) sinks, washbasins, baths, bidets, water closet bowls, urinals & siml. sanitary fixtures.
7113.11.50	Silver articles of jewelry and parts thereof, nesoi, valued over \$18 per dozen pieces or parts.
7113.19.29	Gold necklaces and neck chains (o/than of rope or mixed links).
7113.19.50	Precious metal (o/than silver) articles of jewelry and parts thereof, whether or not plated or clad with precious metal, nesoi.
7116.20.50	Precious stone articles, nesoi.
7117.19.90	Imitation jewelry (o/than toy jewelry & rope, curb, cable, chain, etc.), of base metal (wheth. or n/plated w/prec. metal), nesoi.
8415.82.01	Air conditioning machines incorporating a refrigerating unit, nesoi.
8418.40.00	Freezers of the upright type, not exceeding 900 liters capacity, electric or other.
8418.50.00	Refrigerating or freezing display counters, cabinets, showcases and similar refrigerating or freezing furniture.
8418.69.01	Refrigerating or freezing equipment nesoi.

HTSUS subheading	Product description
8479.50.00	Industrial robots, not elsewhere specified or included.
8532.24.00	Ceramic dielectric fixed capacitors, multilayer.
9001.10.00	Optical fibers, optical fiber bundles and cables, other than those of heading 8544.
9401.71.00	Seats nesoi, w/metal frame (o/than of heading 9402), upholstered.
9403.10.00	Furniture (o/than seats) of metal nesoi, of a kind used in offices.
9403.20.00	Furniture (o/than seats) of metal nesoi, o/than of a kind used in offices.
9403.40.90	Furniture (o/than seats) of wood (o/than bentwood) nesoi, of a kind used in the kitchen & not design. for motor vehicl. use.
9403.60.80	Furniture (o/than seats & o/than of 9402) of wooden (o/than bentwood) nesoi.
9403.89.60	Furniture (o/than seats & o/than of 9402) of materials nesoi.
9503.00.00	Toys, including riding toys o/than bicycles, puzzles, reduced scale models.
9504.50.00	Video game consoles and machines, other than those of heading 9504.30.
9504.90.40	Game machines (o/than coin- or token-operated) and parts and accessories thereof.
9504.90.60	Chess, checkers, backgammon, darts and o/table and parlor games played on boards of a special design and parts thereof; poker chips and dice.
9504.90.90	Articles nesoi for arcade, table or parlor games & parts & access.; automatic bowling alley equipment & parts and accessories thereof.
9508.10.00	Traveling circuses and traveling menageries; parts and accessories thereof.
9508.90.00	Merry-go-rounds, boat-swings, shooting galleries and other fairground amusements; traveling theaters; parts and accessories thereof.
9603.29.80	Shaving brushes, hair brushes, nail brushes, eyelash and other toilet brushes (o/than tooth brushes), valued o/40 cents each.

[FR Doc. 2021-06628 Filed 3-30-21; 8:45 am]

BILLING CODE 3290-F1-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2021-0180]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Report of Inspections Required by Airworthiness Directive, Part 39

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The collection involves the member of the public that may submit an Alternative Methods of Compliance (AMOC) request to the FAA by using the Airworthiness Directives Development (ADD) External website. The information to be collected will be used to support publicly disseminated information to the FAA and/or is necessary because this information supports the Department of Transportation's strategic goal to promote the public health and safety by working toward eliminating transportation-related deaths and injuries.

DATES: Written comments should be submitted by June 1, 2021.

ADDRESSES: Please send written comments:

By Electronic Docket:

www.regulations.gov (Enter docket number into search field)

By mail: Robert Romero, 10101

Hillwood Parkway, 5N154, Fort Worth, TX 76177

By fax: 817-222-5959

FOR FURTHER INFORMATION CONTACT:

Robert Romero by email at:

Robert.A.Romero@faa.gov; phone: 817-222-5102

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120-0056.

Title: Report of Inspections Required by Airworthiness Directives, Part 39.

Form Numbers: There is no standard form to use for AMOC submission. However, the public may access the ADD External website to submit an AMOC request to the FAA.

Type of Review: Renewal of an information collection.

Background: Alternative Methods of Compliance (AMOC) are submitted to the FAA by the general public. While anyone may submit an AMOC there is no standard form to use. From Order

8110.103B Alternative Methods of Compliance (AMOC), Section 32:

3-2. AMOC Proposal. 14 CFR 39.19 states in part that "anyone may propose to FAA an alternative method of compliance or a change in the compliance time, if the proposal provides an acceptable level of safety."

a. Although a letter is preferred, AMOC proposals may be submitted by other means, such as email, fax, or telephone. AMOC proposals received by telephone must be documented.

An AMOC Response Letter is written by an internal FAA user and sent to the AMOC Requester. The template may be generated from the ADD Dashboard and follows the latest Order. There is not an FAA or OMB number on this template.

A member of the public may submit an AMOC request to the FAA by using the ADD External website. Registration is not needed to use this website. External users must consent to the "Terms of Use" statement before proceeding to the AMOC proposal web page. An AMOC is required if an owner/operator of aircraft cannot comply with an AD or finds a different method to comply with the actions specified in an AD, as mandated by *14 CFR part 39*.

Respondents: The respondents are a member of the public who may submit an AMOC request to FAA by using the ADD External website. We estimate that 25 ADs yearly will require reports of information and findings. The average AD affects about 1,120 owners/operators. Therefore, 25 ADs times 1,120 owners/operators per year equal 28,000 reports.

Frequency: As needed.

Estimated Average Burden per Response: These reports, requiring an average of 1 hour each to prepare, consume 28,000 reporting hours.

Estimated Total Annual Burden: The total annualized cost to respondents is \$2,380,000. We base this on the 28,000 reporting hours times an estimated hourly rate of \$85/hour per respondent. The average cost to the respondents per AD per year is \$85.00 (\$2,380,000 divided by 28,000).

Issued in Washington, DC, on March 03, 2021.

Patrick Idlett,

ASKME Program Manager, Office of Enterprise Program Management (AEM), Project Portfolio Performance Division.

[FR Doc. 2021-06646 Filed 3-30-21; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Approval of Renewal of Information Collection: Generic Clearance for Customer Interactions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments concerning our intention to request the Office of Management and Budget (OMB) approval of a new generic information collection. As part of a Federal Government-wide effort to streamline the process to seek feedback from the public, FAA is requesting approval of a New Generic Information Collection Request: “Generic Clearance for Customer Interactions”.

DATES: Written comments should be submitted by June 1, 2021.

ADDRESSES: Send comments to the FAA at the following address: Barbara Hall, Federal Aviation Administration, ASP-110, 10101 Hillwood Parkway, Fort Worth, TX 76177

FOR FURTHER INFORMATION CONTACT: Barbara Hall at (940) 594-5913, or by email at: Barbara.L.Hall@faa.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120-0772.

Title: Generic Clearance for Customer Interactions.

Form Numbers: There are no FAA forms associated with this generic information collection.

Type of Review: Renewal.

Background: Customer Interactions provide the Federal Aviation Administration valuable information and connect the agency to the public that we serve. In order to ensure a

timely and consistent process for Paperwork Reduction Act compliance, the Federal Aviation Administration is proposing to develop a Generic Information Collection Request to be utilized for Customer Interactions that support the Agency’s mission.

Customer Interactions can support the Federal Aviation Administration’s mission by allowing the Agency to collect qualitative and quantitative data that can help inform scientific research; aviation assessments and monitoring efforts; validate models or tools; and enhance the quantity and quality of data collected across communities. Customer Interactions also create an avenue to incorporate local knowledge and needs, and can contribute to increased data sharing, open data, and government transparency. The Federal Aviation Administration may sponsor the collection of this type of information in connection with aviation projects. All such collections will follow Agency policies and regulations. If a new collection is not within the parameters of this generic Information Collection Request (ICR), the Agency will submit a separate information collection request to Office of Management and Budget (OMB) for approval.

Collections under this generic ICR will be from volunteers who participate on their own initiative through an open and transparent process; the collections will be low-burden for participants; collections will be low-cost for both the participants and the Federal Government; and data will be available to support the endeavors of the Agency, states, tribal or local entities where data collection occurs.

Respondents: Approximately 110,000 Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Frequency: Once per request.

Estimated Average Burden per Response: 10 minutes.

Estimated Total Annual Burden: 18330 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA’s performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB’s clearance of this information collection.

Issued in Fort Worth, TX, on March 26, 2021.

Barbara L. Hall,

FAA Information Collection Clearance Officer, Performance, Policy, and Records Management Branch, ASP-110.

[FR Doc. 2021-06614 Filed 3-30-21; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew a generic information collection. As part of a Federal Government-wide effort to streamline the process to seek feedback from the public on service delivery, FAA has an approved Generic Information Collection Request (Generic ICR): “Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery”.

DATES: Written comments should be submitted by June 1, 2021.

ADDRESSES: Send comments to the FAA at the following address: Barbara Hall, Federal Aviation Administration, ASP-110, 10101 Hillwood Parkway, Fort Worth, TX 76177.

FOR FURTHER INFORMATION CONTACT: Barbara Hall at (940) 594-5913, or by email at: Barbara.L.Hall@faa.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120-0746.

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Form Numbers: There are no FAA forms associated with this generic information collection.

Type of Review: Renewal of a generic information collection.

Background: The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration’s commitment to improving 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 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.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

Respondents: Approximately 110,000 Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Frequency: Once per request.

Estimated Average Burden per

Response: 10 minutes.

Estimated Total Annual Burden: 18,330 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality

of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Fort Worth, TX, on March 26, 2021.

Barbara L. Hall,

FAA Information Collection Clearance Officer, Performance, Policy, and Records Management Branch, ASP-110.

[FR Doc. 2021-06613 Filed 3-30-21; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA-2021-0039, Notice No. 1]

Public Meeting on Railroad Safety Advisory Committee Process

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Announcement of public meeting.

SUMMARY: The Federal Railroad Administration (FRA) invites interested persons to participate in a public meeting to discuss recommendations to improve the efficiency and effectiveness of FRA's Railroad Safety Advisory Committee (RSAC). The RSAC is a Federal Advisory Committee that provides a forum for collaborative problem solving of critical safety issues and, as appropriate, develops recommendations for railroad safety regulations through a consensus process.

DATES: The public meeting is scheduled for April 16, 2021. The meeting will commence at 10:00 a.m. and will adjourn by 12:00 p.m. (all times Eastern Daylight Time). Requests to attend the meeting must be received by April 9, 2021. Requests for time to speak at the meeting must be received by April 9, 2021, and must include any written materials intended for presentation at the meeting. Requests for accommodations because of a disability must be received by April 9, 2021.

ADDRESSES: The meeting will be held by phone. Information on how to call into the meeting will be provided upon registration.

Comments on the RSAC process in response to this Announcement should be submitted to docket number FRA-2021-0039 at [regulations.gov](https://www.regulations.gov).

FOR FURTHER INFORMATION CONTACT: Kenton Kilgore, RSAC Designated Federal Officer/RSAC Coordinator, FRA Office of Railroad Safety, (202) 493-6286 or kenton.kilgore@dot.gov.

SUPPLEMENTARY INFORMATION: The RSAC is a Federal Advisory Committee composed of 34 voting representatives from 23 member organizations, representing various rail industry perspectives. The RSAC has a balanced membership of railroad management, labor, and other appropriate railroad industry stakeholders. The RSAC's past recommendations reflect the participants' careful evaluation of significant and complex safety and regulatory issues. The RSAC has addressed 58 tasks and conducted almost 600 committee, working group, and task force meetings on critical safety issues.

A copy of the current RSAC charter and other relevant reference documents are available in the docket for review. Additional general information about the RSAC is available on the RSAC website at <https://rsac.fra.dot.gov/>.

This meeting is intended to solicit public input on the RSAC's current charter and related requirements, and input on how to improve the RSAC process generally. Although FRA welcomes input on any issues related to the structure, organization, and processes of the RSAC, in advance of the meeting FRA will post an agenda in the docket highlighting specific issues on which FRA is interested in receiving feedback. FRA will compile all input received at the meeting and post that compilation to the docket.

Public Participation: The meeting will be open to the public, but attendance may be limited due to the number of available phone lines. To register, please send an email to Mr. Kilgore at kenton.kilgore@dot.gov by April 9, 2021. DOT and FRA are committed to providing equal access to this meeting for all participants. If you need alternative formats or services because of a disability, please include your requested accommodations in your registration email. Written comments on the RSAC process should be submitted to the public docket noted above. To provide comment during the meeting, please send an email, including any written materials to accompany your comment, please send an email to Mr. Kilgore at kenton.kilgore@dot.gov by April 9, 2021, to allow for review.

Issued in Washington, DC, on March 26, 2021.

Brett A. Jortland,

Acting Chief Counsel.

[FR Doc. 2021-06643 Filed 3-30-21; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF THE TREASURY**Community Development Financial Institutions Fund****Request for Public Comment**

ACTION: Notice and request for public comment.

SUMMARY: The U.S. Department of the Treasury, as part of a continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act (PRA) of 1995. Currently, the Community Development Financial Institutions Fund (CDFI Fund), Department of the Treasury, is soliciting comments concerning the Office of Certification, Compliance Monitoring and Evaluation (CCME) Title VI Compliance Worksheet (Worksheet). The Worksheet will be an online form submitted through the CDFI Fund's Award Management Information System (AMIS).

DATES: Written comments must be received on or before June 1, 2021 to be assured of consideration.

ADDRESSES: Submit your comments via email to Heather Hunt, Acting Program Manager for the Office of Certification, Compliance Monitoring and Evaluation, CDFI Fund at ccme@cdfi.treas.gov.

FOR FURTHER INFORMATION CONTACT: Heather Hunt, CCME Acting Program Manager, CDFI Fund, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington DC 20220, (202) 653-0421 (not a toll-free number). Other information regarding the CDFI Fund and its programs may be obtained on the CDFI Fund website at <https://www.cdfifund.gov>. The Title VI Compliance Worksheet, which presents the questions that will comprise the online form, may be obtained from the News and Events Section of the CDFI Fund website at <https://www.cdfifund.gov/news-events/>.

SUPPLEMENTARY INFORMATION:

Title: Title VI Compliance Worksheet (Worksheet).

OMB Number: 1559-NEW.

Type of Review: Regular Review.

Abstract: This collection captures qualitative information from all Applicants to CDFI Fund's Federal Financial Assistance Programs. This information will be collected once annually from all Applicants to assess their compliance with federal civil rights requirements. Applicants must be compliant with federal civil rights requirements in order to be deemed eligible to receive Federal Financial Assistance grants from the CDFI Fund. The CDFI Fund will utilize the Worksheet to determine whether Applicants to CDFI Fund Financial Assistance Programs are compliant with federal civil rights requirements. The questions in the Worksheet are intended to assist the CDFI Fund in determining whether Federal Financial Assistance Applicants are compliant with the Treasury regulations implementing Title VI of the Civil Rights Act (Title VI), set forth in 31 CFR part 22. If the general public does not believe the questions in the Worksheet will assist the CDFI Fund with determining Applicant's compliance with federal civil rights requirements, the CDFI Fund asks that detailed comments be provided to better demonstrate how the CDFI Fund can determine an Applicants compliance with the requirements.

These requirements are set forth in the United States Department of the Treasury regulations implementing Title VI located in 31 CFR part 22, Nondiscrimination on the Basis of Race, Color, or National Origin in Programs or Activities Receiving Federal Financial Assistance from the Department of the Treasury. These regulations apply to Applicants as well as their prospective sub-recipients that are not direct beneficiaries of Federal Financial Assistance (e.g., Depository Institution Holding Company and their Subsidiary Depository Institutions).

Estimated Number of Respondents: 900.

Estimated Annual Time per Respondent: .5 hours.

Estimated Annual Burden Hours: 450 hours.

Request for Comments: Comments submitted in response to this Notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will

become a matter of public record and may be published on the CDFI Fund website at <https://www.cdfifund.gov>.

Authority: 31 CFR part 22. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the CDFI Fund, including whether the information shall have practical utility; (b) the accuracy of the CDFI Fund's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services required to provide information.

Jodie L. Harris,

Director, Community Development Financial Institutions Fund.

Community Development Financial Institutions Fund Title VI Compliance Worksheet

Applicant Name: _____

Employer Identification Number: _____

DUNS Number: _____

Submitted by: _____

Title: _____

Date Submitted: _____

Signature: _____

The United States Department of the Treasury regulations implementing Title VI of the Civil Rights Act (Title VI), are set forth in 31 CFR part 22. The Applicant should review such regulations carefully before completing this section. Please note that these regulations apply to Applicants as well as their prospective subrecipients that are not direct beneficiaries of Federal Financial Assistance (e.g., Depository Institution Holding Company and their Subsidiary Depository Institutions). In order to assure compliance with those regulations, and other requirements related to compliance with Title VI, the Applicant shall provide the following information:

Title VI Compliance Requirements	Yes	No
<p>1. Civil Rights Complaint Information:</p> <ul style="list-style-type: none"> a. Has the Applicant had legal findings that they violated civil rights laws or civil rights complaints that resulted in any settlements in the last two years? If Yes, provide information on lawsuits and/or complaints such as case name, number, specific complaint, and date of case. b. Does the Applicant have any pending civil rights investigations, complaints, and/or lawsuits filed against them that pertain to allegations of discrimination on the basis of race, color, and/or national origin? If Yes, provide information on the investigations, complaints, and/or lawsuits such as case name, number, date of case, and status of case (e.g., discovery). c. Has the Applicant ever been found to be noncompliant with civil rights requirements for any Federal Financial Assistance in the last two years? If Yes, provide the Federal Awarding Agency, program name, findings, corrective actions, status of corrective actions, agency point of contact, and attach a copy of the Title VI compliance review issued by the federal agency. d. Does the Applicant have any pending applications or current awards of Federal Financial Assistance with other federal awarding agencies? If Yes, please select the applicable federal agency(ies), enter the associated program name(s), and award amount. <p>2. Notice of Rights and Program Location:</p> <ul style="list-style-type: none"> a. Does the Applicant post signs in its offices to inform persons of their rights under Title VI and other civil rights requirements? If No, please describe the Applicant's plan to post this information. b. Does the Applicant post information on their website informing persons of their rights under Title VI and other civil rights requirements? If No, please describe the Applicant's plan to post this information. c. If the Applicant provides services directly to customers, do they make efforts to ensure that facilities are accessible to the communities they serve? If No, describe why and how the Applicant mitigates this issue. If an Applicant does not provide direct services to customers answer "Yes." <p>3. Language Assistance Plan:</p> <ul style="list-style-type: none"> a. Does the Applicant have a Language Assistance Plan (LAP) or process in place to support persons with limited English proficiency (LEP)? If No, describe how the Applicant will meet this requirement. b. Does the LAP or process to support LEP persons take into consideration the volume, proportion, or frequency of LEP persons that the Applicant serves in determining the appropriate language assistance? If No, describe how the Applicant determines what LEP services they provide. c. Does the Applicant display notices in appropriate languages in intake areas or initial points of contact on how to access language services? If No, describe how the Applicant meets this requirement or will meet this requirement. d. Does the Applicant provide language interpreter services or translated materials to LEP persons? If No, describe why not or how the Applicant plans to meet this requirement. <p>4. Sub-recipient Communication:</p> <ul style="list-style-type: none"> a. If the Applicant has sub-recipients, do they have established measures to communicate civil rights compliance requirements to their sub-recipients? If No, describe how the Applicant meets this requirement or will meet this requirement. If the Applicant does not have sub-recipients answer "Yes." b. If the Applicant has sub-recipients, do they inform sub-recipients about how to provide notice to the public about their right to file a complaint of discrimination? If No, describe how the Applicant meets this requirement or will meet this requirement. If the Applicant does not have sub-recipients answer "Yes." c. If the Applicant has sub-recipients, do they conduct periodic review checks of sub-recipient compliance with Title VI requirements? If No, describe how the Applicant meets this requirement or will meet this requirement. If the Applicant does not have sub-recipients answer "Yes." 		

[FR Doc. 2021-06577 Filed 3-30-21; 8:45 am]

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DEPARTMENT OF THE TREASURY**Office of the Comptroller of the Currency**

[Docket ID OCC-2020-0049]

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Docket No. OP-1743]

FEDERAL DEPOSIT INSURANCE CORPORATION

RIN 3064-ZA24

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB-2021-0004]

NATIONAL CREDIT UNION ADMINISTRATION

[Docket No. NCUA-2021-0023]

Request for Information and Comment on Financial Institutions' Use of Artificial Intelligence, Including Machine Learning

AGENCY: Board of Governors of the Federal Reserve System, Bureau of Consumer Financial Protection, Federal Deposit Insurance Corporation, National Credit Union Administration, and Office of the Comptroller of the Currency (agencies).

ACTION: Request for information and comment.

SUMMARY: The agencies are gathering information and comments on financial institutions' use of artificial intelligence (AI), including machine learning (ML). The purpose of this request for information (RFI) is to understand respondents' views on the use of AI by financial institutions in their provision of services to customers and for other business or operational purposes; appropriate governance, risk management, and controls over AI; and any challenges in developing, adopting, and managing AI. The RFI also solicits respondents' views on the use of AI in financial services to assist in determining whether any clarifications from the agencies would be helpful for financial institutions' use of AI in a safe and sound manner and in compliance with applicable laws and regulations, including those related to consumer protection.

DATES: Comments must be received by June 1, 2021.

ADDRESSES: Interested parties are encouraged to submit written comments

jointly to all of the agencies. Commenters are encouraged to use the title "Request for Information and Comment on Financial Institutions' Use of Artificial Intelligence, including Machine Learning" to facilitate the organization and distribution of comments among the agencies. Commenters are also encouraged to identify the number of the specific question for comment to which they are responding. Please send comments by one method only and should be directed to:

OCC: Commenters are encouraged to submit comments through the Federal eRulemaking Portal. Please use the title "Request for Information on Financial Institutions' Use of Artificial Intelligence, including Machine Learning; Request for Comment" to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal—Regulations.gov:* Go to <https://regulations.gov/>. Enter "Docket ID OCC-2020-0049" in the Search Box and click "Search." Public comments can be submitted via the "Comment" box below the displayed document information or by clicking on the document title and then clicking the "Comment" box on the top-left side of the screen. For help with submitting effective comments please click on "Commenter's Checklist." For assistance with the *Regulations.gov* site, please call (877) 378-5457 (toll free) or (703) 454-9859 Monday-Friday, 9am-5pm ET or email regulations@erulemakinghelpdesk.com.

- *Mail:* Chief Counsel's Office, Attention: Comment Processing, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E-218, Washington, DC 20219.

- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E-218, Washington, DC 20219. *Instructions:* You must include "OCC" as the agency name and "Docket ID OCC-2020-0049" in your comment. In general, the OCC will enter all comments received into the docket and publish the comments on the *Regulations.gov* website without change, including any business or personal information provided such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this action by the following method:

- *Viewing Comments Electronically—Regulations.gov:* Go to <https://regulations.gov/>. Enter "Docket ID OCC-2020-0049" in the Search Box and click "Search." Click on the "Documents" tab and then the document's title. After clicking the document's title, click the "Browse Comments" tab. Comments can be viewed and filtered by clicking on the "Sort By" drop-down on the right side of the screen or the "Refine Results" options on the left side of the screen. Supporting materials can be viewed by clicking on the "Documents" tab and filtered by clicking on the "Sort By" drop-down on the right side of the screen or the "Refine Documents Results" options on the left side of the screen." For assistance with the *Regulations.gov* site, please call (877) 378-5457 (toll free) or (703) 454-9859 Monday-Friday, 9am-5pm ET or email regulations@erulemakinghelpdesk.com. The docket may be viewed after the close of the comment period in the same manner as during the comment period.

Board: You may submit comments, identified by Docket No. OP-1743, by any of the following methods:

- *Agency website:* <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.

- *Email:* regs.comments@federalreserve.gov. Include docket number in the subject line of the message.

- *Fax:* (202) 452-3819 or (202) 452-3102.

Mail: Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551. All public comments will be made available on the Board's website at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm> as submitted, unless modified for technical reasons or to remove personally identifiable information or other confidential information at the commenter's request. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed in paper in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays.

FDIC

- *Agency website:* <https://www.fdic.gov/regulations/laws/federal/>. Follow the instructions for submitting comments on the agency's website.

• *Email: Comments@fdic.gov.* Include RIN 3064–ZA24 in the subject line of the message.

• *Mail:* James P. Sheesley, Assistant Executive Secretary, Attention: Comments–RIN 3064–ZA24, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

• *Hand Delivery/Courier:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street NW building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m. *Public Inspection:* All comments received will be posted without change to <https://www.fdic.gov/regulations/laws/federal/>—including any personal information provided—for public inspection. Paper copies of public comments may be ordered from the FDIC Public Information Center, 3501 North Fairfax Drive, Room E–1002, Arlington, VA 22226 or by telephone at (877) 275–3342 or (703) 562–2200.

Bureau of Consumer Financial Protection (Bureau)

You may submit responsive information and other comments, identified by Docket No. CFPB–2021–0004, by any of the following methods:

• *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

• *Email:* 2021–RFL–AI@cfpb.gov. Include Docket No. CFPB–2021–0004 in the subject line of the message.

• *Mail/Hand Delivery/Courier:* Comment Intake, Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552. Please note that due to circumstances associated with the COVID–19 pandemic, the CFPB discourages the submission of comments by mail, hand delivery, or courier.

• *Instructions:* The Bureau encourages the early submission of comments. All submissions must include the document title and docket number. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, and in light of difficulties associated with mail and hand deliveries during the COVID–19 pandemic, commenters are encouraged to submit comments electronically.

In general, all comments received will be posted without change to <http://www.regulations.gov>. In addition, once the Bureau’s headquarters reopens, comments will be available for public inspection and copying at 1700 G Street NW, Washington, DC 20552, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. At that time, you can make an appointment to inspect the documents by calling 202–435–7275.

All submissions in response to this RFI, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Please do not include in your submissions sensitive personal information, such as account numbers or Social Security numbers, or names of other individuals, or other information that you would not ordinarily make public, such as trade secrets or confidential commercial information. Submissions will not be edited to remove any identifying or contact information, or other information that you would not ordinarily make public. If you wish to submit trade secret or confidential commercial information, please contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section below. Information submitted to the Bureau will be treated in accordance with the Bureau’s Rule on the Disclosure of Records and Information, 12 CFR part 1070 *et seq.*

NCUA: You may submit comments to the NCUA, Docket No. NCUA–2021–0023, by any of the methods set forth below. Commenters are encouraged to submit comments through the Federal eRulemaking Portal, if possible. Please use the title “Request for Information and Comment: Financial Institutions’ Use of Artificial Intelligence, including Machine Learning” to facilitate the organization and distribution of the comments. *(Please send comments by one method only):*

• *Federal eRulemaking Portal:* www.regulations.gov. Follow the instructions for submitting comments.

• *Fax:* (703) 518–6319.

• *Mail:* Address to Melane Conyers-Ausbrooks, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, VA. 22314–3428.

In general, the NCUA will enter all comments received into the docket and publish the comments on the [Regulations.gov](http://www.regulations.gov) website without change, including any business or personal information that you provide such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this Request for Information by any of the following methods:

• *Viewing Comments Electronically:* You may view all public comments on

the Federal eRulemaking Portal at <http://www.regulations.gov> as submitted, except for those NCUA cannot post for technical reasons.

• Due to social distancing measures in effect, the usual opportunity to inspect paper copies of comments in the NCUA’s law library is not currently available. After social distancing measures are relaxed, visitors may make an appointment to review paper copies by calling (703) 518–6540 or emailing OGCMail@ncua.gov.

FOR FURTHER INFORMATION CONTACT:

OCC: Kevin Greenfield, Deputy Comptroller for Operational Risk, Norine Richards, Director for Bank Technology Operations, Paul Reymann, Director for Consumer Compliance Policy, or Siobhan Williams, Bank Information Technology Analyst, Bank Supervision Policy Department, (202) 649–6550; Beth Knickerbocker, Chief Innovation Officer, or Maggie Colvin, Innovation Officer, Office of Innovation, (202) 649–5200; Alireza Ebrahim, Senior Financial Economist, Risk Analytics Division, (202) 649–5515; or Jorge D. Aguilar, Counsel, Chief Counsel’s Office, (202) 649–7187.

Board: David Palmer, Lead Financial Institution Policy Analyst, (202) 452–2904, Jeff Ernst, Lead Financial Institution Policy Analyst, (202) 452–2814, or Kavita Jain, Deputy Associate Director, (202) 452–2062, Division of Supervision and Regulation; Dana Miller, Senior Counsel, (202) 452–2751, or Carol Evans, Associate Director, (202) 452–2051, Division of Consumer and Community Affairs, or Patricia Yeh, Senior Counsel, (202) 452–3089, or Gavin Smith, Senior Counsel, (202) 452–3474, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), (202) 263–4869.

FDIC: Sumaya Muraywid, Senior Examination Specialist, Division of Risk Management Supervision, (202) 898–3904, smuraywid@fdic.gov, David Friedman, Senior Policy Analyst, Division of Depositor and Consumer Protection, 202–898–7168, dfriedman@fdic.gov; or Chris Ledoux, Corporate Expert, Legal Division, 202–898–3535, clledoux@fdic.gov.

Bureau: Albert D. Chang, Senior Counsel, Office of Innovation, (202) 450–7299; Patrice Alexander Ficklin, Fair Lending Director, Office of Fair Lending & Equal Opportunity, (202) 435–7205; and Kathryn Lazarev, Senior Counsel, Office of Regulations, (202) 435–7700. If you require this document

in an alternative electronic format, please contact CFPB_Accessibility@cfpb.gov.

NCUA: Timothy Segerson, Deputy Director, Office of Examination & Insurance, 703-518-6300; Chrisantho Loizos, Senior Trial Attorney, Office of General Counsel, 703-518-6540; Joe Goldberg, Director, Division of Consumer Compliance Policy and Outreach, 703-518-1142.

SUPPLEMENTARY INFORMATION:

Background Information

The agencies support responsible innovation by financial institutions that includes the identification and management of risks associated with the use of new technologies and techniques. With appropriate governance, risk management, and compliance management, financial institutions' use of innovative technologies and techniques, such as those involving AI, has the potential to augment business decision-making, and enhance services available to consumers and businesses. The Appendix of this RFI includes a non-comprehensive list of laws, regulations, and other agency issuances that may be relevant to the use of AI approaches by agency-supervised institutions.¹ Financial institutions are exploring AI-based applications in a variety of fields. Uses of AI by financial institutions include (but are not limited to):

- *Flagging unusual transactions.* This involves employing AI to identify potentially suspicious, anomalous, or outlier transactions (e.g., fraud detection and financial crime monitoring). It involves using different forms of data (e.g., email text, audio data—both structured² and unstructured), with the aim of identifying fraud or anomalous transactions with greater accuracy and timeliness. It also includes identifying transactions for Bank Secrecy Act/anti-money laundering investigations, monitoring employees for improper practices, and detecting data anomalies.

- *Personalization of customer services.* AI technologies, such as voice recognition and natural language processing (NLP),³ are used to improve customer experience and to gain efficiencies in the allocation of financial institution resources. One example is

the use of chatbots⁴ to automate routine customer interactions, such as account opening activities and general customer inquiries. AI is leveraged at call centers to process and triage customer calls to provide customized service. These technologies are also used to better target marketing and customize trade recommendations.

- *Credit decisions.* This involves the use of AI to inform credit decisions in order to enhance or supplement existing techniques. This application of AI may use traditional data or employ alternative data⁵ (such as cash flow transactional information from a bank account).

- *Risk management.* AI may be used to augment risk management and control practices. For example, an AI approach might be used to complement and provide a check on another, more traditional credit model. Financial institutions may also use AI to enhance credit monitoring (including through early warning alerts), payment collections, loan restructuring and recovery, and loss forecasting. AI can assist internal audit and independent risk management to increase sample size (such as for testing), evaluate risk, and refer higher-risk issues to human analysts. AI may also be used in liquidity risk management, for example, to enhance monitoring of market conditions or collateral management.

- *Textual analysis.* Textual analysis refers to the use of NLP for handling unstructured data (generally text) and obtaining insights from that data or improving efficiency of existing processes. Applications include analysis of regulations, news flow, earnings reports, consumer complaints, analyst ratings changes, and legal documents.

- *Cybersecurity.* AI may be used to detect threats and malicious activity, reveal attackers, identify compromised systems, and support threat mitigation. Examples include real-time investigation of potential attacks, the use of behavior-based detection to collect network metadata, flagging and blocking of new ransomware and other malicious attacks, identifying compromised accounts and files involved in exfiltration, and deep forensic analysis of malicious files.

Potential Benefits of AI

AI has the potential to offer improved efficiency, enhanced performance, and cost reduction for financial institutions, as well as benefits to consumers and businesses. AI can identify relationships among variables that are not intuitive or not revealed by more traditional techniques. AI can better process certain forms of information, such as text, that may be impractical or difficult to process using traditional techniques. AI also facilitates processing significantly large and detailed datasets, both structured and unstructured, by identifying patterns or correlations that would be impracticable to ascertain otherwise.

Other potential AI benefits include more accurate, lower-cost, and faster underwriting, as well as expanded credit access for consumers and small businesses that may not have obtained credit under traditional credit underwriting approaches. AI applications may also enhance an institution's ability to provide products and services with greater customization.

Potential Risks of AI

It is important for financial institutions to have processes in place for identifying and managing potential risks associated with AI, as they do for any process, tool, or model employed. Many of the potential risks associated with using AI are not unique to AI. For instance, the use of AI could result in operational vulnerabilities, such as internal process or control breakdowns, cyber threats, information technology lapses, risks associated with the use of third parties, and model risk, all of which could affect a financial institution's safety and soundness. The use of AI can also create or heighten consumer protection risks, such as risks of unlawful discrimination, unfair, deceptive, or abusive acts or practices (UDAAP) under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), unfair or deceptive acts or practices (UDAP) under the Federal Trade Commission Act (FTC Act), or privacy concerns.

AI may present particular risk management challenges to financial institutions in the areas of explainability, data usage, and dynamic updating.

- *Explainability.* For the purposes of this RFI, explainability refers to how an AI approach uses inputs to produce outputs. Some AI approaches can exhibit a "lack of explainability" for their overall functioning (sometimes known as global explainability) or how they arrive at an individual outcome in

¹ In this RFI, the term "AI approach" refers to a tool, model, process, or application that employs AI technology in some form.

² The term "structured data" generally refers to a set of data that has been systematically organized or arranged.

³ "Natural language processing" generally refers to the use of computers to understand or analyze natural language text or speech.

⁴ The term "chatbot" generally refers to a software application used to conduct an on-line chat conversation via text or text-to-speech, in lieu of providing direct contact with a live human agent.

⁵ For the purposes of this RFI, alternative data means information not typically found in the consumer's credit files of the nationwide consumer reporting agencies or customarily provided by consumers as part of applications for credit.

a given situation (sometimes referred to as local explainability). Lack of explainability can pose different challenges in different contexts. Lack of explainability can also inhibit financial institution management's understanding of the conceptual soundness⁶ of an AI approach, which can increase uncertainty around the AI approach's reliability, and increase risk when used in new contexts. Lack of explainability can also inhibit independent review and audit and make compliance with laws and regulations, including consumer protection requirements, more challenging.

- **Broader or More Intensive Data Usage.** Data plays a particularly important role in AI. In many cases, AI algorithms identify patterns and correlations in training data without human context or intervention, and then use that information to generate predictions or categorizations.⁷ Because the AI algorithm is dependent upon the training data, an AI system generally reflects any limitations of that dataset. As a result, as with other systems, AI may perpetuate or even amplify bias or inaccuracies inherent in the training data, or make incorrect predictions if that data set is incomplete or non-representative.

- **Dynamic Updating.** Some AI approaches have the capacity to update on their own, sometimes without human interaction, often known as dynamic updating. Monitoring and tracking an AI approach that evolves on its own can present challenges in review and validation, particularly when a change in external circumstances (e.g., economic downturns and financial crises) may cause inputs to vary materially from the original training data. Dynamic updating techniques can produce changes that range from minor adjustments to existing elements of a model to the introduction of entirely new elements.

Request for Comment

As discussed, the agencies recognize that AI has the potential to offer improved efficiency, enhanced performance, and cost reduction for financial institutions, as well as benefits to consumers and businesses. In this RFI, the agencies are seeking information on financial institutions'

risk management practices related to the use of AI; barriers or challenges facing financial institutions when developing, adopting, and managing AI and its risks; and benefits to financial institutions and their customers from the use of AI. The RFI also solicits respondents' views on the use of AI in financial services, which will help the agencies determine whether any clarification would be helpful for financial institutions' use of AI in a safe and sound manner and in compliance with applicable laws and regulations, including those related to consumer protection.

Explainability

Understanding the conceptual soundness of any model, tool, application, or system aids in managing its risks including those related to lack of explainability. The importance of conceptual soundness is described in existing agency guidance and is well established in industry practice. For traditional approaches, conceptual soundness is foundational both to development and validation/independent review. In the case of certain less transparent AI approaches, however, evaluations of conceptual soundness can be complicated. The underlying theory and logic may be less accessible to users than that of traditional approaches or more transparent AI approaches. Without insight into an approach's general operating principles, financial institution management may not be able to evaluate with confidence how the system will function in unforeseen circumstances. To address lack of explainability of certain AI approaches, researchers have developed techniques to help explain predictions or categorizations. These techniques are often referred to as "post-hoc" methods, because they are used to interpret the outputs rather than the design.

Question 1: How do financial institutions identify and manage risks relating to AI explainability? What barriers or challenges for explainability exist for developing, adopting, and managing AI?

Question 2: How do financial institutions use post-hoc methods to assist in evaluating conceptual soundness? How common are these methods? Are there limitations of these methods (whether to explain an AI approach's overall operation or to explain a specific prediction or categorization)? If so, please provide details on such limitations.

Question 3: For which uses of AI is lack of explainability more of a challenge? Please describe those challenges in detail. How do financial

institutions account for and manage the varied challenges and risks posed by different uses?

Risks From Broader or More Intensive Data Processing and Usage

Like other systems, AI is designed to interact directly with training data to identify correlations and patterns and use that information for prediction or categorization. This means that data quality is important for AI. If the training data are biased or incomplete, AI may incorporate those shortcomings into its predictions or categorizations.

AI may use alternative datasets in certain applications (such as credit underwriting, fraud detection, and trading) in ways that can assist in identifying related trends or predictions that may be difficult to identify with traditional methods. The importance of practices such as data quality assessments to determine relevance and suitability of data used in a model, may be heightened in the use of AI. Finally, in many cases, AI developers process or optimize raw data so that the data can be better used for training. Various data processing techniques exist, some of which may affect performance.

Question 4: How do financial institutions using AI manage risks related to data quality and data processing? How, if at all, have control processes or automated data quality routines changed to address the data quality needs of AI? How does risk management for alternative data compare to that of traditional data? Are there any barriers or challenges that data quality and data processing pose for developing, adopting, and managing AI? If so, please provide details on those barriers or challenges.

Question 5: Are there specific uses of AI for which alternative data are particularly effective?

Overfitting

"Overfitting" can occur when an algorithm "learns" from idiosyncratic patterns in the training data that are not representative of the population as a whole. Overfitting is not unique to AI, but it can be more pronounced in AI than with traditional models. Undetected overfitting could result in incorrect predictions or categorizations.

Question 6: How do financial institutions manage AI risks relating to overfitting? What barriers or challenges, if any, does overfitting pose for developing, adopting, and managing AI? How do financial institutions develop their AI so that it will adapt to new and potentially different populations (outside of the test and training data)?

⁶ For this RFI, the term "conceptual soundness" generally refers to the quality of the theory, design, methodology, data, developmental testing, and confirmation that an approach is appropriate for the intended use.

⁷ In this context, training data are the data used to develop and calibrate an AI approach; for example, a financial institution might use a large dataset of past fraudulent transactions to train the approach to detect and prevent future fraud.

Cybersecurity Risk

Like other data-intensive technologies, AI may be exposed to risk from a variety of criminal cybersecurity threats. For example, AI can be vulnerable to “data poisoning attacks,” which attempt to corrupt and contaminate training data to compromise the system’s performance.

Question 7: Have financial institutions identified particular cybersecurity risks or experienced such incidents with respect to AI? If so, what practices are financial institutions using to manage cybersecurity risks related to AI? Please describe any barriers or challenges to the use of AI associated with cybersecurity risks. Are there specific information security or cybersecurity controls that can be applied to AI?

Dynamic Updating

A particular characteristic of some AI is the ability for it to learn or evolve over time, especially as it captures new training data. Over time, this could result in drift (*i.e.*, the AI approach could change) as it learns from the new data. This can present challenges for validating, monitoring, tracking, and documenting the AI approach, including for persons conducting an independent review. It may be important to understand whether an AI approach that was independently reviewed initially has significantly evolved over time (*e.g.*, using an influx of new data). Dynamic updating can also affect how results are tracked over time. For example, initial performance thresholds chosen to monitor the approach could become less meaningful if the AI approach has significantly changed to focus on different target outcomes. Similar risks can arise with AI approaches that are not updated as their context evolves, since they are more closely tuned to their training data. For example, AI approaches that are validated in one circumstance may not perform well in another, and an independent review conducted in a previous context may no longer be accurate in new circumstances.

Question 8: How do financial institutions manage AI risks relating to dynamic updating? Describe any barriers or challenges that may impede the use of AI that involve dynamic updating. How do financial institutions gain an understanding of whether AI approaches producing different outputs over time based on the same inputs are operating as intended?

AI Use by Community Institutions

A financial institution’s AI strategy, use of AI, and associated risk

management practices could vary substantially based on the financial institution’s size, complexity of operations, business model, staffing, and risk profile, and this could affect the corresponding risks that arise.

Community institutions may be more likely to use third-party AI approaches or rely on third-party services that use AI. This may pose different challenges (*e.g.*, level of expertise of AI or insight into the third-party AI approach) in a financial institution’s adoption of AI.

Question 9: Do community institutions face particular challenges in developing, adopting, and using AI? If so, please provide detail about such challenges. What practices are employed to address those impediments or challenges?

Oversight of Third Parties

Financial institutions may opt to use AI developed by third parties, rather than develop the approach internally. Existing agency guidance (as noted in the Appendix) describes information and risks that may be relevant to financial institutions when selecting third-party approaches (including ones using AI) and sets out principles for the validation of such third-party approaches.

Question 10: Please describe any particular challenges or impediments financial institutions face in using AI developed or provided by third parties and a description of how financial institutions manage the associated risks. Please provide detail on any challenges or impediments. How do those challenges or impediments vary by financial institution size and complexity?

Fair Lending

Depending on the specific use, there may be uncertainty about how less transparent and explainable AI approaches align with applicable consumer protection legal and regulatory frameworks, which often address fairness and transparency. For example, it may be challenging to verify that a less transparent and explainable approach comports with fair lending laws.

Question 11: What techniques are available to facilitate or evaluate the compliance of AI-based credit determination approaches with fair lending laws or mitigate risks of non-compliance? Please explain these techniques and their objectives, limitations of those techniques, and how those techniques relate to fair lending legal requirements.

Question 12: What are the risks that AI can be biased and/or result in

discrimination on prohibited bases? Are there effective ways to reduce risk of discrimination, whether during development, validation, revision, and/or use? What are some of the barriers to or limitations of those methods?

Question 13: To what extent do model risk management principles and practices aid or inhibit evaluations of AI-based credit determination approaches for compliance with fair lending laws?

Question 14: As part of their compliance management systems, financial institutions may conduct fair lending risk assessments by using models designed to evaluate fair lending risks (“fair lending risk assessment models”). What challenges, if any, do financial institutions face when applying internal model risk management principles and practices to the development, validation, or use of fair lending risk assessment models based on AI?

Question 15: The Equal Credit Opportunity Act (ECOA), which is implemented by Regulation B, requires creditors to notify an applicant of the principal reasons for taking adverse action for credit or to provide an applicant a disclosure of the right to request those reasons. What approaches can be used to identify the reasons for taking adverse action on a credit application, when AI is employed? Does Regulation B provide sufficient clarity for the statement of reasons for adverse action when AI is used? If not, please describe in detail any opportunities for clarity.

Additional Considerations

Question 16: To the extent not already discussed, please identify any additional uses of AI by financial institutions and any risk management challenges or other factors that may impede adoption and use of AI.

Question 17: To the extent not already discussed, please identify any benefits or risks to financial institutions’ customers or prospective customers from the use of AI by those financial institutions. Please provide any suggestions on how to maximize benefits or address any identified risks.

Appendix: Laws, Regulations, Supervisory Guidance, and Other Agency Statements Relevant to AI

This Appendix contains a list of laws, regulations, supervisory guidance, and other statements issued by the agencies that may be relevant to AI. This includes existing laws and regulations relating to safety and soundness and consumer protection. The items below do not constitute an exhaustive list; other laws, regulations, guidance, and statements may be relevant based on the

particular facts and circumstances. Some laws and regulations are applicable to any process or tool a financial institution employs, regardless of whether a financial institution utilizes AI or how.

Laws and Regulations

- Section 39 of the Federal Deposit Insurance Act as implemented through the agencies' safety and soundness regulations⁸
- Sections 501 and 505(b) of Gramm-Leach-Bliley Act as implemented through the agencies' regulations and standards, including Interagency Guidelines Establishing Information Security Standards⁹
- Fair Credit Reporting Act (FCRA)/Reg. V
- Equal Credit Opportunity Act (ECOA)/Reg. B
- Fair Housing Act (FHA)
- Section 5 of the Federal Trade Commission Act (prohibiting UDAP) and sections 1031 and 1036 of the Dodd-Frank Act (prohibiting unfair, deceptive, or abusive acts or practices (UDAAP))

Supervisory Guidance and Statements

- Interagency Statement on the Use of Alternative Data in Credit Underwriting¹⁰
- Supervisory Guidance on Model Risk Management¹¹
- Third-Party/Outsourcing Risk Management¹²
- New, Modified, or Expanded Bank Products and Services¹³

⁸ Refer to the Interagency Guidelines Establishing Standards for Safety and Soundness, 12 CFR 364, Appendix A (FDIC); 12 CFR 263 (FRB); 12 CFR 30, appendix A (OCC).

⁹ Refer to the Interagency Guidelines Establishing Information Security Standards, 12 CFR 364, Appendix B (FDIC); 12 CFR 208, Appendix D–2 and 12 CFR 225, Appendix F (FRB); 12 CFR 30, appendix B (OCC); Guidelines for Safeguarding Member Information, 12 CFR 748, Appendix A (NCUA).

¹⁰ Refer to FDIC FIL–82–2019, <https://www.fdic.gov/news/financial-institution-letters/2019/fil19082.html>; Federal Reserve CA Letter 19–11, <https://www.federalreserve.gov/supervisionreg/caletters/caletters.htm>; and OCC Bulletin 2019–62, <https://www.occ.gov/news-issuances/bulletins/2019/bulletin-2019-62.html>.

¹¹ Refer to the “Supervisory Guidance on Model Risk Management,” Federal Reserve SR Letter 11–7, <https://www.federalreserve.gov/supervisionreg/srletters/srletters.htm>; OCC Bulletin 2011–12, <https://www.occ.gov/news-issuances/bulletins/2011/bulletin-2011-12.html>; and FDIC Financial Institution Letter (FIL)–22–2017, <https://www.fdic.gov/news/financial-institution-letters/2017/fil17022.html>.

¹² FDIC: Guidance for Managing Third-Party Risk (FIL)–44–2008, <https://www.fdic.gov/news/financial-institution-letters/2008/fil08044.html>; OCC Bulletin 2013–29, OCC Bulletin 2020–10; NCUA: Evaluating Third Party Relationships, Supervisory Letter (SL) 07–01 (Oct. 2007); and FRB: Guidance on Outsourcing Risk (SR 13–19), <https://www.federalreserve.gov/supervisionreg/srletters/srletters.htm>.

¹³ OCC Bulletin 2017–43, <https://www.occ.treas.gov/news-issuances/bulletins/2017/bulletin-2017-43.html>; and NCUA 19–CU–04 (Dec. 2019), <https://www.ncua.gov/regulation-supervision/letters-credit-unions-other-guidance/use-alternative-data-credit-underwriting>.

- CFPB Innovation Spotlight on Providing Adverse Action Notices When Using AI/ML Models¹⁴

Examination Manuals/Procedures/Other Resources

- Federal Financial Institutions Examination Council Information Technology Examination Handbook¹⁵
- Consumer Compliance Manuals and Booklets¹⁶
- Interagency Fair Lending Examination Procedures¹⁷
- CFPB Examination Procedures, ECOA Baseline Review Module 5: Fair Lending Risks Related to Models¹⁸

Blake J. Paulson,

Acting Comptroller of the Currency.

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

Ann Misback,

Secretary of the Board.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on or about February 25, 2021.

James P. Sheesley,

Assistant Executive Secretary.

David Uejio,

Acting Director, Bureau of Consumer Financial Protection.

Melane Conyers-Ausbrooks,

Secretary of the Board, National Credit Union Administration.

[FR Doc. 2021–06607 Filed 3–30–21; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 4810–AM–P; 6714–01–P

DEPARTMENT OF THE TREASURY

Proposed Collection; Comment Request

AGENCY: Departmental offices, Department of the Treasury.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal

¹⁴ Patrice Alexander Ficklin, Tom Pahl, and Paul Watkins, CFPB Blog, Innovation spotlight: Providing adverse action notices when using AI/ML models (July 7, 2020), available at <https://www.consumerfinance.gov/about-us/blog/innovation-spotlight-providing-adverse-action-notices-when-using-ai-ml-models/>.

¹⁵ FFIEC IT Handbook, <https://ithandbook.ffiec.gov/>.

¹⁶ OCC Consumer Compliance series of Comptroller's Handbook booklets, <https://www.occ.treas.gov/topics/supervision-and-examination/consumer-compliance/index-consumer-compliance.html>; NCUA: Evaluating Compliance Risk—Updated Compliance Indicators, SL–17–01 (March 2017), <https://www.ncua.gov/regulation-supervision/letters-credit-unions-other-guidance/use-alternative-data-credit-underwriting>.

¹⁷ Interagency Fair Lending Examination Procedures, <https://www.ffiec.gov/PDF/fairlend.pdf>.

¹⁸ See, CFPB ECOA Baseline Review, p. 24, https://files.consumerfinance.gov/f/documents/cfpb_supervision-and-examination-manual_ecoa-baseline-exam-procedures_2019-04.pdf.

agencies to comment on the revision of a currently approved information collection that is to be proposed for approval by the Office of Management and Budget. The Office of International Affairs of the Department of the Treasury is soliciting comments concerning Treasury International Capital (TIC) Form SHL/SHLA, “Survey of Foreign-Residents’ Holdings of U.S. Securities, including Selected Money Market Instruments”.

DATES: Written comments should be received on or before June 1, 2021 to be assured of consideration.

ADDRESSES: Direct all written comments to Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, Room 1050 MT, 1500 Pennsylvania Avenue NW, Washington, DC 20220. In view of possible delays in mail delivery, please also notify Mr. Wolkow by email (comments2TIC@do.treas.gov) or by telephone (cell: 202–923–0518).

FOR FURTHER INFORMATION CONTACT:

Copies of the proposed forms and instructions are available on the Treasury International Capital (TIC) Forms web page “Forms SHL/SHLA | U.S. Department of the Treasury”. Requests for additional information should be directed to Mr. Wolkow by email (comments2TIC@treasury.gov), or by telephone (cell: 202–923–0518).

SUPPLEMENTARY INFORMATION:

Title: Treasury International Capital (TIC) Form SHL/SHLA, “Survey of Foreign-Residents’ Holdings of U.S. Securities, including Selected Money Market Instruments”.

OMB Control Number: 1505–0123.

Abstract: This form collects foreign-residents’ holdings of U.S. securities. These data are used by the U.S. Government in the formulation of international financial and monetary policies, and for the computation of the U.S. balance of payments accounts and of the U.S. international investment position. These data are also used to provide information to the public and to meet international reporting commitments. The data collection includes large benchmark surveys (Form SHL) conducted every five years, and smaller annual surveys (Form SHLA) conducted in the non-benchmark years. The data collected under an annual survey are used in conjunction with the results of the preceding benchmark survey and of recent TIC form SLT (“Aggregate Holdings of Long-Term Securities by U.S. and Foreign Residents”) reporting to make economy-wide estimates for that non-benchmark year. Currently, the determination of who must report in the annual surveys

is based primarily on the data submitted during the preceding benchmark survey and on data submitted on SLT reporting. The data requested in the annual survey will generally be the same as requested in the preceding benchmark report. Form SHL is used for the benchmark survey of all significant U.S.-resident custodians and U.S.-resident issuers of securities regarding foreign-residents' holdings of U.S. securities. In non-benchmark years, Form SHLA is used for the annual surveys of primarily the largest U.S.-resident custodians and issuers.

Current Actions: No changes in the forms (schedules) or instructions are being proposed at this time. Some clarifications and format changes may be made to improve the instructions.

Type of Review: Renewal without change of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Form: TIC SHL/SHLA, Schedules 1 and 2 (1505–0123).

Estimated Number of Respondents: An annual average (over five years) of 317, but this varies widely from about 840 in benchmark years (once every five years) to about 185 in other years (four out of every five years).

Estimated Average Time per Respondent: An annual average (over five years) of about 133 hours, but this will vary widely from respondent to respondent. (a) In the year of a benchmark survey, which is conducted once every five years, it is estimated that exempt respondents will require an average of 17 hours; for custodians of securities, the estimate is a total of 321 hours on average, but this figure will vary widely for individual custodians; and for issuers of securities that have data to report and are not custodians, the estimate is 61 hours on average. (b) In a non-benchmark year, which occurs four years out of every five years, it is estimated that the largest custodians of securities will require a total of 486 hours on average; and for the largest issuers of securities that have data to report and are not custodians, the estimate is 110 hours on average. The exemption level for custodians and for end-investors is the holding of less than \$200 million in reportable U.S. securities owned by foreign residents. The exemption level applies only in benchmark years.

Estimated Total Annual Burden Hours: An annual average (over five years) of 42,035 hours.

Frequency of Response: Annual.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the

request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether the Survey is necessary for the proper performance of the functions of the Office of International Affairs within the Department of the Treasury, including whether the information collected will have practical uses; (b) the accuracy of the above estimate of the burdens; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or record keeping burdens on respondents, including the use of information technologies to automate the collection of the data requested; and (e) estimates of capital or start-up costs of operation, maintenance and purchase of services to provide the information requested.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Reporting Systems.

[FR Doc. 2021–06564 Filed 3–30–21; 8:45 am]

BILLING CODE 4810-AK-P

DEPARTMENT OF THE TREASURY

Proposed Collection; Comment Request

AGENCY: Departmental Offices; Department of the Treasury.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on the revision of a currently approved information collection that is to be proposed for approval by the Office of Management and Budget. The Office of International Affairs of the Department of the Treasury is soliciting comments concerning Treasury International Capital Form SHC/SHCA “Survey of U.S. Ownership of Foreign Securities including Selected Money Market Instruments.” The next such collection is the annual survey to be conducted as of December 31, 2021.

DATES: Written comments should be received on or before June 1, 2021 to be assured of consideration.

ADDRESSES: Direct all written comments to Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, Room 1050 MT, 1500 Pennsylvania Avenue NW, Washington DC 20220. In view of possible delays in mail delivery, please also notify Mr. Wolkow by email (comments2TIC@treasury.gov), or by telephone (cell: 202–923–0518).

FOR FURTHER INFORMATION CONTACT:

Copies of the proposed form and instructions are available on the Treasury International Capital (TIC) Forms web page, Forms SHC/SHCA | U.S. Department of the Treasury. Requests for additional information should be directed to Mr. Wolkow by email (comments2TIC@treasury.gov), or by telephone (cell: 202–923–0518).

SUPPLEMENTARY INFORMATION:

Title: Treasury International Capital (TIC) Form SHC/SHCA “U.S. Ownership of Foreign Securities, including Selected Money Market Instruments.”

OMB Control Number: 1505–0146.

Abstract: Form SHC/SHCA is part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 3101 *et seq.*; E.O. 11961; 31 CFR 129) and is used to conduct annual surveys of U.S. residents' ownership of foreign securities for portfolio investment purposes. These data are used by the U.S. Government in the formulation of international financial and monetary policies, and for the computation of the U.S. balance of payments accounts and of the U.S. international investment position. These data are also used to provide information to the public and to meet international reporting commitments. The SHC/SHCA survey is part of an internationally coordinated effort under the auspices of the International Monetary Fund to improve data on securities worldwide. Most of the major industrial and financial countries conduct similar surveys.

The data collection includes large benchmark surveys (Form SHC) conducted every five years, and smaller annual surveys (Form SHCA) conducted in the non-benchmark years. The data collected under an annual survey are used in conjunction with the results of the preceding benchmark survey and of recent TIC form SLT (“Aggregate Holdings of Long-Term Securities by U.S. and Foreign Residents”) reporting to make economy-wide estimates for that non-benchmark year. Currently, the determination of who must report in the annual surveys is based primarily on the data submitted during the preceding benchmark survey and on data submitted on SLT reports in the survey year. The data requested in the annual survey will generally be the same as requested in the preceding benchmark report. Form SHC is used for the benchmark survey of all significant U.S.-resident custodians and end-investors regarding U.S. ownership of foreign securities. In non-benchmark years Form SHCA is used for the annual

surveys of primarily the very largest U.S.-resident custodians and end-investors.

Current Actions: No changes in the forms (schedules) or instructions are being proposed at this time. Some clarifications and format changes may be made to improve the instructions.

Type of Review: Renewal without change of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Form: SHC/SHCA, Schedules 1, 2 and 3 (1505–0146).

Estimated Number of Respondents: An annual average (over five years) of 324, but this varies widely from about 760 in benchmark years (once every five years) to about 215 in other years (four out of every five years).

Estimated Average Time per Respondent: An annual average (over five years) of about 200 hours, but this will vary widely from respondent to respondent. (a) In the year of a benchmark survey, which is conducted once every five years, it is estimated that exempt respondents will require an average of 17 hours; custodians of securities providing security-by-security information will require an average of 361 hours, but this figure will vary widely for individual custodians; end-investors providing security-by-security information will require an average of 121 hours; and end-investors and custodians employing U.S. custodians will require an average of 41 hours. (b) In a non-benchmark year, which occurs four years out of every five years: Custodians of securities providing security-by-security information will require an average of 546 hours (because only the largest U.S.-resident custodians will report), but this figure will vary widely for individual custodians; end-investors providing security-by-security information will require an average of 146 hours; and reporters entrusting their foreign securities to U.S. custodians will require an average of 49 hours. The exemption level, which applies only in benchmark years when filing schedules 2 or 3 or both, for custodians and for end-investors is the holding of less than \$200 million in reportable foreign securities owned by U.S. residents. For schedule 2, end-investors should exclude securities that are held with their unaffiliated U.S.-resident custodians.

Estimated Total Annual Burden Hours: An annual average (over five years) of 64,700 hours.

Frequency of Response: Annual.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the

request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) Whether the Survey is necessary for the proper performance of the functions of the Office of International Affairs within the Department of the Treasury, including whether the information collected will have practical uses; (b) the accuracy of the above estimate of the burdens; (c) ways to enhance the quality, usefulness and clarity of the information to be collected; (d) ways to minimize the reporting and/or record keeping burdens on respondents, including the use of information technologies to automate the collection of the data requested; and (e) estimates of capital or start-up costs of operation, maintenance and purchase of services to provide the information requested.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Reporting Systems.

[FR Doc. 2021–06572 Filed 3–30–21; 8:45 am]

BILLING CODE 4810-AK-P

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Public Hearing

AGENCY: U.S.-China Economic and Security Review Commission.

ACTION: Notice of open public hearing.

SUMMARY: Notice is hereby given of the following hearing of the U.S.-China Economic and Security Review Commission. The Commission is mandated by Congress to investigate, assess, and report to Congress annually on “the national security implications of the economic relationship between the United States and the People’s Republic of China.” Pursuant to this mandate, the Commission will hold a public hearing in Washington, DC on April 15, 2021 on “A Net Assessment of the CCP’s Economic Ambitions, Plans, and Metrics of Future Success.”

DATES: The hearing is scheduled for Thursday, April 15, 2021, 9:30 a.m.

ADDRESSES: This hearing will be held with panelists and Commissioners participating in-person or online via videoconference. Members of the audience will be able to view a live webcast via the Commission’s website at www.uscc.gov. Also, please check the Commission’s website for possible changes to the hearing schedule.

Reservations are not required to attend the hearing.

FOR FURTHER INFORMATION CONTACT: Any member of the public seeking further information concerning the hearing should contact Jameson Cunningham, 444 North Capitol Street NW, Suite 602, Washington, DC 20001; telephone: 202–624–1496, or via email at jcunningham@uscc.gov. *Reservations are not required to attend the hearing.*

ADA Accessibility: For questions about the accessibility of the event or to request an accommodation, please contact Jameson Cunningham via email at jcunningham@uscc.gov. Requests for an accommodation should be made as soon as possible, and at least five business days prior to the event.

SUPPLEMENTARY INFORMATION:

Background: This is the fourth public hearing the Commission will hold during its 2021 report cycle. The hearing will examine the Chinese Communist Party’s economic ambitions, shifts in decisionmaking, and prospects for success. The opening panel will discuss the current political and economic conditions and policy decisions in China, with an assessment of the risks and metrics shaping the CCP’s policy decisions. The second panel will examine the tools, trends, and techniques observed in China’s economic development heading into the 14th Five Year Plan (2021–2025) and beyond. The third panel will examine certain emerging technologies and sectors that the CCP has identified as key enablers for growth and where the CCP has focused efforts on expanding global market position, as well as the implications for U.S. businesses and workers. The fourth panel will examine China’s rapid expansion of the financial technology sector, mobile payment platforms, and big data collection, and the country’s efforts to develop first-mover status on a sovereign digital currency.

The hearing will be co-chaired by Vice Chairman Robin Cleveland and Commissioner Michael Wessel. Any interested party may file a written statement by April 15, 2021 by transmitting to the contact above. A portion of the hearing will include a question and answer period between the Commissioners and the witnesses.

Authority: Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Pub. L. 106–398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Pub. L. 108–7), as amended by Public Law 109–108 (November 22, 2005), as amended by Public Law 113–291 (December 19, 2014).

Dated: March 23, 2021.

Daniel W. Peck,

Executive Director, U.S.-China Economic and Security Review Commission.

[FR Doc. 2021-06557 Filed 3-30-21; 8:45 am]

BILLING CODE 1137-00-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0688]

Agency Information Collection Activity: VAAR 832.202-04, Security For Government Financing

AGENCY: Office of Acquisition and Logistics, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Office of Acquisition and Logistics (OAL), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before June 1, 2021.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at www.Regulations.gov or to Rafael Taylor, Office of Acquisition & Logistics, Procurement Policy & Warrant Management Services (003A2A), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to rafael.taylor@va.gov. Please refer to "OMB Control No. 2900-0688" in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266-4688 or email maribel.aponte@va.gov. Please refer to "OMB Control No. 2900-0688" in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is

being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, OAL invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of OAL's functions, including whether the information will have practical utility; (2) the accuracy of OAL's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 104-13; 44 U.S.C. 3501-3521.

Title: Department of Veterans Affairs Acquisition Regulation (VAAR) 832.202-4, Security for Government Financing.

OMB Control Number: 2900-0688.

Type of Review: Extension of a currently approved collection.

Abstract: The information that is gathered under VAAR 832.202-4 will be used by the VA contracting officer to assess whether or not the contractor's overall financial condition represents adequate security to warrant paying the contractor in advance. FAR subpart 32.2 authorizes the use of certain types of Government financing on commercial item purchases. 41 United States Code (U.S.C.) 255(f) requires the Government to obtain adequate security for Government financing. However, FAR 32.202-4(a)(2) provides that, subject to agency regulations, the contracting officer may determine that an offeror's financial condition is adequate security. VAAR 832.202-4 Security for Government Financing specifies the type of information that the contracting officer may obtain to determine whether or not the offeror's financial condition constitutes adequate security.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 63 hours.

Estimated Average Burden per Respondent: 60 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 21.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2021-06539 Filed 3-30-21; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

Genomic Medicine Program Advisory Committee, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act 5, U.S.C. App. 2, that a meeting of the Genomic Medicine Program Advisory Committee (the Committee) will be held virtually on Wednesday, April 28, 2021. The meeting will begin at 11:00 a.m. EDT and adjourn at 3:00 p.m. EDT. The meeting is open to the public via Webex <https://veteransaffairs.webex.com/veteransaffairs/j.php?MTID=m66dca294e13f2a5f5be16e1881d6e0c9> password: RKpTbpx*365 or by phone at call-in +14043971596, meeting code: 1993482289##.

The purpose of the Committee is to provide advice and make recommendations to the Secretary of Veterans Affairs on using genetic information to optimize medical care for Veterans and enhance the development of tests and treatments for diseases particularly relevant to Veterans.

On April 28, 2021, the Committee will receive updated briefings on various VA research programs, including the Million Veteran Program (MVP), to ascertain the program's progress in the areas of participant recruitment, data generation and storage, and data access. The Committee will also receive updates from ongoing MVP research, including new COVID-related research, the return of genetics results pilot studies, final recommendations from a subcommittee on Genomics Services within VA. Additionally, the Committee will discuss and explore potential recommendations for the next annual report.

Public comments will be received at 2:15 p.m. EDT and are limited to 5 minutes each. Individuals who speak are invited to submit a 1-2 page summary of their comments for inclusion in the official meeting record to Jennifer Moser, Designated Federal Officer, Office of Research and Development (14RD), 810 Vermont Avenue NW, Washington, DC 20420, or at Jennifer.Moser@va.gov. In the communication, writers must identify themselves and state the organization, association or person(s) they represent. Any member of the public who wishes to attend the teleconference should RSVP to Jennifer Moser at 202-510-4253 no later than close of business, April 22, 2021, at the phone number or email address noted above.

Dated: March 25, 2021.

LaTonya L. Small,

*Federal Advisory Committee Management
Officer.*

[FR Doc. 2021-06581 Filed 3-30-21; 8:45 am]

BILLING CODE P



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Part II

Regulatory Information Service Center

Introduction to the Unified Agenda of Federal Regulatory and Deregulatory
Actions—Fall 2020

REGULATORY INFORMATION SERVICE CENTER

Introduction to the Unified Agenda of Federal Regulatory and Deregulatory Actions—Fall 2020

AGENCY: Regulatory Information Service Center.

ACTION: Introduction to the Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions.

SUMMARY: Publication of the Unified Agenda of Regulatory and Deregulatory Actions and the Regulatory Plan represent key components of the regulatory planning mechanism prescribed in Executive Order 12866, “Regulatory Planning and Review,” Executive Order 13771, “Reducing Regulation and Controlling Regulatory Costs,” January 30, 2017, and Executive Order 13777, “Enforcing the Regulatory Reform Agenda,” February 24, 2017. The fall editions of the Unified Agenda include the agency regulatory plans required by E.O. 12866, which identify regulatory priorities and provide additional detail about the most important significant regulatory actions that agencies expect to take in the coming year.

In addition, the Regulatory Flexibility Act requires that agencies publish semiannual “regulatory flexibility agendas” describing regulatory actions they are developing that will have significant effects on small businesses and other small entities (5 U.S.C. 602).

The Unified Agenda of Regulatory and Deregulatory Actions (Unified Agenda), published in the fall and spring, helps agencies fulfill all of these requirements. All federal regulatory agencies have chosen to publish their regulatory agendas as part of this publication. The complete Unified Agenda and Regulatory Plan can be found online at <http://www.reginfo.gov> and a reduced print version can be found in the **Federal Register**.

Information regarding obtaining printed copies can also be found on the *Reginfo.gov* website (or below, VI. How can users get copies of the Plan and the Agenda?).

The fall 2020 Unified Agenda publication appearing in the **Federal Register** includes the Regulatory Plan and agency regulatory flexibility agendas, in accordance with the publication requirements of the Regulatory Flexibility Act. Agency regulatory flexibility agendas contain only those Agenda entries for rules that are likely to have a significant economic impact on a substantial number of small entities and entries that have been

selected for periodic review under section 610 of the Regulatory Flexibility Act.

The complete fall 2020 Unified Agenda contains the Regulatory Plans of 28 Federal agencies and 68 Federal agency regulatory agendas.

ADDRESSES: Regulatory Information Service Center (MVE), General Services Administration, 1800 F Street NW, 2219F, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: For further information about specific regulatory actions, please refer to the agency contact listed for each entry. To provide comment on or to obtain further information about this publication, contact: Boris Arratia, Director, Regulatory Information Service Center (MR), General Services Administration, 1800 F Street NW, Room 2221D, Washington, DC 20405, 703-795-0816. You may also send comments to us by email at: RISC@gsa.gov.

SUPPLEMENTARY INFORMATION:

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- II. Why are the Regulatory Plan and the Unified Agenda published?
- III. How are the Regulatory Plan and the Unified Agenda organized?
- IV. What information appears for each entry?
- V. Abbreviations
- VI. How can users get copies of the Plan and the Agenda?

Introduction to the Fall 2020 Regulatory Plan

Agency Regulatory Plans

Cabinet Departments

Department of Agriculture
Department of Commerce
Department of Defense
Department of Education
Department of Energy
Department of Health and Human Services
Department of Homeland Security
Department of Housing and Urban Development
Department of the Interior
Department of Justice
Department of Labor
Department of State
Department of Transportation
Department of the Treasury
Department of Veterans Affairs

Other Executive Agencies

Architectural and Transportation Barriers Compliance Board
Environmental Protection Agency
Equal Employment Opportunity Commission
General Services Administration
National Aeronautics and Space Administration
National Archives and Records Administration
National Science Foundation

Office of Management and Budget
Office of National Drug Control Policy
Office of Personnel Management
Pension Benefit Guaranty Corporation
Small Business Administration
Social Security Administration

Independent Regulatory Agencies

Consumer Financial Protection Bureau
Consumer Product Safety Commission
Federal Trade Commission
National Indian Gaming Commission
Nuclear Regulatory Commission
Federal Permitting Improvement Steering Council

Agency Agendas

Cabinet Departments

Department of Agriculture
Department of Commerce
Department of Defense
Department of Education
Department of Energy
Department of Health and Human Services
Department of Homeland Security
Department of the Interior
Department of Labor
Department of Transportation
Department of the Treasury

Other Executive Agencies

Committee for Purchase From People Who Are Blind or Severely Disabled
Environmental Protection Agency
General Services Administration
Office of Management and Budget
Railroad Retirement Board
Small Business Administration

Joint Authority

Department of Defense/General Services Administration/National Aeronautics and Space Administration (Federal Acquisition Regulation)

Independent Regulatory Agencies

Commodity Futures Trading Commission
Consumer Financial Protection Bureau
Consumer Product Safety Commission
Federal Communications Commission
Federal Reserve System
Nuclear Regulatory Commission
Securities and Exchange Commission
Surface Transportation Board
Federal Permitting Improvement Steering Council

Introduction to the Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions

I. What are the Regulatory Plan and the Unified Agenda?

The Regulatory Plan serves as a defining statement of the Administration’s regulatory and deregulatory policies and priorities. The Plan is part of the fall edition of the Unified Agenda. Each participating agency’s regulatory plan contains: (1) A narrative statement of the agency’s regulatory and deregulatory priorities, and, for the most part, (2) a description of the most important significant regulatory and deregulatory actions that

the agency reasonably expects to issue in proposed or final form during the upcoming fiscal year. This edition includes the regulatory plans of 30 agencies.

The Unified Agenda provides information about regulations that the Government is considering or reviewing. The Unified Agenda has appeared in the **Federal Register** twice each year since 1983 and has been available online since 1995. The complete Unified Agenda is available to the public at <http://www.reginfo.gov>. The online Unified Agenda offers flexible search tools and access to the historic Unified Agenda database to 1995. The complete online edition of the Unified Agenda includes regulatory agendas from 65 Federal agencies. Agencies of the United States Congress are not included.

The fall 2020 Unified Agenda publication appearing in the **Federal Register** consists of The Regulatory Plan and agency regulatory flexibility agendas, in accordance with the publication requirements of the Regulatory Flexibility Act. Agency regulatory flexibility agendas contain only those Agenda entries for rules that are likely to have a significant economic impact on a substantial number of small entities and entries that have been selected for periodic review under section 610 of the Regulatory Flexibility Act. Printed entries display only the fields required by the Regulatory Flexibility Act. Complete agenda information for those entries appears, in a uniform format, in the online Unified Agenda at <http://www.reginfo.gov>.

The following agencies have no entries for inclusion in the printed regulatory flexibility agenda. An asterisk (*) indicates agencies that appear in The Regulatory Plan. The regulatory agendas of these agencies are available to the public at <http://reginfo.gov>.

Cabinet Departments

Department of Justice *
Department of Housing and Urban Development *
Department of State *

Other Executive Agencies

Agency for International Development
American Battle Monuments Commission
Architectural and Transportation Barriers Compliance Board *
Commission on Civil Rights
Corporation for National and Community Service
Council on Environmental Quality
Court Services and Offender Supervision Agency for the District of Columbia

Equal Employment Opportunity Commission *
Federal Mediation Conciliation Service
Institute of Museum and Library Services
National Aeronautics and Space Administration *
National Archives and Records Administration *
National Endowment for the Arts
National Endowment for the Humanities
National Mediation Board
National Science Foundation *
Office of Government Ethics
Office of Personnel Management *
Office of the United States Trade Representative
Peace Corps
Pension Benefit Guaranty Corporation *
Presidio Trust
Social Security Administration *
U.S. Agency for Global Media

Independent Agencies

Council of the Inspectors General on Integrity and Efficiency
Farm Credit Administration
Federal Deposit Insurance Corporation
Federal Energy Regulatory Commission
Federal Housing Finance Agency
Federal Maritime Commission
Federal Mine Safety and Health Review Commission
Federal Trade Commission *
National Credit Union Administration
National Indian Gaming Commission *
National Labor Relations Board
National Transportation Safety Board
Postal Regulatory Commission

The Regulatory Information Service Center compiles the Unified Agenda for the Office of Information and Regulatory Affairs (OIRA), part of the Office of Management and Budget. OIRA is responsible for overseeing the Federal Government's regulatory, paperwork, and information resource management activities, including implementation of Executive Order 12866 (incorporated in Executive Order 13563). The Center also provides information about Federal regulatory activity to the President and his Executive Office, the Congress, agency officials, and the public.

The activities included in the Agenda are, in general, those that will have a regulatory action within the next 12 months. Agencies may choose to include activities that will have a longer timeframe than 12 months. Agency agendas also show actions or reviews completed or withdrawn since the last Unified Agenda. Executive Order 12866 does not require agencies to include regulations concerning military or foreign affairs functions or regulations related to agency organization, management, or personnel matters.

Agencies prepared entries for this publication to give the public notice of

their plans to review, propose, and issue regulations. They have tried to predict their activities over the next 12 months as accurately as possible, but dates and schedules are subject to change. Agencies may withdraw some of the regulations now under development, and they may issue or propose other regulations not included in their agendas. Agency actions in the rulemaking process may occur before or after the dates they have listed. The Regulatory Plan and Unified Agenda do not create a legal obligation on agencies to adhere to schedules in this publication or to confine their regulatory activities to those regulations that appear within it.

II. Why are the Regulatory Plan and the Unified Agenda published?

The Regulatory Plan and the Unified Agenda helps agencies comply with their obligations under the Regulatory Flexibility Act and various Executive orders and other statutes.

Regulatory Flexibility Act

The Regulatory Flexibility Act requires agencies to identify those rules that may have a significant economic impact on a substantial number of small entities (5 U.S.C. 602). Agencies meet that requirement by including the information in their submissions for the Unified Agenda. Agencies may also indicate those regulations that they are reviewing as part of their periodic review of existing rules under the Regulatory Flexibility Act (5 U.S.C. 610). Executive Order 13272, "Proper Consideration of Small Entities in Agency Rulemaking," signed August 13, 2002 (67 FR 53461), provides additional guidance on compliance with the Act.

Executive Order 12866

Executive Order 12866, "Regulatory Planning and Review," September 30, 1993 (58 FR 51735), requires covered agencies to prepare an agenda of all regulations under development or review. The Order also requires that certain agencies prepare annually a regulatory plan of their "most important significant regulatory actions," which appears as part of the fall Unified Agenda. Executive Order 13497, signed January 30, 2009 (74 FR 6113), revoked the amendments to Executive Order 12866 that were contained in Executive Order 13258 and Executive Order 13422.

Executive Order 13771

Executive Order 13771, "Reducing Regulation and Controlling Regulatory Costs," January 30, 2017 (82 FR 9339) requires each agency to identify for

elimination two prior regulations for every one new regulation issued, and the cost of planned regulations be prudently managed and controlled through a budgeting process.

Executive Order 13777

Executive Order 13777, “Enforcing the Regulatory Reform Agenda,” February 24, 2017 (82 FR 12285) requires each agency to designate an agency official as its Regulatory Reform Officer (RRO). Each RRO shall oversee the implementation of regulatory reform initiatives and policies to ensure that agencies effectively carry out regulatory reforms, consistent with applicable law. The Executive Order also directs that each agency designate a regulatory Reform Task Force.

Executive Order 13563

Executive Order 13563, “Improving Regulation and Regulatory Review,” January 18, 2011 (76 FR 3821) supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review that were established in Executive Order 12866, which includes the general principles of regulation and public participation, and orders integration and innovation in coordination across agencies; flexible approaches where relevant, feasible, and consistent with regulatory approaches; scientific integrity in any scientific or technological information and processes used to support the agencies’ regulatory actions; and retrospective analysis of existing regulations.

Executive Order 13132

Executive Order 13132, “Federalism,” August 4, 1999 (64 FR 43255), directs 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” as defined in the Order. Under the Order, an agency that is proposing a regulation with federalism implications, which either preempt State law or impose non-statutory unfunded substantial direct compliance costs on State and local governments, must consult with State and local officials early in the process of developing the regulation. In addition, the agency must provide to the Director of the Office of Management and Budget a federalism summary impact statement for such a regulation, which consists of a description of the extent of the agency’s prior consultation with State and local officials, a summary of their concerns and the agency’s position supporting the need to issue the regulation, and a statement of

the extent to which those concerns have been met. As part of this effort, agencies include in their submissions for the Unified Agenda information on whether their regulatory actions may have an effect on the various levels of government and whether those actions have federalism implications.

Unfunded Mandates Reform Act of 1995

The *Unfunded Mandates Reform Act of 1995* (Pub. L. 104–4, title II) requires agencies to prepare written assessments of the costs and benefits of significant regulatory actions “that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any 1 year.” The requirement does not apply to independent regulatory agencies, nor does it apply to certain subject areas excluded by section 4 of the Act. Affected agencies identify in the Unified Agenda those regulatory actions they believe are subject to title II of the Act.

Executive Order 13211

Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” May 18, 2001 (66 FR 28355), directs agencies to provide, to the extent possible, information regarding the adverse effects that agency actions may have on the supply, distribution, and use of energy. Under the Order, the agency must prepare and submit a Statement of Energy Effects to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, for “those matters identified as significant energy actions.” As part of this effort, agencies may optionally include in their submissions for the Unified Agenda information on whether they have prepared or plan to prepare a Statement of Energy Effects for their regulatory actions.

Small Business Regulatory Enforcement Fairness Act

The *Small Business Regulatory Enforcement Fairness Act* (Pub. L. 104–121, title II) established a procedure for congressional review of rules (5 U.S.C. 801 *et seq.*), which defers, unless exempted, the effective date of a “major” rule for at least 60 days from the publication of the final rule in the **Federal Register**. The Act specifies that a rule is “major” if it has resulted, or is likely to result, in an annual effect on the economy of \$100 million or more or meets other criteria specified in that Act. The Act provides that the Administrator of OIRA will make the

final determination as to whether a rule is major.

III. How are the Regulatory Plan and the Unified Agenda organized?

The *Regulatory Plan* appears in part II in a daily edition of the **Federal Register**. The Plan is a single document beginning with an introduction, followed by a table of contents, followed by each agency’s section of the Plan. Following the Plan in the **Federal Register**, as separate parts, are the regulatory flexibility agendas for each agency whose agenda includes entries for rules which are likely to have a significant economic impact on a substantial number of small entities or rules that have been selected for periodic review under section 610 of the Regulatory Flexibility Act. Each printed agenda appears as a separate part. The sections of the Plan and the parts of the Unified Agenda are organized alphabetically in four groups: Cabinet departments; other executive agencies; the Federal Acquisition Regulation, a joint authority (Agenda only); and independent regulatory agencies. Agencies may in turn be divided into subagencies. Each printed agency agenda has a table of contents listing the agency’s printed entries that follow. Each agency’s part of the Agenda contains a preamble providing information specific to that agency. Each printed agency agenda has a table of contents listing the agency’s printed entries that follow.

Each agency’s section of the Plan contains a narrative statement of regulatory priorities and, for most agencies, a description of the agency’s most important significant regulatory and deregulatory actions. Each agency’s part of the Agenda contains a preamble providing information specific to that agency plus descriptions of the agency’s regulatory and deregulatory actions.

The online, complete Unified Agenda contains the preambles of all participating agencies. Unlike the printed edition, the online Agenda has no fixed ordering. In the online Agenda, users can select the particular agencies’ agendas they want to see. Users have broad flexibility to specify the characteristics of the entries of interest to them by choosing the desired responses to individual data fields. To see a listing of all of an agency’s entries, a user can select the agency without specifying any particular characteristics of entries.

Each entry in the Agenda is associated with one of five rulemaking stages. The rulemaking stages are:

1. *Prerule Stage*—actions agencies will undertake to determine whether or

how to initiate rulemaking. Such actions occur prior to a Notice of Proposed Rulemaking (NPRM) and may include Advance Notices of Proposed Rulemaking (ANPRMs) and reviews of existing regulations.

2. *Proposed Rule Stage*—actions for which agencies plan to publish a Notice of Proposed Rulemaking as the next step in their rulemaking process or for which the closing date of the NPRM Comment Period is the next step.

3. *Final Rule Stage*—actions for which agencies plan to publish a final rule or an interim final rule or to take other final action as the next step.

4. *Long-Term Actions*—items under development but for which the agency does not expect to have a regulatory action within the 12 months after publication of this edition of the Unified Agenda. Some of the entries in this section may contain abbreviated information.

5. *Completed Actions*—actions or reviews the agency has completed or withdrawn since publishing its last agenda. This section also includes items the agency began and completed between issues of the Agenda.

Long-Term Actions are rulemakings reported during the publication cycle that are outside of the required 12-month reporting period for which the Agenda was intended. Completed Actions in the publication cycle are rulemakings that are ending their lifecycle either by Withdrawal or completion of the rulemaking process. Therefore, the Long-Term and Completed RINs do not represent the ongoing, forward-looking nature intended for reporting developing rulemakings in the Agenda pursuant to Executive Order 12866, section 4(b) and 4(c). To further differentiate these two stages of rulemaking in the Unified Agenda from active rulemakings, Long-Term and Completed Actions are reported separately from active rulemakings, which can be any of the first three stages of rulemaking listed above. A separate search function is provided on <http://reginfo.gov> to search for Completed and Long-Term Actions apart from each other and active RINs.

A bullet (•) preceding the title of an entry indicates that the entry is appearing in the Unified Agenda for the first time.

In the printed edition, all entries are numbered sequentially from the beginning to the end of the publication. The sequence number preceding the title of each entry identifies the location of the entry in this edition. The sequence number is used as the reference in the printed table of contents. Sequence numbers are not

used in the online Unified Agenda because the unique Regulation Identifier Number (RIN) is able to provide this cross-reference capability.

Editions of the Unified Agenda prior to fall 2007 contained several indexes, which identified entries with various characteristics. These included regulatory actions for which agencies believe that the Regulatory Flexibility Act may require a Regulatory Flexibility Analysis, actions selected for periodic review under section 610(c) of the Regulatory Flexibility Act, and actions that may have federalism implications as defined in Executive Order 13132 or other effects on levels of government. These indexes are no longer compiled, because users of the online Unified Agenda have the flexibility to search for entries with any combination of desired characteristics. The online edition retains the Unified Agenda's subject index based on the **Federal Register** Thesaurus of Indexing Terms. In addition, online users have the option of searching Agenda text fields for words or phrases.

IV. What information appears for each entry?

All entries in the online Unified Agenda contain uniform data elements including, at a minimum, the following information:

Title of the Regulation—a brief description of the subject of the regulation. In the printed edition, the notation “Section 610 Review” following the title indicates that the agency has selected the rule for its periodic review of existing rules under the Regulatory Flexibility Act (5 U.S.C. 610(c)). Some agencies have indicated completions of section 610 reviews or rulemaking actions resulting from completed section 610 reviews. In the online edition, these notations appear in a separate field.

Priority—an indication of the significance of the regulation. Agencies assign each entry to one of the following five categories of significance.

(1) Economically Significant

As defined in Executive Order 12866, a rulemaking action that will have an annual effect on the economy of \$100 million or more or will adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The definition of an “economically significant” rule is similar but not identical to the definition of a “major” rule under 5 U.S.C. 801 (Pub. L. 104–121). (See below.)

(2) Other Significant

A rulemaking that is not Economically Significant but is considered Significant by the agency. This category includes rules that the agency anticipates will be reviewed under Executive Order 12866 or rules that are a priority of the agency head. These rules may or may not be included in the agency's regulatory plan.

(3) Substantive, Nonsignificant

A rulemaking that has substantive impacts, but is neither Significant, nor Routine and Frequent, nor Informational/Administrative/Other.

(4) Routine and Frequent

A rulemaking that is a specific case of a multiple recurring application of a regulatory program in the Code of Federal Regulations and that does not alter the body of the regulation.

(5) Informational/Administrative/Other

A rulemaking that is primarily informational or pertains to agency matters not central to accomplishing the agency's regulatory mandate but that the agency places in the Unified Agenda to inform the public of the activity.

Major—whether the rule is “major” under 5 U.S.C. 801 (Pub. L. 104–121) because it has resulted or is likely to result in an annual effect on the economy of \$100 million or more or meets other criteria specified in that Act. The Act provides that the Administrator of the Office of Information and Regulatory Affairs will make the final determination as to whether a rule is major.

Unfunded Mandates—whether the rule is covered by section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). The Act requires that, before issuing an NPRM likely to result in a mandate that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector of more than \$100 million in 1 year, agencies, other than independent regulatory agencies, shall prepare a written statement containing an assessment of the anticipated costs and benefits of the Federal mandate.

Legal Authority—the section(s) of the United States Code (U.S.C.) or Public Law (Pub. L.) or the Executive order (E.O.) that authorize(s) the regulatory action. Agencies may provide popular name references to laws in addition to these citations.

CFR Citation—the section(s) of the Code of Federal Regulations that will be affected by the action.

Legal Deadline—whether the action is subject to a statutory or judicial deadline, the date of that deadline, and

whether the deadline pertains to an NPRM, a Final Action, or some other action.

Abstract—a brief description of the problem the regulation will address; the need for a Federal solution; to the extent available, alternatives that the agency is considering to address the problem; and potential costs and benefits of the action.

Timetable—the dates and citations (if available) for all past steps and a projected date for at least the next step for the regulatory action. A date displayed in the form 12/00/19 means the agency is predicting the month and year the action will take place but not the day it will occur. In some instances, agencies may indicate what the next action will be, but the date of that action is “To Be Determined.” “Next Action Undetermined” indicates the agency does not know what action it will take next.

Regulatory Flexibility Analysis Required—whether an analysis is required by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because the rulemaking action is likely to have a significant economic impact on a substantial number of small entities as defined by the Act.

Small Entities Affected—the types of small entities (businesses, governmental jurisdictions, or organizations) on which the rulemaking action is likely to have an impact as defined by the Regulatory Flexibility Act. Some agencies have chosen to indicate likely effects on small entities even though they believe that a Regulatory Flexibility Analysis will not be required.

Government Levels Affected—whether the action is expected to affect levels of government and, if so, whether the governments are State, local, tribal, or Federal.

International Impacts—whether the regulation is expected to have international trade and investment effects, or otherwise may be of interest to the Nation’s international trading partners.

Federalism—whether the action has “federalism implications” as defined in Executive Order 13132. This term refers to actions “that 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.”

Independent regulatory agencies are not required to supply this information.

Included in the Regulatory Plan—whether the rulemaking was included in the agency’s current regulatory plan published in fall 2017.

Agency Contact—the name and phone number of at least one person in the agency who is knowledgeable about the rulemaking action. The agency may also provide the title, address, fax number, email address, and TDD for each agency contact.

Some agencies have provided the following optional information:

RIN Information URL—the internet address of a site that provides more information about the entry.

Public Comment URL—the internet address of a site that will accept public comments on the entry. Alternatively, timely public comments may be submitted at the Governmentwide e-rulemaking site, <http://www.regulations.gov>.

Additional Information—any information an agency wishes to include that does not have a specific corresponding data element.

Compliance Cost to the Public—the estimated gross compliance cost of the action.

Affected Sectors—the industrial sectors that the action may most affect, either directly or indirectly. Affected sectors are identified by North American Industry Classification System (NAICS) codes.

Energy Effects—an indication of whether the agency has prepared or plans to prepare a Statement of Energy Effects for the action, as required by Executive Order 13211 “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,” signed May 18, 2001 (66 FR 28355).

Related RINs—one or more past or current RIN(s) associated with activity related to this action, such as merged RINs, split RINs, new activity for previously completed RINs, or duplicate RINs.

Statement of Need—a description of the need for the regulatory action.

Summary of the Legal Basis—a description of the legal basis for the action, including whether any aspect of the action is required by statute or court order.

Alternatives—a description of the alternatives the agency has considered or will consider as required by section 4(c)(1)(B) of Executive Order 12866.

Anticipated Costs and Benefits—a description of preliminary estimates of the anticipated costs and benefits of the action.

Risks—a description of the magnitude of the risk the action addresses, the amount by which the agency expects the action to reduce this risk, and the relation of the risk and this risk reduction effort to other risks and risk

reduction efforts within the agency’s jurisdiction.

V. Abbreviations

The following abbreviations appear throughout this publication:

ANPRM—An Advance Notice of Proposed Rulemaking is a preliminary notice, published in the **Federal Register**, announcing that an agency is considering a regulatory action. An agency may issue an ANPRM before it develops a detailed proposed rule. An ANPRM describes the general area that may be subject to regulation and usually asks for public comment on the issues and options being discussed. An ANPRM is issued only when an agency believes it needs to gather more information before proceeding to a notice of proposed rulemaking.

CFR—The Code of Federal Regulations is an annual codification of the general and permanent regulations published in the **Federal Register** by the agencies of the Federal Government. The Code is divided into 50 titles, each title covering a broad area subject to Federal regulation. The CFR is keyed to and kept up to date by the daily issues of the **Federal Register**.

E.O.—An Executive order is a directive from the President to Executive agencies, issued under constitutional or statutory authority. Executive orders are published in the **Federal Register** and in title 3 of the Code of Federal Regulations.

FR—The **Federal Register** is a daily Federal Government publication that provides a uniform system for publishing Presidential documents, all proposed and final regulations, notices of meetings, and other official documents issued by Federal agencies.

FY—The Federal fiscal year runs from October 1 to September 30.

- **NPRM**—A Notice of Proposed Rulemaking is the document an agency issues and publishes in the **Federal Register** that describes and solicits public comments on a proposed regulatory action. Under the Administrative Procedure Act (5 U.S.C. 553), an NPRM must include, at a minimum: A statement of the time, place, and nature of the public rulemaking proceeding;

- A reference to the legal authority under which the rule is proposed; and Either the terms or substance of the proposed rule or a description of the subjects and issues involved.

PL (or Pub. L.)—A public law is a law passed by Congress and signed by the President or enacted over his veto. It has general applicability, unlike a private law that applies only to those persons or entities specifically designated.

Public laws are numbered in sequence throughout the 2-year life of each Congress; for example, Public Law 112–4 is the fourth public law of the 112th Congress.

RFA—A Regulatory Flexibility Analysis is a description and analysis of the impact of a rule on small entities, including small businesses, small governmental jurisdictions, and certain small not-for-profit organizations. The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires each agency to prepare an initial RFA for public comment when it is required to publish an NPRM and to make available a final RFA when the final rule is published, unless the agency head certifies that the rule would not have a significant economic impact on a substantial number of small entities.

RIN—The Regulation Identifier Number is assigned by the Regulatory Information Service Center to identify each regulatory action listed in the Regulatory Plan and the Unified Agenda, as directed by Executive Order 12866 (section 4(b)). Additionally, OMB has asked agencies to include RINs in the headings of their Rule and Proposed

Rule documents when publishing them in the **Federal Register**, to make it easier for the public and agency officials to track the publication history of regulatory actions throughout their development.

Seq. No.—The sequence number identifies the location of an entry in the printed edition of the Regulatory Plan and the Unified Agenda. Note that a specific regulatory action will have the same RIN throughout its development but will generally have different sequence numbers if it appears in different printed editions of the Unified Agenda. Sequence numbers are not used in the online Unified Agenda.

U.S.C.—The United States Code is a consolidation and codification of all general and permanent laws of the United States. The U.S.C. is divided into 50 titles, each title covering a broad area of Federal law.

VI. How can users get copies of the Plan and the Agenda?

Copies of the **Federal Register** issue containing the printed edition of The Regulatory Plan and the Unified Agenda (agency regulatory flexibility agendas)

are available from the Superintendent of Documents, U.S. Government Publishing Office, P.O. Box 371954, Pittsburgh, PA 15250–7954. Telephone: (202) 512–1800 or 1–866–512–1800 (toll-free).

Copies of individual agency materials may be available directly from the agency or may be found on the agency's website. Please contact the particular agency for further information.

All editions of The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions since fall 1995 are available in electronic form at <http://reginfo.gov>, along with flexible search tools.

The Government Publishing Office's GPO FDsys website contains copies of the Agendas and Regulatory Plans that have been printed in the **Federal Register**. These documents are available at <http://www.fdsys.gov>.

Dated: December 3, 2020.

Boris Arratia,

Director.

[FR Doc. 2021–04348 Filed 3–30–21; 8:45 am]

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Part III

Department of Agriculture

Semiannual Regulatory Agenda

DEPARTMENT OF AGRICULTURE

Office of the Secretary

2 CFR Subtitle B, Ch. IV

5 CFR Ch. LXXIII

7 CFR Subtitle A; Subtitle B, Chs. I–XI, XIV–XVIII, XX, XXV–XXXVIII, XLII

9 CFR Chs. I–III

36 CFR Ch. II

48 CFR Ch. 4

Semiannual Regulatory Agenda, Fall 2020

AGENCY: Office of the Secretary, USDA.
ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of the significant and not significant regulatory and deregulatory actions being developed in agencies of the U.S. Department of Agriculture (USDA) in conformance with Executive Orders (E.O.) 12866 “Regulatory Planning and Review,” 13771 “Reducing Regulation and Controlling Regulatory Costs,” 13777,

“Enforcing the Regulatory Reform Agenda,” and 13563, “Improving Regulation and Regulatory Review.” The agenda also describes regulations affecting small entities as required by section 602 of the Regulatory Flexibility Act, Public Law 96–354. This agenda also identifies regulatory actions that are being reviewed in compliance with section 610(c) of the Regulatory Flexibility Act. We invite public comment on those actions as well as any regulation consistent with Executive Order 13563.

USDA has attempted to list all regulations and regulatory reviews pending at the time of publication except for minor and routine or repetitive actions, but some may have been inadvertently missed. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the date shown.

USDA’s complete regulatory agenda is available online at www.reginfo.gov. Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C.

602), USDA’s printed agenda entries include only:

(1) Rules that are likely to have a significant economic impact on a substantial number of small entities; and

(2) Rules identified for periodic review under section 610 of the Regulatory Flexibility Act.

For this edition of the USDA regulatory agenda, the most important regulatory and deregulatory actions are summarized in a Statement of Regulatory Priorities that is included in the Regulatory Plan, which appears in both the online regulatory agenda and in part II of the **Federal Register** that includes the abbreviated regulatory agenda.

FOR FURTHER INFORMATION CONTACT: For further information on any specific entry shown in this agenda, please contact the person listed for that action. For general comments or inquiries about the agenda, please contact Michael Poe, Office of Budget and Program Analysis, U.S. Department of Agriculture, Washington, DC 20250, (202) 720–3257.

Dated: September 10, 2020.
Michael Poe,
Legislative and Regulatory Staff.

AGRICULTURAL MARKETING SERVICE—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
130	NOP; Strengthening Organic Enforcement	0581–AD09
131	Undue and Unreasonable Preferences and Advantages Under the Packers and Stockyards Act	0581–AD81
132	Establishment of a Domestic Hemp Production Program (Reg Plan Seq No. 1)	0581–AD82

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
133	Handling of Animals; Contingency Plans	0579–AC69
134	Requiring Microchipping, Verifiable Signatures, Government Official Endorsement, and Mandatory Forms for Importation of Live Dogs.	0579–AE58

ANIMAL AND PLANT HEALTH INSPECTION SERVICE—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
135	Bovine Spongiform Encephalopathy and Scrapie; Importation of Small Ruminants and Their Germplasm, Products, and Byproducts.	0579–AD10
136	National List of Reportable Animal Diseases	0579–AE39
137	Removal of Emerald Ash Borer Domestic Quarantine Regulations	0579–AE42

ANIMAL AND PLANT HEALTH INSPECTION SERVICE—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
138	Importation of Fresh Citrus Fruit From the Republic of South Africa Into the Continental United States	0579–AD95

ANIMAL AND PLANT HEALTH INSPECTION SERVICE—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
139	Brucellosis and Bovine Tuberculosis; Update of Import Provisions Importation, Interstate Movement, and Release Into the Environment of Certain Genetically Engineered Organisms.	0579–AD65
140		0579–AE47

FOOD AND NUTRITION SERVICE—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
141	Strengthening Integrity and Reducing Retailer Fraud in the Supplemental Nutrition Assistance Program (SNAP).	0584–AE71

FOOD AND NUTRITION SERVICE—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
142	Providing Regulatory Flexibility for Retailers in the Supplemental Nutrition Assistance Program (SNAP)	0584–AE61

FOREST SERVICE—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
143	Special Uses—Communications Uses Rent	0596–AD43

DEPARTMENT OF AGRICULTURE (USDA)

Agricultural Marketing Service (AMS)
Final Rule Stage

130. NOP; Strengthening Organic Enforcement

E.O. 13771 Designation: Regulatory.
Legal Authority: 7 U.S.C. 6501
Abstract: The Strengthening Organic Enforcement (SOE) rulemaking will address 2018 Farm Bill mandates. In summary, SOE will propose the following requirements that align with the Farm Bill:

- Limiting the types of operations in the organic supply chain that are not required to obtain organic certification;
- Imported organic products must be accompanied by an electronic import certificate to validate organic status;
- Import certificates will be submitted to the U.S. Customs and Border Protection’s Automated Commercial Environment (ACE);
- Certifying agents must notify USDA within 90 days of the opening of any new office that conducts certification activities; and,
- Entities acting on behalf of certifying agents may be suspended when there is noncompliant activity.

Timetable:

Action	Date	FR Cite
Proposed Rule	08/05/20	85 FR 47536

Action	Date	FR Cite
Comment Period End.	10/05/20	
Final Rule	09/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jennifer Tucker, Deputy Administrator, USDA National Organic Program, Department of Agriculture, Agricultural Marketing Service, 1400 Independence Avenue SW, Washington, DC 20250, *Phone:* 202 260–8077.

RIN: 0581–AD09

131. Undue and Unreasonable Preferences and Advantages Under the Packers and Stockyards Act

E.O. 13771 Designation: Regulatory.
Legal Authority: Pub. L. 110–234
Abstract: This final rule amends the regulations issued under the Packers and Stockyards Act (P&S Act) by adding new regulations that specify the criteria the Secretary could consider in determining whether conduct or action by packers, swine contractors, or live poultry dealers constitutes an undue or unreasonable preference or advantage and a violation of the P&S Act.

Timetable:

Action	Date	FR Cite
NPRM	01/13/20	85 FR 1771

Action	Date	FR Cite
NPRM Comment Period End.	03/13/20	
Final Rule	12/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael V. Durando, Associate Deputy Administrator, Fair Trade Practices Program, Department of Agriculture, Agricultural Marketing Service, 1400 Independence Avenue SW, Washington, DC 20250–0237, *Phone:* 202 720–0219.

RIN: 0581–AD81

132. Establishment of a Domestic Hemp Production Program

Regulatory Plan: This entry is Seq. No. 1 in part II of this issue of the **Federal Register**.

RIN: 0581–AD82

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE (USDA)

Animal and Plant Health Inspection Service (APHIS)

Proposed Rule Stage

133. Handling of Animals; Contingency Plans

E.O. 13771 Designation: Regulatory.
Legal Authority: 7 U.S.C. 2131 to 2159

Abstract: This rulemaking would amend the Animal Welfare Act regulations to add requirements for contingency planning and training of personnel by research facilities and by dealers, exhibitors, intermediate handlers, and carriers. This action would heighten the awareness of licensees and registrants regarding their responsibilities and help ensure a timely and appropriate response should an emergency or disaster occur.

Timetable:

Action	Date	FR Cite
NPRM	10/23/08	73 FR 63085
NPRM Comment Period End.	12/22/08	
NPRM Comment Period Extended.	12/19/08	73 FR 77554
NPRM Comment Period Extended End.	02/20/09	
Final Rule	12/31/12	77 FR 76815
Final Rule Effective.	01/30/13	
Final Rule—Stay of Regulations.	07/31/13	78 FR 46255
Final Rule Effective—Stay of Regulations.	07/31/13	
NPRM	06/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kay Carter-Corker, Director, National Policy Staff, Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 84, Riverdale, MD 20737, *Phone:* 301 851-3748.

RIN: 0579-AC69

134. • Requiring Microchipping, Verifiable Signatures, Government Official Endorsement, and Mandatory Forms for Importation of Live Dogs

E.O. 13771 Designation: Regulatory.
Legal Authority: 7 U.S.C. 2131 to 2159
Abstract: We are proposing to amend the regulations regarding the importation of live dogs by requiring all live dogs imported into the United States for resale purposes to be microchipped for permanent identification, and to require importers to procure a microchip reader and make it available to port-of-entry officials as requested. This action would also add microchipping as one of three identification options for dogs and cats used by dealers, exhibitors and research facilities. In addition, APHIS is proposing to require a verifiable signature on the health certificate and rabies certificate accompanying imported live dogs, an endorsement of the health certificate by a government

official in the country of origin, and the mandatory use of forms provided by APHIS.

Timetable:

Action	Date	FR Cite
NPRM	08/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kay Carter-Corker, Director, National Policy Staff, Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 84, Riverdale, MD 20737, *Phone:* 301 851-3748.

RIN: 0579-AE58

DEPARTMENT OF AGRICULTURE (USDA)

Animal and Plant Health Inspection Service (APHIS)

Final Rule Stage

135. Bovine Spongiform Encephalopathy and Scrapie; Importation of Small Ruminants and Their Germplasm, Products, and Byproducts

E.O. 13771 Designation: Deregulatory.
Legal Authority: 7 U.S.C. 450; 7 U.S.C. 1622; 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786; 7 U.S.C. 8301 to 8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701

Abstract: We are amending the regulations governing the importation of animals and animal products to revise conditions for the importation of live sheep, goats, and certain other non-bovine ruminants, and products derived from sheep and goats, with regard to transmissible spongiform encephalopathies such as bovine spongiform encephalopathy (BSE) and scrapie. We are removing BSE-related import restrictions on sheep and goats and most of their products, and adding import restrictions related to transmissible spongiform encephalopathies for certain wild, zoological, or other non-bovine ruminant species. The conditions we are adopting for the importation of specified commodities are based on internationally accepted scientific literature and will, in general, align our regulations with guidelines established in the World Organization for Animal Health's Terrestrial Animal Health Code.

Timetable:

Action	Date	FR Cite
NPRM	07/18/16	81 FR 46619

Action	Date	FR Cite
NPRM Comment Period End.	09/16/16	
Final Rule	02/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Alexandra MacKenzie, Veterinary Medical Officer, Animal Permitting and Negotiating Services, NIES, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 39, Riverdale, MD 20737, *Phone:* 301 851-3300.

RIN: 0579-AD10

136. National List of Reportable Animal Diseases

E.O. 13771 Designation: Other.

Legal Authority: 7 U.S.C. 8301 to 8317

Abstract: This rulemaking would amend the animal disease regulations to provide for a National List of Reportable Animal Diseases, along with animal disease reporting responsibilities, to streamline State and Federal cooperative animal disease eradication efforts. This action would enhance and consolidate current disease reporting mechanisms, and would complement and supplement existing animal disease tracking and reporting at the State level.

Timetable:

Action	Date	FR Cite
NPRM	04/02/20	85 FR 18471
NPRM Comment Period End.	06/01/20	
NPRM Comment Period Re-opened.	08/18/20	85 FR 50796
NPRM Comment Period Re-opened End.	08/21/20	
Final Action	06/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jason Baldwin, Acting Coordinator, National List of Reportable Animal Diseases, Department of Agriculture, Animal and Plant Health Inspection Service, 2150 Centre Avenue, Building B, Mailstop 1E3, Fort Collins, CO 80526, *Phone:* 970 494-7225.

RIN: 0579-AE39

137. Removal of Emerald Ash Borer Domestic Quarantine Regulations

E.O. 13771 Designation: Deregulatory.
Legal Authority: 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786

Abstract: This rulemaking will remove the domestic quarantine regulations for the plant pest emerald ash borer. This action will discontinue

the domestic regulatory component of the emerald ash borer program as a means to more effectively direct available resources toward management and containment of the pest. Funding previously allocated to the implementation and enforcement of these domestic quarantine regulations will instead be directed to a non-regulatory option of research into, and deployment of, biological control agents for emerald ash borer, which will serve as the primary tool to mitigate and control the pest.

Timetable:

Action	Date	FR Cite
NPRM	09/19/18	83 FR 47310
NPRM Comment Period End.	11/19/18	
Final Rule	11/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Herbert Bolton, National Policy Manager, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 26, Riverdale, MD 20737-1231, *Phone:* 301 851-3594. *RIN:* 0579-AE42

DEPARTMENT OF AGRICULTURE (USDA)

Animal and Plant Health Inspection Service (APHIS)

Long-Term Actions

138. Importation of Fresh Citrus Fruit From the Republic of South Africa Into the Continental United States

E.O. 13771 Designation: Deregulatory. *Legal Authority:* 7 U.S.C. 450; 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786; 21 U.S.C. 136 and 136a

Abstract: This rulemaking will amend the fruits and vegetables regulations to allow the importation of several varieties of fresh citrus fruit, as well as citrus hybrids, into the continental United States from areas in the Republic of South Africa where citrus black spot has been known to occur. As a condition of entry, the fruit will have to be produced in accordance with a systems approach that includes shipment traceability, packinghouse registration and procedures, and phytosanitary treatment. The fruit will also be required to be imported in commercial consignments and accompanied by a phytosanitary certificate issued by the national plant protection organization of the Republic of South Africa with an additional declaration confirming that the fruit has

been produced in accordance with the systems approach. This action will allow for the importation of fresh citrus fruit, including citrus hybrids, from the Republic of South Africa while continuing to provide protection against the introduction of plant pests into the United States.

Timetable:

Action	Date	FR Cite
NPRM	08/28/14	79 FR 51273
NPRM Comment Period End. Next Action Undetermined.	10/27/14	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Tony Román, *Phone:* 301 851-2242. *RIN:* 0579-AD95

DEPARTMENT OF AGRICULTURE (USDA)

Animal and Plant Health Inspection Service (APHIS)

Completed Actions

139. Brucellosis and Bovine Tuberculosis; Update of Import Provisions

E.O. 13771 Designation: Fully or Partially Exempt. *Legal Authority:* 7 U.S.C. 1622; 7 U.S.C. 8301 to 8317; 15 U.S.C. 1828; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701

Abstract: We are amending the regulations governing the importation of cattle and bison with respect to bovine tuberculosis and brucellosis. The changes will make these requirements clearer and assure that they more effectively mitigate the risk of introduction of these diseases into the United States.

Completed:

Reason	Date	FR Cite
Final Rule	09/17/20	85 FR 57944
Final Rule Effective.	10/19/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kelly Rhodes, *Phone:* 301 851-3300. *RIN:* 0579-AD65

140. Importation, Interstate Movement, and Release Into the Environment of Certain Genetically Engineered Organisms

E.O. 13771 Designation: Deregulatory. *Legal Authority:* 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786

Abstract: APHIS is revising its regulations regarding the importation, interstate movement, and environmental release of certain genetically engineered organisms in order to update the regulations in response to advances in genetic engineering and APHIS' understanding of the plant health risk posed by genetically engineered organisms, thereby reducing the burden for regulated entities whose organisms pose no plant health risks.

Completed:

Reason	Date	FR Cite
Final Rule	05/18/20	85 FR 29790
Final Rule Effective.	08/17/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Alan Pearson, *Phone:* 301 851-3944. *RIN:* 0579-AE47

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE (USDA)

Food and Nutrition Service (FNS)

Proposed Rule Stage

141. Strengthening Integrity and Reducing Retailer Fraud in the Supplemental Nutrition Assistance Program (SNAP)

E.O. 13771 Designation: Regulatory. *Legal Authority:* Pub. L. 113-79; Pub. L. 115-334

Abstract: This proposed rule would implement statutory provisions of the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill), the Agriculture Improvement Act of 2018 (the 2018 Farm Bill), and other language intended to deter retailer fraud, abuse, and non-compliance in the Supplemental Nutrition Assistance Program (SNAP).

Timetable:

Action	Date	FR Cite
NPRM	12/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Charles H. Watford, Regulatory Review Specialist, Department of Agriculture, Food and Nutrition Service, 1320 Braddock Place, Alexandria, VA 22314, *Phone:* 703 605-0800, *Email:* charles.watford@usda.gov. Maureen Lydon, Department of Agriculture, Food and Nutrition Service, 1320 Braddock Place, Alexandria, VA 22314, *Phone:* 703 457-7713, *Email:* maureen.lydon@usda.gov.

RIN: 0584-AE71

DEPARTMENT OF AGRICULTURE (USDA)

Food and Nutrition Service (FNS)

Long-Term Actions

142. Providing Regulatory Flexibility for Retailers in the Supplemental Nutrition Assistance Program (SNAP)

E.O. 13771 Designation: Deregulatory.

Legal Authority: Pub. L. 113-79; 7 U.S.C. 2011 to 2036

Abstract: The Agricultural Act of 2014 amended the Food and Nutrition Act of 2008 to increase the requirement that certain Supplemental Nutrition Assistance Program (SNAP) authorized retail food stores have available on a continuous basis at least three varieties of items in each of four staple food categories, to a mandatory minimum of seven varieties. The Food and Nutrition Service (FNS) codified these mandatory requirements. Subsequent annual Agency appropriations bill language prohibited implementation of certain final rule provisions. In response, this change will provide some retailers participating in SNAP as authorized food stores with more flexibility in

meeting the enhanced SNAP eligibility requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/05/19	84 FR 13555
NPRM Comment Period End.	06/04/19	
NPRM Comment Period Re-opened.	06/14/19	84 FR 27743
NPRM Comment Period Reopen End.	06/20/19	
Final Action	To Be Determined	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Charles H. Watford, *Phone:* 703 605-0800, *Email:* charles.watford@usda.gov.

RIN: 0584-AE61

BILLING CODE 3410-30-P

DEPARTMENT OF AGRICULTURE (USDA)

Forest Service (FS)

Long-Term Actions

143. Special Uses—Communications Uses Rent

E.O. 13771 Designation: Regulatory.

Legal Authority: 43 U.S.C. 1761 to 1771

Abstract: Consistent with the requirement in title V, section 504(g) of the Federal Land Policy and Management Act, the proposed rule would update the Forest Service's rental fee schedule for communications uses based on market value. Updated rental fees that exceed 100 percent of current rental fees would be phased in over a 3-year period.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Edwina Howard-Agu, *Phone:* 202 205-1419, *Email:* ehowardagu@fs.fed.us.

RIN: 0596-AD43

BILLING CODE 3410-11-P

[FR Doc. 2021-04329 Filed 3-30-21; 8:45 am]

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Part IV

Department of Commerce

Semiannual Regulatory Agenda

DEPARTMENT OF COMMERCE**Office of the Secretary****13 CFR Ch. III****15 CFR Subtitle A; Subtitle B, Chs. I, II, III, VII, VIII, IX, and XI****19 CFR Ch. III****37 CFR Chs. I, IV, and V****48 CFR Ch. 13****50 CFR Chs. II, III, IV, and VI****Fall 2020 Semiannual Agenda of Regulations**

AGENCY: Office of the Secretary, Commerce.

ACTION: Semiannual regulatory agenda.

SUMMARY: In compliance with Executive Order 12866, entitled “Regulatory Planning and Review,” and the Regulatory Flexibility Act, as amended, the Department of Commerce (Commerce), in the spring and fall of each year, publishes in the **Federal Register** an agenda of regulations under development or review over the next 12 months. Rulemaking actions are grouped according to pre-rulemaking, proposed rules, final rules, long-term actions, and rulemaking actions completed since the spring 2020 agenda. The purpose of the Agenda is to provide information to the public on regulations that are currently under review, being proposed, or issued by Commerce. The agenda is intended to facilitate comments and views by interested members of the public.

Commerce’s fall 2020 regulatory agenda includes regulatory activities that are expected to be conducted during the period November 1, 2020, through October 31, 2021.

FOR FURTHER INFORMATION CONTACT:

Specific: For additional information about specific regulatory actions listed in the agenda, contact the individual identified as the contact person.

General: Comments or inquiries of a general nature about the agenda should be directed to Asha Mathew, Chief Counsel for Regulation, Office of the Assistant General Counsel for Legislation and Regulation, U.S. Department of Commerce, Washington, DC 20230, telephone: 202-482-3151.

SUPPLEMENTARY INFORMATION: Commerce hereby publishes its fall 2020 Unified Agenda of Federal Regulatory and Deregulatory Actions pursuant to Executive Order 12866 and the Regulatory Flexibility Act, 5 U.S.C. 601

et seq. Executive Order 12866 requires agencies to publish an agenda of those regulations that are under consideration pursuant to this order. By memorandum of August 11, 2020, the Office of Management and Budget issued guidelines and procedures for the preparation and publication of the fall 2020 Unified Agenda. The Regulatory Flexibility Act requires agencies to publish, in the spring and fall of each year, a regulatory flexibility agenda that contains a brief description of the subject of any rule likely to have a significant economic impact on a substantial number of small entities.

Beginning with the fall 2007 edition, the internet became the basic means for disseminating the Unified Agenda. The complete Unified Agenda is available online at www.reginfo.gov, in a format that offers users a greatly enhanced ability to obtain information from the Agenda database.

In this edition of Commerce’s regulatory agenda, a list of the most important significant regulatory and deregulatory actions and a Statement of Regulatory Priorities are included in the Regulatory Plan, which appears in both the online Unified Agenda and in part II of the issue of the **Federal Register** that includes the Unified Agenda.

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act, Commerce’s printed agenda entries include only:

(1) Rules that are in the Agency’s regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Rules that the Agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act’s Agenda requirements. Additional information on these entries is available in the Unified Agenda published on the internet. In addition, for fall editions of the Agenda, Commerce’s entire Regulatory Plan will continue to be printed in the **Federal Register**.

Within Commerce, the Office of the Secretary and various operating units may issue regulations. Among these operating units, the National Oceanic and Atmospheric Administration (NOAA), the Bureau of Industry and Security, and the Patent and Trademark Office issue the greatest share of Commerce’s regulations.

A large number of regulatory actions reported in the Agenda deal with fishery management programs of NOAA’s National Marine Fisheries Service (NMFS). To avoid repetition of programs and definitions, as well as to provide some understanding of the technical and institutional elements of NMFS’ programs, an “Explanation of Information Contained in NMFS Regulatory Entries” is provided below.

Explanation of Information Contained in NMFS Regulatory Entries

The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (the Act) governs the management of fisheries within the Exclusive Economic Zone of the United States (EEZ). The EEZ refers to those waters from the outer edge of the State boundaries, generally 3 nautical miles, to a distance of 200 nautical miles. For fisheries that require conservation and management measures, eight Regional Fishery Management Councils (Councils) prepare and submit to NMFS Fishery Management Plans (FMPs) for the fisheries within their respective areas in the EEZ. Membership of these Councils is comprised of representatives of the commercial and recreational fishing sectors in addition to environmental, academic, and government interests. Council members are nominated by the governors and ultimately appointed by the Secretary of Commerce. The Councils are required by law to conduct public hearings on the development of FMPs and FMP amendments. Consistent with applicable law, environmental and other analyses are developed that consider alternatives to proposed actions.

Pursuant to the Magnuson-Stevens Act, the Councils also submit to NMFS proposed regulations they deem necessary or appropriate to implement FMPs. The proposed regulations, FMPs, and FMP amendments are subject to review and approval by NMFS, based on consistency with the Magnuson-Stevens Act and other applicable law. The Council process for developing FMPs and amendments makes it difficult for NMFS to determine the significance and timing of some regulatory actions under consideration by the Councils at the time the semiannual regulatory agenda is published.

Commerce’s fall 2020 regulatory agenda follows.

This document of the Department of Commerce was signed on January 14, by Michael Walsh, Chief of Staff, Performing the Delegated Duties of General Counsel. That document with the original signature and date is maintained by the Department of

Commerce. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned Department of Commerce 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 Commerce. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on January 14, 2021.

Asha Mathew,
Federal Register Liaison Officer, U.S.
Department of Commerce.

GENERAL ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
144	Concrete Masonry Products Research, Education, and Promotion	0605-AA53

INTERNATIONAL TRADE ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
145	Modifications to Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws.	0625-AB10

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
146	Comprehensive Fishery Management Plan for Puerto Rico, Comprehensive Fishery Management Plan for St. Croix, Comprehensive Fishery Management Plan for St. Thomas/St. John.	0648-BD32
147	International Fisheries; South Pacific Tuna Fisheries; Implementation of Amendments to the South Pacific Tuna Treaty.	0648-BG04
148	Illegal, Unregulated, and Unreported Fishing; Fisheries Enforcement; High Seas Driftnet Fishing Moratorium Protection Act (Reg Plan Seq No. 6).	0648-BG11
149	Regulatory Amendment to the Pacific Coast Groundfish Fishery Management Plan to Implement an Electronic Monitoring Program for Bottom Trawl and Non-Whiting Midwater Trawl Vessels.	0648-BH70
150	Atlantic Highly Migratory Species; Research and Data Collection in Support of Spatial Fisheries Management.	0648-BI10
151	Establish National Insurance Requirements for Observer Providers	0648-BJ33
152	Salmon Bycatch Minimization in the Pacific Coast Groundfish Fishery	0648-BJ50
153	2021–22 Harvest Specifications and Management Measures for Pacific Coast Groundfish and Fishery Management Plan.	0648-BJ74
154	International Fisheries; Pacific Tuna Fisheries; Fishing Restrictions for Tropical Tuna in the Eastern Pacific Ocean for 2021.	0648-BK08
155	Framework Adjustment 8 to the Atlantic Herring Fishery Management Plan	0648-BK11
156	Designation of Critical Habitat for the Arctic Ringed Seal	0648-BC56
157	Amendment and Updates to the Pelagic Longline Take Reduction Plan	0648-BF90
158	Designation of Critical Habitat for the Threatened Caribbean Corals	0648-BG26
159	Atlantic Large Whale Take Reduction Plan Modifications to Reduce Serious Injury and Mortality of Large Whales in Commercial Trap/Pot Fisheries Along the U.S. East Coast (Reg Plan Seq No. 7).	0648-BJ09
160	Designation of Critical Habitat for Threatened Indo-Pacific Reef-Building Corals	0648-BJ52
161	Establishment of Time-Area Closures for Hawaiian Spinner Dolphins Under the Marine Mammal Protection Act.	0648-BK04

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
162	International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Requirements to Safeguard Fishery Observers.	0648-BG66
163	Area of Overlap Between the Convention Areas of the Inter-American Tropical Tuna Commission and the Western and Central Pacific Fisheries Commission.	0648-BH59
164	Omnibus Deep-Sea Coral Amendment	0648-BH67
165	Generic Amendment to the Fishery Management Plans for the Reef Fish Resources of the Gulf of Mexico and Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region.	0648-BH72
166	Magnuson-Stevens Fisheries Conservation and Management Act; Traceability Information Program for Seafood.	0648-BH87
167	Atlantic Highly Migratory Species; Regulatory Amendment for the Management of Atlantic Swordfish	0648-BI09
168	Amendment 8 to the Atlantic Herring Fishery Management Plan	0648-BI80
169	Amendment 21 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan	0648-BJ18

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—FINAL RULE STAGE—Continued

Sequence No.	Title	Regulation Identifier No.
170	Modification of Multi-Day Trip Possession Limits for Federally-Permitted Charter/Headboat Vessels in the Fishery Management Plans (FMP) in the Gulf of Mexico.	0648–BJ60
171	Reducing Disturbances to Hawaiian Spinner Dolphins From Human Interactions	0648–AU02
172	Taking and Importing Marine Mammals: Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico (Reg Plan Seq No. 9).	0648–BB38
173	Revision to Critical Habitat Designation for Endangered Southern Resident Killer Whales	0648–BH95
174	Designation of Critical Habitat for the Mexico, Central American, and Western Pacific Distinct Population Segments of Humpback Whales Under the Endangered Species Act.	0648–BI06
175	Wisconsin-Lake Michigan National Marine Sanctuary Designation	0648–BG01

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
176	Implementation of a Program for Transshipments by Large Scale Fishing Vessels in the Eastern Pacific Ocean.	0648–BD59
177	International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Treatment of U.S. Purse Seine Fishing With Respect to U.S. Territories.	0648–BF41
178	Bering Sea and Aleutian Islands Pacific Cod Pot Catcher/Processor License Limitation Program Adjustment.	0648–BJ42

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
179	Licensing of Private Land Remote-Sensing Space Systems	0648–BA15
180	Commerce Trusted Trader Program	0648–BG51
181	Rule to Implement the For-Hire Reporting Amendments	0648–BG75
182	New England Industry-Funded Monitoring Amendment	0648–BG91
183	Vessel Movement, Monitoring, and Declaration Management Enhancement for the Pacific Coast Groundfish Fishery; Pacific Coast Groundfish Fishery Management Plan.	0648–BI45
184	Framework Adjustment 59 to the Northeast Multispecies Fishery Management Plan	0648–BJ12
185	Vessel Monitoring Systems; Amendment to Type-Approval Requirements	0648–BJ15
186	Amendment 21 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan	0648–BJ16
187	Regulatory Amendment to Adjust the North Pacific Observer Program Partial Coverage Fee	0648–BJ40
188	Amendment 121 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area and Amendment 110 to the Fishery Management Plan for Groundfish of the Gulf of Alaska.	0648–BJ49
189	Atlantic Bluefish 2020–2021 Specifications and Recreational Management Measures	0648–BJ61

PATENT AND TRADEMARK OFFICE—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
190	Trademark Fee Adjustment (Reg Plan Seq No. 10)	0651–AD42

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

PATENT AND TRADEMARK OFFICE—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
191	Setting and Adjusting Patent Fees During Fiscal Year 2020	0651–AD31

DEPARTMENT OF COMMERCE (DOC)

General Administration (ADMIN)

Final Rule Stage

144. Concrete Masonry Products Research, Education, and Promotion

E.O. 13771 Designation: Fully or Partially Exempt.

Legal Authority: 15 U.S.C. 8701 *et seq.*

Abstract: The Concrete Masonry Products Research, Education, and Promotion Act of 2018 (Act) (15 U.S.C. 8701 *et seq.*) authorizes the establishment of an orderly program for a program of research, education, and promotion, including funds for marketing and market research activities, that is designed to promote the use of concrete masonry products in construction and building (a checkoff program). The Act allows industry to submit a proposed order establishing such a program. If the Secretary determines that such a proposed order is consistent with and will effectuate the purpose of the Act, the Secretary is directed to publish the proposed order in the **Federal Register** not later than 90 days after receiving the order.

Timetable:

Action	Date	FR Cite
NPRM	08/24/20	85 FR 52059
NPRM Comment Period End.	10/08/20	
Final Action	03/00/21	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Asha Mathew, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, *Phone:* 202 306-0487, *Email:* amathew@doc.gov.

RIN: 0605-AA53

DEPARTMENT OF COMMERCE (DOC)

International Trade Administration (ITA)

Final Rule Stage

145. Modifications to Regulations To Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws

E.O. 13771 Designation: Other.

Legal Authority: 19 U.S.C. 1671 *et seq.*; Pub. L. 114-125, sec. 421

Abstract: Pursuant to its authority under Title VII of the Tariff Act of 1930, as amended (the Act), the Department of Commerce (Commerce) issued a proposed rule to modify its regulations under part 351 of title 19 to improve administration and enforcement of the

antidumping duty (AD) and countervailing duty (CVD) laws. Specifically, Commerce proposes to modify its regulation concerning the time for submission of comments pertaining to industry support in AD and CVD proceedings; to modify its regulation regarding new shipper reviews; to modify its regulation concerning scope matters in AD and CVD proceedings; to promulgate a new regulation concerning circumvention of AD and CVD orders; to promulgate a new regulation concerning covered merchandise referrals received from U.S. Customs and Border Protection (CBP); to promulgate a new regulation pertaining to Commerce requests for certifications from interested parties to establish whether merchandise is subject to an AD or CVD order; and to modify its regulation regarding importer reimbursement certifications filed with CBP. Finally, Commerce proposes to modify its regulations regarding letters of appearance in AD and CVD proceedings and importer filing requirements for access to business proprietary information.

Timetable:

Action	Date	FR Cite
NPRM	08/13/20	85 FR 49472
Extension of Comment Period.	09/10/20	
NPRM Comment Period End.	09/14/20	85 FR 55801
Extension of Comment Period End.	09/28/20	
Final Action	11/00/20	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Jessica Link, Department of Commerce, International Trade Administration, 1401 Constitution Avenue NW, Washington, DC 20230, *Phone:* 202 482-1411, *Email:* jessica.link@trade.gov.

RIN: 0625-AB10

DEPARTMENT OF COMMERCE (DOC)

National Oceanic and Atmospheric Administration (NOAA)

Proposed Rule Stage

National Marine Fisheries Service

146. Comprehensive Fishery Management Plan for Puerto Rico, Comprehensive Fishery Management Plan for ST. Croix, Comprehensive Fishery Management Plan for St. Thomas/St. John

E.O. 13771 Designation: Not subject to, not significant.

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

Abstract: In response to a recommendation of the Caribbean Fishery Management Council, this action would establish three new FMPs (Puerto Rico FMP, St. Thomas/St. John FMP and St. Croix FMP) and repeal and replace the existing U.S. Caribbean-wide FMPs (the FMP for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands (USVI), the FMP for the Spiny Lobster Fishery of Puerto Rico and the USVI, the FMP for Queen Conch Resources of Puerto Rico and the USVI, and the FMP for the Corals and Reef Associated Plants and Invertebrates of Puerto Rico and the USVI). For each of the Puerto Rico, St. Thomas/St. John, and St. Croix FMPs, the action would also modify the composition of the stocks to be managed; organize those stocks for effective management; establish status determination criteria, management reference points, and accountability measures for managed stocks; identify essential fish habitat for stocks new to management; and establish framework measures.

Timetable:

Action	Date	FR Cite
Notice of Availability.	06/26/20	85 FR 38350
NPRM	11/00/20	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824-5305, *Fax:* 727 824-5308, *Email:* roy.crabtree@noaa.gov.

RIN: 0648-BD32

147. International Fisheries; South Pacific Tuna Fisheries; Implementation of Amendments to the South Pacific Tuna Treaty

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: 16 U.S.C. 973 *et seq.*
Abstract: Under authority of the South Pacific Tuna Act of 1988, this rule would implement recent amendments to the Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America (also known as the South Pacific Tuna Treaty). The rule would include modification to the procedures used to request licenses for U.S. vessels in the western and central Pacific Ocean purse seine fishery, including changing the annual licensing period from June-to-June to the calendar year, and modifications to existing reporting requirements for purse seine vessels fishing in the western and central Pacific Ocean. The rule would implement only those aspects of the Treaty amendments that can be implemented under the existing South Pacific Tuna Act.

Timetable:

Action	Date	FR Cite
NPRM	02/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael Tosatto, Regional Administrator, Pacific Islands Region, Department of Commerce, National Oceanic and Atmospheric Administration, 1845 Wasp Boulevard, Building 176, Honolulu, HI 96818, *Phone:* 808 725-5000, *Email:* michael.tosatto@noaa.gov.
RIN: 0648-BG04

148. Illegal, Unregulated, and Unreported Fishing; Fisheries Enforcement; High Seas Driftnet Fishing Moratorium Protection Act

Regulatory Plan: This entry is Seq. No. 6 in part II of this issue of the Federal Register.

RIN: 0648-BG11

149. Regulatory Amendment to the Pacific Coast Groundfish Fishery Management Plan to Implement an Electronic Monitoring Program for Bottom Trawl and Non-Whiting Midwater Trawl Vessels

E.O. 13771 Designation: Deregulatory.
Legal Authority: 16 U.S.C. 1801 *et seq.*
Abstract: The proposed action would implement a regulatory amendment to the Pacific Fishery Management Council's Pacific Coast Groundfish Fishery Management Plan to allow bottom trawl and midwater trawl vessels targeting non-whiting species the option to use electronic monitoring (video cameras and associated sensors) in place of observers to meet

requirements for 100-percent observer coverage. By allowing vessels the option to use electronic monitoring to meet monitoring requirements, this action is intended to increase operational flexibility and reduce monitoring costs for the fleet.

Timetable:

Action	Date	FR Cite
NPRM	11/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Barry Thom, Regional Administrator, West Coast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 1201 NE Lloyd Boulevard, Suite 1100, Portland, OR 97232, *Phone:* 503 231-6266, *Email:* barry.thom@noaa.gov.
RIN: 0648-BH70

150. Atlantic Highly Migratory Species; Research and Data Collection in Support of Spatial Fisheries Management

E.O. 13771 Designation: Deregulatory.
Legal Authority: 16 U.S.C. 1801 *et seq.*
Abstract: This rulemaking would address conducting research in areas currently closed to fishing for Atlantic highly migratory species (HMS)—during various times or by certain gear—to collect fishery-dependent data. A number of time/area closures or gear-restricted areas have been implemented over the years through various rulemakings, limiting fishing for Atlantic highly migratory species in those areas for a variety of reasons including reducing bycatch. These time/area closures have been implemented in consultation with the HMS Advisory Panel to protect species consistent with the Magnuson-Stevens Fisheries Conservation and Management Act (*e.g.*, to reduce bycatch in the pelagic longline fishery off the east coast of Florida), the Endangered Species Act (*e.g.*, to protect sea turtles in the North Atlantic), and the Atlantic Tunas Convention Act (*e.g.*, to protect spawning bluefin tuna in the Gulf of Mexico). Fishery-dependent data supports effective fisheries management, and areas that restrict fishing effort often have a commensurate decrease in fishery-dependent data collection. Programs to facilitate research and data collection, such as those that would be covered by this rulemaking, could assess the efficacy of closed areas, improve sustainable management of highly migratory species, and may provide benefits to commercial and recreational fishermen.

Timetable:

Action	Date	FR Cite
NPRM	09/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kelly Denit, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Room 13362, Silver Spring, MD 20910, *Phone:* 301 427-8500, *Email:* kelly.denit@noaa.gov.
RIN: 0648-B110

151. Establish National Insurance Requirements for Observer Providers

E.O. 13771 Designation: Other.
Legal Authority: 16 U.S.C. 1855(d)
Abstract: NMFS is proposing to establish uniform, nationally applicable minimum insurance requirements for companies that provide observer or at-sea monitor services for federally managed fisheries subject to monitoring requirements. This action would supersede outdated or inappropriate regulatory insurance requirements thereby easing the regulatory and cost burden for observer/at-sea monitor providers. Additionally, this action would mitigate potential liability risks associated with observer and at-sea monitor deployments for vessel owners and shore side processors that are subject to monitoring requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Evan Howell, Director, Office of Science and Technology, National Marine Fisheries Service, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 427-8100, *Email:* evan.howell@noaa.gov.
RIN: 0648-BJ33

152. Salmon Bycatch Minimization in the Pacific Coast Groundfish Fishery

E.O. 13771 Designation: Not subject to, not significant.
Legal Authority: 16 U.S.C. 1801 *et seq.*
Abstract: The proposed action would implement salmon bycatch minimization measures in the Pacific Coast groundfish fishery to comply with the terms and conditions of a December 2017 biological opinion on Endangered Species Act-listed salmon interactions

in the groundfish fishery. The proposed action would establish additional management tools (e.g. area-based closures and gear restrictions) the Council and NMFS could use as needed to keep fishery sectors within Chinook and coho salmon bycatch guidelines as established in a prior rulemaking. The proposed action would establish the rules or circumstances under which the fishery sectors would be allowed to access an established salmon bycatch Reserve. Under the proposed action, NMFS is required to take an action before fishery participants can access the Reserve; such action may include implementation of a measure such as an area-based closure or gear restriction, or approval of a plan outlining how a whiting cooperative will minimize its salmon bycatch. Finally, the proposed action would change the bycatch levels at which the trawl fishery would be closed in order to preserve 500 Chinook salmon as bycatch so that the recreational and fixed gear fisheries could continue operating in years of high trawl fishery bycatch.

Timetable:

Action	Date	FR Cite
NPRM	10/20/20	85 FR 66519
NPRM Comment Period End.	11/19/20	
Final Action	01/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Barry Thom, Regional Administrator, West Coast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 1201 NE Lloyd Boulevard, Suite 1100, Portland, OR 97232, *Phone:* 503 231-6266, *Email:* barry.thom@noaa.gov.

RIN: 0648-BJ50

153. • 2021–22 Harvest Specifications and Management Measures for Pacific Coast Groundfish and Fishery Management Plan

E.O. 13771 Designation: Not subject to, not significant.

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

Abstract: Every other year, the Pacific Fishery Management Council (Council) makes recommendations to set biennial allowable harvest levels for Pacific Coast groundfish, and recommends management measures for commercial, recreational, and tribal fisheries that are designed to achieve those harvest levels consistent with the Pacific Coast Groundfish Fishery Management Plan. For the 2021–22 biennium, the Council has recommended: harvest specifications, including overfishing

limits, acceptable biological catches, and annual catch limits; and management measures to achieve those specifications. The specifications and management measures that would be forwarded by this action would be in effect from January 1, 2021, through December 31, 2022.

Timetable:

Action	Date	FR Cite
Notice of Availability.	09/02/20	85 FR 54529
NPRM	11/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Barry Thom, Regional Administrator, West Coast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 1201 NE Lloyd Boulevard, Suite 1100, Portland, OR 97232, *Phone:* 503 231-6266, *Email:* barry.thom@noaa.gov.

RIN: 0648-BJ74

154. • International Fisheries; Pacific Tuna Fisheries; Fishing Restrictions for Tropical Tuna in the Eastern Pacific Ocean for 2021

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: 16 U.S.C. 951 *et seq.*

Abstract: In the fall 2020, the Inter-American Tropical Tuna Commission (IATTC) is expected to adopt a binding resolution regarding conservation measures for tropical tuna in the Eastern Pacific Ocean (EPO) during 2021. As required under the Tuna Conventions Act, 16 U.S.C. 951 *et seq.*, this rulemaking action would implement that resolution domestically. Provisions to be implemented include those expected for tropical tuna (bigeye, yellowfin, and skipjack) for 2021, and potentially beyond if the IATTC resolution applies beyond 2021. Additionally, should the IATTC resolution do so, as is expected, this rulemaking action would continue to apply provisions of currently applicable regulations for purse seine vessels of class sizes 4–6 (carrying capacity greater than 182 metric tons (mt)) fishing for tropical tuna in the EPO. This includes a 72-day closure, a time/area closure in the EPO for 31 days, and a requirement that all tropical tuna be retained on board and landed, except fish considered unfit for human consumption for reasons other than size. The rule is expected to continue to allow a single exception on the final set of a trip, when there may be insufficient well space remaining to accommodate all the tuna caught in that set. The rule

is also expected to continue to limit catch of bigeye tuna by longline vessels greater than 24 meters in overall length to 750 metric tons per year.

Timetable:

Action	Date	FR Cite
NPRM	12/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Barry Thom, Regional Administrator, West Coast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 1201 NE Lloyd Boulevard, Suite 1100, Portland, OR 97232, *Phone:* 503 231-6266, *Email:* barry.thom@noaa.gov.

RIN: 0648-BK08

155. • Framework Adjustment 8 to the Atlantic Herring Fishery Management Plan

E.O. 13771 Designation: Not subject to, not significant.

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

Abstract: In response to action by the New England Fishery Management Council based on the most recent stock assessment, this rulemaking action would set 2021–2023 fishing year specifications and adjust current herring measures. Changes in herring specifications may impact the Atlantic mackerel fishery because the fisheries often operate concurrently. Accordingly, this action would adjust current measures by providing more flexibility to participants in the Atlantic herring fishery in order to facilitate increased participation in the Atlantic mackerel fishery. The objectives of this action are to meet the overall goal of the Atlantic Herring Fishery Management Plan of managing the Atlantic herring fishery at long-term sustainable levels consistent with the National Standards of the Magnuson-Stevens Fishery Conservation and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	11/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael Pentony, Regional Administrator, Greater Atlantic Region, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281-9283, *Fax:* 978 281-9207, *Email:* michael.pentony@noaa.gov.

RIN: 0648-BK11

156. Designation of Critical Habitat for the Arctic Ringed Seal

E.O. 13771 Designation: Regulatory.
Legal Authority: 16 U.S.C. 1531 *et seq.*
Abstract: The National Marine Fisheries Service published a final rule to list the Arctic ringed seal as a threatened species under the Endangered Species Act (ESA) in December 2012. The ESA requires designation of critical habitat at the time a species is listed as threatened or endangered, or within one year of listing if critical habitat is not then determinable. This rulemaking would designate critical habitat for the Arctic ringed seal. The critical habitat designation would be in the northern Bering, Chukchi, and Beaufort seas within the current range of the species.
Timetable:

Action	Date	FR Cite
NPRM	12/03/14	79 FR 71714
Proposed Rule	12/09/14	79 FR 73010
Notice of Public Hearings.	01/13/15	80 FR 1618
Comment Period Extended.	02/02/15	80 FR 5498
Proposed Rule 2	11/00/20	

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Donna Wieting, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, Phone: 301 427-8400.
RIN: 0648-BC56

157. Amendment and Updates to the Pelagic Longline Take Reduction Plan

E.O. 13771 Designation: Not subject to, not significant.
Legal Authority: 16 U.S.C. 1361 *et seq.*
Abstract: Serious injury and mortality of the Western North Atlantic short-finned pilot whale stock incidental to the Category I Atlantic pelagic longline fishery continues at levels exceeding their Potential Biological Removal. This proposed action will examine a number of management measures to amend the Pelagic Longline Take Reduction Plan to reduce the incidental mortality and serious injury of short-finned pilot whales taken in the Atlantic Pelagic Longline fishery to below Potential Biological Removal. Potential management measures may include changes to the current limitations on mainline length, new requirements to use weak hooks (hooks with reduced breaking strength), and non-regulatory measures related to determining the best

procedures for safe handling and release of marine mammals. The need for the proposed action is to ensure the Pelagic Longline Take Reduction Plan meets its Marine Mammal Protection Act mandated short- and long-term goals.
Timetable:

Action	Date	FR Cite
NPRM	11/00/20	

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Donna Wieting, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, Phone: 301 427-8400.
RIN: 0648-BF90

158. Designation of Critical Habitat for the Threatened Caribbean Corals

E.O. 13771 Designation: Regulatory.
Legal Authority: 16 U.S.C. 1531 *et seq.*
Abstract: NMFS listed 5 Caribbean corals as threatened under the Endangered Species Act on October 10, 2014. Critical habitat shall be designated to the maximum extent prudent and determinable at the time a species is proposed for listing (50 CFR 424.12). We concluded that critical habitat was not determinable for the 5 corals at the time of listing. However, we anticipated that critical habitat would be determinable in the future given on-going research. We, therefore, announced in the final listing rules that we would propose critical habitat in separate rulemakings. This rule proposes to designate critical habitat for the 5 Caribbean coral species listed in 2014. A separate proposed critical habitat rule is being prepared for the 15 Indo-Pacific corals listed as threatened in 2014. The proposed designation for the Caribbean corals may include marine waters in Florida, Puerto Rico, US Virgin Islands, Navassa Island, and Flower Garden Banks containing essential features that support all stages of life history of the corals. The proposed rule is not likely to have an annual effect on the economy of \$100 million or more or adversely affect the economy. NMFS has contacted the Departments of the Navy, Air Force, and Army as well as the U.S. Coast Guard requesting information related to potential national security impacts that may result from the critical habitat designation. Based on information provided, we concluded that there will be an impact on national security in only 1 area offshore Dania

Beach, FL, and will propose to exclude it from the designations.
Timetable:

Action	Date	FR Cite
NPRM	11/27/20	85 FR 76302
NPRM Comment Period End.	01/26/21	
Final Rule	04/00/21	

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Donna Wieting, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, Phone: 301 427-8400.
RIN: 0648-BG26

159. Atlantic Large Whale Take Reduction Plan Modifications To Reduce Serious Injury and Mortality of Large Whales in Commercial Trap/Pot Fisheries Along the U.S. East Coast

Regulatory Plan: This entry is Seq. No. 7 in part II of this issue of the **Federal Register**.
RIN: 0648-BJ09

160. Designation of Critical Habitat for Threatened Indo-Pacific Reef-Building Corals

E.O. 13771 Designation: Regulatory.
Legal Authority: 16 U.S.C. 1531 *et seq.*
Abstract: On September 10, 2014, NMFS listed 20 species of reef-building corals as threatened under the Endangered Species Act, 15 in the Indo-Pacific and five in the Caribbean. Of the 15 Indo-Pacific species, seven occur in U.S. waters of the Pacific Islands Region, including in American Samoa, Guam, the Commonwealth of the Mariana Islands, and the Pacific Remote Island Areas. This proposed rule would designate critical habitat for the seven species in U.S. waters (*Acropora globiceps*, *Acropora jacquelineae*, *Acropora retusa*, *Acropora speciosa*, *Euphyllia paradivisa*, *Isopora crateriformis*, and *Seriatopora aculeata*). A separate proposed rule will designate critical habitat for the listed Caribbean coral species. The proposed designation may cover coral reef habitat around 13 island or atoll units in the Pacific Islands Region, including three in American Samoa, one in Guam, seven in the Commonwealth of the Mariana Islands, and two in Pacific Remote Island Areas, containing essential features that support reproduction, growth, and survival of the listed coral species. NMFS has contacted the Departments of the Navy, Air Force, and Army as well as the U.S. Coast Guard

requesting information related to potential national security impacts that may result from the critical habitat designation. Based on information provided, we will determine whether to propose to exclude any areas based on national security impacts.

Timetable:

Action	Date	FR Cite
NPRM	11/27/20	85 FR 76262
NPRM Comment Period End.	01/26/21	
Final Rule	04/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Donna Wieting, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, Phone: 301 427-8400.

RIN: 0648-BJ52

161. • Establishment of Time-Area Closures for Hawaiian Spinner Dolphins Under the Marine Mammal Protection Act

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: 16 U.S.C. 1382 *et seq.*

Abstract: This rulemaking action under the Marine Mammal Protection Act (MMPA) proposes to establish mandatory time-area closures of Hawaiian spinner dolphins' essential daytime habitats at five selected sites in the Main Hawaiian Islands (MHI). In considering public comments in response to a separate proposed rule related to spinner dolphin interactions (81 FR 57854), NMFS intends these regulatory measures to prevent take of Hawaiian spinner dolphins from occurring in inshore marine areas at essential daytime habitats, and where high levels of disturbance from human activities are most prevalent.

Timetable:

Action	Date	FR Cite
NPRM	11/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Donna Wieting, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, Phone: 301 427-8400.

RIN: 0648-BK04

DEPARTMENT OF COMMERCE (DOC)

National Oceanic and Atmospheric Administration (NOAA)

Final Rule Stage

National Marine Fisheries Service

162. International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Requirements To Safeguard Fishery Observers

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: 16 U.S.C. 6901 *et seq.*

Abstract: This rule would establish requirements to enhance the safety of fishery observers on highly migratory species fishing vessels. This rule would be issued under the authority of the Western and Central Pacific Fisheries Convention Implementation Act, and pursuant to decisions made by the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean. This action is necessary for the United States to satisfy its obligations under the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, to which it is a Contracting Party.

Timetable:

Action	Date	FR Cite
NPRM	10/20/20	85 FR 66513
NPRM Comment Period End.	11/19/20	
Final Action	01/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael Tosatto, Regional Administrator, Pacific Islands Region, Department of Commerce, National Oceanic and Atmospheric Administration, 1845 Wasp Boulevard, Building 176, Honolulu, HI 96818, Phone: 808 725-5000, Email: michael.tosatto@noaa.gov.

RIN: 0648-BG66

163. Area of Overlap Between the Convention Areas of the Inter-American Tropical Tuna Commission and the Western and Central Pacific Fisheries Commission

E.O. 13771 Designation: Deregulatory. *Legal Authority:* 16 U.S.C. 6901 *et seq.*; 16 U.S.C. 951 *et seq.*

Abstract: Under authority of the Western and Central Pacific Fisheries Convention Implementation Act and the Tuna Conventions Act, an area of overlap (overlap area) exists between the respective areas of competence of the Commission for the Conservation and Management of Highly Migratory

Fish Stocks in the Western and Central Pacific Ocean and the Inter-American Tropical Tuna Commission. NMFS proposes to change the application of the two Commissions' management decisions in the overlap area to specifically apply Inter-American Tropical Tuna Commission management measures in the overlap area rather than those of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean that currently apply there.

Timetable:

Action	Date	FR Cite
ANPRM	06/12/18	83 FR 27305
ANPRM Comment Period End.	07/12/18	
NPRM	11/07/19	84 FR 60040
NPRM Comment Period End.	11/22/19	
Final Rule	06/22/20	85 FR 37376
Final Rule Effective.	07/22/20	
Final Action; Announcement of Effectiveness of Collection-of-Information Requirements.	11/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael Tosatto, Regional Administrator, Pacific Islands Region, Department of Commerce, National Oceanic and Atmospheric Administration, 1845 Wasp Boulevard, Building 176, Honolulu, HI 96818, Phone: 808 725-5000, Email: michael.tosatto@noaa.gov.

RIN: 0648-BH59

164. Omnibus Deep-Sea Coral Amendment

E.O. 13771 Designation: Regulatory.

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

Abstract: This action would implement the New England Fishery Management Council's Omnibus Deep-Sea Coral Amendment. The Amendment would implement measures that reduce impacts of fishing gear on deep-sea corals in the Gulf of Maine and on the outer continental shelf. In doing so, this action would prohibit the use of mobile bottom-tending gear in two areas in the Gulf of Maine (Mount Desert Rock and Outer Schoodic Ridge), and it would prohibit the use of all gear (with an exception for red crab pots) along the outer continental shelf in waters deeper than a minimum of 600 meters.

Timetable:

Action	Date	FR Cite
Notice of Availability.	08/26/19	84 FR 44596
NPRM	01/03/20	85 FR 285
NPRM Comment Period End.	02/18/20	
Final Action	12/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael Pentony, Regional Administrator, Greater Atlantic Region, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281-9283, *Fax:* 978 281-9207, *Email:* michael.pentony@noaa.gov. *RIN:* 0648-BH67

165. Generic Amendment to the Fishery Management Plans for the Reef Fish Resources of the Gulf of Mexico and Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region

E.O. 13771 Designation: Not subject to, not significant.

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

Abstract: This action, recommended by the Gulf of Mexico Fishery Management Council, would modify data reporting for owners or operators of federally permitted for-hire vessels (charter vessels and headboats) in the Gulf of Mexico, requiring them to declare the type of trip (for-hire or other) prior to departing for any trip, and electronically submit trip-level reports prior to off-loading fish at the end of each fishing trip. The declaration would include the expected return time and landing location. Landing reports would include information about catch and effort during the trip. The action would also require that these reports be submitted via approved hardware that includes a global positioning system attached to the vessel that is capable, at a minimum, of archiving global positioning system locations. This requirement would not preclude the use of global positioning system devices that provide real-time location data, such as the currently approved vessel monitoring systems.

Timetable:

Action	Date	FR Cite
Notice of Availability.	06/21/18	83 FR 28797
NPRM	10/26/18	83 FR 54069
Correction	11/08/18	83 FR 55850
Comment Period Extended.	11/20/18	83 FR 58522
NPRM Comment Period End.	11/26/18	

Action	Date	FR Cite
Comment Period Extended End.	01/09/19	
Final Rule	07/21/20	85 FR 44005
Final Rule Effective.	01/05/21	
Final Action; Announcement of Effectiveness for Delayed Provisions.	12/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824-5305, *Fax:* 727 824-5308, *Email:* roy.crabtree@noaa.gov. *RIN:* 0648-BH72

166. Magnuson-Stevens Fisheries Conservation and Management Act; Traceability Information Program for Seafood

E.O. 13771 Designation: Other.

Legal Authority: 16 U.S.C. 1801 *et seq.*; Pub. L. 115-141

Abstract: On December 9, 2016, NMFS issued a final rule that established a risk-based traceability program to track seafood from harvest to entry into U.S. commerce. The final rule included, for designated priority fish species, import permitting and reporting requirements to provide for traceability of seafood products offered for entry into the U.S. supply chain, and to ensure that these products were lawfully acquired and are properly represented. Shrimp and abalone products were included in the final rule to implement the Seafood Import Monitoring Program, but compliance with Seafood Import Monitoring Program requirements for those species was stayed indefinitely due to the disparity between Federal reporting programs for domestic aquaculture of shrimp and abalone products relative to the requirements that would apply to imports under Seafood Import Monitoring Program. In section 539 of the Consolidated Appropriations Act, 2018, Congress mandated lifting the stay on inclusion of shrimp and abalone in Seafood Import Monitoring Program and authorized the Secretary of Commerce to require comparable reporting and recordkeeping requirements for domestic aquaculture of shrimp and abalone. This rulemaking would establish permitting, reporting and recordkeeping requirements for domestic producers of shrimp and

abalone from the point of production to entry into commerce.

Timetable:

Action	Date	FR Cite
NPRM	10/11/18	83 FR 51426
NPRM Comment Period End.	11/26/18	
Final Action	03/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Alexa Cole, Director, Office of International Affairs and Seafood Inspection, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 427-8286, *Email:* alexa.cole@noaa.gov. *RIN:* 0648-BH87

167. Atlantic Highly Migratory Species; Regulatory Amendment for the Management of Atlantic Swordfish

E.O. 13771 Designation: Deregulatory.

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

Abstract: Upon recommendation of the HMS Advisory Panel, this action would modify existing management measures for North Atlantic swordfish under the 2006 Consolidated FMP in U.S. Atlantic and Caribbean waters. This rulemaking would increase default retention limits for the Commercial Caribbean Small Boat (CCSB) and Swordfish General Commercial permits and adding inseason adjustment criteria for the CCSB permits. This proposed action is intended to provide additional opportunities to more fully harvest the U.S. North Atlantic swordfish quota, which has been significantly under harvested for many years.

Timetable:

Action	Date	FR Cite
NPRM	04/27/20	85 FR 23315
NPRM Comment Period End.	06/26/20	
Final Action	12/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kelly Denit, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Room 13362, Silver Spring, MD 20910, *Phone:* 301 427-8500, *Email:* kelly.denit@noaa.gov. *RIN:* 0648-BI09

168. Amendment 8 to the Atlantic Herring Fishery Management Plan

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: 16 U.S.C. 1801 *et seq.*
Abstract: In response to a recommendation by the New England Fishery Management Council, this action proposes measures for a long-term acceptable biological catch (ABC) control rule to address the biological and ecological requirements of the Atlantic herring stock, including explicitly accounting for Atlantic herring's role in the ecosystem, and minimizing localized depletion and user group conflict when effort in the Atlantic herring fishery overlaps (spatially and temporally) with effort in fisheries targeting predators of Atlantic herring (e.g., tuna, groundfish) or ecotourism industries. Specifically, this action would implement a control rule generating an ABC intended to meet specific criteria identified by the New England Fishery Management Council, including low variability in yield, low probability of the stock becoming overfished, low probability of a fishery shutdown, and catch limits set at a relatively high proportion of maximum sustainable yield. This action would specify that ABC would be set for a 3-year period, but would allow ABC to vary year-to-year in response to projected changes in biomass.

Timetable:

Action	Date	FR Cite
Notice of Availability.	08/21/19	84 FR 43573
NPRM	10/09/19	84 FR 54094
NPRM Comment Period End.	11/25/19	
Final Action	11/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael Pentony, Regional Administrator, Greater Atlantic Region, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281-9283, *Fax:* 978 281-9207, *Email:* michael.pentony@noaa.gov. *RIN:* 0648-B180

169. Amendment 21 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: 16 U.S.C. 1801 *et seq.*
Abstract: This rulemaking action proposes measures recommended by the Mid-Atlantic Fishery Management Council and Atlantic States Marine Fisheries Commission that would adjust the current state-by-state commercial quota allocations in the summer flounder fishery and update the goals and objective for summer flounder

fishery management in the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP). The revised quota allocation would maintain the current state-by-state allocation percentages when distributing the annual coastwide quota up to 9.55 million pounds. In years when the coastwide quota is above 9.55 million pounds, additional quota beyond this trigger would be distributed in equal shares to all states except Maine, Delaware, and New Hampshire (i.e., states with very little directed fishing effort), which would split one percent of the additional quota. The current state-by-state quota allocations have not been adjusted since originally implemented in 1993. The intent of this amendment is to modify the allocations to respond to changes in summer flounder distribution while also recognizing the states' historical reliance on summer flounder. The Council and Board intend to review the adjusted quota allocations again in no more than 10 years.

Timetable:

Action	Date	FR Cite
Notice of Availability.	07/29/20	85 FR 45571
NPRM	08/12/20	85 FR 48660
NPRM Comment Period End.	09/11/20	
Final Action	11/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael Pentony, Regional Administrator, Greater Atlantic Region, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281-9283, *Fax:* 978 281-9207, *Email:* michael.pentony@noaa.gov. *RIN:* 0648-BJ18

170. Modification of Multi-Day Trip Possession Limits for Federally-Permitted Charter/Headboat Vessels in the Fishery Management Plans (FMP) in the Gulf of Mexico

E.O. 13771 Designation: Deregulatory.
Legal Authority: 16 U.S.C. 1801 *et seq.*

Abstract: This rule would promote efficiency in the utilization of the reef fish and CMP resources and a potential decrease in regulatory discards by providing the owners and operators of federally permitted for-hire vessels greater flexibility in determining when to allow passengers to retain the possession limit on multi-day trips. The rule would modify the on-board possession limit for federal for-hire trips in the Gulf of Mexico, which currently allows anglers to retain two daily bag limits on a trip more than 24 hours, after

the first 24 hours of that trip. The rule would increase the required trip duration to more than 30 hours, but would allow anglers to retain the second daily bag limit at any time after the federal for-hire vessel leaves the dock. All other requirements to retain the possession limit would be unchanged. In addition, this rule would modify the language in 622.21(a)(3)(iii) and 622.22(a)(3)(iii). The change would remove the wording 'sequentially coded' from the sentence 'NMFS will provide each Individual Fishing Quota (IFQ) dealer the necessary paper forms, sequentially coded, and instructions for submission of the forms to the RA'.

Timetable:

Action	Date	FR Cite
NPRM	07/28/20	85 FR 45363
NPRM Comment Period End.	08/27/20	
Final Action	11/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824-5305, *Fax:* 727 824-5308, *Email:* roy.crabtree@noaa.gov. *RIN:* 0648-BJ60

171. Reducing Disturbances to Hawaiian Spinner Dolphins From Human Interactions

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: 16 U.S.C. 1361 *et seq.*

Abstract: This action would implement regulatory measures under the Marine Mammal Protection Act to protect Hawaiian spinner dolphins that are resting in protected bays from take due to close approach interactions with humans.

Timetable:

Action	Date	FR Cite
ANPRM	12/12/05	70 FR 73426
ANPRM Comment Period End.	01/11/06	
NPRM	08/24/16	81 FR 57854
NPRM Comment Period End.	10/23/16	
NPRM Comment Period Re-opened.	11/16/16	81 FR 80629
NPRM Comment Period Re-opened End.	12/01/16	
Final Action	11/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Donna Wieting, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, Phone: 301 427-8400. RIN: 0648-AU02

172. Taking and Importing Marine Mammals: Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico

Regulatory Plan: This entry is Seq. No. 9 in part II of this issue of the Federal Register. RIN: 0648-BB38

173. Revision to Critical Habitat Designation for Endangered Southern Resident Killer Whales

E.O. 13771 Designation: Regulatory. *Legal Authority:* 16 U.S.C. 1531 *et seq.* *Abstract:* The proposed action would revise the designation of critical habitat for the endangered Southern Resident killer whale distinct population segment, pursuant to section 4 of the Endangered Species Act. Critical habitat for this population is currently designated within inland waters of Washington. In response to a 2014 petition, NMFS is proposing to expand the designation to include areas occupied by Southern Resident killer whales in waters along the U.S. West Coast. Impacts from the designation would stem mainly from Federal agencies' requirement to consult with NMFS, under section 7 of the Endangered Species Act, to ensure that any action they carry out, permit (authorize), or fund will not result in the destruction or adverse modification of critical habitat of a listed species. Federal agencies are already required to consult on effects to the currently designated critical habitat in inland waters of Washington, but consultation would be newly required for actions affecting the expanded critical habitat areas. Federal agencies are also already required to consult within the Southern Resident killer whales' range (including along the U.S. West Coast) to ensure that any action they carry out, permit, or fund will not jeopardize the continued existence of the species; this requirement would not change with a revision to the critical habitat designation.

Timetable:

Action	Date	FR Cite
NPRM	09/19/19	84 FR 49214
NPRM Comment Period End.	12/18/19	

Action	Date	FR Cite
Final Rule	02/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Donna Wieting, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, Phone: 301 427-8400. RIN: 0648-BH95

174. Designation of Critical Habitat for the Mexico, Central American, and Western Pacific Distinct Population Segments of Humpback Whales Under the Endangered Species Act

E.O. 13771 Designation: Regulatory. *Legal Authority:* 16 U.S.C. 1531 *et seq.* *Abstract:* This action will propose the designation of critical habitat for three distinct population segments of humpback whales (Megaptera novaeangliae) pursuant to section 4 of the Endangered Species Act. The three distinct population segments of humpback whales concerned—the Mexico, Central American, and Western Pacific distinct population segments—were listed under the Endangered Species Act on September 8, 2016, thereby triggering the requirement under section 4 of the Endangered Species Act to designate critical habitat to the maximum extent prudent and determinable. Proposed critical habitat for these three distinct population segments of humpback whales will include marine habitats within the Pacific Ocean and Bering Sea and will likely overlap with several existing designations, including critical habitat for leatherback sea turtles, North Pacific right whales, Steller sea lions, southern resident killer whales, and the southern distinct population segment of green sturgeon. Impacts from the designations for humpback whales would stem from the statutory requirement for Federal agencies to consult with NMFS, under section 7 of the Endangered Species Act, to ensure that any action they carry out, authorize, or fund will not result in the destruction or adverse modification of humpback whale critical habitat. Within many of the areas we are evaluating for potential proposal as critical habitat for the humpback whales distinct population segments, Federal agencies are already required to consult on effects to currently designated critical habitat for other listed species. Federal agencies are also already required to consult with NMFS under section 7 of the Endangered Species Act to ensure

that any action they authorize, fund or carry out will not jeopardize the continued existence of the listed distinct population segments of humpback whales.

Timetable:

Action	Date	FR Cite
NPRM	10/09/19	84 FR 54354
NPRM Comment Period End.	12/09/19	
NPRM Comment Period Extended.	11/27/19	84 FR 65346
NPRM Comment Period Extended End.	01/31/20	
Final Action	01/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Donna Wieting, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, Phone: 301 427-8400. RIN: 0648-BI06

NOS/ONMS

175. Wisconsin-Lake Michigan National Marine Sanctuary Designation

E.O. 13771 Designation: Regulatory. *Legal Authority:* 16 U.S.C. 1431 *et seq.* *Abstract:* On December 2, 2014, pursuant to section 304 of the National Marine Sanctuaries Act and the Sanctuary Nomination Process (79 FR 33851), a coalition of community groups submitted a nomination asking NOAA to designate an area of Wisconsin's Lake Michigan waters as a national marine sanctuary. The area is a region that includes 875 square miles of Lake Michigan waters and bottomlands adjacent to Manitowoc, Sheboygan, and Ozaukee counties and the cities of Port Washington, Sheboygan, Manitowoc, and Two Rivers. It includes 80 miles of shoreline and extends 9 to 14 miles from the shoreline. The area contains an extraordinary collection of submerged maritime heritage resources (shipwrecks) as demonstrated by the listing of 15 shipwrecks on the National Register of Historic Places. The area includes 39 known shipwrecks, 123 reported vessel losses, numerous other historic maritime-related features, and is adjacent to communities that have embraced their centuries-long relationship with Lake Michigan. NOAA completed its review of the nomination in accordance with the Sanctuary Nomination Process and on February 5, 2015, added the area to the inventory of nominations that are eligible for

designation. On October 7, 2015, NOAA issued a notice of intent to begin the designation process and asked for public comment on making this area a national marine sanctuary. Designation under the National Marine Sanctuaries Act would allow NOAA to supplement and complement work by the State of Wisconsin and other Federal agencies to protect this collection of nationally significant shipwrecks.

Timetable:

Action	Date	FR Cite
NPRM	01/09/17	82 FR 2269
NPRM Comment Period End.	03/31/17	
Final Action	01/00/21	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Russ Green, Department of Commerce, National Oceanic and Atmospheric Administration, Washington, DC 20230, *Phone:* 989 766–3359, *Email:* russ.green@noaa.gov.

Jessica Kondel, Policy and Planning Division Division Chief, Department of Commerce, National Oceanic and Atmospheric Administration, 1305 East-West Highway, Bldg. SSMC4, Silver Spring, MD 20910, *Phone:* 240 533–0647.

RIN: 0648–BG01

DEPARTMENT OF COMMERCE (DOC)

National Oceanic and Atmospheric Administration (NOAA)

Long-Term Actions

National Marine Fisheries Service

176. Implementation of a Program for Transshipments by Large Scale Fishing Vessels in the Eastern Pacific Ocean

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: 16 U.S.C. 951 *et seq.*; 16 U.S.C. 971 *et seq.*

Abstract: This rule would implement the Inter-American Tropical Tuna Commission program to monitor transshipments by large-scale tuna fishing vessels, and would govern transshipments by U.S. large-scale tuna fishing vessels and carrier, or receiving, vessels. The rule would establish: Criteria for transshipping in port; criteria for transshipping at sea by longline vessels to an authorized carrier vessel with an Inter-American Tropical Tuna Commission observer onboard and an operational vessel monitoring system; and require the Pacific Transshipment Declaration Form, which must be used to report transshipments

in the Inter-American Tropical Tuna Commission Convention Area. This rule is necessary for the United States to satisfy its international obligations under the 1949 Convention for the Establishment of an Inter-American Tropical Tuna, to which it is a Contracting Party.

Timetable:

Action	Date	FR Cite
To Be Determined	To Be Determined	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Barry Thom, *Phone:* 503 231–6266, *Email:* barry.thom@noaa.gov.

RIN: 0648–BD59

177. International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Treatment of U.S. Purse Seine Fishing With Respect to U.S. Territories

E.O. 13771 Designation: Derogatory.

Legal Authority: 16 U.S.C. 6901 *et seq.*

Abstract: This action would establish rules and/or procedures to address the treatment of U.S.-flagged purse seine vessels and their fishing activities in regulations issued by the National Marine Fisheries Service that implement decisions of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Commission), of which the United States is a member. Under the Western and Central Pacific Fisheries Convention Implementation Act, the National Marine Fisheries Service exercises broad discretion when determining how it implements Commission decisions, such as purse seine fishing restrictions. The National Marine Fisheries Service intends to examine the potential impacts of the domestic implementation of Commission decisions, such as purse seine fishing restrictions, on the economies of the U.S. territories that participate in the Commission, and examine the connectivity between the activities of U.S.-flagged purse seine fishing vessels and the economies of the territories. Based on that and other information, the National Marine Fisheries Service might propose regulations that mitigate adverse economic impacts of purse seine fishing restrictions on the U.S. territories and/or that, in the context of the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Convention), recognize that one or more of the U.S. territories have their

own purse seine fisheries that are distinct from the purse seine fishery of the United States and that are consequently subject to special provisions of the Convention and of Commission decisions.

Timetable:

Action	Date	FR Cite
ANPRM	10/23/15	80 FR 64382
ANPRM Comment Period End.	11/23/15	
To Be Determined	To Be Determined	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Michael Tosatto, *Phone:* 808 725–5000, *Email:* michael.tosatto@noaa.gov.

RIN: 0648–BF41

178. Bering Sea and Aleutian Islands Pacific Cod Pot Catcher/Processor License Limitation Program Adjustment

E.O. 13771 Designation: Not subject to, not significant.

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

Abstract: In response to a recommendation by the North Pacific Fishery Management Council (Council), this action announces the establishment of a control date for the Bering Sea and Aleutian Islands (BSAI) Pacific cod pot catcher/processor sector. Currently, pot catcher/processor vessels fishing for Pacific cod in the BSAI are required to have a License Limitation Program (LLP) that is endorsed for fishing Pacific cod by gear type, operational type, and area. The Council is evaluating participation and effort in the BSAI Pacific cod catcher/processor fishery in response to a potential need to control entry and participation in the Pacific cod pot catcher/processor sector. Specifically, the Council is considering options to address and potentially eliminate latent Bering Sea pot catcher/processor endorsed LLPs (which are LLP endorsements not recently utilized) in order to increase stability for Pacific cod-dependent pot catcher/processors, maintain consistently low rates of halibut and crab bycatch, and ensure that condensed fishing seasons do not result in safety-at-sea concerns. The Council may use the control date if it decides to recommend removing latent BSAI Pacific cod endorsements on pot catcher/processor LLPs to limit participation in the sector. Any fishing activity after the control date would not be assured to be considered should the Council recommend and NMFS implement a regulatory amendment to remove latent LLP endorsements. This announcement is intended, in part, to promote awareness of the potential

eligibility criteria for future access to discourage speculative entry into the BSAI Pacific cod sector while the Council and NMFS consider whether and how access to the sector should be further controlled.

Timetable:

Action	Date	FR Cite
ANPRM	12/10/19	84 FR 67421
ANPRM Comment Period End.	12/10/19	
NPRM	11/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: James Balsiger, Phone: 907 586-7221, Fax: 907 586-7465, Email: jim.balsiger@noaa.gov. RIN: 0648-BJ42

DEPARTMENT OF COMMERCE (DOC)

National Oceanic and Atmospheric Administration (NOAA)

Completed Actions

179. Licensing of Private Land Remote-Sensing Space Systems

E.O. 13771 Designation: Fully or Partially Exempt.

Legal Authority: 51 U.S.C. 60101 et seq.

Abstract: The National Oceanic and Atmospheric Administration (NOAA's) National Environmental Satellite, Data, and Information Service proposes to revise its final rule issued on April 26, 2006, addressing the licensing of private land remote sensing space systems. The purpose of this revision is to modify NOAA's requirements for the licensing, monitoring and compliance of operators of private land remote sensing space systems under title II of the Land Remote Sensing Policy Act of 1992. These modifications are intended to address changes in remote sensing technology and business practices since the issuance of the final rule. The revision is intended to facilitate the further development of the U.S. commercial remote sensing industry, while preserving essential U.S. national security interests, foreign policy, and international obligations.

Timetable:

Action	Date	FR Cite
ANPRM	06/29/18	83 FR 30592
ANPRM Comment Period End.	08/28/18	
NPRM	05/14/19	84 FR 21282
NPRM Comment Period End.	07/15/19	
Final Rule	05/20/20	85 FR 30790

Action	Date	FR Cite
Comment Period End.	06/19/20	
Final Rule Effective.	07/20/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Alan D. Robinson, Program Coordinator for Commercial Remote Sensing, Department of Commerce, National Oceanic and Atmospheric Administration, 1335 East-West Highway, Silver Spring, MD 20910, Phone: 301 713-3387, Fax: 301 713-2032, Email: alan.robinson@noaa.gov. RIN: 0648-BA15

180. Commerce Trusted Trader Program

E.O. 13771 Designation: Deregulatory. *Legal Authority:* 16 U.S.C. 1801 et seq. *Abstract:* The National Marine Fisheries Service (NMFS) withdraws the Commerce Trusted Trader Program proposed rule, which published in the **Federal Register** on January 17, 2018.

The proposed voluntary program was intended to offer qualified importers electing to participate in the program a reduction in reporting and recordkeeping requirements and streamlined entry into U.S. commerce for seafood imports subject to the Seafood Import Monitoring Program. Upon consideration of public comment, NMFS has determined that this program will not provide the anticipated benefits to industry.

Timetable:

Action	Date	FR Cite
NPRM	01/17/18	83 FR 2412
NPRM Comment Period End.	03/19/18	
Withdrawal	09/18/20	85 FR 58321
Withdrawal Effective.	09/18/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Alexa Cole, Director, Office of International Affairs and Seafood Inspection, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910, Phone: 301 427-8286, Email: alexa.cole@noaa.gov. RIN: 0648-BG51

181. Rule to Implement the For-Hire Reporting Amendments

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: 16 U.S.C. 1801 et seq. *Abstract:* This rule implements Amendment 39 for the Snapper-Grouper

Fishery of the South Atlantic Region, Amendment 9 for the Dolphin and Wahoo Fishery of the Atlantic, and Amendment 27 to the Coastal Migratory Pelagics Fishery of the Gulf of Mexico and Atlantic Regions (For-Hire Reporting Amendments). The For-Hire Reporting Amendments rule implements mandatory weekly electronic reporting for charter vessel operators with a Federal for-hire permit in the snapper-grouper, dolphin wahoo, or coastal migratory pelagics fisheries; reduces the time allowed for headboat operators to complete their electronic reports; and requires location reporting by charter vessels with the same level of detail currently required for headboat vessels.

Timetable:

Action	Date	FR Cite
Notice of Availability.	03/14/18	83 FR 11164
NPRM	04/04/18	83 FR 14400
NPRM Comment Period End.	05/04/18	
Final Rule	02/24/20	85 FR 10331
Final Rule Effective.	09/01/20	
Final Rule; Delay of Effective Date.	08/07/20	85 FR 47917
Final Rule; Delay of Effective Date Effective.	01/04/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, Phone: 727 824-5305, Fax: 727 824-5308, Email: roy.crabtree@noaa.gov. RIN: 0648-BG75

182. New England Industry-Funded Monitoring Amendment

E.O. 13771 Designation: Not subject to, not significant.

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

Abstract: This rule implements measures for industry funding and prioritizing available Federal funding to pay for additional monitoring, consistent with specific monitoring coverage targets recently set by the New England Fishery Management Council, for New England fishery management plans. Specifically, this action would modify all the New England fishery management plans to allow standardized development of future, plan-specific, industry-funded monitoring programs. This action would also prioritize industry-funded

monitoring programs across New England fishery management plans when available Federal funding falls short of the total needed to fully fund all monitoring programs. Finally, this rule implements industry-funded monitoring requirements for the Atlantic Herring fishery management plan.

Timetable:

Action	Date	FR Cite
Notice of Availability.	09/19/18	83 FR 47326
NPRM	11/07/18	83 FR 55665
NPRM Comment Period End.	12/24/18	
Final Action	02/07/20	85 FR 7414
Final Action Effective.	03/09/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael Pentony, Regional Administrator, Greater Atlantic Region, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281–9283, *Fax:* 978 281–9207, *Email:* michael.pentony@noaa.gov, *RIN:* 0648–BG91

183. Vessel Movement, Monitoring, and Declaration Management Enhancement for the Pacific Coast Groundfish Fishery; Pacific Coast Groundfish Fishery Management Plan

E.O. 13771 Designation: Deregulatory. *Legal Authority:* 16 U.S.C. 1801 *et seq.* *Abstract:* This rulemaking action implements the Pacific Fishery Management Council’s action to implement various measures that provide more efficient and effective monitoring, improve enforcement of restricted areas, and reduce costs for the Pacific coast groundfish fleet. This action would: Increase the required frequency of signals transmitted from type-approved vessel monitoring system (VMS) units from once per hour to every 15 minutes to provide finer-scale vessel location data; allow vessels to use alternative VMS units; add a VMS declaration to indicate when a vessel is testing gear; allow vessels participating in the midwater trawl whiting fishery to change their declaration while at-sea to select a new whiting fishery; and allow vessels to move pot gear from one management area to another during a single trip while retaining fish from the primary management area.

Timetable:

Action	Date	FR Cite
NPRM	10/10/19	84 FR 54579

Action	Date	FR Cite
NPRM Comment Period End.	11/12/19	
Final Action	06/11/20	85 FR 35594
Final Action Effective.	07/13/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Barry Thom, Regional Administrator, West Coast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 1201 NE Lloyd Boulevard, Suite 1100, Portland, OR 97232, *Phone:* 503 231–6266, *Email:* barry.thom@noaa.gov, *RIN:* 0648–BI45

184. Framework Adjustment 59 to the Northeast Multispecies Fishery Management Plan

E.O. 13771 Designation: Not subject to, not significant. *Legal Authority:* 16 U.S.C. 1801 *et seq.* *Abstract:* This rulemaking action proposes to implement management measures included in the New England Fishery Management Council’s Framework Adjustment 59 to the Northeast Multispecies Fishery Management Plan (Framework 59) developed in response to new scientific information. The proposed action would set fishing years 2020–2022 specifications for 15 groundfish stocks, and fishing year 2020 total allocable catches (TAC) for the three U.S./Canada stocks: Eastern Georges Bank cod, Eastern Georges Bank haddock, and Georges Bank yellowtail flounder. This action would also revise the Georges Bank cod incidental TAC to remove the allocation to the Closed Area I Hook Gear Haddock Special Access Program, and as necessary in response to any new data coming from the Marine Recreational Information Program, address commercial/recreational allocation issues.

Timetable:

Action	Date	FR Cite
NPRM	05/29/20	85 FR 32347
NPRM Comment Period End.	06/15/20	
Final Action Effective.	07/28/20	
Final Action	07/30/20	85 FR 45794

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael Pentony, Regional Administrator, Greater Atlantic Region, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:*

978 281–9283, *Fax:* 978 281–9207, *Email:* michael.pentony@noaa.gov, *RIN:* 0648–BJ12

185. Vessel Monitoring Systems; Amendment to Type-Approval Requirements

E.O. 13771 Designation: Deregulatory. *Legal Authority:* 16 U.S.C. 1801 *et seq.* *Abstract:* The U.S. Vessel Monitoring System (VMS) program type-approves enhanced mobile transceiver units (EMTUs) for use in the U.S. Currently, the only option for transferring VMS data from ship to NMFS is by satellite-linked communication services. All owners of vessels participating in the NOAA VMS program are required to carry a NMFS-approved EMTU or MTU to comply with the Vessel Monitoring System requirements. This rule would modify the type-approval requirements to allow for communication service by cellular EMTUs (EMTU-Cs), in addition to satellite-only models. The need for the rule is to set out procedures and requirements for initial type-approvals; compliance with, and revocations and appeals of type-approvals; and technical, service, and performance specifications. This would allow EMTU-Cs to be type-approved and used in certain federally managed fisheries with a VMS requirement. Generally, cellular communication services come at a significantly lower cost than satellite services. A lower cost could ease the financial burden on fishermen, while providing NMFS with additional capabilities to manage fishery resources, and to protect marine species and ecologically sensitive areas.

Timetable:

Action	Date	FR Cite
NPRM	01/24/20	85 FR 4257
NPRM Comment Period End.	02/24/20	
Final Action	07/08/20	85 FR 40915
Final Action Effective.	08/07/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: James Landon, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Hwy, Bldg SSMC 3, Room 3151, Silver Spring, MD 20910, *Phone:* 301 427–8245, *Email:* james.landon@noaa.gov, *RIN:* 0648–BJ15

186. Amendment 21 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan

E.O. 13771 Designation: Not subject to, not significant. *Legal Authority:* 16 U.S.C. 1801 *et seq.*

Abstract: In response to action by the Mid-Atlantic Fishery Management Council to integrate chub mackerel as a stock managed under the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan, this rulemaking action replaces preliminary chub mackerel management measures implemented in August 2017 under the Unmanaged Forage Omnibus Amendment that expire December 31, 2020. The objective of this action is to sustainably manage chub mackerel consistent with the Magnuson-Stevens Fishery Conservation and Management Act. The action would: Identify chub mackerel management goals and objectives; designate chub mackerel essential fish habitat; create a chub mackerel management unit; specify chub mackerel status determination criteria; set chub mackerel acceptable biological catch and annual catch limits; establish a process to set chub mackerel catch limits and distribute them among commercial and recreational fisheries; create accountability measures to prevent overfishing; and establish chub mackerel permit and reporting requirements.

Timetable:

Action	Date	FR Cite
Notice of Availability.	02/14/20	85 FR 8534
Notice of Availability Comment Period End.	04/14/20	
NPRM	03/09/20	85 FR 13603
NPRM Comment Period End.	04/08/20	
Final Rule	08/04/20	85 FR 47103
Correction	08/18/20	85 FR 50793
Final Rule Effective.	09/03/20	
Correction Effective.	09/03/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael Pentony, Regional Administrator, Greater Atlantic Region, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281-9283, *Fax:* 978 281-9207, *Email:* michael.pentony@noaa.gov. *RIN:* 0648-BJ16

187. Regulatory Amendment To Adjust the North Pacific Observer Program Partial Coverage Fee

E.O. 13771 Designation: Not subject to, not significant.

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

Abstract: In response to a recommendation by the North Pacific Fishery Management Council, this

action would modify the fee percentage assessed on groundfish and halibut landings made by vessels operating in the Bering Sea and Aleutian Islands and Gulf of Alaska management areas. This action would increase the observer fee from 1.25 percent to 1.65 percent of the ex-vessel value of landings made by vessels that are not in the full coverage category. Fee revenues are used to fund deployment of observers and electronic monitoring (EM) in the partial coverage category of the North Pacific Observer Program. This action is necessary to provide additional funding to deploy observers and EM in the partial coverage category to better meet monitoring objectives for the North Pacific Observer Program. Section 313 of the Magnuson-Stevens Fishery Conservation and Management Act establishes that data collected by well-trained, independent observers and EM are a cornerstone of the sustainable management of Federal fisheries off Alaska.

Timetable:

Action	Date	FR Cite
NPRM	03/09/20	85 FR 13618
NPRM Comment Period End.	04/08/20	
Final Action	07/10/20	85 FR 41424
Final Action Effective.	08/10/20	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: James Balsiger, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, 709 West Ninth Street, Juneau, AK 99801, *Phone:* 907 586-7221, *Fax:* 907 586-7465, *Email:* jim.balsiger@noaa.gov. *RIN:* 0648-BJ40

188. Amendment 121 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area and Amendment 110 to the Fishery Management Plan for Groundfish of the Gulf of Alaska

E.O. 13771 Designation: Deregulatory. *Legal Authority:* 16 U.S.C. 1801 *et seq.*

Abstract: This action implements the North Pacific Fishery Management Council's Amendments to the Bering Sea/Aleutian Islands (Amendment 121) and Gulf of Alaska (Amendment 110) Groundfish Fishery Management Plans (FMPs). These Amendments would move sculpins into the Ecosystem Component of the FMPs, which is a category of non-target species that are not in need of conservation and management. Magnuson-Stevens Act National Standard guidelines include options to identify non-target species in

FMPs (species caught incidentally during the pursuit of target stocks in a fishery) that do not require conservation and management as ecosystem component species. As an Ecosystem Component, this action proposes that catch specifications for sculpins (Overfishing Level, Acceptable Biological Catch, Total Allowable Catch) would no longer be required, but instead, regulations would prohibit directed fishing for sculpins, require recordkeeping and reporting to monitor and report catch of sculpins annually, and establish a sculpins maximum retainable amount when directed fishing for groundfish species at 20 percent to discourage retention while allowing flexibility to prosecute groundfish fisheries. This action would free up approximately 5,000 metric tons (mt) of total allowable catch (TAC) under the 2 million mt optimum yield limit for the Bering Sea/Aleutian Islands management area. This TAC could be allocated to any groundfish target species during the annual harvest specifications process, thereby allowing for some flexibility with allocations.

Timetable:

Action	Date	FR Cite
Notice of Availability.	03/23/20	85 FR 13610
NPRM	04/23/20	85 FR 22703
NPRM Comment Period End.	05/23/20	
Final Action	07/10/20	85 FR 41427
Final Action Effective.	08/10/20	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: James Balsiger, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, 709 West Ninth Street, Juneau, AK 99801, *Phone:* 907 586-7221, *Fax:* 907 586-7465, *Email:* jim.balsiger@noaa.gov. *RIN:* 0648-BJ49

189. Atlantic Bluefish 2020-2021 Specifications and Recreational Management Measures

E.O. 13771 Designation: Not subject to, not significant.

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

Abstract: The Mid-Atlantic Fishery Management Council has developed and recommended proposed 2020-21 bluefish fishery specifications. This action would revise bluefish fishery catch limits for fishing years 2020 and 2021, as well as recreational management measures to constrain catch to these new limits and prevent overfishing. The August 2019

operational assessment incorporated revised Marine Recreational Information Program estimates into its analyses and biological reference points. This assessment determined that the bluefish stock is overfished but not subject to overfishing. Using this new information, the Council recommends revising bluefish catch specifications to prevent overfishing from occurring. This action also proposed Council-recommended reductions in recreational bag limit or private anglers and for-hire (charter/party). All other management measures, including recreational season and minimum fish size would remain unchanged. Given the stock status, the fishery will be operating under interim measures promulgated under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act until this action is finalized.

Timetable:

Action	Date	FR Cite
NPRM	05/11/20	85 FR 27703
NPRM Comment Period End.	05/26/20	
Final Action	06/29/20	85 FR 38794
Final Action Effective.	06/29/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael Pentony, Regional Administrator, Greater Atlantic

Region, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281-9283, *Fax:* 978 281-9207, *Email:* michael.pentony@noaa.gov.
RIN: 0648-BJ61

DEPARTMENT OF COMMERCE (DOC)

Patent and Trademark Office (PTO)

Final Rule Stage

190. Trademark Fee Adjustment

Regulatory Plan: This entry is Seq. No. 10 in part II of this issue of the **Federal Register**.

RIN: 0651-AD42

DEPARTMENT OF COMMERCE (DOC)

Patent and Trademark Office (PTO)

Completed Actions

191. Setting and Adjusting Patent Fees During Fiscal Year 2020

E.O. 13771 Designation: Fully or Partially Exempt.

Legal Authority: 35 U.S.C. 2(b)(2); 5 U.S.C. 500; 15 U.S.C. 1123; 35 U.S.C. 32; 35 U.S.C. 41; Pub. L. 113-227; 35 U.S.C. 3(a)(2)(A); 35 U.S.C. 21; 35 U.S.C. 23; 35 U.S.C. 134; 35 U.S.C. 135; Pub. L. 112-

29; 35 U.S.C. 6; 35 U.S.C. 311; 35 U.S.C. 231; 35 U.S.C. 321-326; Pub. L. 112-274

Abstract: The USPTO operates like a business in that it fulfills requests for intellectual property products and services that are paid for by users of those services. The USPTO takes this action to set and adjusts patent fee amounts to provide sufficient aggregate revenue to cover aggregate cost of operations.

Timetable:

Action	Date	FR Cite
NPRM	07/31/19	84 FR 37398
NPRM Comment Period End.	09/30/19	
Final Action	08/03/20	85 FR 46932
Correction	09/18/20	85 FR 58282
Final Action Effective.	10/02/20	
Correction Effective.	10/02/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Brendan Hourigan, Director, Office of Planning and Budget, Department of Commerce, Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450, *Phone:* 571 272-8966, *Fax:* 571 273-8966, *Email:* brendan.hourigan@uspto.gov.

RIN: 0651-AD31

[FR Doc. 2021-04469 Filed 3-30-21; 8:45 am]

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Part V

Department of Defense

Semiannual Regulatory Agenda

DEPARTMENT OF DEFENSE**32 CFR Chs. I, V, VI, and VII****33 CFR Ch. II****36 CFR Ch. III****48 CFR Ch. II****Improving Government Regulations; Unified Agenda of Federal Regulatory and Deregulatory Actions****AGENCY:** Department of Defense (DoD).**ACTION:** Semiannual regulatory agenda.

SUMMARY: This agenda announces the proposed regulatory actions the Department of Defense (DOD) plans for the next 12 months and those completed since the spring 2020 agenda. It was developed under the guidelines of Executive Order 12866 “Regulatory Planning and Review,” Executive Order 13771 “Reducing Regulation and Controlling Regulatory Costs,” and Executive Order 13563 “Improving Regulation and Regulatory Review.” This Agenda documents DOD’s work under Executive Order 13777 “Enforcing the Regulatory Reform Agenda,” and many regulatory actions support the recommendations of the DoD Regulatory Reform Task Force (as indicated in the individual rule abstracts). This Agenda also includes regulatory actions the Department is taking to address the current worldwide pandemic. These include efforts to ensure TRICARE beneficiaries have access to the most up-to-date care required for the diagnosis and treatment of COVID-19. Members of the public may submit comments on individual proposed and interim final rulemakings at www.regulations.gov during the comment period that follows publication in the **Federal Register**.

This agenda updates the report published on June 30, 2020, and includes regulations expected to be issued and under review over the next 12 months. The next agenda will publish in the spring of 2021.

The complete Unified Agenda will be available online at www.reginfo.gov.

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), the Department of Defense’s printed agenda entries include only:

(1) Rules that are in the Agency’s regulatory flexibility agenda, in

accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Any rules that the Agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act’s agenda requirements. Additional information on these entries is in the Unified Agenda available online.

FOR FURTHER INFORMATION CONTACT: For information concerning the overall DoD regulatory improvement program, for general semiannual agenda information, and regarding Office of the Secretary regulations (other than those which are procurement-related), contact Ms. Patricia Toppings, telephone 571-372-0485, or write to Office of the Chief Management Officer, Directorate for Oversight and Compliance, Regulatory and Advisory Committee Division, 9010 Defense Pentagon, Washington, DC 20301-9010, or email: patricia.l.toppings.civ@mail.mil.

For questions of a legal nature concerning the agenda and its statutory requirements or obligations, write to Office of the General Counsel, 1600 Defense Pentagon, Washington, DC 20301-1600, or call 703-693-9958.

For general information on Office of the Secretary regulations which are procurement-related, contact Ms. Jennifer D. Johnson, telephone 571-372-6100, or write to Office of the Under Secretary of Defense for Acquisition and Sustainment, Defense Pricing and Contracting, Defense Acquisition Regulations System, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301-3060, or email: jennifer.d.johnson1.civ@mail.mil.

For general information on Department of the Army regulations, contact Mr. James “Jay” Satterwhite, telephone 571-515-0304, or write to the U.S. Army Records Management and Declassification Agency, ATTN: AAHS-RDO, Building 1458, 9301 Chapek Road, Ft. Belvoir, VA 22060-5605, or email: james.w.satterwhite.civ@mail.mil.

For general information on the U.S. Army Corps of Engineers regulations, contact Ms. Stacey Jensen, telephone 703-695-6791, or write to Office of the Assistant Secretary of the Army (Civil Works), 108 Army Pentagon, Room

3E441, Washington, DC 20310-0108, or email: stacey.m.jensen.civ@mail.mil.

For general information on Department of the Navy regulations, contact CDR Katherine Callan, telephone 703-614-7408, or write to Department of the Navy, Office of the Judge Advocate General, Administrative Law Division (Code 13), Washington Navy Yard, 1322 Patterson Avenue SE, Suite 3000, Washington, DC 20374-5066, or email: Katherine.callan@navy.mil.

For general information on Department of the Air Force regulations, contact Bao-Anh Trinh, telephone 703-614-8500, or write the Office of the Secretary of the Air Force, Chief, Information Dominance/Chief Information Officer (SAF CIO/A6), 1800 Air Force Pentagon, Washington, DC 20330-1800, or email: usaf.pentagon.saf-cio-a6.mbx.af-foia@mail.mil.

For specific agenda items, contact the appropriate individual indicated for each regulatory action.

SUPPLEMENTARY INFORMATION: This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions reports on actions planned by the Office of the Secretary of Defense (OSD), the Military Departments, procurement-related actions, and actions planned by the U.S. Army Corps of Engineers.

This agenda also identifies rules impacted by the:

- a. Regulatory Flexibility Act;
- b. Paperwork Reduction Act of 1995;
- c. Unfunded Mandates Reform Act of 1995.

Generally, rules discussed in this agenda will contain five sections: (1) Prerule stage; (2) proposed rule stage; (3) final rule stage; (4) completed actions; and (5) long-term actions. Where certain regulatory actions indicate that small entities are affected, the effect on these entities may not necessarily have significant economic impact on a substantial number of these entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601(6)).

The publishing of this agenda does not waive the applicability of the military affairs exemption in section 553 of title 5 U.S.C. and section 3 of Executive Order 12866.

Dated: September 3, 2020.

Patricia L. Toppings,
OSD Federal Register Liaison Officer,
Department of Defense.

DEFENSE ACQUISITION REGULATIONS COUNCIL—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
192	Small Business Innovation Research Program Data Rights (DFARS Case 2019–D043) (Reg Plan Seq No. 14).	0750–AK84
193	Reauthorization and Improvement of Mentor-Protege Program (DFARS Case 2020–D009) (Reg Plan Seq No. 15).	0750–AK96

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

DEFENSE ACQUISITION REGULATIONS COUNCIL—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
194	Covered Telecommunications Equipment or Services (DFARS Case 2018–D022) (Reg Plan Seq No. 16)	0750–AJ84
195	Assessing Contractor Implementation of Cybersecurity Requirements (DFARS Case 2019–D041) (Reg Plan Seq No. 17).	0750–AK81
196	Justification and Approval Thresholds for 8(a) Contracts (DFARS Case 2020–D006)	0750–AK93

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

DEFENSE ACQUISITION REGULATIONS COUNCIL—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
197	Inflation Adjustment of Acquisition-Related Thresholds (DFARS Case 2019–D036)	0750–AK76

DEPARTMENT OF THE NAVY—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
198	Professional Conduct of Attorneys Practicing Under the Cognizance and Supervision of the Judge Advocate General (Section 610 Review).	0703–AB19

OFFICE OF ASSISTANT SECRETARY FOR HEALTH AFFAIRS—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
199	TRICARE: Chiropractic and Acupuncture Treatment Under the TRICARE Program	0720–AB77

DEPARTMENT OF DEFENSE (DOD)

Defense Acquisition Regulations Council (DARC)

Proposed Rule Stage

192. Small Business Innovation Research Program Data Rights (DFARS Case 2019–D043)

Regulatory Plan: This entry is Seq. No. 14 in part II of this issue of the **Federal Register**.

RIN: 0750–AK84

193. Reauthorization and Improvement of Mentor-Protege Program (DFARS Case 2020–D009)

Regulatory Plan: This entry is Seq. No. 15 in part II of this issue of the **Federal Register**.

RIN: 0750–AK96

DEPARTMENT OF DEFENSE (DOD)

Defense Acquisition Regulations Council (DARC)

Final Rule Stage

194. Covered Telecommunications Equipment or Services (DFARS Case 2018–D022)

Regulatory Plan: This entry is Seq. No. 16 in part II of this issue of the **Federal Register**.

RIN: 0750–AJ84

195. Assessing Contractor Implementation of Cybersecurity Requirements (DFARS Case 2019–D041)

Regulatory Plan: This entry is Seq. No. 17 in part II of this issue of the **Federal Register**.

RIN: 0750–AK81

196. Justification and Approval Thresholds for 8(A) Contracts (DFARS Case 2020–D006)

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: 41 U.S.C. 1303; Pub. L. 116–92, sec. 823

Abstract: DoD issued a final rule amending the Defense Federal Acquisition Regulation Supplement to implement section 823 of the National Defense Authorization Act for Fiscal Year 2020. Section 823, the increases the threshold for requiring a justification and approval to award a sole source contract under the 8(a) program to \$100 million and updates the associated approval authorities when a procurement exceeds the threshold.

Timetable:

Action	Date	FR Cite
Final Action	11/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jennifer D. Johnson, Office of the Under Secretary of Defense for Acquisition and Sustainment, Department of Defense, Defense Pricing and Contracting, Defense Acquisition Regulations System, Room 3B941, 3060 Pentagon, Washington, DC 20301-3060, *Phone:* 571 372-6100, *Email:* jennifer.d.johnson1.civ@mail.mil.
RIN: 0750-AK93

DEPARTMENT OF DEFENSE (DOD)

Defense Acquisition Regulations Council (DARC)

Completed Actions

197. Inflation Adjustment of Acquisition-Related Thresholds (DFARS Case 2019-D036)

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: 41 U.S.C. 1303; 41 U.S.C. 1908

Abstract: DoD issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to adjust statutory acquisition-related thresholds for inflation to implement 41 U.S.C. 1908 and other acquisition-related thresholds as a matter of policy, effective October 1, 2020.

Timetable:

Action	Date	FR Cite
NPRM	04/08/20	85 FR 19716
NPRM Comment Period End.	06/08/20	
Final Action	09/29/20	85 FR 61502
Final Action Effective.	10/01/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jennifer D. Johnson, Office of the Under Secretary of Defense for Acquisition and Sustainment, Department of Defense, Defense Pricing and Contracting, Defense Acquisition Regulations System, Room 3B941, 3060 Pentagon, Washington, DC 20301-3060, *Phone:* 571 372-6100, *Email:* jennifer.d.johnson1.civ@mail.mil.
RIN: 0750-AK76

DEPARTMENT OF DEFENSE (DOD)

Department of the Navy (NAVY)

Final Rule Stage

198. Professional Conduct of Attorneys Practicing Under the Cognizance And Supervision of the Judge Advocate General (Section 610 Review)

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: 10 U.S.C. 806; 10 U.S.C. 806a; 10 U.S.C. 826; 10 U.S.C. 827; 10 U.S.C. 1044; . . .

Abstract: This action will amend a Department of the Navy rule last revised November 27, 2015 (80 FR 73991) to remove internal content and conform the language to the current Judge Advocate General Instruction 5803.1E of the same name, available at http://www.jag.navy.mil/library/instructions/JAGINST_5803-1E.pdf. This amendment supports a recommendation of the DoD Regulatory Reform Task Force.

Timetable:

Action	Date	FR Cite
Final Action	12/00/20	

Regulatory Flexibility Analysis Required: No.

Agency Contact: CDR Katherine Callan, Department of Defense, Department of the Navy, Washington Navy Yard, 1322 Patterson Avenue SE, Suite 3000, Washington, DC 20374-5066, *Phone:* 703 614-7408, *Email:* katherine.callan@navy.mil.
RIN: 0703-AB19

DEPARTMENT OF DEFENSE (DOD)

Office of Assistant Secretary for Health Affairs (DODOASHA)

Proposed Rule Stage

199. TRICARE: Chiropractic and Acupuncture Treatment Under the TRICARE Program

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: Not Yet Determined

Abstract: Under the current regulations, TRICARE excludes chiropractors as TRICARE-authorized providers whether or not their services would be eligible as medically necessary care if furnished by any other authorized provider. In addition, the current regulation excludes acupuncture treatment whether used as a therapeutic agent or as an anesthetic. This proposed rule seeks to eliminate these exclusions and to add benefit coverage of chiropractic and acupuncture treatment when deemed medically necessary for specific conditions. This rule proposes to add licensed Doctors of Chiropractic (DCs) and Licensed Acupuncturists (LACs) who meet established qualifications as TRICARE-authorized providers and will establish reimbursement rates and cost-sharing provisions for covered chiropractic and acupuncture treatment.

Timetable:

Action	Date	FR Cite
NPRM	11/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Joy Mullane, Department of Defense, Office of Assistant Secretary for Health Affairs, 16401 E Centretch Parkway, Aurora, CO 80011-9066, *Phone:* 303 676-3457, *Fax:* 303 676-3579, *Email:* joy.mullane.civ@mail.mil.
RIN: 0720-AB77

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Part VI

Department of Education

Semiannual Regulatory Agenda

DEPARTMENT OF EDUCATION

Office of the Secretary

34 CFR Subtitles A and B

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Office of the Secretary, Department of Education.

ACTION: Semiannual regulatory agenda.

SUMMARY: This document is required pursuant to the Regulatory Flexibility Act. It provides information about the Unified Agenda published on December 9, 2020 at www.reginfo.gov/public/do/eAgendaMain under the previous administration. The Secretary of Education publishes a semiannual agenda of Federal regulatory and deregulatory actions. The agenda is issued under the authority of section 4(b) of Executive Order 12866, "Regulatory Planning and Review." The purpose of the agenda is to encourage more effective public participation in the regulatory process by providing the public with early information about the regulatory actions we plan to take.

FOR FURTHER INFORMATION CONTACT: Questions or comments related to specific regulations listed in this agenda should be directed to the agency contact listed for the regulations. Other questions or comments on this agenda should be directed to LaTanya Cannady, Program Specialist, Jackie Collins, Program Specialist, Levon Schlichter, Attorney, or Hilary Malawer, Deputy General Counsel, Division of Regulatory Services, Department of Education, Room 6C128, 400 Maryland Avenue SW, Washington, DC 20202-2241; telephone: LaTanya Cannady (202) 401-9676, Jackie Collins (202) 401-6310,

Levon Schlichter (202) 453-6387, or Hilary Malawer (202) 401-6148. Individuals who use a telecommunications device for the deaf or a text telephone may call the Federal Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION: Section 4(b) of Executive Order 12866, dated September 30, 1993, requires the Department of Education (ED) to publish, at a time and in a manner specified by the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, an agenda of all regulations under development or review. The Regulatory Flexibility Act, 5 U.S.C. 602(a), requires ED to publish, in October and April of each year, a regulatory flexibility agenda.

The regulatory flexibility agenda may be combined with any other agenda that satisfies the statutory requirements (5 U.S.C. 605(a)). In compliance with the Executive order and the Regulatory Flexibility Act, the Secretary publishes this agenda.

For each set of regulations listed, the agenda provides the title of the document, the type of document, a citation to any rulemaking or other action taken since publication of the most recent agenda, and planned dates of future rulemaking. In addition, the agenda provides the following information:

- An abstract that includes a description of the problem to be addressed, any principal alternatives being considered, and potential costs and benefits of the action.
- An indication of whether the planned action is likely to have significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601(6)).

- A reference to where a reader can find the current regulations in the Code of Federal Regulations.

- A citation of legal authority.
- The name, address, and telephone number of the contact person at ED from whom a reader can obtain additional information regarding the planned action.

In accordance with ED's Principles for Regulating listed in its regulatory plan (78 FR 1361, published January 8, 2013), ED is committed to regulations that improve the quality and equality of services it provides to its customers. ED will regulate only if absolutely necessary and then in the most flexible, most equitable, and least burdensome way possible.

Interested members of the public are invited to comment on any of the items listed in this agenda that they believe are not consistent with the Principles for Regulating. Members of the public are also invited to comment on any uncompleted actions in this agenda that ED plans to review under section 610 of the Regulatory Flexibility Act (5 U.S.C. 610) to determine their economic impact on small entities.

This publication does not impose any binding obligation on ED with regard to any specific item in the agenda. ED may elect not to pursue any of the regulatory actions listed here. Dates of future regulatory actions are subject to revision in subsequent agendas.

Electronic Access to This Document: The entire Unified Agenda is published electronically and is available online at www.reginfo.gov.

Lynn Mahaffie,
Assistant General Counsel, Division of Regulatory Services.

OFFICE OF POSTSECONDARY EDUCATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
200	Ensuring Student Access to High Quality and Innovative Postsecondary Educational Programs	1840-AD38

DEPARTMENT OF EDUCATION (ED)

Office of Postsecondary Education (OPE)

Completed Actions

200. Ensuring Student Access to High Quality and Innovative Postsecondary Educational Programs

E.O. 13771 Designation: Deregulatory.
Legal Authority: 20 U.S.C. 3474; 20 U.S.C. 1221e-3; 20 U.S.C. 1011 *et seq.*

Abstract: The Department created and amended, through negotiated rulemaking, regulations relating to institutional eligibility and operations for participation in Federal student financial aid under title IV of the Higher Education Act of 1965, as amended HEA, including those relating to credit hour, competency-based education, direct assessment programs, and regular and substantive interaction between faculty and students in the delivery of distance education programs, in order to

promote greater access for students to high-quality, innovative programs of postsecondary education.

Timetable:

Action	Date	FR Cite
Notice of Intention to Commence Negotiated Rulemaking.	07/31/18	83 FR 36814
NPRM	04/02/20	85 FR 18638
NPRM Comment Period End.	05/04/20	

Action	Date	FR Cite
Final Rule	09/02/20	85 FR 54742
Final Rule Effective.	07/01/21	

Avenue SW, Washington, DC 20202,
Phone: 202 453-7535, Email:
gregory.martin@ed.gov.

RIN: 1840-AD38

[FR Doc. 2021-04345 Filed 3-30-21; 8:45 am]

BILLING CODE 4000-01-P

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Greg Martin,
Department of Education, Office of
Postsecondary Education, 400 Maryland



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Part VII

Department of Energy

Semiannual Regulatory Agenda

DEPARTMENT OF ENERGY

10 CFR Chs. II, III, and X

48 CFR Ch. 9

Fall 2019 Unified Agenda of Regulatory and Deregulatory Actions

AGENCY: Department of Energy.

ACTION: Semi-annual regulatory agenda.

SUMMARY: The Department of Energy (DOE) has prepared and is making available its portion of the semi-annual Unified Agenda of Federal Regulatory and Deregulatory Actions (Agenda), including its Regulatory Plan (Plan), pursuant to Executive Order 12866, "Regulatory Planning and Review," and the Regulatory Flexibility Act.

SUPPLEMENTARY INFORMATION: The Agenda is a government-wide compilation of upcoming and ongoing regulatory activity, including a brief description of each rulemaking and a timetable for action. The Agenda also

includes a list of regulatory actions completed since publication of the last Agenda. The Department of Energy's portion of the Agenda includes regulatory actions called for by statute, including amendments contained in the Energy Independence and Security Act of 2007 (EISA) and the American Energy Manufacturing Technical Corrections Act (AEMTCA), and programmatic needs of DOE offices.

The internet is the basic means for disseminating the Agenda and providing users the ability to obtain information from the Agenda database. DOE's entire Fall 2020 Regulatory Agenda can be accessed online by going to www.reginfo.gov.

Publication in the **Federal Register** is mandated by the Regulatory Flexibility Act (5 U.S.C. 602) only for Agenda entries that require either a regulatory flexibility analysis or periodic review under section 610 of that Act. The Plan appears in both the online Agenda and the **Federal Register** and includes the

most important of DOE's significant regulatory actions and a Statement of Regulatory and Deregulatory Priorities.

This document of the Department of Energy was signed on December 18, 2020, by William S. Cooper, General Counsel. That document with the original signature and date is maintained by the Department of Energy. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the Department of Energy has delegated authority to the undersigned RISC Federal Register Liaison Officer to re-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**.

Terri Tolson-Young,

Federal Register Liaison Officer, Regulatory Information Service Center.

ENERGY EFFICIENCY AND RENEWABLE ENERGY—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
201	Energy Conservation Standards for General Service Lamps	1904-AD09
202	Energy Conservation Standards for Residential Conventional Cooking Products	1904-AD15
203	Energy Conservation Standards for Residential Non-Weatherized Gas Furnaces and Mobile Home Gas Furnaces.	1904-AD20
204	Energy Conservation Standards for Commercial Water Heating Equipment	1904-AD34

DEPARTMENT OF ENERGY (DOE)

Energy Efficiency and Renewable Energy (EE)

Proposed Rule Stage

201. Energy Conservation Standards for General Service Lamps

E.O. 13771 Designation: Other.

Legal Authority: 42 U.S.C. 6295(i)(6)(A)

Abstract: The U.S. Department of Energy (DOE) will issue a Supplemental Notice of Proposed Rulemaking that includes a proposed determination with respect to whether to amend or adopt standards for general service light-emitting diode (LED) lamps and that may include a proposed determination with respect to whether to amend or adopt standards for compact fluorescent lamps.

Timetable:

Action	Date	FR Cite
Framework Document Availability; Notice of Public Meeting.	12/09/13	78 FR 73737

Action	Date	FR Cite	Action	Date	FR Cite
Framework Document Comment Period End.	01/23/14		Notice of Public Meeting; Webinar.	10/05/16	81 FR 69009
Framework Document Comment Period Extended.	01/23/14	79 FR 3742	Proposed Definition and Data Availability.	10/18/16	81 FR 71794
Framework Document Comment Period Extended End.	02/07/14		Proposed Definition and Data Availability Comment Period End.	11/08/16	
Preliminary Analysis and Notice of Public Meeting.	12/11/14	79 FR 73503	Final Rule Adopting a Definition for GSL.	01/19/17	82 FR 7276
Preliminary Analysis Comment Period Extended.	01/30/15	80 FR 5052	Final Rule Adopting a Definition for GSL Effective.	01/01/20	
Preliminary Analysis Comment Period Extended End.	02/23/15		Final Rule Adopting a Definition for GSL Including IRL.	01/19/17	82 FR 7322
Notice of Public Meeting; Webinar.	03/15/16	81 FR 13763	Final Rule Adopting a Definition for GSL Including IRL Effective.	01/01/20	
NPRM	03/17/16	81 FR 14528	Supplemental NPRM.	04/00/21	
NPRM Comment Period End.	05/16/16				

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: John Cymbalsky, Building Technologies Office, EE-5B, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW, Washington, DC 20585, Phone: 202 287-1692, Email: john.cymbalsky@ee.doe.gov. RIN: 1904-AD09

202. Energy Conservation Standards for Residential Conventional Cooking Products

E.O. 13771 Designation: Regulatory. Legal Authority: 42 U.S.C. 6295(m)(1); 42 U.S.C. 6292(a)(10); 42 U.S.C. 6295(h) Abstract: The Energy Policy and Conservation Act (EPCA), as amended by Energy Independence and Security Act of 2007 (EISA), requires the Secretary to determine whether updating the statutory energy conservation standards for residential conventional cooking products would yield a significant savings in energy use and is technologically feasible and economically justified. The U.S. Department of Energy (DOE) is reviewing the current standards to make such determination.

Timetable:

Action	Date	FR Cite
Request for Information (RFI).	02/12/14	79 FR 8337
RFI Comment Period End.	03/14/14	
RFI Comment Period Extended.	03/03/14	79 FR 11714
RFI Comment Period Extended End.	04/14/14	
NPRM and Public Meeting.	06/10/15	80 FR 33030
NPRM Comment Period Extended.	07/30/15	80 FR 45452
NPRM Comment Period Extended End.	09/09/15	
Supplemental NPRM.	09/02/16	81 FR 60784
SNPRM Comment Period Extended.	09/30/16	81 FR 67219
SNPRM Comment Period Extended End.	11/02/16	
Supplemental NPRM/Proposed Determination.	11/00/20	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Stephanie Johnson, General Engineer, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW, Building Technologies

Office, EE5B, Washington, DC 20585, Phone: 202 287-1943, Email: stephanie.johnson@ee.doe.gov. RIN: 1904-AD15

203. Energy Conservation Standards for Residential Non-Weatherized Gas Furnaces and Mobile Home Gas Furnaces

E.O. 13771 Designation: Regulatory. Legal Authority: 42 U.S.C. 6295(f)(4)(C); 42 U.S.C. 6295(m)(1); 42 U.S.C. 6295(gg)(3) Abstract: The Energy Policy and Conservation Act, as amended, (EPCA) prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including residential furnaces. EPCA also requires the U.S. Department of Energy (DOE) to determine whether more-stringent amended standards would be technologically feasible and economically justified and would save a significant amount of energy. DOE is considering amendments to its energy conservation standards for residential non-weatherized gas furnaces and mobile home gas furnaces in partial fulfillment of a court-ordered remand of DOE's 2011 rulemaking for these products.

Timetable:

Action	Date	FR Cite
Notice of Public Meeting.	10/30/14	79 FR 64517
NPRM and Notice of Public Meeting.	03/12/15	80 FR 13120
NPRM Comment Period Extended.	05/20/15	80 FR 28851
NPRM Comment Period Extended End.	07/10/15	
Notice of Data Availability (NODA).	09/14/15	80 FR 55038
NODA Comment Period End.	10/14/15	
NODA Comment Period Re-opened.	10/23/15	80 FR 64370
NODA Comment Period Re-opened End.	11/06/15	
Supplemental NPRM and Notice of Public Meeting.	09/23/16	81 FR 65720
Supplemental NPRM Comment Period End.	11/22/16	
SNPRM Comment Period Re-opened.	12/05/16	81 FR 87493
SNPRM Comment Period End.	01/06/17	

Action	Date	FR Cite
Supplemental NPRM.	06/00/21	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: John Cymbalsky, Building Technologies Office, EE-5B, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW, Washington, DC 20585, Phone: 202 287-1692, Email: john.cymbalsky@ee.doe.gov. RIN: 1904-AD20

204. Energy Conservation Standards for Commercial Water Heating Equipment

E.O. 13771 Designation: Regulatory. Legal Authority: 42 U.S.C. 6313(a)(6)(C)(i) and (vi) Abstract: Once completed, this rulemaking will fulfill the U.S. Department of Energy's (DOE) statutory obligation under the Energy Policy and Conservation Act, as amended, (EPCA) to either propose amended energy conservation standards for commercial water heaters and hot water supply boilers, or determine that the existing standards do not need to be amended. (Unfired hot water storage tanks and commercial heat pump water heaters are being considered in a separate rulemaking.) DOE must determine whether national standards more stringent than those that are currently in place would result in a significant additional amount of energy savings and whether such amended national standards would be technologically feasible and economically justified.

Timetable:

Action	Date	FR Cite
Request for Information (RFI).	10/21/14	79 FR 62899
RFI Comment Period End.	11/20/14	
NPRM	05/31/16	81 FR 34440
NPRM Comment Period End.	08/01/16	
NPRM Comment Period Re-opened.	08/05/16	81 FR 51812
NPRM Comment Period Re-opened End.	08/30/16	
Notice of Data Availability (NODA).	12/23/16	81 FR 94234
NODA Comment Period End.	01/09/17	
Supplemental NPRM/Proposed Determination.	11/00/20	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Catherine Rivest,
General Engineer, Department of
Energy, Energy Efficiency and
Renewable Energy, 1000 Independence

Avenue SW, Building Technologies
Office, EE-5B, Washington, DC 20585,
Phone: 202 586-7335, *Email:*
catherine.rivest@ee.doe.gov.

RIN: 1904-AD34
[FR Doc. 2021-05662 Filed 3-30-21; 8:45 am]
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Part VIII

Department of Health and Human Services

Semiannual Regulatory Agenda

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

21 CFR Ch. I

25 CFR Ch. V

42 CFR Chs. I–V

45 CFR Subtitle A; Subtitle B, Chs. II, III, and XIII

Regulatory Agenda

AGENCY: Office of the Secretary, HHS.

ACTION: Semiannual Regulatory Agenda.

SUMMARY: The Regulatory Flexibility Act of 1980 and Executive Order (E.O.) 12866 require the semiannual issuance of an inventory of rulemaking actions under development throughout the Department, offering for public review summarized information about forthcoming regulatory actions.

FOR FURTHER INFORMATION CONTACT: The Executive Secretariat, Department of Health and Human Services, 200 Independence Avenue SW, Washington, DC 20201; (202) 690–5627.

SUPPLEMENTARY INFORMATION: The Department of Health and Human Services (HHS) is the Federal government’s lead agency for protecting the health of all Americans and providing essential human services, especially for those who are least able to help themselves. HHS enhances the health and well-being of Americans by promoting effective health and human services and by fostering sound, sustained advances in the sciences underlying medicine, public health, and social services.

This Agenda presents the regulatory activities that the Department expects to undertake in the foreseeable future to advance this mission. HHS has an agency-wide effort to support the Agenda’s purpose of encouraging more

effective public participation in the regulatory process. For example, to encourage public participation, we regularly update our regulatory web page (<http://www.HHS.gov/regulations>) which includes links to HHS rules currently open for public comment, and also provides a “regulations toolkit” with background information on regulations, the commenting process, how public comments influence the development of a rule, and how the public can provide effective comments.

The rulemaking abstracts included in this paper issue of the **Federal Register** cover, as required by the Regulatory Flexibility Act of 1980, those prospective HHS rulemakings likely to have a significant economic impact on a substantial number of small entities. The Department’s complete Regulatory Agenda is accessible online at <http://www.RegInfo.gov>.

Samuel A. Shipley,
Senior Regulations Coordinator.

OFFICE OF THE SECRETARY—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
205	Limiting the Effect of Exclusions Implemented Under the Social Security Act (Rulemaking Resulting From a Section 610 Review).	0991–AC11

OFFICE FOR CIVIL RIGHTS—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
206	Implementation of the Religious Freedom Restoration Act (Section 610 Review)	0945–AA13
207	Special Responsibilities of Medicare Hospitals in Emergency Cases, and Discrimination on the Basis of Disability in Critical Health and Human Services Programs or Activities (Section 610 Review) (Reg Plan Seq No. 33).	0945–AA14
208	Rulemaking on Discrimination on the Basis of Disability in Critical Health and Human Services Programs or Activities (Rulemaking Resulting From a Section 610 Review).	0945–AA15

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

OFFICE FOR CIVIL RIGHTS—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
209	Nondiscrimination in Health and Health Education Programs or Activities	0945–AA11

OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH INFORMATION TECHNOLOGY—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
210	Information Blocking and the ONC Health IT Certification Program: Extension of Compliance Dates and Timeframes in Response to the COVID–19 Public Health Emergency (Reg Plan Seq No. 35).	0955–AA02

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH INFORMATION TECHNOLOGY—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
211	21st Century Cures Act: Interoperability, Information Blocking, and the ONC Health IT Certification Program.	0955-AA01

CENTERS FOR DISEASE CONTROL AND PREVENTION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
212	Control of Communicable Diseases; Foreign Quarantine	0920-AA75

CENTERS FOR DISEASE CONTROL AND PREVENTION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
213	Control of Communicable Diseases; Foreign Quarantine: Suspension of the Right to Introduction and Prohibition of Introduction of Persons into United States from Designated Foreign Countries or Places.	0920-AA76

FOOD AND DRUG ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
214	Medication Guide; Patient Medication Information	0910-AH68
215	Requirements for Tobacco Product Manufacturing Practice	0910-AH91
216	Administrative Detention of Tobacco Products	0910-AI05
217	Nutrient Content Claims, Definition of Term: Healthy	0910-AI13
218	Revocation of Uses of Partially Hydrogenated Oils in Foods	0910-AI15
219	Conduct of Analytical and Clinical Pharmacology, Bioavailability and Bioequivalence Studies	0910-AI57

FOOD AND DRUG ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
220	Sunlamp Products; Amendment to the Performance Standard	0910-AG30
221	Mammography Quality Standards Act (Reg Plan Seq No. 37)	0910-AH04
222	General and Plastic Surgery Devices: Restricted Sale, Distribution, and Use of Sunlamp Products	0910-AH14
223	Amendments to the List of Bulk Drug Substances That Can Be Used To Compound Drug Products in Accordance With Section 503A of the Federal Food, Drug, and Cosmetic Act.	0910-AH81
224	Milk and Cream Product and Yogurt Products, Final Rule to Revoke the Standards for Lowfat Yogurt and Nonfat Yogurt and to Amend the Standard for Yogurt.	0910-AI40

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

FOOD AND DRUG ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
225	Acute Nicotine Toxicity Warnings for E-Liquids	0910-AH24

FOOD AND DRUG ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
226	Postmarketing Safety Reporting Requirements for Human Drug and Biological Products	0910-AA97
227	Over-the-Counter (OTC) Drug Review—Cough/Cold (Antihistamine) Products	0910-AF31
228	Food Labeling; Gluten-Free Labeling of Fermented or Hydrolyzed Foods	0910-AH00
229	Testing Standards for Batteries and Battery Management Systems in Battery-Operated Tobacco Products	0910-AH90

CENTERS FOR MEDICARE & MEDICAID SERVICES—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
230	Medicaid Programs Reducing Provider and Patient Burden, and Promoting Patients' Electronic Access to Health Information (CMS-9123).	0938-AT99
231	CY 2022 Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Medicare Part B (CMS-1751) (Section 610 Review) .	0938-AU42
232	CY 2022 Hospital Outpatient PPS Policy Changes and Payment Rates and Ambulatory Surgical Center Payment System Policy Changes and Payment Rates (CMS-1753) (Section 610 Review) .	0938-AU43
233	Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals; the Long-Term Care Hospital Prospective Payment System; and FY 2022 Rates (CMS-1752) (Section 610 Review) .	0938-AU44

CENTERS FOR MEDICARE & MEDICAID SERVICES—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
234	Durable Medical Equipment Fee Schedule, Adjustments to Resume the Transitional 50/50 Blended Rates to Provide Relief in Non-Competitive Bidding Areas (CMS-1687) (Section 610 Review) .	0938-AT21
235	International Pricing Index Model For Medicare Part B Drugs (CMS-5528) (Section 610 Review)	0938-AT91
236	CY 2021 Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Medicare Part B (CMS-1734) (Section 610 Review) .	0938-AU10
237	CY 2021 Hospital Outpatient PPS Policy Changes and Payment Rates and Ambulatory Surgical Center Payment System Policy Changes and Payment Rates (CMS-1736) (Section 610 Review) .	0938-AU12

CENTERS FOR MEDICARE & MEDICAID SERVICES—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
238	Requirements for Long-Term Care Facilities: Regulatory Provisions to Promote Increased Safety (CMS-3347) (Section 610 Review) .	0938-AT36

CENTERS FOR MEDICARE & MEDICAID SERVICES—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
239	Organ Procurement Organizations (OPOs) (CMS-3380) (Completion of a Section 610 Review)	0938-AU02
240	Transparency in Coverage (CMS-9915)	0938-AU04
241	FY 2021 Inpatient Rehabilitation Facility (IRF) Prospective Payment System Rate Update (CMS-1729) (Completion of a Section 610 Review) .	0938-AU05
242	FY 2021 Inpatient Psychiatric Facilities Prospective Payment System Rate Updates (CMS-1731) (Completion of a Section 610 Review) .	0938-AU07
243	Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals; the Long-Term Care Hospital Prospective Payment System; and FY 2021 Rates (CMS-1735) (Section 610 Review) .	0938-AU11
244	Clinical Laboratory Improvement Amendments and Patient Protection and Affordable Care Act; Additional Policy and Regulatory Revisions in Response to the COVID-19 Public Health Emergency (CMS-3401) (Completion of a Section 610 Review) .	0938-AU33

ADMINISTRATION FOR CHILDREN AND FAMILIES—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
245	Updating Native Employment Works Requirements (Rulemaking Resulting From a Section 610 Review) .	0970-AC83

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Office of the Secretary (OS)

Proposed Rule Stage

205. Limiting the Effect of Exclusions Implemented Under the Social Security Act (Rulemaking Resulting From a Section 610 Review)

E.O. 13771 Designation: Deregulatory.
Legal Authority: 5 U.S.C. 301; 31 U.S.C. 6101

Abstract: Exclusions implemented under the Social Security Act prevent individuals convicted of certain crimes or individuals whose health care licenses have been revoked from participating in Federal health care programs. Instead of only being barred from participating in all Federal healthcare programs, certain regulatory provisions have resulted in these type of exclusion actions being given an overly broad government-wide effect, and excluded parties have been barred from participating in all Federal procurement and non-procurement actions. However, because Social Security Act exclusions are not issued under an agency's suspension and debarment authority, they do not stop individuals from participating in all Federal procurement and non-procurement actions. For an agency to bar individuals from participating in all procurement and non-procurement activities, it must exercise its suspension and debarment authority under the Federal Acquisition Regulation or the Nonprocurement Common Rule. This rulemaking would remove the regulatory provisions at issue, in order to align the regulation with the intent of the Social Security Act and current practice.

Timetable:

Action	Date	FR Cite
NPRM	11/00/20	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Tiffani Redding, Program Analyst, Department of Health and Human Services, Office of the Secretary, 200 Independence Avenue SW, Washington, DC 20201, *Phone:* 202 205-4321, *Email:* tiffani.redding@hhs.gov.

RIN: 0991-AC11

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Office for Civil Rights (OCR)

Proposed Rule Stage

206. • Implementation of the Religious Freedom Restoration Act (Section 610 Review)

E.O. 13771 Designation: Regulatory.
Legal Authority: Not Yet Determined
Abstract: This proposed rule would set forth substantive standards the Department will use in its interpretation and application of RFRA. These would include elaboration on how HHS will interpret terms in RFRA such as religious exercise, substantial burden, and compelling interest, based on the guidance issued by the Attorney General concerning those terms, as well as applicable case law. The rule's standards would guide both OCR and the Department's components in understanding how RFRA's requirements govern the Department's various activities. The rulemaking would rely upon, other authorities, 42 U.S.C. 2000bb-1, and the statutes that provide legal authority to issue programmatic regulations with respect to HHS programs, as well as HHS's interpretive authority.

Timetable:

Action	Date	FR Cite
NPRM	01/00/21	

Regulatory Flexibility Analysis Required: Undetermined.

Agency Contact: Christine Pratt, Senior Advisor on Conscience and Religious Freedom, Department of Health and Human Services, Office for Civil Rights, 200 Independence Avenue SW, Washington, DC 20201, *Phone:* 800 368-1019, *Email:* ocrmail@hhs.gov.

RIN: 0945-AA13

207. • Special Responsibilities of Medicare Hospitals in Emergency Cases, and Discrimination on the Basis of Disability in Critical Health and Human Services Programs or Activities (Section 610 Review)

Regulatory Plan: This entry is Seq. No. 33 in part II of this issue of the **Federal Register**.

RIN: 0945-AA14

208. • Rulemaking on Discrimination on the Basis of Disability in Critical Health and Human Services Programs or Activities (Rulemaking Resulting From a Section 610 Review)

E.O. 13771 Designation: Fully or Partially Exempt.
Legal Authority: Section 504 of the Rehabilitation Act of 19

Abstract: This proposed rule would revise regulations under, among other statutes, section 504 of the Rehabilitation Act of 1973 to robustly address unlawful discrimination on the basis of disability in certain vital HHS-funded health and human services programs.

Timetable:

Action	Date	FR Cite
NPRM	01/00/21	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Carla Carter, Supervisory Civil Rights Analyst, Department of Health and Human Services, Office for Civil Rights, 200 Independence Avenue SW, Washington, DC 20201, *Phone:* 800 368-1019, *Email:* ocrmail@hhs.gov.

RIN: 0945-AA15

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Office for Civil Rights (OCR)

Completed Actions

209. Nondiscrimination in Health and Health Education Programs or Activities

E.O. 13771 Designation: Deregulatory.
Legal Authority: Sec. 1557 of the Patient Protection and Affordable Care Act (42 U.S.C. 18116)

Abstract: This rulemaking would finalize, with appropriate changes in response to public comments, the proposed rule implementing section 1557 of the Patient Protection and Affordable Care Act (PPACA), and conforming amendments to related HHS rules. Section 1557 of PPACA prohibits discrimination on the basis of race, color, national origin, sex, age, or disability under any health program or activity, any part of which is receiving Federal financial assistance, including credits, subsidies, or contracts of insurance, or under any program or activity that is administered by an Executive Agency or any entity established under title I of the PPACA.

Completed:

Reason	Date	FR Cite
Final Action	06/19/20	85 FR 37160
Final Action Effective.	08/18/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Luben Montoya, *Phone:* 800 368-1019, *TDD Phone:* 800 537-7697, *Email:* ocrmail@hhs.gov.

RIN: 0945-AA11

RIN: 0955-AA01

Completed:

Reason	Date	FR Cite
Interim Final Rule Comment Period End.	04/23/20	
Final Action Final Action Effective.	09/11/20 10/13/20	85 FR 56724

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Office of the National Coordinator for Health Information Technology (ONC)

Final Rule Stage

210. • Information Blocking and the ONC Health IT Certification Program: Extension of Compliance Dates and Timeframes in Response to the Covid-19 Public Health Emergency

Regulatory Plan: This entry is Seq. No. 35 in part II of this issue of the Federal Register.

RIN: 0955-AA02

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Office of the National Coordinator for Health Information Technology (ONC)

Completed Actions

211. 21st Century Cures Act: Interoperability, Information Blocking, and the ONC Health IT Certification Program

E.O. 13771 Designation: Regulatory. Legal Authority: Pub. L. 114-255 Abstract: The final rule implements certain provisions of the 21st Century Cures Act, including Conditions and Maintenance of Certification requirements for health information technology (health IT) developers under the ONC Health IT Certification Program (Program), the voluntary certification of health IT for use by pediatric healthcare providers and reasonable and necessary activities that do not constitute information blocking. The implementation of these provisions will advance interoperability and support the access, exchange, and use of electronic health information. The rule also finalizes certain modifications to the 2015 Edition health IT certification criteria and Program in additional ways to advance interoperability, enhance health IT certification, and reduce burden and costs.

Completed:

Reason	Date	FR Cite
Final Action	05/01/20	85 FR 25642
Final Action Effective.	06/30/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael Lipinski, Phone: 202 690-7151.

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Centers for Disease Control and Prevention (CDC)

Final Rule Stage

212. Control of Communicable Diseases; Foreign Quarantine

E.O. 13771 Designation: Regulatory. Legal Authority: 42 U.S.C. 264; 42 U.S.C. 265

Abstract: This rulemaking amends current regulation to enable CDC to require airlines to collect and provide to CDC certain data elements regarding passengers and crew arriving from foreign countries under certain circumstances.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective.	02/07/20	
Interim Final Rule	02/12/20	85 FR 7874
Interim Final Rule Comment Period End.	03/13/20	
Final Action	04/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Ashley C. Altenburger JD, Public Health Analyst, Department of Health and Human Services, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS: H 16-4, Atlanta, GA 30307, Phone: 800 232-4636, Email: dgmqpolicyoffice@cdc.gov.

RIN: 0920-AA75

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Centers for Disease Control and Prevention (CDC)

Completed Actions

213. Control of Communicable Diseases; Foreign Quarantine: Suspension of the Right to Introduction and Prohibition of Introduction of Persons Into United States From Designated Foreign Countries or Places

E.O. 13771 Designation: Fully or Partially Exempt. Legal Authority: 42 U.S.C. 265 Abstract: HHS/CDC is amending its Foreign Quarantine regulations to provide a procedure for CDC to suspend the introduction of persons from designated countries or places, if required, in the interest of public health.

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Nina Witkofsky, Phone: 404 498-7000, Email: cdcregulations@cdc.gov.

RIN: 0920-AA76

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Food and Drug Administration (FDA)

Proposed Rule Stage

214. Medication Guide; Patient Medication Information

E.O. 13771 Designation: Regulatory. Legal Authority: 21 U.S.C. 321 et seq.; 42 U.S.C. 262; 42 U.S.C. 264; 21 U.S.C. 371

Abstract: The proposed rule would amend FDA medication guide regulations to require a new form of patient labeling, Patient Medication Information, for submission to and review by the FDA for human prescription drug products and certain blood products used, dispensed, or administered on an outpatient basis. The proposed rule would include requirements for Patient Medication Information development and distribution. The proposed rule would require clear and concisely written prescription drug product information presented in a consistent and easily understood format to help patients use their prescription drug products safely and effectively.

Timetable:

Action	Date	FR Cite
NPRM	02/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Chris Wheeler, Supervisory Project Manager, Department of Health and Human Services, Food and Drug Administration, 10903 New Hampshire Avenue, Building 51, Room 3330, Silver Spring, MD 20993, Phone: 301 796-0151, Email: chris.wheeler@fda.hhs.gov.

RIN: 0910-AH68

215. Requirements for Tobacco Product Manufacturing Practice

E.O. 13771 Designation: Regulatory.

Legal Authority: 21 U.S.C. 371; 21 U.S.C. 387b; 21 U.S.C. 387f

Abstract: The rule is proposing to establish tobacco product manufacturing practice (TPMP) requirements for manufacturers of finished and bulk tobacco products. This proposed rule, if finalized, would set forth requirements for the manufacture, pre-production design validation, packing, and storage of a tobacco product. This proposal would help prevent the manufacture and distribution of contaminated and otherwise nonconforming tobacco products. This proposed rule provides manufacturers with flexibility in the manner in which they comply with the proposed requirements while giving FDA the ability to enforce regulatory requirements, thus helping to assure the protection of public health.

Timetable:

Action	Date	FR Cite
NPRM	02/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Matthew Brenner, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Tobacco Products, 10903 New Hampshire Avenue, Building 71, Room G335, Silver Spring, MD 20993, *Phone:* 877 287-1373, *Fax:* 240 276-3904, *Email:* ctpregulations@fda.hhs.gov.

RIN: 0910-AH91

216. Administrative Detention of Tobacco Products

E.O. 13771 Designation: Other.

Legal Authority: 21 U.S.C. 334; 21 U.S.C. 371

Abstract: The FDA is proposing regulations to establish requirements for the administrative detention of tobacco products. This action, if finalized, would allow FDA to administratively detain tobacco products encountered during inspections that an officer or employee conducting the inspection has reason to believe are adulterated or misbranded. The intent of administrative detention is to protect public health by preventing the distribution or use of violative tobacco products until FDA has had time to consider the appropriate action to take and, where appropriate, to initiate a regulatory action.

Timetable:

Action	Date	FR Cite
NPRM	08/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Nathan Mease, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, 10903 New Hampshire Avenue, WO 71, Room G335, Silver Spring, MD 20993, *Phone:* 877 287-1373, *Email:* ctpregulations@fda.hhs.gov.

RIN: 0910-AI05

217. Nutrient Content Claims, Definition of Term: Healthy

E.O. 13771 Designation: Regulatory. *Legal Authority:* 21 U.S.C. 321; 21 U.S.C. 331; 21 U.S.C. 343; 21 U.S.C. 371

Abstract: The proposed rule would update the definition for the implied nutrient content claim “healthy” to be consistent with current nutrition science and federal dietary guidelines. The proposed rule would revise the requirements for when the claim “healthy” can be voluntarily used in the labeling of human food products so that the claim reflects current science and dietary guidelines and helps consumers maintain healthy dietary practices.

Timetable:

Action	Date	FR Cite
NPRM	11/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Vincent De Jesus, Nutritionist, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition, (HFS-830), Room 3D-031, 5100 Paint Branch Parkway, College Park, MD 20740, *Phone:* 240 402-1774, *Fax:* 301 436-1191, *Email:* vincent.dejesus@fda.hhs.gov.

RIN: 0910-AI13

218. Revocation of Uses of Partially Hydrogenated Oils in Foods

E.O. 13771 Designation: Regulatory. *Legal Authority:* 21 U.S.C. 321; 21 U.S.C. 341; 21 U.S.C. 342; 21 U.S.C. 343; 21 U.S.C. 348; 21 U.S.C. 371; 21 U.S.C. 379e

Abstract: In the **Federal Register** of June 17, 2015 (80 FR 34650), we published a declaratory order announcing our final determination that there is no longer a consensus among qualified experts that partially hydrogenated oils (PHOs) are generally recognized as safe (GRAS) for any use in human food. In the **Federal Register** of

May 21, 2018 (83 FR 23382), we denied a food additive petition requesting that the food additive regulations be amended to provide for the safe use of PHOs in certain food applications. We are now proposing to update our regulations to remove all mention of partially hydrogenated oils from FDA’s GRAS regulations and as an optional ingredient in standards of identity. We are also proposing to revoke all prior sanctions for uses of PHOs in food.

Timetable:

Action	Date	FR Cite
NPRM	07/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Ellen Anderson, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, HFS-265, 4300 River Road, College Park, MD 20740, *Phone:* 240 402-1309, *Email:* ellen.anderson@fda.hhs.gov.

RIN: 0910-AI15

219. • Conduct of Analytical and Clinical Pharmacology, Bioavailability and Bioequivalence Studies

E.O. 13771 Designation: Deregulatory. *Legal Authority:* 21 U.S.C. 355; 21 U.S.C. 371; 21 U.S.C. 374; 42 U.S.C. 262

Abstract: FDA is proposing to amend 21 CFR 320, in certain parts, and establish a new 21 CFR 321 to clarify FDA’s study conduct expectations for analytical and clinical pharmacology, bioavailability (BA) and bioequivalence (BE) studies that support human research and marketing applications for human drug and biological products. The proposed rule would specify needed basic study conduct requirements to enable FDA to ensure those studies are conducted appropriately and to verify the reliability of study data from those studies. This regulation would align with FDA’s other good practice regulations, would also be consistent with current industry best practices, and would harmonize the regulations more closely with related international regulatory expectations.

Timetable:

Action	Date	FR Cite
NPRM	08/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Brian Joseph Folian, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, 10903 New Hampshire Avenue, Building 51, Room

5215, Silver Spring, MD 20993-0002,
 Phone: 240 402-4089, Email:
 brian.folian@fda.hhs.gov.
 RIN: 0910-A157

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Food and Drug Administration (FDA)

Final Rule Stage

220. Sunlamp Products; Amendment to the Performance Standard

E.O. 13771 Designation: Fully or Partially Exempt.

Legal Authority: 21 U.S.C. 360ii; 21 U.S.C. 360kk; 21 U.S.C. 393; 21 U.S.C. 371

Abstract: FDA is updating the performance standard for sunlamp products and ultraviolet lamps for use in these products to improve safety, reflect new scientific information, and work towards harmonization with international standards. By harmonizing with the International Electrotechnical Commission, this rule will decrease the regulatory burden on industry and allow the Agency to take advantage of the expertise of the international committees, thereby also saving resources.

Timetable:

Action	Date	FR Cite
NPRM	12/22/15	80 FR 79505
NPRM Comment Period End.	03/21/16	
Final Rule	05/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Ian Ostermiller, Regulatory Counsel, Center for Devices and Radiological Health, Department of Health and Human Services, Food and Drug Administration, 10903 New Hampshire Avenue, WO 66, Room 5454, Silver Spring, MD 20993, Phone: 301 796-5678, Email: ian.ostermiller@fda.hhs.gov.

RIN: 0910-AG30

221. Mammography Quality Standards Act

Regulatory Plan: This entry is Seq. No. 37 in part II of this issue of the Federal Register.

RIN: 0910-AH04

222. General and Plastic Surgery Devices; Restricted Sale, Distribution, and Use of Sunlamp Products

E.O. 13771 Designation: Regulatory.
Legal Authority: 21 U.S.C. 360j(e)
Abstract: This rule will apply device restrictions to sunlamp products.

Sunlamp products include ultraviolet (UV) lamps and UV tanning beds and booths. The incidence of skin cancer, including melanoma, has been increasing, and a large number of skin cancer cases are attributable to the use of sunlamp products. The devices may cause about 400,000 cases of skin cancer per year, and 6,000 of which are melanoma. Beginning use of sunlamp products at young ages, as well as frequently using sunlamp products, both increases the risk of developing skin cancers and other illnesses, and sustaining other injuries. Even infrequent use, particularly at younger ages, can significantly increase these risks.

Timetable:

Action	Date	FR Cite
NPRM	12/22/15	80 FR 79493
NPRM Comment Period End.	03/21/16	
Final Rule	10/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Ian Ostermiller, Regulatory Counsel, Center for Devices and Radiological Health, Department of Health and Human Services, Food and Drug Administration, 10903 New Hampshire Avenue, WO 66, Room 5454, Silver Spring, MD 20993, Phone: 301 796-5678, Email: ian.ostermiller@fda.hhs.gov.

RIN: 0910-AH14

223. Amendments to the List of Bulk Drug Substances That Can Be Used To Compound Drug Products in Accordance With Section 503A of the Federal Food, Drug, and Cosmetic Act

E.O. 13771 Designation: Fully or Partially Exempt.

Legal Authority: 21 U.S.C. 351; 21 U.S.C. 352; 21 U.S.C. 353a; 21 U.S.C. 355; 21 U.S.C. 371; . . .

Abstract: FDA has issued a regulation creating a list of bulk drug substances (active pharmaceutical ingredients) that can be used to compound drug products in accordance with section 503A of the Federal Food, Drug, and Cosmetic Act (FD&C Act), although they are neither the subject of an applicable United States Pharmacopeia (USP) or National Formulary (NF) monograph nor components of FDA-approved drugs (the 503A Bulks List). The final rule will amend the 503A Bulks List by placing five additional bulk drug substances on the list. This rule will also identify 26 bulk drug substances that FDA has considered and decided not to include on the 503A Bulks List. Additional substances nominated by the public for

inclusion on this list are currently under consideration and will be the subject of a future rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	09/05/19	84 FR 46688
NPRM Comment Period End.	12/04/19	
Final Rule	12/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Rosilend Lawson, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, 10903 New Hampshire Avenue, Building 51, Room 5197, Silver Spring, MD 20993, Phone: 240 402-6223, Email: rosilend.lawson@fda.hhs.gov.

RIN: 0910-AH81

224. Milk and Cream Product and Yogurt Products, Final Rule To Revoke the Standards for Lowfat Yogurt and Nonfat Yogurt and To Amend the Standard for Yogurt

E.O. 13771 Designation: Fully or Partially Exempt.

Legal Authority: 21 U.S.C. 321; 21 U.S.C. 336; 21 U.S.C. 341; 21 U.S.C. 343; 21 U.S.C. 348; 21 U.S.C. 371(e); 21 U.S.C. 379e

Abstract: This final rule amends the standard of identity for yogurt and revokes the standards of identity for lowfat yogurt and nonfat yogurt. It modernizes the standard for yogurt to allow for technological advances, to preserve the basic nature and essential characteristics of yogurt, and to promote honesty and fair dealing in the interest of consumers. Section 701(e)(1), of the Federal Food, Drug, and Cosmetic Act requires that the amendment or repeal of the definition and standard of identity for a dairy product proceed under a formal rulemaking process. Such is consistent with the formal rulemaking provisions of the Administrative Procedures Act (5 U.S.C. 556 and 557). Although, standard practice is not to include formal rulemaking in the Unified Agenda, this rule is included to highlight the de-regulatory work in this space.

Timetable:

Action	Date	FR Cite
ANPRM	07/03/03	68 FR 39873
ANPRM Comment Period End.	10/01/03	
NPRM	01/15/09	74 FR 2443
NPRM Comment Period End.	04/29/09	
Final Rule	11/00/20	

Regulatory Flexibility Analysis
 Required: Yes.

Agency Contact: Terri Wenger, Food Technologist, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition, 5001 Campus Drive, College Park, MD 20740, *Phone:* 240 402-2371, *Email:* terri.wenger@fda.hhs.gov.

RIN: 0910-A140

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Food and Drug Administration (FDA)

Long-Term Actions

225. Acute Nicotine Toxicity Warnings for E-Liquids

E.O. 13771 Designation: Regulatory.

Legal Authority: 21 U.S.C. 301 *et seq.*; 21 U.S.C. 331; 21 U.S.C. 371; 21 U.S.C. 374; 21 U.S.C. 387

Abstract: This rule would establish acute nicotine toxicity warning requirements for liquid nicotine and nicotine-containing e-liquid(s) that are made or derived from tobacco and intended for human consumption, and potentially for other tobacco products including, but not limited to, novel tobacco products such as dissolvables, lotions, gels, and drinks. This action is intended to increase consumer awareness and knowledge of the risks of acute toxicity due to accidental nicotine exposure from nicotine-containing e-liquids in tobacco products.

Timetable:

Action	Date	FR Cite
NPRM	08/00/22	

Regulatory Flexibility Analysis
 Required: Yes.

Agency Contact: Samantha LohCollado, Senior Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, 10903 New Hampshire Ave., Building 71, Room G335, Silver Spring, MD 20993, *Phone:* 877 287-1373, *Fax:* 877 287-1426, *Email:* ctpregulations@fda.hhs.gov.

RIN: 0910-AH24

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Food and Drug Administration (FDA)

Completed Actions

226. Postmarketing Safety Reporting Requirements for Human Drug and Biological Products

E.O. 13771 Designation: Regulatory.

Legal Authority: 42 U.S.C. 216; 42 U.S.C. 241; 42 U.S.C. 242a; 42 U.S.C. 262 and 263; 42 U.S.C. 263a; 42 U.S.C. 264; 42 U.S.C. 300aa-25; 21 U.S.C. 321; 21 U.S.C. 331; 21 U.S.C. 351 to 353; 21 U.S.C. 355; 21 U.S.C. 360; 21 U.S.C. 360b to 360f; 21 U.S.C. 360i to 360j; 21 U.S.C. 371; 21 U.S.C. 374; 21 U.S.C. 379

Abstract: The proposed rule would amend the postmarketing safety reporting regulations for human drugs and biological products including blood and blood products in order to better align FDA requirements with guidelines of the International Council on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH), and to update reporting requirements in light of current pharmacovigilance practice and safety information sources and enhance the quality of safety reports received by FDA. Revisions to the postmarketing safety reporting requirements were proposed as part of a single rulemaking (68 FR 12406) to clarify and revise both premarketing and postmarketing safety reporting requirements for human drug and biological products. FDA is repropounding the proposed postmarketing requirements with revisions. Premarketing safety reporting requirements were finalized in a separate final rule published on September 29, 2010, (75 FR 59961).

Completed:

Reason	Date	FR Cite
Withdrawn	09/04/20	

Regulatory Flexibility Analysis
 Required: Yes.

Agency Contact: Jane E. Baluss, *Phone:* 301 796-3469, *Fax:* 301 847-8440, *Email:* jane.baluss@fda.hhs.gov. RIN: 0910-AA97

227. Over-the-Counter (OTC) Drug Review—Cough/Cold (Antihistamine) Products

E.O. 13771 Designation: Derogatory.

Legal Authority: 21 U.S.C. 321p; 21 U.S.C. 331; 21 U.S.C. 351 to 353; 21 U.S.C. 355; 21 U.S.C. 360; 21 U.S.C. 371

Abstract: FDA will be proposing a rule to add the common cold indication to certain over-the-counter (OTC)

antihistamine active ingredients. This proposed rule is the result of collaboration under the U.S. Canada Regulatory Cooperation Council as part of efforts to reduce unnecessary duplication and differences. This pilot exercise will help determine the feasibility of developing an ongoing mechanism for alignment in review and adoption of certain aspects of the OTC Drug Review.

Completed:

Reason	Date	FR Cite
Withdrawn	11/23/20	

Regulatory Flexibility Analysis
 Required: Yes.

Agency Contact: Janice Adams-King, *Phone:* 301 796-3713, *Fax:* 301 796-9899, *Email:* janice.adams-king@fda.hhs.gov.

RIN: 0910-AF31

228. Food Labeling; Gluten-Free Labeling of Fermented or Hydrolyzed Foods

E.O. 13771 Designation: Regulatory.

Legal Authority: Sec. 206 of the Food Allergen Labeling and Consumer Protection Act; 21 U.S.C. 343(a)(1); 21 U.S.C. 321(n); 21 U.S.C. 371(a)

Abstract: This final rule would establish requirements concerning “gluten-free” labeling for foods that are fermented or hydrolyzed or that contain fermented or hydrolyzed ingredients. These additional requirements for the “gluten-free” labeling rule are needed to help ensure that individuals with celiac disease are not misled and receive truthful and accurate information with respect to fermented or hydrolyzed foods labeled as “gluten-free.”

Completed:

Reason	Date	FR Cite
Final Rule	08/13/20	85 FR 49240
Final Rule Effective.	10/13/20	

Regulatory Flexibility Analysis
 Required: Yes.

Agency Contact: Carol D’Lima, *Phone:* 240 402-2371, *Fax:* 301 436-2636, *Email:* carol.dlima@fda.hhs.gov. RIN: 0910-AH00

229. Testing Standards for Batteries and Battery Management Systems in Battery-Operated Tobacco Products

E.O. 13771 Designation: Regulatory.

Legal Authority: 21 U.S.C. 301 *et seq.*; 21 U.S.C. 371; 21 U.S.C. 387b; 21 U.S.C. 387g; 21 U.S.C. 387i

Abstract: This rule would propose to establish a product standard to require testing standards for batteries used in

electronic nicotine delivery systems (ENDS) and require design protections including a battery management system for ENDS using batteries and protective housing for replaceable batteries. This product standard would protect the safety of users of battery-powered tobacco products and will help to streamline the FDA premarket review process, ultimately reducing the burden on both manufacturers and the Agency. The proposed rule would be applicable to tobacco products that include a non-user replaceable battery as well as products that include a user replaceable battery.

Completed:

Reason	Date	FR Cite
Withdrawn	09/04/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Nathan Mease, Phone: 877 287-1373, Email: ctpregulations@fda.hhs.gov. RIN: 0910-AH90

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Centers for Medicare & Medicaid Services (CMS)

Proposed Rule Stage

230. Medicaid Programs Reducing Provider and Patient Burden, and Promoting Patients' Electronic Access to Health Information (CMS-9123)

E.O. 13771 Designation: Regulatory. *Legal Authority:* 42 U.S.C. 1302
Abstract: This proposed rule would place new requirements on state Medicaid and CHIP fee-for-service (FFS) programs, Medicaid managed care plans, CHIP managed care entities, and Qualified Health Plan (QHP) issuers on the Federally-facilitated Exchanges (FfEs) to improve the electronic exchange of health care data, and streamline processes related to prior authorization, while continuing CMS' drive toward interoperability, and reducing burden in the health care market. In addition, on behalf of the Department of Health and Human Service (HHS), the Office of the National Coordinator for Health Information Technology (ONC) is proposing the adoption of certain specified implementation guides (IGs) needed to support the proposed Application Programming Interface (API) policies included in this rule. Each of these elements plays a key role in reducing overall payer and provider burden and

improving patient access to health information.

Timetable:

Action	Date	FR Cite
NPRM	12/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Alexandra Mugge, Deputy Chief Health Informatics Officer, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Office of the Administrator, MS: C5-02-00, 7500 Security Boulevard, Baltimore, MD 21244, Phone: 410 786-4457, Email: alexandra.mugge@cms.hhs.gov. RIN: 0938-AT99

231. • CY 2022 Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Medicare Part B (CMS-1751) (Section 610 Review)

E.O. 13771 Designation: Other. *Legal Authority:* 42 U.S.C. 1302; 42 U.S.C. 1395hh

Abstract: This annual proposed rule would revise payment polices under the Medicare physician fee schedule, and make other policy changes to payment under Medicare Part B. These changes would apply to services furnished beginning January 1, 2022. Additionally, this rule proposes updates to the Quality Payment Program.

Timetable:

Action	Date	FR Cite
NPRM	06/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Marge Watchorn, Deputy Director, Division of Practitioner Services, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C4-01-15, 7500 Security Boulevard, Baltimore, MD 21244, Phone: 410 786-4361, Email: marge.watchorn@cms.hhs.gov. RIN: 0938-AU42

232. • CY 2022 Hospital Outpatient PPS Policy Changes and Payment Rates and Ambulatory Surgical Center Payment System Policy Changes and Payment Rates (CMS-1753) (Section 610 Review)

E.O. 13771 Designation: Other. *Legal Authority:* 42 U.S.C. 1302; 42 U.S.C. 1395hh

Abstract: This annual proposed rule would revise the Medicare hospital outpatient prospective payment system to implement statutory requirements and changes arising from our continuing

experience with this system. The proposed rule describes changes to the amounts and factors used to determine payment rates for services. In addition, the rule proposes changes to the ambulatory surgical center payment system list of services and rates. This proposed rule would also update and refine the requirements for the Hospital Outpatient Quality Reporting (OQR) Program and the ASC Quality Reporting (ASCQR) Program.

Timetable:

Action	Date	FR Cite
NPRM	06/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Elise Barringer, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C4-03-06, 7500 Security Boulevard, Baltimore, MD 21244, Phone: 410 786-9222, Email: elise.barringer@cms.hhs.gov. RIN: 0938-AU43

233. • Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals; the Long-Term Care Hospital Prospective Payment System; and FY 2022 Rates (CMS-1752) (Section 610 Review)

E.O. 13771 Designation: Other. *Legal Authority:* 42 U.S.C. 1302; 42 U.S.C. 1395hh

Abstract: This annual proposed rule would revise the Medicare hospital inpatient and long-term care hospital prospective payment systems for operating and capital-related costs. This proposed rule would implement changes arising from our continuing experience with these systems. In addition, the rule proposes to establish new requirements or revise existing requirements for quality reporting by specific Medicare providers.

Timetable:

Action	Date	FR Cite
NPRM	04/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Donald Thompson, Director, Division of Acute Care, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C4-08-06, 7500 Security Boulevard, Baltimore, MD 21244, Phone: 410 786-6504, Email: donald.thompson@cms.hhs.gov. RIN: 0938-AU44

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)*Centers for Medicare & Medicaid Services (CMS)*

Final Rule Stage

234. Durable Medical Equipment Fee Schedule, Adjustments To Resume the Transitional 50/50 Blended Rates To Provide Relief in Non-Competitive Bidding Areas (CMS-1687) (Section 610 Review)

E.O. 13771 Designation: Other.
Legal Authority: 42 U.S.C. 1302, 1395hh, and 1395rr(b)(1); Pub. L. 114-255, sec. 5004(b), 16007(a) and 16008

Abstract: This final rule follows the interim final rule that published May 11, 2018, and extended the end of the transition period from June 30, 2016, to December 31, 2016 for phasing in adjustments to the fee schedule amounts for certain durable medical equipment (DME) and enteral nutrition paid in areas not subject to the Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding Program (CBP). In addition, the interim rule amended the regulation to resume the transition period for items furnished from August 1, 2017, through December 31, 2018. The interim rule also made technical amendments to existing regulations for DMEPOS items and services to exclude infusion drugs used with DME from the DMEPOS CBP.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/11/18	83 FR 21912
Interim Final Rule Comment Period End.	07/09/18	
Final Action to be Merged With 0938-AU17.	05/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Alexander Ullman, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C5-07-26, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786-9671, *Email:* alexander.ullman@cms.hhs.gov.

RIN: 0938-AT21

235. International Pricing Index Model for Medicare Part B Drugs (CMS-5528) (Section 610 Review)

E.O. 13771 Designation: Regulatory.
Legal Authority: Social Security Act, sec. 1115A

Abstract: This rule finalizes testing changes to payment for certain

separately payable Part B drugs and biologicals.

Timetable:

Action	Date	FR Cite
ANPRM	10/30/18	83 FR 54546
ANPRM Comment Period End.	12/31/18	
Interim Final Rule	11/27/20	85 FR 76180
Interim Final Rule Effective.	11/27/20	
Interim Final Rule Comment Period End.	01/26/21	
Final Action	11/00/23	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Andrew York, Social Science Research Analyst, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare and Medicaid Innovation, MS: WB-06-05, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786-8945, *Email:* andrew.york1@cms.hhs.gov.

RIN: 0938-AT91

236. CY 2021 Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Medicare Part B (CMS-1734) (Section 610 Review)

E.O. 13771 Designation: Regulatory.
Legal Authority: 42 U.S.C. 1302; 42 U.S.C. 1395hh

Abstract: This annual final rule revises payment polices under the Medicare physician fee schedule, and makes other policy changes to payment under Medicare Part B. These changes apply to services furnished beginning January 1, 2021. Additionally, this rule updates the Quality Payment Program.

Timetable:

Action	Date	FR Cite
NPRM	08/17/20	85 FR 50074
NPRM Comment Period End.	10/05/20	
Final Action	01/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Marge Watchorn, Deputy Director, Division of Practitioner Services, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C4-01-15, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786-4361, *Email:* marge.watchorn@cms.hhs.gov.

RIN: 0938-AU10

237. CY 2021 Hospital Outpatient PPS Policy Changes and Payment Rates and Ambulatory Surgical Center Payment System Policy Changes and Payment Rates (CMS-1736) (Section 610 Review)

E.O. 13771 Designation: Regulatory.
Legal Authority: 42 U.S.C. 1302; 42 U.S.C. 1395hh

Abstract: This annual final rule revises the Medicare hospital outpatient prospective payment system to implement statutory requirements and changes arising from our continuing experience with this system. The rule describes changes to the amounts and factors used to determine payment rates for services. In addition, the rule implements changes to the ambulatory surgical center payment system list of services and rates. This rule also updates and refines the requirements for the Hospital Outpatient Quality Reporting (OQR) Program and the ASC Quality Reporting (ASCQR) Program.

Timetable:

Action	Date	FR Cite
NPRM	08/12/20	85 FR 48772
NPRM Comment Period End.	10/05/20	
Final Action	01/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Elise Barringer, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C4-03-06, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786-9222, *Email:* elise.barringer@cms.hhs.gov.

RIN: 0938-AU12

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)*Centers for Medicare & Medicaid Services (CMS)*

Long-Term Actions

238. Requirements for Long-Term Care Facilities: Regulatory Provisions To Promote Increased Safety (CMS-3347) (Section 610 Review)

E.O. 13771 Designation: Deregulatory.
Legal Authority: secs. 1819 and 1919 of the Social Security Act; sec. 1819(d)(4)(B) and 1919(d)(4)(B) of the Social Security Act; sec. 1819(b)(1)(A) and 1919 (b)(1)(A) of the Social Security Act

Abstract: This final rule reforms the requirements that long-term care facilities must meet to participate in the Medicare and Medicaid programs in

order to support the provision of safe care and preserve access to care.

Timetable:

Action	Date	FR Cite
NPRM	07/18/19	84 FR 34737
NPRM Comment Period End.	09/16/19	
Final Action	07/00/22	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Diane Corning, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Clinical Standards and Quality, MS: S3-02-01, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786-8486, *Email:* diane.corning@cms.hhs.gov. *RIN:* 0938-AT36

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Centers for Medicare & Medicaid Services (CMS)

Completed Actions

239. Organ Procurement Organizations (OPOS) (CMS-3380) (Completion of a Section 610 Review)

E.O. 13771 Designation: Regulatory. *Legal Authority:* 42 U.S.C. 1395hh; 42 U.S.C. 1302

Abstract: This final rule revises the Organ Procurement Organization (OPO) Conditions for Coverage (CfCs) to increase donation rates and organ transplantation rates by replacing the current measures with new transparent, reliable, and objective measures.

Timetable:

Action	Date	FR Cite
NPRM	12/23/19	84 FR 70628
NPRM Comment Period End.	02/21/20	
Final Action	12/02/20	85 FR 77898
Final Action Effective.	02/01/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Alpha-Banu Wilson, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Clinical Standards and Quality, MS: S3-02-01, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786-8687, *Email:* alphabanu.wilson@cms.hhs.gov. *RIN:* 0938-AU02

240. Transparency in Coverage (CMS-9915)

E.O. 13771 Designation: Regulatory. *Legal Authority:* 42 U.S.C. 18031; 42 U.S.C. 300gg-15a

Abstract: This final rule would implement portions of Executive Order 13877 (“Improving Price and Quality Transparency in American Healthcare to Put Patients First”, June 24, 2019), which provides that the Secretaries of Health and Human Services, the Treasury, and Labor will facilitate access to information about expected health care costs for patients before they receive care.

Completed:

Reason	Date	FR Cite
Final Action	11/12/20	85 FR 72158
Final Action Effective.	01/11/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Deborah Bryant, *Phone:* 301 493-4293, *Email:* deborah.bryant@cms.hhs.gov. *RIN:* 0938-AU04

241. FY 2021 Inpatient Rehabilitation Facility (IRF) Prospective Payment System Rate Update (CMS-1729) (Completion of a Section 610 Review)

E.O. 13771 Designation: Other. *Legal Authority:* 42 U.S.C. 1302; 42 U.S.C. 1395hh

Abstract: This annual final rule updates the prospective payment rates for inpatient rehabilitation facilities (IRFs) for fiscal year 2021.

Timetable:

Action	Date	FR Cite
NPRM	04/21/20	85 FR 22065
NPRM Comment Period End.	06/15/20	
Final Action	08/10/20	85 FR 48424
Final Action Effective.	10/01/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Gwendolyn Johnson, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C5-06-27, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786-6954, *Email:* gwendolyn.johnson@cms.hhs.gov. *RIN:* 0938-AU05

242. FY 2021 Inpatient Psychiatric Facilities Prospective Payment System Rate Updates (CMS-1731) (Completion of a Section 610 Review)

E.O. 13771 Designation: Other.

Legal Authority: 42 U.S.C. 1302; 42 U.S.C. 1395f; 42 U.S.C. 1395g; 42 U.S.C. 1395hh; . . .

Abstract: This annual final rule updates the prospective payment rates for inpatient psychiatric facilities (IPF) with discharges beginning on October 1, 2020.

Timetable:

Action	Date	FR Cite
NPRM	04/14/20	85 FR 20625
NPRM Comment Period End.	06/09/20	
Final Action	08/04/20	85 FR 47042
Final Action Effective.	10/01/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Sherlene Jacques, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C5-04-27, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786-0510, *Email:* sherlene.jacques@cms.hhs.gov. *RIN:* 0938-AU07

243. Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals; the Long-Term Care Hospital Prospective Payment System; and FY 2021 Rates (CMS-1735) (Section 610 Review)

E.O. 13771 Designation: Regulatory.

Legal Authority: 42 U.S.C. 1302; 42 U.S.C. 1395hh

Abstract: This annual final rule revises the Medicare hospital inpatient and long-term care hospital prospective payment systems for operating and capital-related costs. This rule implements changes arising from our continuing experience with these systems. In addition, the rule establishes new requirements or revises existing requirements for quality reporting by specific Medicare providers.

Completed:

Reason	Date	FR Cite
NPRM	05/29/20	85 FR 32460
Final Action	09/18/20	
Final Action Effective.	10/01/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Donald Thompson, *Phone:* 410 786-6504, *Email:* donald.thompson@cms.hhs.gov. *RIN:* 0938-AU11

244. • Clinical Laboratory Improvement Amendments and Patient Protection and Affordable Care Act; Additional Policy and Regulatory Revisions in Response To The Covid-19 Public Health Emergency (CMS-3401) (Completion of a Section 610 Review)

E.O. 13771 Designation: Other.

Legal Authority: 42 U.S.C. 1302; 42 U.S.C. 1395hh; 42 U.S.C. 1395rr

Abstract: This interim final rule with comment period (IFC) strengthens CMS' ability to enforce compliance with Medicare and Medicaid Requirements for Participation, improves Long-Term Care (LTC) Facilities for Infection Control including reporting on information related to COVID-19 by specifying penalty amounts, revises regulations for tracking the incidence and impact of COVID-19 in hospitals and CAHs to assist public health officials in detecting outbreaks and saving lives, and requires all CLIA laboratories to report SARS-CoV-2 test results in such form and manner, and at such timing and frequency, as the Secretary during the Secretary's Public Health Emergency (PHE) declaration with respect to COVID19.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/02/20	85 FR 54820
Interim Final Rule Effective.	09/02/20	

Action	Date	FR Cite
Interim Final Rule Comment Period End.	11/02/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: CDR Scott J. Cooper, Health Insurance Specialist, Clinical Standards Group, Department of Health and Human Services, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mail Stop S3-02-01, Baltimore, MD 21244, *Phone:* 410 786-9465, *Email:* scott.cooper@cms.hhs.gov.

RIN: 0938-AU33

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Administration for Children and Families (ACF)

Proposed Rule Stage

245. • Updating Native Employment Works Requirements (Rulemaking Resulting From a Section 610 Review)

E.O. 13771 Designation: Regulatory.
Legal Authority: 42 U.S.C. 612

Abstract: The rule would update NEW regulations at 45 CFR part 287 to avoid inconsistencies and reflect the changes that have been made to the NEW statute and Administration for Children and Families (ACF) grant policy and procedures since the current regulation's publication on February 18,

2000. In particular, the regulations need to address changes made in section 404(e) of the Social Security Act as amended in 1999, Uniform Administrative Requirements, Cost Principles, and Audit Requirement for HHS Awards (45 CFR part 75)—Part 75 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards, Public Law 106-107, the "Federal Financial Assistance Management, Improvement Act of 1999" (Nov. 20, 1999), and various minor technical changes. While some of these changes have been addressed and communicated to the public and grantees via program instructions and information memoranda, the regulations themselves are now inconsistent with current law and policy.

Timetable:

Action	Date	FR Cite
NPRM	07/00/21	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Tonya Ann Davis, Program Specialist, Department of Health and Human Services, Administration for Children and Families, 330 C Street SW, Room 3020, Washington, DC 20201, *Phone:* 202 401-4851, *Email:* tonya.davis@acf.hhs.gov.

RIN: 0970-AC83

[FR Doc. 2021-04943 Filed 3-30-21; 8:45 am]

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Part IX

Department of Homeland Security

Semiannual Regulatory Agenda

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Chs. I and II

[DHS Docket No. OGC–RP–04–001]

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Office of the Secretary, DHS.
ACTION: Semiannual regulatory agenda.

SUMMARY: This regulatory agenda is a semiannual summary of projected regulations, existing regulations, and completed actions of the Department of Homeland Security (DHS) and its components. This agenda provides the public with information about DHS’s regulatory and deregulatory activity. DHS expects that this information will enable the public to be more aware of, and effectively participate in, the Department’s regulatory and deregulatory activity. DHS invites the public to submit comments on any aspect of this agenda.

FOR FURTHER INFORMATION CONTACT:

General

Please direct general comments and inquiries on the agenda to the Regulatory Affairs Law Division, Office

of the General Counsel, U.S. Department of Homeland Security, 2707 Martin Luther King Jr. Avenue SE, Mail Stop 0485, Washington, DC 20528–0485.

Specific

Please direct specific comments and inquiries on individual actions identified in this agenda to the individual listed in the summary portion as the point of contact for that action.

SUPPLEMENTARY INFORMATION: DHS provides this notice pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, Sept. 19, 1980) and Executive Order 12866 “Regulatory Planning and Review” (Sept. 30, 1993) as incorporated in Executive Order 13563 “Improving Regulation and Regulatory Review” (Jan. 18, 2011) and Executive Order 13771 “Reducing Regulation and Controlling Regulatory Costs” (Jan. 30, 2017), which require the Department to publish a semiannual agenda of regulations. The regulatory agenda is a summary of existing and projected regulations as well as actions completed since the publication of the last regulatory agenda for the Department. DHS’s last semiannual regulatory agenda was published on August 26, 2020, at 85 FR 52715.

Beginning in fall 2007, the internet became the basic means for disseminating the Unified Agenda. The complete Unified Agenda is available online at www.reginfo.gov.

The Regulatory Flexibility Act (5 U.S.C. 602) requires Federal agencies to publish their regulatory flexibility agendas in the **Federal Register**. A regulatory flexibility agenda shall contain, among other things, a brief description of the subject area of any rule which is likely to have a significant economic impact on a substantial number of small entities. DHS’s printed agenda entries include regulatory actions that are in the Department’s regulatory flexibility agenda. Printing of these entries is limited to fields that contain information required by the agenda provisions of the Regulatory Flexibility Act. Additional information on these entries is available in the Unified Agenda published on the internet.

The semiannual agenda of the Department conforms to the Unified Agenda format developed by the Regulatory Information Service Center.

Dated: September 4, 2020.

Christina E. McDonald,
Associate General Counsel for Regulatory Affairs.

OFFICE OF THE SECRETARY—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
246	Homeland Security Acquisition Regulation, Enhancement of Whistleblower Protections for Contractor Employees.	1601–AA72
247	Homeland Security Acquisition Regulation: Safeguarding of Controlled Unclassified Sensitive Information (HSAR Case 2015–001).	1601–AA76
248	Homeland Security Acquisition Regulation: Information Technology Security Awareness Training (HSAR Case 2015–002).	1601–AA78

U.S. CITIZENSHIP AND IMMIGRATION SERVICES—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
249	Removing H–4 Dependent Spouses From the Classes of Aliens Eligible for Employment Authorization	1615–AC15
250	Employment Authorization for Certain Classes of Aliens With Final Orders of Removal (Reg Plan Seq No. 43).	1615–AC40
251	Short-Term Extension for E-Verify Employers in the H–2A Program	1615–AC51

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

U.S. CITIZENSHIP AND IMMIGRATION SERVICES—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
252	Removal of International Entrepreneur Parole Program	1615–AC04
253	Collection and Use of Biometrics by U.S. Citizenship and Immigration Services (Reg Plan Seq No. 46) ...	1615–AC14

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

U.S. CITIZENSHIP AND IMMIGRATION SERVICES—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
254	Requirements for Filing Motions and Administrative Appeals	1615-AB98
255	EB-5 Immigrant Investor Regional Center Program	1615-AC11
256	U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements.	1615-AC18
257	Electronic Processing of USCIS Immigration Benefit Requests	1615-AC20

U.S. CITIZENSHIP AND IMMIGRATION SERVICES—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
258	Removal of 30-Day Processing Provision for Asylum Applicant-Related Form I-765 Employment Authorization Applications.	1615-AC19
259	Asylum Application, Interview, and Employment Authorization for Applicants	1615-AC27

U.S. COAST GUARD—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
260	Lifejacket Approval Harmonization	1625-AC62

U.S. COAST GUARD—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
261	Claims Procedures Under the Oil Pollution Act of 1990 (USCG-2004-17697)	1625-AA03
262	Commercial Fishing Vessels—Implementation of 2010 and 2012 Legislation	1625-AB85
263	Financial Responsibility—Vessels; Superseded Pollution Funds (USCG-2017-0788)	1625-AC39

U.S. CUSTOMS AND BORDER PROTECTION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
264	Implementation of the Guam-CNMI Visa Waiver Program (Section 610 Review)	1651-AA77

U.S. CUSTOMS AND BORDER PROTECTION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
265	Importer Security Filing and Additional Carrier Requirements (Section 610 Review)	1651-AA70

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
266	Visa Security Program Fee	1653-AA77
267	Adjusting Program Fees for the Student and Exchange Visitor Program (Reg Plan Seq No. 57)	1653-AA81

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
268	Establishing a Fixed Time Period of Admission and an Extension of Stay Procedure for Nonimmigrant Academic Students, Exchange Visitors, and Representatives of Foreign Information Media (Reg Plan Seq No. 59).	1653-AA78

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
269	Procedures and Standards for Declining Surety Immigration Bonds and Administrative Appeal Requirement for Breaches.	1653-AA67

CYBERSECURITY AND INFRASTRUCTURE SECURITY AGENCY—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
270	Ammonium Nitrate Security Program (Reg Plan Seq No. 62)	1670-AA00

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

CYBERSECURITY AND INFRASTRUCTURE SECURITY AGENCY—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
271	Chemical Facility Anti-Terrorism Standards (CFATS)	1670-AA01

DEPARTMENT OF HOMELAND SECURITY (DHS)

Office of the Secretary (OS)

Long-Term Actions

246. Homeland Security Acquisition Regulation, Enhancement of Whistleblower Protections for Contractor Employees

E.O. 13771 Designation: Other.
Legal Authority: Sec. 827 of the National Defense Authorization Act (NDAA) for Fiscal Year 2013, (Pub. L. 112–239, enacted January 2, 2013); 41 U.S.C. 1302(a)(2) and 1707
Abstract: The Department of Homeland Security (DHS) is proposing to amend its Homeland Security Acquisition Regulation (HSAR) parts 3003 and 3052 to implement section 827 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 (Pub. L. 112–239, enacted January 2, 2013) for the United States Coast Guard (USCG). Section 827 of the NDAA for FY 2013 established enhancements to the Whistleblower Protections for Contractor Employees for all agencies subject to section 2409 of title 10, United States Code, which includes the USCG.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Nancy Harvey, Policy Analyst, Department of Homeland Security, Office of the Chief Procurement Officer, Room 3636–15, 301 7th Street SW, Washington, DC

20528, *Phone:* 202 447–0956, *Email:* nancy.harvey@hq.dhs.gov.
RIN: 1601-AA72

247. Homeland Security Acquisition Regulation: Safeguarding of Controlled Unclassified Sensitive Information (HSAR Case 2015–001)

E.O. 13771 Designation: Fully or Partially Exempt.
Legal Authority: 5 U.S.C. 301 to 302; 41 U.S.C. 1302, 1303 and 1707
Abstract: This Homeland Security Acquisition Regulation (HSAR) rule would implement security and privacy measures to ensure Controlled Unclassified Information (CUI), such as Personally Identifiable Information (PII), is adequately safeguarded by DHS contractors. Specifically, the rule would define key terms, outline security requirements and inspection provisions for contractor information technology (IT) systems that store, process or transmit CUI, institute incident notification and response procedures, and identify post-incident credit monitoring requirements.

Timetable:

Action	Date	FR Cite
NPRM	01/19/17	82 FR 6429
NPRM Comment Period End.	03/20/17	
NPRM Comment Period Extended.	03/20/17	82 FR 14341
NPRM Comment Period Extended End.	04/19/17	
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Shaundra Duggans, Procurement Analyst, Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation, 245 Murray Lane SW, Washington, DC 20528, *Phone:* 202 447–0056, *Email:* shaundra.duggans@hq.dhs.gov.

Nancy Harvey, Policy Analyst, Department of Homeland Security, Office of the Chief Procurement Officer, Room 3636–15, 301 7th Street SW, Washington, DC 20528, *Phone:* 202 447–0956, *Email:* nancy.harvey@hq.dhs.gov.
RIN: 1601-AA76

248. Homeland Security Acquisition Regulation: Information Technology Security Awareness Training (HSAR Case 2015–002)

E.O. 13771 Designation: Fully or Partially Exempt.
Legal Authority: 5 U.S.C. 301 and 302; 41 U.S.C. 1707, 1302 and 1303
Abstract: This Homeland Security Acquisition Regulation (HSAR) rule would standardize information technology security awareness training and DHS Rules of Behavior requirements for contractor and subcontractor employees who access DHS information systems and information resources or contractor-owned and/or operated information systems and information resources capable of collecting, processing, storing, or transmitting controlled unclassified information (CUI).

Timetable:

Action	Date	FR Cite
NPRM	01/19/17	82 FR 6446
NPRM Comment Period End.	03/20/17	

Action	Date	FR Cite
NPRM Comment Period Extended.	03/20/17	82 FR 14341
NPRM Comment Period Extended End.	04/19/17	
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Shaundra Duggans, Procurement Analyst, Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation, 245 Murray Lane SW, Washington, DC 20528, *Phone:* 202 447-0056, *Email:* shaundra.duggans@hq.dhs.gov.

Nancy Harvey, Policy Analyst, Department of Homeland Security, Office of the Chief Procurement Officer, Room 3636-15, 301 7th Street SW, Washington, DC 20528, *Phone:* 202 447-0956, *Email:* <nancy.harvey@hq.dhs.gov.

RIN: 1601-AA78

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Citizenship and Immigration Services (USCIS)

Proposed Rule Stage

249. Removing H-4 Dependent Spouses From the Classes of Aliens Eligible for Employment Authorization

E.O. 13771 Designation: Other.

Legal Authority: 6 U.S.C. 112; 8 U.S.C. 1103(a), 1184(a)(1) and 1324a(H)(3)(B)

Abstract: On February 25, 2015, DHS published a final rule that amended DHS regulations to extend eligibility for employment authorization to certain H-4 dependent spouses of H-1B nonimmigrant workers who are seeking employment-based lawful permanent resident (LPR) status. DHS is publishing this notice of proposed rulemaking to propose to remove from its regulations this class of aliens for eligibility for employment authorization.

Timetable:

Action	Date	FR Cite
NPRM	12/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Charles Nimick, Chief, Business and Foreign Workers Division, Office of Policy and Strategy, Department of Homeland Security, U.S. Citizenship and Immigration Services, 5900 Capital Gateway Drive, Suite

4S190, Camp Springs, MD 20588-0009, *Phone:* 240 721-3000.

RIN: 1615-AC15

250. Employment Authorization for Certain Classes of Aliens With Final Orders of Removal

Regulatory Plan: This entry is Seq. No. 43 in part II of this issue of the **Federal Register**.

RIN: 1615-AC40

251. Short-Term Extension for E-Verify Employers in the H-2A Program

E.O. 13771 Designation: Other.

Legal Authority: Pub. L. 107-296, sec. 116; 6 U.S.C. 112; 8 U.S.C. 1103(a), 1184(a)(1), and 1324a(h)(3)(B)

Abstract: The Department of Homeland Security proposes to amend its regulations regarding short-term extensions for U.S. employers seeking temporary or seasonal agricultural nonimmigrant workers in the H-2A program to provide a short-term extension of the H-2A petition validity period by up to 2 weeks (14 days) to petitioning employers who are participants in good standing in E-Verify. The E-Verify petitioner may request the short-term extension at the time of the initial H-2A petition, or the petitioner may file a new H-2A petition to request the short-term extension. This proposal would allow H-2A workers to continue their H-2A employment for the same petitioner and under the same terms and conditions as the valid temporary labor certification and the H-2A petition without the requirement to obtain a new temporary labor certification from the Department of Labor.

Timetable:

Action	Date	FR Cite
NPRM	10/05/20	85 FR 62842
NPRM Comment Period End.	12/04/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Charles Nimick, Chief, Business and Foreign Workers Division, Office of Policy and Strategy, Department of Homeland Security, U.S. Citizenship and Immigration Services, 5900 Capital Gateway Drive, Suite 4S190, Camp Springs, MD 20588-0009, *Phone:* 240 721-3000.

RIN: 1615-AC51

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Citizenship and Immigration Services (USCIS)

Final Rule Stage

252. Removal of International Entrepreneur Parole Program

E.O. 13771 Designation: Regulatory. *Legal Authority:* 8 U.S.C.

1182(d)(5)(A)

Abstract: On January 17, 2017, DHS published the International Entrepreneur Final Rule (the IE final rule) in the **Federal Register** at 82 FR 5238, with an original effective date of July 17, 2017. On May 29, 2018, DHS published a notice of proposed rulemaking (NPRM) proposing to remove the international entrepreneur parole program from DHS regulations and solicited public comments on the proposal.

Timetable:

Action	Date	FR Cite
NPRM	08/31/16	81 FR 60129
NPRM Comment Period End.	10/17/16	
Final Rule	01/17/17	82 FR 5238
Final Rule Delay of Effective Date.	07/11/17	82 FR 31887
Final Rule Effective.	07/17/17	
NPRM—Removal of International Entrepreneur Parole Program.	05/29/18	83 FR 24415
NPRM Comment Period End-Removal of International Entrepreneur Parole Program.	06/28/18	
Final Action—Removal of International Entrepreneur Parole Program.	12/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Charles Nimick, Chief, Business and Foreign Workers Division, Office of Policy and Strategy, Department of Homeland Security, U.S. Citizenship and Immigration Services, 5900 Capital Gateway Drive, Suite 4S190, Camp Springs, MD 20588-0009, *Phone:* 240 721-3000.

RIN: 1615-AC04

253. Collection and Use of Biometrics by U.S. Citizenship and Immigration Services

Regulatory Plan: This entry is Seq. No. 46 in part II of this issue of the **Federal Register**.

RIN: 1615-AC14

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Citizenship and Immigration Services (USCIS)

Long-Term Actions

254. Requirements for Filing Motions and Administrative Appeals

E.O. 13771 Designation: Other.
Legal Authority: 5 U.S.C. 552 and 552a; 8 U.S.C. 1101, 1103 and 1304; 6 U.S.C. 112

Abstract: The Department of Homeland Security (DHS) is proposing this rule to improve the administration of U.S. Citizenship and Immigration Services (USCIS) appeals, motions, and certifications. The proposed changes would update and restructure the regulations in order to clarify and streamline the administrative review process, increase efficiency, and reflect the establishment of DHS and its components.

Timetable:

Action	Date	FR Cite
NPRM	12/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: William K. Renwick, Jr., Branch Chief, Department of Homeland Security, U.S. Citizenship and Immigration Services, Administrative Appeals Office, 5900 Capital Gateway Drive, Suite 4S190, Camp Springs, MD 20588-0009, *Phone:* 202 721-3000.

RIN: 1615-AB98

255. EB-5 Immigrant Investor Regional Center Program

E.O. 13771 Designation: Other.
Legal Authority: 8 U.S.C. 1153(b)(5); Pub. L. 102-395, secs. 610 and 601(a); Pub. L. 107-273, sec. 11037; Pub. L. 101-649, sec. 121(a); Pub. L. 105-119, sec. 116; Pub. L. 106-396, sec. 402; Pub. L. 108-156, sec. 4; Pub. L. 112-176, sec. 1; Pub. L. 114-113, sec. 575; Pub. L. 114-53, sec. 131; Pub. L. 107-273

Abstract: The Department of Homeland Security (DHS) is considering making regulatory changes to the EB-5 Immigrant Investor Regional Center Program. DHS issued an Advance Notice of Proposed Rulemaking (ANPRM) to seek comment from the public on several topics, including: (1) The process for initially designating entities as regional centers, (2) a potential requirement for regional centers to utilize an exemplar filing process, (3) continued participation requirements for maintaining regional center designation; and (4) the process

for terminating regional center designation. While DHS has gathered some information related to these topics, the ANPRM sought additional information that can help the Department make operational and security updates to the Regional Center Program while minimizing the impact of such changes on regional center operations and EB-5 investors.

Timetable:

Action	Date	FR Cite
ANPRM	01/11/17	82 FR 3211
ANPRM Comment Period End.	04/11/17	
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Charles Nimick, Chief, Business and Foreign Workers Division, Office of Policy and Strategy, Department of Homeland Security, U.S. Citizenship and Immigration Services, 5900 Capital Gateway Drive, Suite 4S190, Camp Springs, MD 20588-0009, *Phone:* 240 721-3000.

RIN: 1615-AC11

256. U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements

E.O. 13771 Designation: Regulatory.
Legal Authority: 8 U.S.C. 1356(m)
Abstract: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) conducted a FY 2019/2020 fee review for its Immigration Examinations Fee Account (IEFA), pursuant to the requirements of the Chief Financial Officers Act of 1990 (CFO Act), 31 U.S.C. 901-03 and the Immigration and Nationality Act, section 286(m), 8 U.S.C. 1356(m). The CFO Act requires each agency's chief financial officer to "review, on a biennial basis, the fees, royalties, rents, and other charges imposed by the agency for services and things of value it provides, and make recommendations on revising those charges to reflect costs incurred by it in providing those services and things of value." As a result of the FY 2019/2020 IEFA fee review, and following full consideration of public comments, DHS published its final rule (85 FR 46788) on August 3, 2020 with an effective date of October 2, 2020.

Timetable:

Action	Date	FR Cite
NPRM	11/14/19	84 FR 62280
NPRM Comment Period Extended.	12/09/19	84 FR 67243

Action	Date	FR Cite
NPRM Comment Period End.	12/16/19	
NPRM Comment Period Extended End.	12/30/19	
NPRM Comment Period Re-opened.	01/24/20	85 FR 4243
NPRM Comment Period Re-opened End.	02/10/20	
Final Action	08/03/20	85 FR 46788
Correction	08/17/20	85 FR 49941
Correction	08/31/20	85 FR 53645
Final Action Effective.	10/02/20	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kika M. Scott, Chief Financial Officer, Department of Homeland Security, U.S. Citizenship and Immigration Services, 5900 Capital Gateway Drive, Suite 4S190, Camp Springs, MD 20588-0009, *Phone:* 202 721-3000.

RIN: 1615-AC18

257. Electronic Processing of USCIS Immigration Benefit Requests

E.O. 13771 Designation: Deregulatory.
Legal Authority: 6 U.S.C. 112; 8 U.S.C. 1103; 44 U.S.C. 3504

Abstract: The Department of Homeland Security (DHS) will propose to: (1) Set requirements for mandatory-online submission for immigration benefit requests and explain the requirements associated with electronic processing; and (2) make changes to existing regulations to allow end-to-end digital processing.

Timetable:

Action	Date	FR Cite
NPRM	12/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael Mayhew, Chief of Staff, Immigration Records and Identity Services Directorate, Department of Homeland Security, U.S. Citizenship and Immigration Services, 5900 Capital Gateway Drive, Suite 4S190, Camp Springs, MD 20588-0009, *Phone:* 202 721-3000.

RIN: 1615-AC20

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Citizenship and Immigration Services (USCIS)

Completed Actions

258. Removal of 30-Day Processing Provision for Asylum Applicant-Related Form I-765 Employment Authorization Applications

E.O. 13771 Designation: Regulatory.
Legal Authority: 8 U.S.C. 1101 and 1103; Pub. L. 103-322; 8 U.S.C. 1105a; 8 U.S.C. 1151, 1153 and 1154; 8 U.S.C. 1182; 8 U.S.C. 1186a; 8 U.S.C. 1255; Pub. L. 113-4; 5 U.S.C. 801

Abstract: On September 9, 2019, DHS issued a proposed rule that would withdraw a regulatory provision stating that U.S. Citizenship and Immigration Services (USCIS) has 30 days from the date an asylum applicant files the initial Form I-765, Application for Employment Authorization (EAD application) to grant or deny that initial employment authorization application. DHS also proposed removing the provision requiring that the application for renewal must be received by USCIS 90 days prior to the expiration of the employment authorization. DHS will issue a final rule to respond to public comments and finalize removal of these provisions.

Timetable:

Action	Date	FR Cite
NPRM	09/09/19	84 FR 47148
NPRM Comment Period End.	11/08/19	
Final Action	06/22/20	85 FR 37502
Final Action Effective.	08/21/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Daniel Kane, Branch Chief, Service Center Operations, Department of Homeland Security, U.S. Citizenship and Immigration Services, 5900 Capital Gateway Drive, Suite 4S190, Camp Springs, MD 20588-0009, *Phone:* 202 721-3000.

RIN: 1615-AC19

259. Asylum Application, Interview, and Employment Authorization for Applicants

E.O. 13771 Designation: Regulatory.
Legal Authority: 8 U.S.C. 1158(d)(2)
Abstract: On November 14, 2019, The Department of Homeland Security (DHS) proposed regulatory amendments intended to promote greater accountability in the application process for requesting employment authorization and to deter the fraudulent filing of asylum applications

for the purpose of obtaining Employment Authorization Documents (EADs). DHS is considering public comments in development of the final rule.

Timetable:

Action	Date	FR Cite
NPRM	11/14/19	84 FR 62374
NPRM Comment Period End.	01/13/20	
Final Action	06/26/20	85 FR 38532
Final Action Effective.	08/25/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Maureen A. Dunn, Chief, Humanitarian Affairs Division, Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Policy and Strategy, 5900 Capital Gateway Drive, Suite 4S190, Camp Springs, MD 20588-0009, *Phone:* 240 721-3000.

RIN: 1615-AC27

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Coast Guard (USCG)

Proposed Rule Stage

260. • Lifejacket Approval Harmonization

E.O. 13771 Designation: Deregulatory.
Legal Authority: 46 U.S.C. 3306(a); 46 U.S.C. 3306(b); 46 U.S.C. 4102(a); 46 U.S.C. 4102(b); 46 U.S.C. 4302(a); 46 U.S.C. 4502(a); 46 U.S.C. 4502(c)(2)(B)

Abstract: The Coast Guard proposes to amend the lifejacket approval requirements and follow-up program requirements by incorporating three new bi-national standards. At the same time, the Coast Guard proposes to amend lifejacket and personal flotation devices (PFD) carriage requirements to allow for the use of equipment approved to the new standards, and to remove obsolete equipment approval requirements. The new standards are state-of-the-art and are intended to replace the legacy standards. The proposed amendments will streamline the process for approval of PFDs and allow manufacturers the opportunity to produce more innovative equipment that meets the approval requirements of both Canada and the United States, while reducing the burden for manufacturers in both the approval process and follow-up program.

Timetable:

Action	Date	FR Cite
NPRM	12/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jacqueline M. Yurkovich, Project Manager (CG-ENG-4), Department of Homeland Security, U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE, STOP 7509, Washington, DC 20593-7509, *Phone:* 202 372-1389, *Email:* jacqueline.m.yurkovich@uscg.mil.

RIN: 1625-AC62

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Coast Guard (USCG)

Long-Term Actions

261. Claims Procedures Under the Oil Pollution Act of 1990 (USCG-2004-17697)

E.O. 13771 Designation: Regulatory.
Legal Authority: 33 U.S.C. 2713 and 2714

Abstract: The purpose of this project is to remove superseded regulations at 33 Code of Federal Regulations (CFR) part 135, and to finalize the Oil Pollution Act of 1990 (OPA'90) claims procedures at 33 CFR part 136. The OPA'90 claims procedures, implementing OPA'90 section 1013 (Claims Procedures) and section 1014 (Designation of Source and Advertisement), were established by an interim rule, titled "Claims under the Oil Pollution Act of 1990" (Interim Rule) that has not been substantively amended since it was published in 1992. This rulemaking supports the Coast Guard's strategic goal of protection of natural resources.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/12/92	57 FR 36314
Correction	09/09/92	57 FR 41104
Interim Final Rule Comment Period End.	12/10/92	
Notice of Inquiry ..	11/01/11	76 FR 67385
Notice of Inquiry Comment Period End.	01/30/12	
NPRM	11/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Benjamin White, Project Manager, National Pollution Funds Center, Department of Homeland Security, U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE, STOP 7605, Washington, DC 20593-7605, *Phone:*

202 795-6066, *Email:* benjamin.h.white@uscg.mil.
RIN: 1625-AA03

262. Commercial Fishing Vessels—Implementation of 2010 and 2012 Legislation

E.O. 13771 Designation: Other.
Legal Authority: 46 U.S.C. 4502 and 5103; Pub. L. 111-281

Abstract: The Coast Guard proposes to implement those requirements of 2010 and 2012 legislation that pertain to uninspected commercial fishing industry vessels and that took effect upon enactment of the legislation but that, to be implemented, require amendments to Coast Guard regulations affecting those vessels. The applicability of the regulations is being changed, and new requirements are being added to safety training, equipment, vessel examinations, vessel safety standards, the documentation of maintenance, and the termination of unsafe operations. This rulemaking promotes the Coast Guard's maritime safety mission.

Timetable:

Action	Date	FR Cite
NPRM	06/21/16	81 FR 40437
NPRM Comment Period Extended.	08/15/16	81 FR 53986
NPRM Comment Period End.	10/19/16	
NPRM Comment Period Extended End.	12/18/16	
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Joseph Myers, Project Manager, Department of Homeland Security, U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE, STOP 7501, Washington, DC 20593-7501, *Phone:* 202 372-1249, *Email:* joseph.d.myers@uscg.mil.

RIN: 1625-AB85

263. Financial Responsibility—Vessels; Superseded Pollution Funds (USCG-2017-0788)

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: 33 U.S.C. 2704; 33 U.S.C. 2716 and 2716a; 42 U.S.C. 9607 to 9609; 6 U.S.C. 552; E.O. 12580; sec. 7(b), 3 CFR, 1987; Comp., p. 193; E.O. 12777, secs. 4 and 5, 3 CFR, 1991 Comp., p. 351, as amended by E.O. 13286, sec. 89, 3; 3 CFR, 2004 Comp., p. 166, and by E.O. 13638, sec. 1, 3 CFR, 2014 Comp., p. 227; Department of Homeland; Security Delegation Nos. 0170.1 and 5110, Revision 01

Abstract: The Coast Guard proposes to amend its rule on vessel financial responsibility to include tank vessels greater than 100 gross tons, to clarify and strengthen the rule's reporting requirements, to conform its rule to current practice, and to remove two superseded regulations. This rulemaking will ensure the Coast Guard has current information when there are significant changes in a vessel's operation, ownership, or evidence of financial responsibility, and reflect current best practices in the Coast Guard's management of the Certificate of Financial Responsibility Program. This rulemaking will also promote the Coast Guard's missions of maritime stewardship, maritime security, and maritime safety.

Timetable:

Action	Date	FR Cite
NPRM	05/13/20	85 FR 28802
NPRM Comment Period End.	08/11/20	
Next Action Undetermined.	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Benjamin White, Project Manager, National Pollution Funds Center, Department of Homeland Security, U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE, STOP 7605, Washington, DC 20593-7605, *Phone:* 202 795-6066, *Email:* benjamin.h.white@uscg.mil.
RIN: 1625-AC39

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Customs and Border Protection (USCBP)

Final Rule Stage

264. Implementation of the Guam-CNMI Visa Waiver Program (Section 610 Review)

E.O. 13771 Designation: Fully or Partially Exempt.

Legal Authority: Pub. L. 110-229, sec. 702

Abstract: The interim final rule amends Department of Homeland Security (DHS) regulations to implement section 702 of the Consolidated Natural Resources Act of 2008 (CNRA). This law extends the immigration laws of the United States to the Commonwealth of the Northern Mariana Islands (CNMI) and provides for a joint visa waiver program for travel to Guam and the CNMI. This rule

implements section 702 of the CNRA by amending the regulations to replace the current Guam Visa Waiver Program with a new Guam-CNMI Visa Waiver Program. The amended regulations set forth the requirements for nonimmigrant visitors who seek admission for business or pleasure and solely for entry into and stay on Guam or the CNMI without a visa. This rule also establishes six ports of entry in the CNMI for purposes of administering and enforcing the Guam-CNMI Visa Waiver Program. Section 702 of the Consolidated Natural Resources Act of 2008 (CNRA), subject to a transition period, extends the immigration laws of the United States to the Commonwealth of the Northern Mariana Islands (CNMI) and provides for a visa waiver program for travel to Guam and/or the CNMI. On January 16, 2009, the Department of Homeland Security (DHS), Customs and Border Protection (CBP), issued an interim final rule in the **Federal Register** replacing the then-existing Guam Visa Waiver Program with the Guam-CNMI Visa Waiver Program and setting forth the requirements for nonimmigrant visitors seeking admission into Guam and/or the CNMI under the Guam-CNMI Visa Waiver Program. As of November 28, 2009, the Guam-CNMI Visa Waiver Program is operational. This program allows nonimmigrant visitors from eligible countries to seek admission for business or pleasure for entry into Guam and/or the CNMI without a visa for a period of authorized stay not to exceed 45 days. This rulemaking would finalize the January 2009 interim final rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/16/09	74 FR 2824
Interim Final Rule Effective.	01/16/09	
Interim Final Rule Comment Period End.	03/17/09	
Technical Amendment; Change of Implementation Date.	05/28/09	74 FR 25387
Final Action	10/00/21	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Neyda Yejo, Program Manager, Electronic System for Travel Authorization, Office of Field Operations, Department of Homeland Security, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Washington, DC 20229, *Phone:* 202 344-2373, *Email:* neyda.i.yejo@cbp.dhs.gov.

RIN: 1651-AA77

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Customs and Border Protection (USCBP)

Long-Term Actions

265. Importer Security Filing and Additional Carrier Requirements (Section 610 Review)

E.O. 13771 Designation: Regulatory.
Legal Authority: Pub. L. 109–347, sec. 203; 5 U.S.C. 301; 19 U.S.C. 66; 19 U.S.C. 1431; 19 U.S.C. 1433 and 1434; 19 U.S.C. 1624; 19 U.S.C. 2071 (note); 46 U.S.C. 60105

Abstract: This final rule implements the provisions of section 203 of the Security and Accountability for Every Port Act of 2006. On November 25, 2008, Customs and Border Protection (CBP) published an interim final rule (CBP Dec. 08–46) in the **Federal Register** (73 FR 71730), that finalized most of the provisions proposed in the Notice of Proposed Rulemaking. It requires carrier and importers to provide to CBP, via a CBP approved electronic data interchange system, certain advance information pertaining to cargo brought into the United States by vessel to enable CBP to identify high-risk shipments to prevent smuggling and ensure cargo safety and security. The interim final rule did not finalize six data elements that were identified as areas of potential concern for industry during the rulemaking process and, for which, CBP provided some type of flexibility for compliance with those data elements. CBP solicited public comment on these six data elements and also invited comments on the revised Regulatory Assessment and Final Regulatory Flexibility Analysis. (See 73 FR 71782–85 for regulatory text and 73 CFR 71733–34 for general discussion.) The remaining requirements of the rule were adopted as final.

Timetable:

Action	Date	FR Cite
NPRM	01/02/08	73 FR 90
NPRM Comment Period End.	03/03/08	
NPRM Comment Period Extended.	02/01/08	73 FR 6061
NPRM Comment Period End.	03/18/08	
Interim Final Rule	11/25/08	73 FR 71730
Interim Final Rule Effective.	01/26/09	
Interim Final Rule Comment Period End.	06/01/09	
Correction	07/14/09	74 FR 33920
Correction	12/24/09	74 FR 68376

Action	Date	FR Cite
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Brian Sale, Branch Chief, Manifest & Conveyance Security Division, Cargo & Conveyance, Office of Field Operation, Department of Homeland Security, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Washington, DC 20229, *Phone:* 202 325–3338, *Email:* brian.a.sale@cbp.dhs.gov.

RIN: 1651–AA70

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Immigration and Customs Enforcement (USICE)

Proposed Rule Stage

266. Visa Security Program Fee

E.O. 13771 Designation: Other.
Legal Authority: 8 U.S.C. 1356
Abstract: ICE seeks to enable the expansion of the Visa Security Program (VSP) by proposing to move it to a user-fee funded model (as opposed to relying on appropriations). The VSP leverages resources in the National Capital Region (NCR) and at U.S. diplomatic posts overseas to vet and screen visa applicants; identifies and prevents the travel of those who constitute potential national security and/or public safety threats; and launches investigations into criminal and/or terrorist affiliated networks operating in the U.S. and abroad. The fees collected as a result of this rule would fund an expansion of the VSP, enabling ICE to extend visa security screening and vetting operations and investigative efforts to more visa-issuing posts overseas, and in turn, enhance the U.S. government’s ability to prevent travel to the United States by illicit actors.

Timetable:

Action	Date	FR Cite
NPRM	04/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Sharon Hageman, Regulations Unit Chief, Department of Homeland Security, U.S. Immigration and Customs Enforcement, 500 12th Street SW, Mail Stop 5006, Washington, DC 20536, *Phone:* 202 732–6960, *Email:* sharon.hageman@ice.dhs.gov.

RIN: 1653–AA77

267. Adjusting Program Fees for the Student and Exchange Visitor Program

Regulatory Plan: This entry is Seq. No. 57 in part II of this issue of the **Federal Register**.

RIN: 1653–AA81

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Immigration and Customs Enforcement (USICE)

Final Rule Stage

268. Establishing a Fixed Time Period of Admission and an Extension of Stay Procedure for Nonimmigrant Academic Students, Exchange Visitors, and Representatives of Foreign Information Media

Regulatory Plan: This entry is Seq. No. 59 in part II of this issue of the **Federal Register**.

RIN: 1653–AA78

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Immigration and Customs Enforcement (USICE)

Completed Actions

269. Procedures and Standards for Declining Surety Immigration Bonds and Administrative Appeal Requirement for Breaches

E.O. 13771 Designation: Not subject to, not significant.
Legal Authority: 8 U.S.C. 1103
Abstract: U.S. Immigration and Customs Enforcement (ICE) is establishing standards and procedures ICE will follow before making a determination to stop accepting immigration bonds posted by a surety company that has been certified to issue bonds by the Department of the Treasury when the company does not cure deficient performance. Treasury administers the Federal corporate surety program and, in its current regulations, allows agencies to prescribe “for cause” standards and procedures for declining to accept new bonds from Treasury-certified sureties. ICE will also require surety companies seeking to overturn a breach determination to file an administrative appeal raising all legal and factual defenses.

Timetable:

Action	Date	FR Cite
NPRM	06/05/18	83 FR 25951
NPRM Comment Period End.	08/06/18	

Action	Date	FR Cite
Final Action	07/31/20	85 FR 45968

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Sharon Hageman, Regulations Unit Chief, Department of Homeland Security, U.S. Immigration and Customs Enforcement, 500 12th Street SW, Mail Stop 5006, Washington, DC 20536, *Phone:* 202 732-6960, *Email:* sharon.hageman@ice.dhs.gov.

RIN: 1653-AA67

DEPARTMENT OF HOMELAND SECURITY (DHS)

Cybersecurity and Infrastructure Security Agency (CISA)

Proposed Rule Stage

270. Ammonium Nitrate Security Program

Regulatory Plan: This entry is Seq. No. 62 in part II of this issue of the **Federal Register**.

RIN: 1670-AA00

DEPARTMENT OF HOMELAND SECURITY (DHS)

Cybersecurity and Infrastructure Security Agency (CISA)

Long-Term Actions

271. Chemical Facility Anti-terrorism Standards (CFATS)

E.O. 13771 Designation: Other.
Legal Authority: 6 U.S.C. 621 to 629
Abstract: The Department of Homeland Security (DHS) previously invited public comment on an Advance Notice of Proposed Rulemaking (ANPRM) for potential revisions to the Chemical Facility Anti-Terrorism Standards (CFATS) regulations. The ANPRM provided an opportunity for the public to provide recommendations for possible program changes. Taking into consideration the comments received, the Cybersecurity and Infrastructure Security Agency (CISA) has determined to limit the scope of this rulemaking to improving Appendix A to the CFATS regulations and address concerns with release-flammable security issues. Additionally, in June 2020, CISA published a notice announcing the availability of a retrospective analysis of the data, assumptions, and methodology

that were used to support the 2007 CFATS interim final rule and providing the public an opportunity to provide comment. Once the comment period closes, CISA intends to determine the next appropriate step for this rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	08/18/14	79 FR 48693
ANPRM Comment Period End.	10/17/14	
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Lona Saccomando, Chemical Facility of Interest (CFOI) Coordinator, Department of Homeland Security, Cybersecurity and Infrastructure Security Agency, 245 Murray Lane SW, Mail Stop 0610, Arlington, VA 20528-0610, *Phone:* 703 603-4898, *Email:* lona.saccomando@cisa.dhs.gov.

RIN: 1670-AA01

[FR Doc. 2021-04337 Filed 3-30-21; 8:45 am]

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Part X

Department of the Interior

Semiannual Regulatory Agenda

DEPARTMENT OF THE INTERIOR

Office of the Secretary

25 CFR Ch. I

30 CFR Chs. II and VII

36 CFR Ch. I

43 CFR Subtitle A, Chs. I and II

48 CFR Ch. 14

50 CFR Chs. I and IV

[167D0102DM; DS6CS00000;
DLSN00000.00000; DX6CS25]

Semiannual Regulatory Agenda

AGENCY: Office of the Secretary, Interior.
ACTION: Semiannual regulatory agenda.

SUMMARY: This notice provides the semiannual agenda of rules scheduled for review or development between Fall 2020 and Fall 2021. The Regulatory Flexibility Act and Executive Order 12866 require publication of the agenda.

ADDRESSES: Unless otherwise indicated, all agency contacts are located at the

Department of the Interior, 1849 C Street NW, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: You should direct all comments and inquiries about these rules to the appropriate agency contact. You should direct general comments relating to the agenda to the Office of Executive Secretariat and Regulatory Affairs, Department of the Interior, at the address above or at 202–208–3181.

SUPPLEMENTARY INFORMATION: With this publication, the Department satisfies the requirement of Executive Order 12866 that the Department publish an agenda of rules that we have issued or expect to issue and of currently effective rules that we have scheduled for review.

Simultaneously, the Department meets the requirement of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) to publish an agenda in April and October of each year identifying rules that will have significant economic effects on a substantial number of small entities. We have specifically identified in the agenda rules that will have such effects.

This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan,

which appears in both the online Unified Agenda and in part II of the **Federal Register** that includes the Unified Agenda. The Department’s Statement of Regulatory Priorities is included in the Plan.

In some cases, the Department has withdrawn rules that were placed on previous agendas for which there has been no publication activity or for which a proposed or interim rule was published. There is no legal significance to the omission of an item from this agenda. Withdrawal of a rule does not necessarily mean that the Department will not proceed with the rulemaking. Withdrawal allows the Department to assess the action further and determine whether rulemaking is appropriate. Following such an assessment, the Department may determine that certain rules listed as withdrawn under this agenda are appropriate for promulgation. If that determination is made, such rules will comply with Executive Order 13771.

Bivan R. Patnaik,
Deputy Director of Regulatory Affairs,
Executive Secretariat and Regulatory Affairs.

BUREAU OF SAFETY AND ENVIRONMENTAL ENFORCEMENT—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
272	Update of Regulations on Relief or Reduction in Royalty Rates	1014-AA50

ASSISTANT SECRETARY FOR LAND AND MINERALS MANAGEMENT—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
273	Revisions to the Requirements for Exploratory Drilling on the Arctic Outer Continental Shelf	1082-AA01
274	Risk Management, Financial Assurance and Loss Prevention	1082-AA02

UNITED STATES FISH AND WILDLIFE SERVICE—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
275	Migratory Bird Hunting; 2021–22 Migratory Game Bird Hunting Regulations	1018-BE34
276	Migratory Bird Hunting; 2022–23 Migratory Game Bird Hunting Regulations	1018-BF07
277	Importation, Exportation and Transportation of Wildlife; Updates to the Regulations	1018-BF16

UNITED STATES FISH AND WILDLIFE SERVICE—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
278	Migratory Bird Hunting; 2020–2021 Migratory Game Bird Hunting Regulations	1018-BD89

DEPARTMENT OF THE INTERIOR (DOI)

Bureau of Safety and Environmental Enforcement (BSEE)

Proposed Rule Stage

272. • Update of Regulations on Relief or Reduction in Royalty Rates

E.O. 13771 Designation: Deregulatory.
Legal Authority: 43 U.S.C. 1337(a)(3)(A); 43 U.S.C. 1337(a)(3)(B)
Abstract: BSEE has reviewed its current regulations pertaining to royalty relief and is considering modifications to streamline the current provisions related to royalty relief, in order to reduce certain unnecessary regulatory burdens imposed under the existing regulations. BSEE’s modifications to the existing regulations would increase transparency, efficiency, and clarity consistent with governing law. Appropriately awarded royalty relief helps to ensure America has a stable, long-term energy supply while protecting the American public (*i.e.*, relief only provided when a lease/project is uneconomic paying full royalty). In addition, BSEE is considering modifications for a streamlined approach during presidential declared emergencies.

Timetable:

Action	Date	FR Cite
NPRM	03/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kirk Malstrom, Acting Chief, Regulations and Standards Branch, Department of the Interior, Bureau of Safety and Environmental Enforcement, 45600 Woodland Road, Sterling, VA 20166, *Phone:* 703 787-1751, *Fax:* 703 787-1555, *Email:* kirk.malstrom@bsee.gov.

RIN: 1014-AA50

DEPARTMENT OF THE INTERIOR (DOI)

Assistant Secretary for Land and Minerals Management (ASLM)

Proposed Rule Stage

273. Revisions to the Requirements for Exploratory Drilling on the Arctic Outer Continental Shelf

E.O. 13771 Designation: Deregulatory.
Legal Authority: 43 U.S.C. 1331 to 1356a; 33 U.S.C. 2701
Abstract: This proposed rule would revise specific provisions of the regulations published in the final Arctic Exploratory Drilling Rule, 81 FR 46478 (July 15, 2016), which established a regulatory framework for exploratory

drilling and related operations within the Beaufort Sea and Chukchi Sea Planning Areas on the Outer Continental Shelf of Alaska. The rulemaking for this RIN replaces the Bureau of Safety and Environmental Enforcement’s RIN 1014-AA40.

Timetable:

Action	Date	FR Cite
NPRM	11/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Justin Abernathy, Deputy Director for Policy, Office of the Executive Secretariat and Regulatory Affairs, Department of the Interior, Office of the Secretary, 1849 C Street NW, Washington, DC 20240, *Phone:* 202 513-0357, *Email:* justin_abernathy@ios.doi.gov.

RIN: 1082-AA01

274. Risk Management, Financial Assurance and Loss Prevention

E.O. 13771 Designation: Deregulatory.
Legal Authority: 43 U.S.C. 1331 *et seq.*

Abstract: As directed by Executive Order 13795, the Bureau of Ocean Energy Management (BOEM) has reconsidered its financial assurance policies, as reflected in Notice to Lessees No. 2016-N01 (September 12, 2016). In consideration of that review, BOEM and the Bureau of Safety and Environmental Enforcement (BSEE) are now developing a joint rule that is intended to revise existing financial assurance policies for oil and gas operations on the Outer Continental Shelf in order to ensure operator compliance with financial and performance obligations while reducing unnecessary regulatory burdens.

Timetable:

Action	Date	FR Cite
NPRM	10/16/20	85 FR 65904
NPRM Comment Period End.	12/15/20	
Final Action	02/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Justin Abernathy, Deputy Director for Policy, Office of the Executive Secretariat and Regulatory Affairs, Department of the Interior, Office of the Secretary, 1849 C Street NW, Washington, DC 20240, *Phone:* 202 513-0357, *Email:* justin_abernathy@ios.doi.gov.

RIN: 1082-AA02

DEPARTMENT OF THE INTERIOR (DOI)

United States Fish and Wildlife Service (FWS)

Proposed Rule Stage

275. Migratory Bird Hunting; 2021–22 Migratory Game Bird Hunting Regulations

E.O. 13771 Designation: Fully or Partially Exempt.
Legal Authority: 16 U.S.C. 703 to 712; 16 U.S.C. 742a–j
Abstract: The U.S. Fish and Wildlife Service proposes to establish annual hunting regulations for certain migratory game birds for the 2021–22 hunting season. We annually prescribe outside limits (frameworks) within which States may select hunting seasons. This proposed rule provides the regulatory schedule, announces the Service Migratory Bird Regulations Committee and Flyway Council meetings, describes the proposed regulatory alternatives for the 2021–22 duck hunting seasons, and requests proposals from Indian Tribes that wish to establish special migratory game bird hunting regulations on Federal Indian reservations and ceded lands.

Timetable:

Action	Date	FR Cite
NPRM	10/09/20	85 FR 64097
NPRM Comment Period End.	11/09/20	
NPRM—Supplemental.	11/00/20	
NPRM—Proposed Frameworks.	01/00/21	
NPRM—Proposed Tribal Regulations.	01/00/21	
Final Action—Final Frameworks.	04/00/21	
Final Action—Final Tribal Regulations.	06/00/21	
Final Action—Season Selections.	06/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jerome Ford, Assistant Director—Migratory Bird Program, Department of the Interior, United States Fish and Wildlife Service, 5275 Leesburg Pike, MS-MB, Falls Church, VA 22041-3803, *Phone:* 703 358-1050, *Email:* jerome_ford@fws.gov.
RIN: 1018-BE34

276. Migratory Bird Hunting; 2022–23 Migratory Game Bird Hunting Regulations

E.O. 13771 Designation: Fully or Partially Exempt.

Legal Authority: 16 U.S.C. 703 to 712; 16 U.S.C. 742a–j

Abstract: The U.S. Fish and Wildlife Service proposes to establish annual hunting regulations for certain migratory game birds for the 2022–23 hunting season. We annually prescribe outside limits (frameworks) within which States may select hunting seasons. This proposed rule provides the regulatory schedule, announces the Service Migratory Bird Regulations Committee and Flyway Council meetings, describes the proposed regulatory alternatives for the 2022–23 duck hunting seasons, and requests proposals from Indian Tribes that wish to establish special migratory game bird hunting regulations on Federal Indian reservations and ceded lands.

Timetable:

Action	Date	FR Cite
NPRM	06/00/21	
NPRM—Supplemental.	09/00/21	
NPRM—Proposed Frameworks.	12/00/21	
NPRM—Proposed Tribal Regulations.	01/00/22	
Final Action—Final Frameworks.	02/00/22	
Final Action—Final Tribal Regulations.	04/00/22	
Final Action—Season Selections.	06/00/22	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jerome Ford, Assistant Director—Migratory Bird Program, Department of the Interior, United States Fish and Wildlife Service, 5275 Leesburg Pike, MS–MB, Falls Church, VA 22041–3803, Phone: 703 358–1050, Email: jerome_ford@fws.gov.
RIN: 1018–BF07

277. Importation, Exportation and Transportation of Wildlife; Updates to the Regulations

E.O. 13771 Designation: Other.
Legal Authority: 16 U.S.C. 668; 16 U.S.C. 704; 16 U.S.C. 712; 16 U.S.C. 1382; 16 U.S.C. 1538(d)–(f); 16 U.S.C. 1540(f); 16 U.S.C. 33 8(d)–(f); 16 U.S.C.

3371 to 3378; 16 U.S.C. 4223 to 4244; 16 U.S.C. 4901 to 4916; 18 U.S.C. 42; 31 U.S.C. 42; 31 U.S.C. 9701

Abstract: We propose to rewrite our regulations governing the importation and exportation of wildlife to make these regulations easier to understand. In addition, we propose to revise the inspection fees associated with the importation and exportation of wildlife and to update the list of species that qualify as domesticated species, for which U.S. Fish and Wildlife inspection and clearance is not required. The current inspection fees have been in effect since 2012. The establishment of these fees is consistent with the Independent Offices Appropriations Act of 1952 and OMB Circular No. A–25, which provide that services provided by Federal agencies are to be self-sustaining to the extent possible and that fees assessed should be sufficient to recover the full cost to the Federal Government of providing the service and are based on market prices.

Timetable:

Action	Date	FR Cite
NPRM	07/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Edward Grace, Assistant Director, Office of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, 5275 Leesburg Pike, MS: LEO, Falls Church, VA 22041–3803, Phone: 703 358–1949, Fax: 703 358–1947, Email: edward_grace@fws.gov.
RIN: 1018–BF16

DEPARTMENT OF THE INTERIOR (DOI)

United States Fish and Wildlife Service (FWS)

Completed Actions

278. Migratory Bird Hunting; 2020–2021 Migratory Game Bird Hunting Regulations

E.O. 13771 Designation: Fully or Partially Exempt.
Legal Authority: 16 U.S.C. 703 to 712; 16 U.S.C. 742a–j
Abstract: This rule establishes hunting regulations for certain

migratory game birds for the 2020–2021 hunting season. Migratory game bird hunting seasons provide opportunities for recreation and sustenance; aid Federal, State, and Tribal governments in the management of migratory game birds; and permit harvests at levels compatible with migratory game bird population status and habitat conditions. We annually prescribe outside limits (frameworks) within which States may select hunting seasons. We also work with Indian tribes that wish to establish special migratory game bird hunting regulations on Federal Indian reservations and ceded lands. For this rule, we used a regulatory impact analysis developed in 2013 and incorporated the most recent available data to quantify the costs and benefits of different regulatory alternatives.

Timetable:

Action	Date	FR Cite
NPRM	10/15/19	84 FR 55120
NPRM Comment Period End.	11/15/19	
NPRM—Proposed Frameworks.	03/19/20	85 FR 15870
NPRM Comment Period End.	04/20/20	
NPRM—Proposed Tribal Regulations.	04/02/20	85 FR 18532
NPRM Comment Period End.	05/04/20	
Final Frameworks	08/21/20	85 FR 51854
Final Tribal Regulations.	08/28/20	85 FR 53247
Season Selections.	08/28/20	85 FR 53260
Final Action Effective.	08/21/20	
Final Action Effective.	08/28/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dr. Eric L. Kershner, Chief, Branch of Conservation, Permits, and Regulations, Department of the Interior, United States Fish and Wildlife Service, 5275 Leesburg Pike, MS: MB, Falls Church, VA 22041, Phone: 703 358–2376, Fax: 703 358–2217, Email: eric_kershner@fws.gov.
RIN: 1018–BD89

[FR Doc. 2021–04500 Filed 3–30–21; 8:45 am]

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Part XI

Department of Labor

Semiannual Regulatory Agenda

DEPARTMENT OF LABOR

Office of the Secretary

20 CFR Chs. I, IV, V, VI, VII, and IX

29 CFR Subtitle A and Chs. II, IV, V, XVII, and XXV

30 CFR Ch. I

41 CFR Ch. 60

48 CFR Ch. 29

Semiannual agenda of regulations

AGENCY: Office of the Secretary, Labor.

ACTION: Semiannual regulatory agenda.

SUMMARY: The internet has become the means for disseminating the entirety of the Department of Labor’s semiannual regulatory agenda. However, the Regulatory Flexibility Act requires publication of a regulatory flexibility agenda in the **Federal Register**. This **Federal Register** Notice contains the regulatory flexibility agenda.

FOR FURTHER INFORMATION CONTACT: Laura M. Dawkins, Director, Office of Regulatory and Programmatic Policy, Office of the Assistant Secretary for Policy, U.S. Department of Labor, 200

Constitution Avenue NW, Room S-2312, Washington, DC 20210; (202) 693-5959.

Note: Information pertaining to a specific regulation can be obtained from the agency contact listed for that particular regulation.

SUPPLEMENTARY INFORMATION: Executive Order 12866 requires the semiannual publication of an agenda of regulations that contains a listing of all the regulations the Department of Labor expects to have under active consideration for promulgation, proposal, or review during the coming one-year period. The entirety of the Department’s semiannual agenda is available online at www.reginfo.gov.

The Regulatory Flexibility Act (5 U.S.C. 602) requires DOL to publish in the **Federal Register** a regulatory flexibility agenda. The Department’s Regulatory Flexibility Agenda, published with this notice, includes only those rules on its semiannual agenda that are likely to have a significant economic impact on a substantial number of small entities; and those rules identified for periodic review in keeping with the requirements of section 610 of the Regulatory Flexibility Act. Thus, the regulatory flexibility agenda is a subset of the

Department’s semiannual regulatory agenda. The Department’s Regulatory Flexibility Agenda does not include section 610 items at this time.

All interested members of the public are invited and encouraged to let departmental officials know how our regulatory efforts can be improved and are invited to participate in and comment on the review or development of the regulations listed on the Department’s agenda.

This document of the Department of Labor was signed on December 16, 2020, by Eugene Scalia, Secretary of Labor. That document with the original signature and date is maintained by the Department of Labor. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the Department of Labor has delegated authority to the undersigned RISC Federal Register Liaison Officer to re-sign and submit the document in electronic format for publication, as an official document of the Department of Labor. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Terri Tolson-Young
Federal Register Liaison Officer, Regulatory Information Service Center.

WAGE AND HOUR DIVISION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
279	Independent Contractor Status Under the Fair Labor Standards Act (Reg Plan Seq No. 66)	1235-AA34

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

EMPLOYMENT AND TRAINING ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
280	Temporary Employment of H-2B Foreign Workers in Certain Itinerant Occupations in the United States	1205-AB93

EMPLOYEE BENEFITS SECURITY ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
281	Financial Factors in Selecting Plan Investments (Reg Plan Seq No. 69)	1210-AB95

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
282	Transparency in Coverage	1210-AB93

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
283	Emergency Response	1218-AC91
284	Prevention of Workplace Violence in Health Care and Social Assistance	1218-AD08

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
285	Communication Tower Safety	1218-AC90
286	Tree Care Standard	1218-AD04

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
287	Infectious Diseases	1218-AC46
288	Process Safety Management and Prevention of Major Chemical Accidents	1218-AC82

DEPARTMENT OF LABOR (DOL)

Wage and Hour Division (WHD)

Final Rule Stage

279. Independent Contractor Status Under the Fair Labor Standards Act

Regulatory Plan: This entry is Seq. No. 66 in part II of this issue of the **Federal Register**.

RIN: 1235-AA34

DEPARTMENT OF LABOR (DOL)

Employment and Training Administration (ETA)

Proposed Rule Stage

280. Temporary Employment of H-2B Foreign Workers in Certain Itinerant Occupations in the United States

E.O. 13771 Designation: Regulatory. *Legal Authority:* 8 U.S.C. 1184; 8 U.S.C. 1103

Abstract: The United States Department of Labor’s (DOL) Employment and Training Administration and Wage and Hour Division, and the United States Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services, are jointly amending regulations regarding the H-2B non-immigrant visa program at 20 CFR part 655, subpart A. The Notice of Proposed Rulemaking (NPRM) will establish standards and procedures for employers seeking to hire foreign temporary nonagricultural workers for certain itinerant job opportunities, including entertainers and carnivals and utility vegetation management.

Timetable:

Action	Date	FR Cite
NPRM	09/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Brian Pasternak, Administrator, Office of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW, FP Building, Washington, DC 20210, *Phone:* 202 513-7350.

RIN: 1205-AB93

DEPARTMENT OF LABOR (DOL)

Employee Benefits Security Administration (EBSA)

Final Rule Stage

281. Financial Factors in Selecting Plan Investments

Regulatory Plan: This entry is Seq. No. 69 in part II of this issue of the **Federal Register**.

RIN: 1210-AB95

DEPARTMENT OF LABOR (DOL)

Employee Benefits Security Administration (EBSA)

Completed Actions

282. Transparency in Coverage

E.O. 13771 Designation: Regulatory. *Legal Authority:* 42 U.S.C. 18031; 42 U.S.C. 300gg-15a; 29 U.S.C. 1185d

Abstract: This final rule would implement portions of Executive Order 13877 (“Improving Price and Quality

Transparency in American Healthcare to Put Patients First”, June 24, 2019), which provides that the Secretaries of Health and Human Services, the Treasury, and Labor will facilitate access to information about expected health care costs for patients before they receive care.

Timetable:

Action	Date	FR Cite
NPRM	11/27/19	84 FR 65464
NPRM Comment Period End.	01/29/20	
Final Rule	11/20/20	85 FR 72158
Final Rule Effective.	01/11/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Amber Rivers, Director, Office of Health Plan Standards and Compliance Assistance, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW, Washington, DC 20210, *Phone:* 202 693-8335.

RIN: 1210-AB93

DEPARTMENT OF LABOR (DOL)

Occupational Safety and Health Administration (OSHA)

Prerule Stage

283. Emergency Response

E.O. 13771 Designation: Regulatory. *Legal Authority:* 29 U.S.C. 655(b); 29 U.S.C. 657; 5 U.S.C. 609

Abstract: OSHA currently regulates aspects of emergency response and preparedness; some of these standards were promulgated decades ago, and

none were designed as comprehensive emergency response standards. Consequently, they do not address the full range of hazards or concerns currently facing emergency responders, and other workers providing skilled support, nor do they reflect major changes in performance specifications for protective clothing and equipment. The agency acknowledged that current OSHA standards also do not reflect all the major developments in safety and health practices that have already been accepted by the emergency response community and incorporated into industry consensus standards. OSHA is considering updating these standards with information gathered through an RFI and public meetings.

Timetable:

Action	Date	FR Cite
Stakeholder Meetings.	07/30/14	
Convene NACOSH Workgroup.	09/09/15	
NACOSH Review of Workgroup Report.	12/14/16	
Initiate SBREFA ..	02/00/21	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Andrew Levinson, Deputy Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, FP Building, Room N-3718, Washington, DC 20210, *Phone:* 202 693-1950, *Email:* levinson.andrew@dol.gov.

RIN: 1218-AC91

284. Prevention of Workplace Violence in Health Care and Social Assistance

E.O. 13771 Designation: Regulatory.
Legal Authority: 29 U.S.C. 655(b); 5 U.S.C. 609

Abstract: The Request for Information (RFI) (published on December 7, 2016 81 FR 88147) provides OSHA’s history with the issue of workplace violence in health care and social assistance, including a discussion of the Guidelines that were initially published in 1996, a 2014 update to the Guidelines, the agency’s use of 5(a)(1) in enforcement cases in health care. The RFI solicited information primarily from health care employers, workers and other subject matter experts on impacts of violence, prevention strategies, and other information that will be useful to the agency. OSHA was petitioned for a standard preventing workplace violence in health care by a broad coalition of labor unions, and in a separate petition

by the National Nurses United. On January 10, 2017, OSHA granted the petitions.

Timetable:

Action	Date	FR Cite
Request for Information (RFI).	12/07/16	81 FR 88147
RFI Comment Period End.	04/06/17	
Initiate SBREFA ..	12/00/20	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Andrew Levinson, Deputy Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, FP Building, Room N-3718, Washington, DC 20210, *Phone:* 202 693-1950, *Email:* levinson.andrew@dol.gov.

RIN: 1218-AD08

DEPARTMENT OF LABOR (DOL)

Occupational Safety and Health Administration (OSHA)

Proposed Rule Stage

285. Communication Tower Safety

E.O. 13771 Designation: Regulatory.
Legal Authority: 29 U.S.C. 655(b); 5 U.S.C. 609

Abstract: While the number of employees engaged in the communication tower industry remains small, the fatality rate is very high. Over the past 20 years, this industry has experienced an average fatality rate that greatly exceeds that of the construction industry. Due to recent FCC spectrum auctions and innovations in cellular technology, there will be a very high level of construction activity taking place on communication towers over the next few years. A similar increase in the number of construction projects needed to support cellular phone coverage triggered a spike in fatality and injury rates years ago. Based on information collected from an April 2016 Request for Information (RFI), OSHA concluded that current OSHA requirements such as those for fall protection and personnel hoisting, may not adequately cover all hazards of communication tower construction and maintenance activities. OSHA will use information collected from a Small Business Regulatory Enforcement Fairness Act (SBREFA) panel to identify effective work practices and advances in engineering technology that would best address industry safety and health concerns. The Panel carefully

considered the issue of the expansion of the rule beyond just communication towers. OSHA will continue to consider also covering structures that have telecommunications equipment on or attached to them (e.g., buildings, rooftops, water towers, billboards).

Timetable:

Action	Date	FR Cite
Request for Information (RFI).	04/15/15	80 FR 20185
RFI Comment Period End.	06/15/15	
Initiate SBREFA ..	01/04/17	
Initiate SBREFA ..	05/31/18	
Complete SBREFA.	10/11/18	
NPRM	07/00/21	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Scott Ketcham, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, Room N-3468, FP Building, Washington, DC 20210, *Phone:* 202 693-2020, *Fax:* 202 693-1689, *Email:* ketcham.scott@dol.gov.

RIN: 1218-AC90

286. Tree Care Standard

E.O. 13771 Designation: Regulatory.

Legal Authority: Not Yet Determined

Abstract: There is no OSHA standard for tree care operations; the agency currently applies a patchwork of standards to address the serious hazards in this industry. The tree care industry previously petitioned the agency for rulemaking and OSHA issued an ANPRM (September 2008). OSHA completed a Small Business Regulatory Enforcement Fairness Act (SBREFA) panel in May 2020, collecting information from affected small entities on a potential standard, including the scope of the standard, effective work practices, and arboricultural specific uses of equipment to guide OSHA in developing a rule that would best address industry safety and health concerns. Tree care continues to be a high-hazard industry.

Timetable:

Action	Date	FR Cite
Stakeholder Meeting.	07/13/16	
Initiate SBREFA ..	01/10/20	
Complete SBREFA.	05/22/20	
NPRM	10/00/21	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Andrew Levinson, Deputy Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, FP Building, Room N-3718, Washington, DC 20210, *Phone:* 202 693-1950, *Email:* levinson.andrew@dol.gov.

RIN: 1218-AD04

DEPARTMENT OF LABOR (DOL)

Occupational Safety and Health Administration (OSHA)

Long-Term Actions

287. Infectious Diseases

E.O. 13771 Designation: Regulatory. *Legal Authority:* 5 U.S.C. 533; 29 U.S.C. 657 and 658; 29 U.S.C. 660; 29 U.S.C. 666; 29 U.S.C. 669; 29 U.S.C. 673
Abstract: Employees in health care and other high-risk environments face long-standing infectious disease hazards such as tuberculosis (TB), varicella disease (chickenpox, shingles), and measles, as well as new and emerging infectious disease threats, such as Severe Acute Respiratory Syndrome (SARS), the 2019 Novel Coronavirus (COVID-19), and pandemic influenza. Health care workers and workers in related occupations, or who are exposed in other high-risk environments, are at increased risk of contracting TB, SARS, Methicillin-Resistant Staphylococcus Aureus (MRSA), COVID-19, and other infectious diseases that can be transmitted through a variety of exposure routes. OSHA is examining regulatory alternatives for control measures to protect employees from infectious disease exposures to

pathogens that can cause significant disease. Workplaces where such control measures might be necessary include: Health care, emergency response, correctional facilities, homeless shelters, drug treatment programs, and other occupational settings where employees can be at increased risk of exposure to potentially infectious people. A standard could also apply to laboratories, which handle materials that may be a source of pathogens, and to pathologists, coroners' offices, medical examiners, and mortuaries.

Timetable:

Action	Date	FR Cite
Request for Information (RFI).	05/06/10	75 FR 24835
RFI Comment Period End.	08/04/10	
Analyze Comments.	12/30/10	
Stakeholder Meetings.	07/05/11	76 FR 39041
Initiate SBREFA ..	06/04/14	
Complete SBREFA.	12/22/14	
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Andrew Levinson, Deputy Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, FP Building, Room N-3718, Washington, DC 20210, *Phone:* 202 693-1950, *Email:* levinson.andrew@dol.gov.

RIN: 1218-AC46

288. Process Safety Management and Prevention of Major Chemical Accidents

E.O. 13771 Designation: Regulatory. *Legal Authority:* 29 U.S.C. 655; 29 U.S.C. 657

Abstract: The Occupational Safety and Health Administration (OSHA) issued a Request for Information (RFI) on December 9, 2013 (78 FR 73756). The RFI identified issues related to modernization of the Process Safety Management standard and related standards necessary to meet the goal of preventing major chemical accidents.

Timetable:

Action	Date	FR Cite
Request for Information (RFI).	12/09/13	78 FR 73756
RFI Comment Period Extended.	03/07/14	79 FR 13006
RFI Comment Period Extended End.	03/31/14	
Initiate SBREFA ..	06/08/15	
SBREFA Report Completed.	08/01/16	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Andrew Levinson, Deputy Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, FP Building, Room N-3718, Washington, DC 20210, *Phone:* 202 693-1950, *Email:* levinson.andrew@dol.gov.

RIN: 1218-AC82

[FR Doc. 2021-05476 Filed 3-30-21; 8:45 am]

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Part XII

Department of Transportation

Semiannual Regulatory Agenda

DEPARTMENT OF TRANSPORTATION**Office of the Secretary**

14 CFR Chs. I–III

23 CFR Chs. I–III

33 CFR Chs. I and IV

46 CFR Chs. I–III

48 CFR Ch. 12

49 CFR Subtitle A, Chs. I–VI, and Chs. X–XII

[DOT–OST–1999–5129]

Department Regulatory and Deregulatory Agenda; Semiannual Summary**AGENCY:** Office of the Secretary, DOT.**ACTION:** Unified Agenda of Federal Regulatory and Deregulatory Actions (Regulatory Agenda).

SUMMARY: The Regulatory and Deregulatory Agenda is a semiannual summary of all current and projected rulemakings, reviews of existing regulations, and completed actions of the Department. The intent of the Agenda is to provide the public with information about the Department of Transportation's regulatory activity planned for the next 12 months. It is expected that this information will enable the public to more effectively participate in the Department's regulatory process. The public is also invited to submit comments on any aspect of this Agenda.

FOR FURTHER INFORMATION CONTACT:**General**

You should direct all comments and inquiries on the Agenda in general to Jonathan Dols, Deputy Assistant General Counsel for Regulation, Office of General Counsel, Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590; (202) 366–4702.

Specific

You should direct all comments and inquiries on particular items in the Agenda to the individual listed for the regulation or the general rulemaking contact person for the operating administration in appendix B.

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Supplementary Information
Background
Significant/Priority Rulemakings
Explanation of Information on the Agenda
Request for Comments

Purpose

Appendix A—Instructions for Obtaining Copies of Regulatory Documents
Appendix B—General Rulemaking Contact Persons
Appendix C—Public Rulemaking Dockets
Appendix D—Review Plans for Section 610 and Other Requirements

SUPPLEMENTARY INFORMATION:**Background**

The U.S. Department of Transportation (Department or DOT) undertakes regulation only after careful consideration and strives to make clear the way the Department measures the risks, costs, and benefits of engaging in—or deciding not to engage in—a particular regulatory action. It is our policy to provide an opportunity for public comment on such actions to all interested stakeholders. Above all, transparency and meaningful engagement mandate that regulations should be straightforward, clear, and accessible to any interested stakeholder. The Department also embraces the notion that there should be no more regulations than necessary. We emphasize consideration of non-regulatory solutions and have rigorous processes in place for continual reassessment of existing regulations. These processes provide that regulations and other agency actions are periodically reviewed and, if appropriate, are revised to ensure that they continue to meet the needs for which they were originally designed, and that they remain cost-effective and cost-justified. DOT was the first agency to incorporate the Administration's regulatory reform policies permanently, codifying reforms to the Department's rulemaking, guidance, and enforcement practices. The rule codifies regulatory budgeting, the "2-for-1" plan, and the RRTF, as well as additional procedures for the Department's most costly rules, including enhanced opportunities for public participation. It also clarifies that guidance documents do not impose legal obligations and shall not be used as a basis for enforcement. Finally, the rule ensures due process protections for potential subjects of enforcement actions, including open and fair investigations and proceedings.

To help the Department achieve its goals and in accordance with Executive Order (E.O.) 12866, "Regulatory Planning and Review," (58 FR 51735; Oct. 4, 1993) and the Department's "Administrative Rulemaking, Guidance, and Enforcement Procedures" (84 FR 248; Dec. 27, 2019), the Department prepares a semiannual regulatory and deregulatory Agenda. It summarizes all current and projected rulemakings,

reviews of existing regulations, and completed actions of the Department. These are matters on which action has begun or is projected during the next 12 months or for which action has been completed since the last Agenda.

In addition, this Agenda was prepared in accordance with three executive orders issued by President Trump, which directed agencies to scrutinize their regulations and other agency actions further. On January 30, 2017, President Trump signed Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs. Under section 2(a) of the Executive order unless prohibited by law, whenever an executive department or agency publicly proposes for notice and comment or otherwise promulgates a new regulation, it must identify at least two existing regulations to be repealed. On February 24, 2017, President Trump signed Executive Order 13777, Enforcing the Regulatory Reform Agenda. Under this Executive order, each agency must establish a Regulatory Reform Task Force (RRTF) to evaluate existing regulations, and make recommendations for their repeal, replacement, or modification. On March 28, 2017, President Trump signed Executive Order 13783, Promoting Energy Independence and Economic Growth, requiring agencies to review all existing regulations, orders, guidance documents, policies, and other similar agency actions that potentially burden the development or use of domestically produced energy resources, with particular attention to oil, natural gas, coal, and nuclear energy resources.

In response to the mandate in Executive Order 13777, the Department formed an RRTF consisting of senior career and non-career leaders, which has already conducted extensive reviews of existing regulations, and identified a number of rules to be repealed, replaced, or modified. As a result of the RRTF's work, since January 2017, the Department has issued deregulatory actions that reduce net regulatory costs on the public by more than \$92 billion (in net present value cost savings). With the RRTF's assistance, the Department has achieved these cost savings in a manner that is fully consistent with safety. For example, on April 30, 2020, NHTSA published the Safer, Affordable, Fuel-Efficient (SAFE) Vehicles rule in conjunction with the Environmental Protection Agency. The SAFE Vehicles rule increases U.S. competitiveness by reducing regulatory costs by over \$163 billion dollars and helps American consumers afford to buy newer, cleaner, and safer vehicles by reducing the

average price of new vehicles. In addition, similarly, on June 1, 2020, FMCSA published a rule that would save the public billions of dollars by providing greater flexibility to drivers subject to FMCSA's hours of service regulations without reducing safety.

While each regulatory and deregulatory action is evaluated on its own merits, the RRTF augments the Department's consideration of prospective rulemakings by conducting regular reviews across all OAs to identify and evaluate potential deregulatory actions. The RRTF also works to ensure that any new potential regulatory action is rigorously vetted, including an evaluation of the need or market failure requiring regulatory action, and consideration of non-regulatory alternatives.

The Department's regulatory activities are guided by four fundamental principles—safety, innovation, enabling investment in infrastructure, and reducing unnecessary regulatory burdens. These priorities are grounded in our national interest in maintaining U.S. global leadership in safety, innovation, and economic growth. In light of the unprecedented effects of the Coronavirus Disease (COVID-19) public health emergency, these priorities are also grounded in regulatory actions that assist in our Nation's recovery. To accomplish our regulatory goals, the Department must create a regulatory environment that fosters growth in new and innovative industries without burdening them with unnecessary restrictions. At the same time, safety remains our highest priority; the Department remains focused on managing safety risks and ensuring we do not regress from the successes already achieved. Our planned regulatory actions reflect a careful balance that emphasizes the Department's priority in fostering innovation while at the same time meeting the challenges of maintaining a safe, reliable, and sustainable transportation system.

For example, the National Highway Traffic Safety Administration (NHTSA) is working on reducing regulatory barriers to technology innovation, including the integration of automated vehicles, while continuing to focus on safety. Automated vehicles are expected to increase safety significantly by reducing the likelihood of human error when driving, which today accounts for the overwhelming majority of crashes on our nation's roadways. NHTSA plans to issue regulatory actions that: (1) Allow for updates to current FMVSS to enable the introduction of new safety technologies; and (2) streamline

NHTSA's regulations outlining the administrative processes for petitioning the agency for exemptions, and reconsiderations. Similarly, the Federal Aviation Administration (FAA) is working to enable, safely and efficiently, the integration of unmanned aircraft systems (UAS) into the National Airspace System. UAS are expected to continue to drive innovation and increase safety as operators and manufacturers find new and inventive uses for UAS. For instance, UAS are poised to assist human operators with a number of different mission sets such as inspection of critical infrastructure and search and rescue, enabling beneficial and lifesaving activities that would otherwise be difficult or even impossible for a human to accomplish unassisted. The Department has regulatory efforts underway to further integrate UAS safely and efficiently. The Department's work to update and streamline its regulation of the commercial space sector is well underway. The FAA has proposed a rule that will fundamentally change how FAA licenses launches and reentries of commercial space vehicles moving from prescriptive requirements to a performance based approach. This shift will facilitate a major transformation of our national space program from one in which the Federal government has a primary role to one in which private industry drives growth in innovation and launches.

Since January 2020, the Department has been providing rapid response and emergency review of legal and operational challenges presented by COVID-19 within the transportation network. Domestically, our efforts have focused on addressing regulatory compliance made impracticable by the COVID-19 public health emergency due to office closures, personnel shortages, and other restrictions. DOT has provided extensive relief to transportation stakeholders impacted by the COVID-19 public health emergency. The Department has taken over 100 actions to provide emergency relief to transportation stakeholders through regulatory waivers, exemptions, extensions of deadlines, statements of enforcement discretion, and other guidance.

These actions individually and collectively kept our transportation systems and supply chains open to provide critical supplies and services during the national emergency. For example, to support commercial vehicle drivers—including the truckers carrying vital medical supplies to hospitals—FMCSA issued its first ever national emergency declaration to provide

regulatory relief from its hours-of-service rules. FRA opened an emergency relief docket pursuant to the Administrator's Declaration of Emergency Situation, supporting a number of emergency waivers. FAA took numerous actions to ensure the continued safety of the National Airspace System and operations supporting essential services, including addressing expiring medical certificates and training requirements for pilots, and finalizing a rule to address oxygen mask usage given the risk of COVID-19 transmission. PHMSA provided temporary relief to enable transportation of hand sanitizer and other disinfecting materials.

Pursuant to the President's Executive Order on Regulatory Relief to Support Economic Recovery, the Department has been coordinating with each of its Operating Administrations to evaluate how to expedite regulatory relief and recovery from COVID-19 without compromising safety, and determine whether such relief may be considered for permanent incorporation into the Department's rules.

Explanation of Information in the Agenda

An Office of Management and Budget memorandum, dated January 16, 2020, establishes the format for this Agenda.

First, the Agenda is divided by initiating offices. Then the Agenda is divided into five categories: (1) Prerule stage; (2) proposed rule stage; (3) final rule stage; (4) long-term actions; and (5) completed actions. For each entry, the Agenda provides the following information: (1) Its "significance"; (2) a short, descriptive title; (3) its legal basis; (4) the related regulatory citation in the Code of Federal Regulations; (5) any legal deadline and, if so, for what action (e.g., NPRM, final rule); (6) an abstract; (7) a timetable, including the earliest expected date for when a rulemaking document may publish; (8) whether the rulemaking will affect small entities and/or levels of Government and, if so, which categories; (9) whether a Regulatory Flexibility Act (RFA) analysis is required (for rules that would have a significant economic impact on a substantial number of small entities); (10) a listing of any analyses an office will prepare or has prepared for the action (with minor exceptions, DOT requires an economic analysis for all its rulemakings); (11) an agency contact office or official who can provide further information; (12) a Regulation Identifier Number (RIN) assigned to identify an individual rulemaking in the Agenda and facilitate tracing further action on the issue; (13) whether the

action is subject to the Unfunded Mandates Reform Act; (14) whether the action is subject to the Energy Act; (15) the action's designation under Executive Order 13771 explaining whether the action will have a regulatory or deregulatory effect; and (16) whether the action is major under the congressional review provisions of the Small Business Regulatory Enforcement Fairness Act.

For nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements (such as the Federal Aviation Administration's Airspace Rules), to keep those requirements operationally current, we only include the general category of the regulations, the identity of a contact office or official, and an indication of the expected number of regulations; we do not list individual regulations.

In the "Timetable" column, we use abbreviations to indicate the particular documents being considered. ANPRM stands for Advance Notice of Proposed Rulemaking, SNPRM for Supplemental Notice of Proposed Rulemaking, and NPRM for Notice of Proposed Rulemaking. Listing a future date in this column does not mean we have made a decision to issue a document; it is the earliest date on which a rulemaking document may publish. In addition, these dates are based on current schedules. Information received after the issuance of this Agenda could result in a decision not to take regulatory action or in changes to proposed publication dates. For example, the need for further evaluation could result in a later publication date; evidence of a greater need for the regulation could result in an earlier publication date.

Finally, a dot (•) preceding an entry indicates that the entry appears in the Agenda for the first time.

The internet is the basic means for disseminating the Unified Agenda. The complete Unified Agenda is available online at www.reginfo.gov in a format that offers users a greatly enhanced ability to obtain information from the Agenda database. A portion of the Agenda is published in the **Federal Register**, however, because the Regulatory Flexibility Act (5 U.S.C. 602) mandates publication for the regulatory flexibility agenda.

Accordingly, DOT's printed Agenda entries include only:

1. The agency's Agenda preamble;
2. Rules that are in the agency's regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and

3. Any rules that the agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's Agenda requirements. These elements are: Sequence Number; Title; Section 610 Review, if applicable; Legal Authority; Abstract; Timetable; Regulatory Flexibility Analysis Required; Agency Contact; and Regulation Identifier Number (RIN). Additional information (for detailed list, see section heading "Explanation of Information on the Agenda") on these entries is available in the Unified Agenda published on the internet.

Request for Comments

General

DOT's Agenda is intended primarily for the use of the public. Since its inception, the Department has made modifications and refinements that provide the public with more helpful information, as well as making the Agenda easier to use. We would like you, the public, to make suggestions or comments on how the Agenda could be further improved.

Reviews

The Department also seeks your suggestions on which of our existing regulations you believe should be reviewed to determine whether they should be revised or revoked. We particularly draw your attention to the Department's review plan in appendix D.

Regulatory Flexibility Act

The Department is especially interested in obtaining information on requirements that have a "significant economic impact on a substantial number of small entities" and, therefore, must be reviewed under the Regulatory Flexibility Act. If you have any suggested regulations, please submit them to the Department, along with your explanation of why they should be reviewed.

In accordance with the Regulatory Flexibility Act, comments are specifically invited on regulations that we have targeted for review under section 610 of the Act. The phrase (sec. 610 Review) appears at the end of the title for these reviews. Please see appendix D for the Department's section 610 review plans.

Consultation With State, Local, and Tribal Governments

Executive Orders 13132 and 13175 require the Department to develop an

account process to ensure "meaningful and timely input" by State, local, and tribal officials in the development of regulatory policies that have federalism or tribal implications. These policies are defined in the Executive orders to include regulations that have "substantial direct effects" on States or Indian tribes, on the relationship between the Federal Government and them, or on the distribution of power and responsibilities between the Federal Government and various levels of Government or Indian tribes. Therefore, we encourage State and local Governments or Indian tribes to provide us with information about how the Department's rulemakings impact them.

Purpose

The Department is publishing this regulatory Agenda in the **Federal Register** to share with interested members of the public the Department's preliminary expectations regarding its future regulatory actions. This should enable the public to be more aware of the Department's regulatory activity and should result in more effective public participation. This publication in the **Federal Register** does not impose any binding obligation on the Department or any of the offices within the Department with regard to any specific item on the Agenda. Regulatory action, in addition to the items listed, is not precluded.

This document of the Department of Transportation was signed on December 7, 2020, by Elaine L. Chao, Secretary of Transportation. That document with the original signature and date is maintained by the Department of Transportation. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the Department of Transportation has delegated authority to the undersigned RISC Federal Register Liaison Officer to re-sign and submit the document in electronic format for publication, as an official document of the Department of Transportation. This administrative process in no way alters the legal effect of this document upon publication in the Federal Register.

Dated: March 11, 2021.

Alvin Levi Harrod,

Federal Register Liaison Officer, Regulatory Information Service Center.

Appendix A—Instructions for Obtaining Copies of Regulatory Documents

To obtain a copy of a specific regulatory document in the Agenda, you should communicate directly with the contact person listed with the regulation at the address below. We note that most, if not all,

such documents, including the Semiannual Regulatory Agenda, are available through the internet at <http://www.regulations.gov>. See appendix C for more information.

Appendix B—General Rulemaking Contact Persons

The following is a list of persons who can be contacted within the Department for general information concerning the rulemaking process within the various operating administrations.

FAA—Brandon Roberts, Acting Executive Director, Office of Rulemaking, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267-9677.

FHWA—Jennifer Outhouse, Office of Chief Counsel, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366-0761.

FMCSA—Steven J. LaFreniere, Regulatory Ombudsman, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366-0596.

NHTSA—Dee Fujita, Office of Chief Counsel, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366-2992.

FRA—Amanda Maizel, Office of Chief Counsel, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 493-8014.

FTA—Chaya Koffman, Office of Chief Counsel, 1200 New Jersey Avenue E, Washington, DC 20590; telephone (202) 366-3101.

SLSDC—Carrie Mann Lavigne, Chief Counsel, 180 Andrews Street, Massena, NY 13662; telephone (315) 764-3200.

PHMSA—Robert Ross, Office of Chief Counsel, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 768-1365.

MARAD—Gabriel Chavez, Office of Chief Counsel, Maritime Administration, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366-2621.

OST—Jonathan Dols, Deputy Assistant General Counsel for Regulation, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366-4723.

Appendix C—Public Rulemaking Dockets

All comments submitted via the internet are submitted through the Federal Docket Management System (FDMS) at the following address: <http://www.regulations.gov>. The FDMS allows the public to search, view, download, and comment on all Federal agency rulemaking documents in one central online system. The above referenced internet address also allows the public to sign up to receive notification when certain documents are placed in the dockets.

The public also may review regulatory dockets at or deliver comments on proposed rulemakings to the Dockets Office at 1200 New Jersey Avenue SE, Room W12-140, Washington, DC 20590, 1-800-647-5527. Working Hours: 9:00 a.m. to 5:00 p.m.

Appendix D—Review Plans for Section 610 and Other Requirements

Part I—The Plan

General

The Department of Transportation has long recognized the importance of regularly reviewing its existing regulations to determine whether they need to be revised or revoked. Our Regulatory Policies and Procedures require such reviews. DOT also has responsibilities under Executive Order 12866, “Regulatory Planning and Review,” Executive Order 13563, “Improving Regulation and Regulatory Review,” 76 FR 3821 (January 18, 2011), Executive Order 13771, “Reducing Regulation and Controlling Regulatory Costs,” Executive Order 13777, “Enforcing the Regulatory Agenda,” and section 610 of the Regulatory Flexibility Act to conduct such reviews. This includes the designation of a Regulatory Reform Officer, the establishment of a Regulatory Reform Task Force, and the use of plain language techniques in new rules and considering its use in existing rules when we have the opportunity and resources to revise them. We are committed to continuing our reviews of existing rules and, if it is needed, will initiate rulemaking actions based on these reviews. The Department began a new 10-year review cycle with the Fall 2018 Agenda.

Section 610 Review Plan

Section 610 requires that we conduct reviews of rules that: (1) Have been published within the last 10 years; and (2) have a “significant economic impact on a substantial number of small entities” (SEISNOSE). It also requires that we publish in the **Federal Register** each year a list of any such rules that we will review during the next year. The Office of the Secretary and each of the Department’s Operating Administrations have a 10-year review plan. These reviews comply with section 610 of the Regulatory Flexibility Act.

Changes to the Review Plan

Some reviews may be conducted earlier than scheduled. For example, to the extent resources permit, the plain language reviews will be conducted more quickly. Other events, such as accidents, may result in the need to conduct earlier reviews of some rules. Other factors may also result in the need to make changes; for example, we may make changes in response to public comment on this plan or in response to a presidentially mandated review. If there is any change to the review plan, we will note the change in the following Agenda. For any section 610 review, we will provide the required notice prior to the review.

Part II—The Review Process

The Analysis

Generally, the agencies have divided their rules into 10 different groups and plan to analyze one group each year. For purposes of these reviews, a year will coincide with the fall-to-fall schedule for publication of the Agenda. Most agencies provide historical information about the reviews that have occurred over the past 10 years. Thus, Year

1 (2018) begins in the fall of 2018 and ends in the fall of 2019; Year 2 (2019) begins in the fall of 2019 and ends in the fall of 2020, and so on. The exception to this general rule is the FAA, which provides information about the reviews it completed for this year and prospective information about the reviews it intends to complete in the next 10 years. Thus, for FAA Year 1 (2017) begins in the fall of 2017 and ends in the fall of 2018; Year 2 (2018) begins in the fall of 2018 and ends in the fall of 2019, and so on. We request public comment on the timing of the reviews. For example, is there a reason for scheduling an analysis and review for a particular rule earlier than we have? Any comments concerning the plan or analyses should be submitted to the regulatory contacts listed in appendix B, General Rulemaking Contact Persons.

Section 610 Review

The agency will analyze each of the rules in a given year’s group to determine whether any rule has a SEISNOSE and, thus, requires review in accordance with section 610 of the Regulatory Flexibility Act. The level of analysis will, of course, depend on the nature of the rule and its applicability. Publication of agencies’ section 610 analyses listed each fall in this Agenda provides the public with notice and an opportunity to comment consistent with the requirements of the Regulatory Flexibility Act. We request that public comments be submitted to the Department early in the analysis year concerning the small entity impact of the rules to help us in making our determinations.

In each Fall Agenda, the agency will publish the results of the analyses it has completed during the previous year. For rules that had a negative finding on SEISNOSE, we will give a short explanation (e.g., “these rules only establish petition processes that have no cost impact” or “these rules do not apply to any small entities”). For parts, subparts, or other discrete sections of rules that do have a SEISNOSE, we will announce that we will be conducting a formal section 610 review during the following 12 months. At this stage, DOT will add an entry to the Agenda in the pre-rulemaking section describing the review in more detail. We also will seek public comment on how best to lessen the impact of these rules and provide a name or docket to which public comments can be submitted. In some cases, the section 610 review may be part of another unrelated review of the rule. In such a case, we plan to clearly indicate which parts of the review are being conducted under section 610.

Other Reviews

The agency will also examine the specified rules to determine whether any other reasons exist for revising or revoking the rule or for rewriting the rule in plain language. In each Fall Agenda, the agency will also publish information on the results of the examinations completed during the previous year.

Part III—List of Pending Section 610 Reviews

The Agenda identifies the pending DOT section 610 Reviews by inserting “(Section 610 Review)” after the title for the specific entry. For further information on the pending

reviews, see the Agenda entries at www.reginfo.gov. For example, to obtain a list of all entries that are in section 610 Reviews under the Regulatory Flexibility Act, a user would select the desired responses on the search screen (by selecting “advanced

search”) and, in effect, generate the desired “index” of reviews.

Office of the Secretary

Section 610 and Other Reviews

Year	Regulations to be reviewed	Analysis year	Review year
1	49 CFR parts 91 through 99 14 CFR parts 200 through 212 48 CFR parts 1201 through 1224	2018	2019
2	48 CFR parts 1227 through 1253 and new parts and subparts	2019	2020
3	14 CFR parts 213 through 232	2020	2021
4	14 CFR parts 234 through 254	2021	2022
5	14 CFR parts 255 through 298 and 49 CFR part 40	2022	2023
6	14 CFR parts 300 through 373	2023	2024
7	14 CFR parts 374 through 398	2024	2025
8	14 CFR part 399 and 49 CFR parts 1 through 15	2025	2026
9	49 CFR parts 17 through 28	2026	2027
10	49 CFR parts 29 through 39 and parts 41 through 89	2027	2028

Year 1 (Fall 2018) List of Rules That Are Under Ongoing Analysis

- 49 CFR part 91—International Air Transportation Fair Competitive Practices
- 49 CFR part 92—Recovering Debts to the United States by Salary Offset
 - Section 610: OST conducted a Section 610 review of this part and found no SEISNOSE.
 - General: The agency is aware of several outdated references to operating administrations within the Department that need to be updated. OST’s plain language review of these rules indicates no need for substantial revision.
- 49 CFR part 93—Aircraft Allocation
- 49 CFR part 98—Enforcement of Restrictions on Post-Employment Activities
- 49 CFR part 99—Employee Responsibilities and Conduct
- 14 CFR part 200—Definitions and Instructions
- 14 CFR part 201—Air Carrier Authority under Subtitle VII of Title 49 of the United States Code [Amended]
- 14 CFR part 203—Waiver of Warsaw Convention Liability Limits and Defenses
- 14 CFR part 204—Data to Support Fitness Determinations
- 14 CFR part 205—Aircraft Accident Liability Insurance
- 14 CFR part 206—Certificates of Public Convenience and Necessity: Special Authorizations and Exemptions
- 14 CFR part 207—Charter Trips by U.S. Scheduled Air Carriers
- 14 CFR part 208—Charter Trips by U.S. Charter Air Carriers
- 14 CFR part 211—Applications for Permits to Foreign Air Carriers
- 14 CFR part 212—Charter Rules for U.S. and Foreign Direct Air Carriers
- 48 CFR part 1201—Federal Acquisition Regulations System

- 48 CFR part 1202—Definitions of Words and Terms
- 48 CFR part 1203—Improper Business Practices and Personal Conflicts of Interest
- 48 CFR part 1204—Administrative Matters
- 48 CFR part 1205—Publicizing Contract Actions
- 48 CFR part 1206—Competition Requirements
- 48 CFR part 1207—Acquisition Planning
- 48 CFR part 1208–1210—[Reserved]
- 48 CFR part 1211—Describing Agency Needs
- 48 CFR part 1212—[Reserved]
- 48 CFR part 1213—Simplified Acquisition Procedures
- 48 CFR part 1214—Sealed Bidding
- 48 CFR part 1215—Contracting by Negotiation
- 48 CFR part 1216—Types of Contracts
- 48 CFR part 1217—Special Contracting Methods
- 48 CFR part 1218—[Reserved]
- 48 CFR part 1219—Small Business Programs
- 48 CFR part 1220–1221—[Reserved]
- 48 CFR part 1222—Application of Labor Laws to Government Acquisitions
- 48 CFR part 1223—Environment, Energy and Water Efficiency, Renewable Energy Technologies, Occupational Safety, and Drug-Free Workplace
- 48 CFR part 1224—Protection of Privacy and Freedom of Information

Year 2 (Fall 2019) List of Rules Analyzed and Summary of Results

- 48 CFR parts 1227 through 1253 and new parts and subparts
- 48 CFR part 1227—Patents, Data, and Copyrights
- 48 CFR part 1228—Bonds and Insurance
- 48 CFR part 1231—Contract Costs Principles and Procedures

- 48 CFR part 1232—Contract Financing
 - 48 CFR part 1233—Protests, Disputes, and Appeals
 - 48 CFR part 1235—Research and Development Contracting
 - 48 CFR part 1236—Construction and Architect-Engineer Contracts
 - 48 CFR part 1237—Service Contracting
 - 48 CFR part 1239—Acquisition of Information Technology
 - 48 CFR part 1242—Contract Administration and Audit Services
 - 48 CFR part 1245—Government Contracting
 - 48 CFR part 1246—Quality Assurance
 - 48 CFR part 1247—Transportation
 - 48 CFR part 1252—Solicitation Provisions and Contract Clauses
 - 48 CFR part 1253—Forms
- DOT has determined that updates need to be made to the regulations identified under Year 2. The regulations will be updated as part of RIN 2105–AE26 (Revisions to the Transportation Acquisition Regulations).

Federal Aviation Administration

Section 610 and Other Reviews

The Federal Aviation Administration (FAA) has elected to use the two-step, two-year process used by most Department of Transportation (DOT) modes in past plans. As such, the FAA has divided its rules into 10 groups as displayed in the table below. During the first year (the “analysis year”), all rules published during the previous 10 years within a 10% block of the regulations will be analyzed to identify those with a significant economic impact on a substantial number of small entities (SEISNOSE). During the second year (the “review year”), each rule identified in the analysis year as having a SEISNOSE will be reviewed in accordance with section 610(b) to determine if it should be continued

without change or changed to minimize those reviews will be published in the impact on small entities. Results of DOT Semiannual Regulatory Agenda.

Year	Regulations to be reviewed	Analysis year	Review year
1	14 CFR parts 141 through 147 and parts 170 through 187	2020	2021
2	14 CFR parts 189 through 198 and parts 1 through 16	2021	2022
3	14 CFR parts 17 through 33	2022	2023
4	14 CFR parts 34 through 39 and parts 400 through 405	2023	2024
5	14 CFR parts 43 through 49 and parts 406 through 415	2024	2025
6	14 CFR parts 60 through 77	2025	2026
7	14 CFR parts 91 through 107	2026	2027
8	14 CFR parts 417 through 460	2027	2028
9	14 CFR parts 119 through 129 and parts 150 through 156	2028	2029
10	14 CFR parts 133 through 139 and parts 157 through 169	2029	2030

Defining SEISNOSE for FAA Regulations

The RFA does not define “significant economic impact.” Therefore, there is no clear rule or number to determine when a significant economic impact occurs. However, the Small Business Administration (SBA) states that significance should be determined by considering the size of the business, the size of the competitor’s business and the impact the same regulation has on larger competitors.

Likewise, the RFA does not define “substantial number.” However, the legislative history of the RFA suggests that a substantial number must be at least one but does not need to be an overwhelming percentage such as more than half. The SBA states that the substantiality of the number of small businesses affected should be determined on an industry-specific basis.

This analysis consisted of the following three steps:

1. Review of the number of small entities affected by the amendments to parts 141 through 147 and parts 170 through 187.
2. Identification and analysis of all amendments to parts 141 through 147 and parts 170 through 187 since July 2010 to determine whether any still have or now have a SEISNOSE.
3. Review of the FAA’s regulatory flexibility assessment of each amendment performed as required by the RFA.

Year 2—List of Rules To Be Analyzed Next Year (2021)

- 14 CFR part 1—Definitions and abbreviations
- 14 CFR part 3—General requirements
- 14 CFR part 11—General rulemaking procedures
- 14 CFR part 13—Investigative and enforcement procedures
- 14 CFR part 14—Rules implementing the Equal Access to Justice Act of 1980

- 14 CFR part 15—Administrative claims under Federal Tort Claims Act
- 14 CFR part 16—Rules of practice for Federally-assisted airport enforcement proceedings
- 14 CFR part 189—Use of Federal Aviation Administration communications system
- 14 CFR part 193—Protection of voluntarily submitted information
- 14 CFR part 198—Aviation insurance
- Year 1—List of Rules To Be Analyzed This Year (2020)

- 14 CFR part 141—Pilot Schools
- 14 CFR part 142—Training Centers
- 14 CFR part 143—Reserved
- 14 CFR part 144—Does not exist
- 14 CFR part 145—Repair Stations
- 14 CFR part 146—Does not exist
- 14 CFR part 147—Aviation Maintenance Technician Schools
- 14 CFR part 170—Establishment and Discontinuance Criteria for Air Traffic Control Services and Navigational Facilities
- 14 CFR part 171—Non-Federal Navigation Facilities
- 14 CFR part 172 through 182—Does not exist
- 14 CFR part 183—Representatives of the Administrator
- 14 CFR part 184—Does not exist

Year 1 (2020) List of Rules Analyzed and Summary of Results

- 14 CFR Part 141—Pilot Schools
Section 610: The agency conducted a Section 610 review of this part and found no SEISNOSE.
General: No changes are needed.
- 14 CFR Part 142—Training Centers
Section 610: The agency conducted a Section 610 review of this part and found no SEISNOSE.
General: No changes are needed.
- 14 CFR Part 145—Repair Stations
Section 610: The agency conducted a Section 610 review of this part and found no SEISNOSE.
General: No changes are needed.

14 CFR Part 147—Aviation Maintenance Technician Schools

Section 610: The agency conducted a Section 610 review of this part and found no SEISNOSE.

General: No changes are needed.

14 CFR Part 170—Establishment and Discontinuance Criteria for Air Traffic Control Services and Navigational Facilities

Section 610: The agency conducted a Section 610 review of this part and found no SEISNOSE.

General: No changes are needed.

14 CFR Part 171—Non-Federal Navigational Facilities

Section 610: The agency conducted a Section 610 review of this part and found no amendments to 14 CFR 185 since July 2010. Thus, no SEISNOSE exists in this part.

General: No changes are needed.

14 CFR Part 183—Representatives of the Administrator

Section 610: The agency conducted a Section 610 review of this part and found no SEISNOSE.

General: No changes are needed.

14 CFR Part 185—Testimony by Employees and Production of Records in Legal Proceedings, and Service of Legal Process and Pleadings

Section 610: The agency conducted a section 610 review of this part and found no amendments to 14 CFR 185 since July 2010. Thus, no SEISNOSE exists in this part.

General: No changes are needed.

14 CFR Part 187—Fees

Section 610: The agency conducted a section 610 review of this part and found no SEISNOSE.

General: No changes are needed.

Federal Highway Administration

Section 610 and Other Reviews

Year	Regulations to be reviewed	Analysis year	Review year
1	None	2018	2019
2	23 CFR parts 1 to 260	2019	2020
3	23 CFR parts 420 to 470	2020	2021
4	23 CFR part 500	2021	2022
5	23 CFR parts 620 to 637	2022	2023
6	23 CFR parts 645 to 669	2023	2024
7	23 CFR parts 710 to 924	2024	2025
8	23 CFR parts 940 to 973	2025	2026
9	23 CFR parts 1200 to 1252	2026	2027
10	New parts and subparts	2027	2028

Federal-Aid Highway Program

The Federal Highway Administration (FHWA) has adopted regulations in title 23 of the CFR, chapter I, related to the Federal-Aid Highway Program. These regulations implement and carry out the provisions of Federal law relating to the administration of Federal aid for highways. The primary law authorizing Federal aid for highways is chapter I of title 23 of the U.S.C. 145, which expressly provides for a federally assisted State program. For this reason, the regulations adopted by the FHWA in title 23 of the CFR primarily relate to the requirements that States must meet to receive Federal funds for construction and other work related to highways. Because the regulations in title 23 primarily relate to States, which are not defined as small entities under the Regulatory Flexibility Act, the FHWA believes that its regulations in title 23 do not have a significant economic impact on a substantial number of small entities. The FHWA solicits public comment on this preliminary conclusion.

Year 2 (Fall 2019) List of Rules That Will Be Analyzed During the Next Year and a Summary of Results

23 CFR Part 1—General

- Section 610: No SEISNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FHWA’s plain language review of these rules indicates no need for substantial revision.

23 CFR Part 140—Reimbursement

- Section 610: No SEISNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and

impose the least burden. FHWA’s plain language review of these rules indicates no need for substantial revision.

23 CFR Part 172—Procurement, Management, and Administration of Engineering and Design Related Services

- Section 610: No SEISNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FHWA’s plain language review of these rules indicates no need for substantial revision.

23 CFR Part 180—Credit Assistance for Surface Transportation Projects

- Section 610: No SEISNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FHWA’s plain language review of these rules indicates no need for substantial revision.

23 CFR Part 190—Incentive Payments for Controlling Outdoor Advertising on the Interstate System

- Section 610: No SEISNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FHWA’s plain language review of these rules indicates no need for substantial revision.

23 CFR Part 192—Drug Offender’s Driver’s License Suspension

- Section 610: No SEISNOSE. No small entities are affected.
- General: FHWA is updating these regulations under RIN 2125–AF93 to increase are cost effectiveness and reduce burden. FHWA’s plain language review of these rules indicates no need for substantial revision.

3 CFR Part 200—Title VI Program and Related Statutes—Implementation and Review Procedures

- Section 610: No SEISNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FHWA’s plain language review of these rules indicates no need for substantial revision.

23 CFR Part 230—External Programs

- Section 610: No SEISNOSE. No small entities are affected.
- General: FHWA is updating these subpart C of these regulations under RIN 2125–AF87 to reduce duplicative burdens. FHWA’s plain language review of these rules indicates no need for substantial revision.

23 CFR Part 260—Education and Training Programs

- Section 610: No SEISNOSE. No small entities are affected.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FHWA’s plain language review of these rules indicates no need for substantial revision.

Year 3 (Fall 2020) List of Rules That Will Be Analyzed During the Next Year

23 CFR part 420—Planning and research program administration

23 CFR part 450—Planning assistance and standards

23 CFR part 460—Public road mileage for apportionment of highway safety funds

23 CFR part 470—Highway systems

Federal Motor Carrier Safety Administration

Section 610 and Other Reviews

Year	Regulations to be reviewed	Analysis year	Review year
1	49 CFR part 386	2018	2019
2	49 CFR part 385	2019	2020
3	49 CFR parts 382 and 383	2020	2021
4	49 CFR part 380	2021	2022
5	49 CFR part 387	2022	2023
6	49 CFR part 398	2023	2024
7	49 CFR part 392	2024	2025

Year	Regulations to be reviewed	Analysis year	Review year
8	49 CFR part 375	2025	2026
9	49 CFR part 367	2026	2027
10	49 CFR part 395	2027	2028

Year 2 (2019) List of Rules With Ongoing Analysis

49 CFR Part 386—Rules of Practice for Motor Carrier, Intermodal Equipment Provider, Broker, Freight Forwarder, and Hazardous Materials Proceedings

- Section 610: FMCSA analyzed 49 CFR part 386, and found no SEIOSNOSE. 49 CFR part 386 is a permissive set of rules that establish procedures for respondents, petitioners, and others seeking relief from a determination of non-compliance with Federal Motor Carrier Safety Regulations or Hazardous Materials Regulations. The rule also provides recourse for commercial drivers to report employer harassment or coercion to violate rules.

- General: There is no need for substantial revision. These regulations provide necessary/clear guidance to industry and drivers. The regulations are written consistent with plain language guidelines, are cost effective, and impose the least economic burden to industry.

49 CFR Part 385—Safety Fitness Procedures

- Section 610: FMCSA analyzed 49 CFR part 385, and found no SEIOSNOSE. 49 CFR part 385 provides guidance on safety fitness procedures including monitoring, new entrants, intermodal equipment, and hazardous materials safety permits. The rule addresses safety initiatives whose cost are required by 49 CFR parts 360, 367, 387, and 390. These rules do not result

in a SEISNOSE, because they do not introduce new costs to small carriers.

- General: There is no need for substantial revision as these regulations provide necessary guidance to the industry. The regulations are written consistent with plain language guidelines and impose the least economic burden to industry.

Year 3 (2020) List of Rules That Will Be Analyzed During the Next Year

49 CFR part 382—Controlled Substances and Alcohol Use and Testing
 49 CFR part 383—Commercial Driver’s License Standards; Requirements and Penalties

National Highway Traffic Safety Administration

Section 610 and Other Reviews

Year	Regulations to be reviewed	Analysis year	Review year
1	49 CFR parts 571.223 through 571.500, and parts 575 and 579	2018	2019
2	23 CFR parts 1200 and 1300	2019	2020
3	49 CFR parts 501 through 526 and 571.213	2020	2021
4	49 CFR parts 571.131, 571.217, 571.220, 571.221, and 571.222	2021	2022
5	49 CFR parts 571.101 through 571.110, and 571.135, 571.136, 571.138 and 571.139	2022	2023
6	49 CFR parts 571.141, 529 through 578, except parts 571 and 575	2023	2024
7	49 CFR parts 571.111 through 571.129 and 580 through 588	2024	2025
8	49 parts CFR 571.201 through 571.212	2025	2026
9	49 parts CFR 571.214 through 571.219, except 571.217	2026	2027

Years 1 and 2 (Fall 2019/2020) List of Rules With Ongoing Analysis

49 CFR part 571.223—Rear Impact Guards
 49 CFR part 571.224—Rear Impact Protection
 49 CFR part 571.225—Child Restraint Anchorage Systems
 49 CFR part 571.226—Ejection Mitigation
 49 CFR part 571.301—Fuel System Integrity
 49 CFR part 571.302—Flammability of Interior Materials

49 CFR part 571.303—Fuel System Integrity of Compressed Natural Gas Vehicles
 49 CFR part 571.304—Compressed Natural Gas Fuel Container Integrity
 49 CFR part 571.305—Electric-Powered Vehicles: Electrolyte Spillage and Electrical Shock Protection
 49 CFR part 571.401—Interior Trunk Release
 49 CFR part 571.403—Platform Lift Systems for Motor Vehicles
 49 CFR part 571.404—Platform Lift Installations in Motor Vehicles
 49 CFR part 571.500—Low-Speed Vehicles

49 CFR part 575—Consumer Information
 49 CFR part 579—Reporting of Information and Communications About Potential Defects
 23 CFR part 1200—Uniform Procedures for State Highway Safety Grant Programs
 23 CFR part 1300—Uniform Procedures for State Highway Safety Grant Programs

Federal Railroad Administration

Section 610 and Other Reviews

Year	Regulations to be reviewed	Analysis year	Review year
1	49 CFR parts 200, 207, 209, and 210	2018	2019
2	49 CFR parts 211, 212, 213, 214, and 215	2019	2020
3	49 CFR parts 216, 217, 218, 219, and 220	2020	2021
4	49 CFR parts 221, 222, 223, 224, and 225	2021	2022
5	49 CFR parts 227, 228, 229, 230, and 231	2022	2023
6	49 CFR parts 232, 233, 234, 235, and 236	2023	2024
7	49 CFR parts 237, 238, 249, 240, and 241	2024	2025
8	49 CFR parts 242, 243, 244, 250, and 256	2025	2026
9	49 CFR parts 261, 262, 264, 266, and 268	2026	2027

Year	Regulations to be reviewed	Analysis year	Review year
10	49 CFR parts 269, 270, and 272	2027	2028

Year 2 (Fall 2019) List of Rules Analyzed and a Summary of Results

49 CFR Part 211—Rules of Practice

- Section 610: There is no SEIOSNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FRA’s plain language review of this rule indicates no need for substantial revision.

49 CFR Part 212—State Safety Participation Regulations

- Section 610: There is no SEIOSNOSE.
- General: No changes are needed. These regulations are cost effective and impose the least burden. FRA’s plain language review of this rule indicates no need for substantial revision.

49 CFR Part 213—Track Safety Standards

- Section 610: This rule is expected to have a significant economic impact on a substantial number of small entities (SEIOSNOSE). These small entities are approximately 737 short line railroads. As part of the rulemaking process, FRA conducted a review of the impact that this rulemaking could have on small businesses and whether any opportunities may exist to reduce the burdens on small railroads without compromising safety.

- General: The rule prescribes minimum safety requirements for railroad track that is part of the general railroad system of transportation. The objective of the rule is to enhance the safety of rail transportation, protecting both those traveling and working on the system and those off the system who might be adversely affected by a rail incident. FRA’s plain language review of this rule indicates no need for substantial revision.

49 CFR Part 214—Railroad Workplace Safety

- Section 610: There is a SEIOSNOSE. As part of the rulemaking process, FRA conducted a review of the impact that this rulemaking could have on small businesses and whether any opportunities may exist to reduce the burdens on small railroads without compromising safety.

- General: FRA’s plain language review of this rule indicates no need for substantial revision.

49 CFR Part 215—Railroad Freight Car Safety Standards

- Section 610: There is a SEIOSNOSE.
- General: No changes are needed. This rule already limits economic impact on small entities through Appendix D of the rule. FRA’s plain language review of this rule indicates no need for substantial revision.

Federal Transit Administration

Section 610 and Other Reviews

The Regulatory Flexibility Act of 1980 (RFA), as amended (sections 601 through 612 of title 5, United States Code), requires Federal regulatory agencies to analyze all proposed and final rules to determine their economic impact on small entities, which include small businesses, organizations, and governmental jurisdictions. Section 610 requires government agencies to periodically review all regulations that will have a significant economic impact on a substantial number of small entities (SEISNOSE).

In complying with this section, the Federal Transit Administration (FTA) has elected to use the two-step, two-year process used by most Department of Transportation (DOT) modes. As such, FTA has divided its rules into 10 groups as displayed in the table below. During the analysis year, the listed rules will be analyzed to identify those with a SEISNOSE. During the review year, each rule identified in the analysis year as having a SEISNOSE will be reviewed in accordance with Section 610(b) to determine if it should be continued without change or changed to minimize the impact on small entities.

Year	Regulations to be reviewed	Analysis year	Review year
1	49 CFR parts 604, 605, and 624	2018	2019
2	49 CFR parts 609 and 640	2019	2020
3	49 CFR part 633	2020	2021
4	49 CFR part 611	2021	2022
5	49 CFR part 655	2022	2023
6	49 CFR parts 602 and 614	2023	2024
7	49 CFR parts 661 and 663	2024	2025
8	49 CFR parts 625, 630, and 665	2025	2026
9	49 CFR parts 613, 622, 670 and 674	2026	2027
10	49 CFR parts 650, 672 and 673	2027	2028

Year 2 (2019) List of Rules Analyzed and Summary of Results

49 CFR Part 609—Transportation for Elderly and Handicapped Persons

- Section 610: FTA conducted a Section 610 review of 49 CFR part 609 and determined that it would not result in a SEISNOSE within the meaning of the RFA. The rule ensures that applicants for financial assistance under section 5307 of title 49, United States Code, as a condition of receiving such assistance, provide half-fares for elderly

and handicapped persons during non-peak hours for transportation utilizing or involving the facilities and equipment of the project financed with FTA assistance.

- General: No changes are needed. FTA estimated the costs and projected benefits of the rule and believes it is cost-effective and imposes the least burden. FTA’s plain language review of this rule indicates no need for substantial revision.

49 CFR Part 640—Credit Assistance for Surface Transportation Projects

- Section 610: FTA conducted a Section 610 review of 49 CFR part 640 and determined that it would not result in a SEISNOSE within the meaning of the RFA. The regulation is a cross-reference to the Department of Transportation’s Credit Assistance for Surface Transportation Projects regulation at 49 CFR part 80. FTA does not own the cross-referenced regulation and, accordingly, cannot make changes

or determine whether it is a SEISNOSE within the meaning of the RFA.
 • General: No changes are needed.
 The regulation is a cross-reference to a DOT regulation.

Year 3 (2020) List of Rules To Be Analyzed the Next Year
 49 CFR Part 633—Project Management Oversight

Maritime Administration
Section 610 and Other Reviews

Year	Regulations to be reviewed	Analysis year	Review year
1	46 CFR parts 201 through 205, 46 CFR parts 315 through 340, 46 CFR part 345 through 347, and 46 CFR parts 381 and 382.	2018	2019
2	46 CFR parts 221 through 232	2019	2020
3	46 CFR parts 249 through 296	2020	2021
4	46 CFR parts 221, 298, 308, and 309	2021	2022
5	46 CFR parts 307 through 309	2022	2023
6	46 CFR part 310	2023	2024
7	46 CFR parts 315 through 340	2024	2025
8	46 CFR parts 345 through 381	2025	2026
9	46 CFR parts 382 through 389	2026	2027
10	46 CFR parts 390 through 393	2027	2028

Year 1 (2018) List of Rules With Ongoing Analysis
 46 CFR part 201—Rules of Practice and Procedure
 46 CFR part 202—Procedures relating to review by Secretary of Transportation of actions by Maritime Subsidy Board
 46 CFR part 203—Procedures relating to conduct of certain hearings under the Merchant Marine Act, 1936, as amended
 46 CFR part 205—Audit Appeals; Policy and Procedure
 46 CFR part 315—Agency Agreements and Appointment of Agents
 46 CFR part 317—Bonding of Ship’s Personnel
 46 CFR part 324—Procedural Rules for Financial Transactions Under Agency Agreements
 46 CFR part 325—Procedure to Be Followed by General Agents in Preparation of Invoices and Payment of Compensation Pursuant to Provisions of NSA Order No. 47
 46 CFR part 326—Marine Protection and Indemnity Insurance Under Agreements with Agents
 46 CFR part 327—Seamen’s Claims; Administrative Action and Litigation
 46 CFR part 328—Slop Chests
 46 CFR part 329—Voyage Data
 46 CFR part 330—Launch Services
 46 CFR part 332—Repatriation of Seamen
 46 CFR part 335—Authority and Responsibility of General Agents to Undertake Emergency Repairs in Foreign Ports
 46 CFR part 336—Authority and Responsibility of General Agents to Undertake in Continental United States Ports Voyage Repairs and Service Equipment of Vessels Operated for the Account of The National Shipping Authority Under General Agency Agreement

46 CFR part 337—General Agent’s Responsibility in Connection with Foreign Repair Custom’s Entries
 46 CFR part 338—Procedure for Accomplishment of Vessel Repairs Under National Shipping Authority Master Lump Sum Repair Contract—NSA-Lumpsumrep
 46 CFR part 339—Procedure for Accomplishment of Ship Repairs Under National Shipping Authority Individual Contract for Minor Repairs—NSA-Workmanship
 46 CFR part 340—Priority Use and Allocation of Shipping Services, Containers and Chassis, and Port Facilities and Services for National Security and National Defense Related Operations
 46 CFR part 345—Restrictions Upon the Transfer or Change in Use or In Terms Governing Utilization of Port Facilities
 46 CFR part 346—Federal Port Controllers
 46 CFR part 347—Operating Contract
 46 CFR part 381—Cargo Preference—U.S.-Flag Vessels
 46 CFR part 382—Determination of Fair and Reasonable Rates for the Carriage of Bulk and Packaged Preference Cargoes on U.S.-Flag Commercial Vessels

Year 1 (2018) List of Rules Analyzed and a Summary of Results
 46 CFR Part 204—Claims Against the Maritime Administration Under the Federal Tort Claims Act
 • Section 610: There is no SEIOSNOSE.
 • General: The purpose of this rule is to prescribe the requirements and procedures for administrative claims against the United States involving the Maritime Administration under the Federal Tort Claims Act. The agency has determined that the rule is cost-effective and imposes the least possible burden

on small entities. MARAD’s plain language review of this rule indicates no need of substantial revision.

Year 2 (2019) List of Rules Analyzed and a Summary of Results

46 CFR Part 221—Regulated Transactions Involving Documented Vessels and Other Maritime Interests

• Section 610: There is no SEIOSNOSE.
 • General: The purpose of this rule is to govern practice and procedure in regulating interest in or control of Documented Vessels owned by Citizens of the United States to Noncitizens and transactions involving certain maritime interests in time of war or national emergency. The agency has determined that the rule is cost-effective and imposes the least possible burden on small entities. MARAD’s plain language review of this rule indicates no need of substantial revision.

46 CFR 232—Uniform Financial Reporting Requirements

• Section 610: There is no SEIOSNOSE.
 • General: The purpose of this rule is to govern practice and procedure to all participants in financial assistance programs administered by the Maritime Administration. The agency has determined that the rule is cost-effective and imposes the least possible burden on small entities. MARAD’s plain language review of this rule indicates no need of substantial revision.

Year 3 (2020) List of Rules That Will Be Analyzed During This Year

46 CFR part 249—Approval of Underwriters for Marine Hull Insurance

46 CFR part 272—Requirements and Procedures for Conducting Condition Surveys and

Administering Maintenance and Repair Subsidy 46 CFR part 277—Domestic and Foreign Trade; Interpretations 46 CFR part 287—Establishment of Construction Reserve Funds 46 CFR part 289—Insurance of Construction-Differential Subsidy	Vessels, Operating-Differential Subsidy Vessels and of Vessels Sold or Adjusted Under the Merchant Ship Sales Act of 1946 46 CFR part 295—Maritime Security Program	46 CFR part 296—Maritime Security Program Pipeline and Hazardous Materials Safety Administration (PHMSA) <i>Section 610 and Other Reviews</i>
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Year	Regulations to be reviewed	Analysis year	Review year
1	49 CFR part 178	2018	2019
2	49 CFR parts 178 through 180	2019	2020
3	49 CFR parts 172 and 175	2020	2021
4	49 CFR part 171, sections 171.15 and 171.16	2021	2022
5	49 CFR parts 106, 107, 171, 190, and 195	2022	2023
6	49 CFR parts 174, 177, and 199	2023	2024
7	49 CFR parts 176, 191 and 192	2024	2025
8	49 CFR parts 172 and 178	2025	2026
9	49 CFR parts 172, 173, 174, 176, 177, and 193	2026	2027
10	49 CFR parts 173 and 194	2027	2028

Year 2 (Fall 2020) List of Rules Analyzed and a Summary of Results

- 49 CFR part 178—Specifications for Packaging
- 49 CFR part 179—Specifications for Tank Cars
- 49 CFR part 180—Continuing Qualification and Maintenance of Packaging

Section 610: PHMSA conducted a review of these parts and found no SEISNOSE.

• General: PHMSA has reviewed these parts and found that while these parts do not have SEISNOSE, they could be streamlined to reflect new technologies and updated to reflect current practices. Therefore, PHMSA has initiated deregulatory rulemakings to reduce the compliance burdens of parts 178, 179, and 180. Further, PHMSA’s plain language review of these parts indicates no need for substantial revision. Where confusing or ambiguous language has been identified, PHMSA plans to propose or finalize revisions in rulemakings.

As an example, the Modal Regulatory Reforms Initiatives, 2137–AF41, rulemaking action is part of PHMSA’s response to clarify current regulatory requirements and address public comments received to the Department’s regulatory reform and infrastructure notices. This rulemaking also proposes to address a variety of petitions for rulemaking, specific to modal stakeholders, and other issues identified by PHMSA during its regulatory review.

The impact that the 2137–AF41 rulemaking will have on small entities is not expected to be significant. The rulemaking is based on PHMSA’s initiatives and correspondence with the regulated community, as well as PHMSA’s consultation with its modal partners, including FMCSA, FRA, and the United States Coast Guard (USCG). The proposed changes are generally intended to provide regulatory relief or clarity and, as a result, positive economic benefits to shippers, carriers, and packaging manufacturers and testers, including small entities.

In conclusion, many companies are expecting to realize economic benefits,

because of the proposed amendments in the 2137–AF41 rulemaking. The proposed amendments are expected to result in an overall net cost savings and ease the regulatory compliance burden for shippers, carriers, manufacturers, and requalifiers, specifically those modal-specific packaging and requalification requirements. This rulemaking is one example of PHMSA’s review of rulemakings which ensures that our rules do not have a significant economic impact on a substantial number of small entities.

Year 3 (Fall 2021) List of Rules That Will Be Analyzed During the Next Year

49 CFR part 172—Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, Training Requirements, and Security Plans

49 CFR part 175—Carriage by Aircraft

Saint Lawrence Seaway Development Corporation

Section 610 and Other Reviews

Year	Regulations to be reviewed	Analysis year	Review year
1	*33 CFR parts 401 through 403	2018	2019

* The review for these regulations is recurring each year of the 10-year review cycle (currently 2018 through 2027).

Year 1 (Fall 2018) List of Rules That Will Be Analyzed During the Next Year
 33 CFR part 401—Seaway Regulations and Rules

33 CFR part 402—Tariff of Tolls
 33 CFR part 403—Rules of Procedure of the Joint Tolls Review Board

OFFICE OF THE SECRETARY—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
289	+ Defining Unfair or Deceptive Practices	2105–AE72

OFFICE OF THE SECRETARY—FINAL RULE STAGE—Continued

Sequence No.	Title	Regulation Identifier No.
290	+ Accessible Lavatories on Single-Aisle Aircraft: Part I (Rulemaking Resulting From a Section 610 Review).	2105-AE88
291	Civil Monetary Penalties 2021 Inflation Adjustment (Section 610 Review)	2105-AE99

+ DOT-designated significant regulation.

OFFICE OF THE SECRETARY—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
292	+ Air Transportation Consumer Protection Requirements for Ticket Agents (Section 610 Review)	2105-AE57

+ DOT-designated significant regulation.

FEDERAL AVIATION ADMINISTRATION—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
293	+ Applying the Flight, Duty, and Rest Rules of 14 CFR Part 135 to Tail-End Ferry Operations (FAA Reauthorization).	2120-AK26

+ DOT-designated significant regulation.

FEDERAL AVIATION ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
294	+ Aircraft Registration and Airmen Certification Fees	2120-AK37
295	Requirements to File Notice of Construction of Meteorological Evaluation Towers and Other Renewable Energy Projects (Section 610 Review).	2120-AK77

+ DOT-designated significant regulation.

FEDERAL AVIATION ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
296	+ Airport Safety Management System	2120-AJ38
297	+ Pilot Records Database (HR 5900)	2120-AK31
298	+ Registration and Marking Requirements for Small Unmanned Aircraft (Reg Plan Seq No. 71)	2120-AK82
299	+ Operations of Small Unmanned Aircraft Over People	2120-AK85
300	+ Remote Identification of Unmanned Aircraft Systems	2120-AL31

+ DOT-designated significant regulation.

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

FEDERAL AVIATION ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
301	+ Regulation Of Flight Operations Conducted By Alaska Guide Pilots	2120-AJ78
302	+ Drug and Alcohol Testing of Certain Maintenance Provider Employees Located Outside of the United States.	2120-AK09
303	+ Helicopter Air Ambulance Pilot Training and Operational Requirements (HAA II) (FAA Reauthorization) ..	2120-AK57

+ DOT-designated significant regulation.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
304	+ Controlled Substances and Alcohol Testing: State Driver's Licensing Agency Downgrade of Commercial Driver's License (Section 610 Review).	2126-AC11

+ DOT-designated significant regulation.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
305	+ Safety Monitoring System and Compliance Initiative for Mexico-Domiciled Motor Carriers Operating in the United States.	2126-AA35

+ DOT-designated significant regulation.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
306	Seaway Regulations and Rules: Periodic Update, Various Categories (Rulemaking Resulting From a Section 610 Review).	2135-AA49
307	Tariff of Tolls (Rulemaking Resulting From a Section 610 Review)	2135-AA50

PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
308	+ Pipeline Safety: Amendments to Parts 192 and 195 to Require Valve Installation and Minimum Rupture Detection Standards.	2137-AF06
309	+ Hazardous Materials: Enhanced Safety Provisions for Lithium Batteries Transported by Aircraft (FAA Reauthorization Act of 2018).	2137-AF20

+ DOT-designated significant regulation.

DEPARTMENT OF TRANSPORTATION (DOT)

Office of the Secretary (OST)

Final Rule Stage

289. +Defining Unfair or Deceptive Practices

E.O. 13771 Designation: Deregulatory.
Legal Authority: 49 U.S.C. 41712
Abstract: This rulemaking would define the phrase “unfair or deceptive practice” found in the Department’s aviation consumer protection statute. The Department’s statute is modeled after a similar statute granting the Federal Trade Commission (FTC) the authority to regulate unfair or deceptive practices. Using the FTC’s policy statements as a guide, the Department has found a practice to be unfair if it causes or is likely to cause substantial harm, the harm cannot reasonably be avoided, and the harm is not outweighed by any countervailing benefits to consumers or to competition. Likewise, the Department has found a practice to be deceptive if it misleads or is likely to mislead a consumer acting reasonably under the circumstances with respect to a material issue (one that is likely to affect the consumer’s decision with regard to a product or service). This rulemaking would codify the Department’s existing interpretation of “unfair or deceptive practice,” and seek comment on any whether changes are needed. The rulemaking would also require the Department to articulate in

future enforcement orders the basis for concluding that a practice is unfair or deceptive where no existing regulation governs the practice in question, state the basis for its conclusion that a practice is unfair or deceptive when it issues discretionary aviation consumer protection regulations, and apply formal hearing procedures for discretionary aviation consumer protection rulemakings. In addition, this rulemaking would codify the longstanding practice of the Department to offer airlines and ticket agents the opportunity to be heard and present relevant evidence before any determination is made on how to resolve a matter involving a potential unfair or deceptive practice.

Timetable:

Action	Date	FR Cite
Final Rule	11/00/20	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Blane A. Workie, Assistant General Counsel, Department of Transportation, Office of the Secretary, 1200 New Jersey Avenue SE, Washington, DC 20590, Phone: 202 366-9345, Fax: 202 366-7153, *Email:* blane.workie@ost.dot.gov.
RIN: 2105-AE72

290. +Accessible Lavatories on Single-Aisle Aircraft: Part I (Rulemaking Resulting From a Section 610 Review)

E.O. 13771 Designation: Deregulatory.

Legal Authority: 49 U.S.C. 41705; FAA Reauthorization Act of 2016, Pub L. No. 114-190, 130 Stat. 615, 622

Abstract: This rulemaking would require airlines to take steps to improve the accessibility of lavatories on single-aisle aircraft short of increasing the size of the lavatories. The rulemaking would ensure the accessibility of features within an aircraft lavatory, including but not limited to, toilet seat, assist handles, faucets, flush control, attendant call buttons, lavatory controls and dispensers, lavatory door sill, and door locks. The rulemaking would also consider standards for the on-board wheelchair to improve its safety/ maneuverability and easily permit its entry into the aircraft lavatory.

Timetable:

Action	Date	FR Cite
NPRM	01/02/20	85 FR 27
NPRM Comment Period End.	03/02/20	
Final Rule	12/00/20	

Regulatory Flexibility Analysis

Required: No.

Agency Contact: Blane A. Workie, Assistant General Counsel, Department of Transportation, Office of the Secretary, 1200 New Jersey Avenue SE, Washington, DC 20590, Phone: 202 366-9345, Fax: 202 366-7153, *Email:* blane.workie@ost.dot.gov.

RIN: 2105-AE88

291. • Civil Monetary Penalties 2021 Inflation Adjustment (Section 610 Review)

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: Not Yet Determined

Abstract: This rulemaking will adjust civil penalties assessed by the Department for inflation, as required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. To ensure coordination across the Department, the Office of the Secretary is publishing one omnibus rule updating all of the affected modes and offices' civil monetary penalties for 2021.

Timetable:

Action	Date	FR Cite
Final Rule	01/00/21	

Regulatory Flexibility Analysis

Required: No.

Agency Contact: Blaine A. Workie, Assistant General Counsel, Department of Transportation, Office of the Secretary, 1200 New Jersey Avenue SE, Washington, DC 20590, *Phone:* 202 366-9345, *Fax:* 202 366-7153, *Email:* blane.workie@dot.gov.

RIN: 2105-AE99

DEPARTMENT OF TRANSPORTATION (DOT)

Office of the Secretary (OST)

Long-Term Actions

292. +Air Transportation Consumer Protection Requirements for Ticket Agents (Section 610 Review)

E.O. 13771 Designation: Regulatory.

Legal Authority: 49 U.S.C. 41712; FAA Reauthorization Act of 2018, sec. 427

Abstract: This rulemaking would address a number of proposals to enhance protections for air travelers and to improve the air travel environment. Specifically, this rulemaking would enhance airline passenger protections by addressing whether to codify in regulation a definition of the term "ticket agent." The rulemaking would also consider whether to require large travel agents to adopt minimum customer service standards and prohibit the unfair and deceptive practice of post-purchase price increases. These issues, previously part of a rulemaking known as Airline Pricing Transparency and Other Consumer Protection Issues, (2105-AE11) have been separated into this proceeding.

Timetable: Next Action Undetermined.

Regulatory Flexibility Analysis

Required: No.

Agency Contact: Blane A. Workie, Assistant General Counsel, Department of Transportation, Office of the Secretary, 1200 New Jersey Avenue SE, Washington, DC 20590, *Phone:* 202 366-9345, *Fax:* 202 366-7153, *Email:* blane.workie@ost.dot.gov.

RIN: 2105-AE57

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Aviation Administration (FAA)

Prerule Stage

293. +Applying the Flight, Duty, and Rest Rules of 14 CFR Part 135 to Tail-End Ferry Operations (FAA Reauthorization)

E.O. 13771 Designation: Regulatory.

Legal Authority: 49 U.S.C. 106(f); 49 U.S.C. 106(g); 49 U.S.C. 1153; 49 U.S.C. 40101; 49 U.S.C. 40102; 49 U.S.C. 40103; 49 U.S.C. 40113; 49 U.S.C. 41706; 49 U.S.C. 44105; 49 U.S.C. 44106; 49 U.S.C. 44111; 49 U.S.C. 44701 to 44717; 49 U.S.C. 44722; 49 U.S.C. 44901; 49 U.S.C. 44903; 49 U.S.C. 44904; 49 U.S.C. 44906; 49 U.S.C. 44912; 49 U.S.C. 44914; 49 U.S.C. 44936; 49 U.S.C. 44938; 49 U.S.C. 45101 to 45105; 49 U.S.C. 46103

Abstract: This rulemaking would require a flightcrew member who is employed by an air carrier conducting operations under part 135, and who accepts an additional assignment for flying under part 91 from the air carrier or from any other air carrier conducting operations under part 121 or 135, to apply the period of the additional assignment toward any limitation applicable to the flightcrew member relating to duty periods or flight times under part 135.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/21	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Stephen Moates, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, *Phone:* 202 267-4147, *Email:* stephen.moates@faa.gov.

RIN: 2120-AK26

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Aviation Administration (FAA)

Proposed Rule Stage

294. +Aircraft Registration and Airmen Certification Fees

E.O. 13771 Designation: Fully or Partially Exempt.

Legal Authority: 31 U.S.C. 9701; 4 U.S.T. 1830; 49 U.S.C. 106(f); 49 U.S.C. 106(g); 49 U.S.C. 106(l)(6); 49 U.S.C. 40104; 49 U.S.C. 40105; 49 U.S.C. 40109; 49 U.S.C. 40113; 49 U.S.C. 40114; 49 U.S.C. 44110 to 44108; 49 U.S.C. 44110 to 44113; 49 U.S.C. 44701 to 44704; 49 U.S.C. 44707; 49 U.S.C. 44709 to 44711; 49 U.S.C. 44713; 49 U.S.C. 45102; 49 U.S.C. 45103; 49 U.S.C. 45301; 49 U.S.C. 45302; 49 U.S.C. 45305; 49 U.S.C. 46104; 49 U.S.C. 46301; Pub. L. 108-297, 118 Stat. 1095

Abstract: This rulemaking would establish fees for airman certificates, medical certificates, and provision of legal opinions pertaining to aircraft registration or recordation. This rulemaking also would revise existing fees for aircraft registration, recording of security interests in aircraft or aircraft parts, and replacement of an airman certificate. This rulemaking addresses provisions of the FAA Modernization and Reform Act of 2012. This rulemaking is intended to recover the estimated costs of the various services and activities for which fees would be established or revised.

Timetable:

Action	Date	FR Cite
NPRM	10/00/21	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Isra Raza, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, *Phone:* 202 267-8994, *Email:* isra.raza@faa.gov.

RIN: 2120-AK37

295. Requirements To File Notice of Construction of Meteorological Evaluation Towers and Other Renewable Energy Projects (Section 610 Review)

E.O. 13771 Designation: Regulatory.

Legal Authority: 49 U.S.C. 40103

Abstract: This rulemaking would add specific requirements for proponents who wish to construct meteorological evaluation towers at a height of 50 feet above ground level (AGL) up to 200 feet AGL to file notice of construction with the FAA. This rule also requires

sponsors of wind turbines to provide certain specific data when filing notice of construction with the FAA. This rulemaking is a statutory mandate under section 2110 of the FAA Extension, Safety, and Security Act of 2016 (Pub. L. 114–190).

Timetable:

Action	Date	FR Cite
NPRM	10/00/21	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Sheri Edgett–Baron, Air Traffic Service, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, *Phone:* 202 267–9354, *Email:* sheri.edgett-baron@faa.gov. *RIN:* 2120–AK77

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Aviation Administration (FAA)

Final Rule Stage

296. +Airport Safety Management System

E.O. 13771 Designation: Regulatory. *Legal Authority:* 49 U.S.C. 44706; 49 U.S.C. 106(g); 49 U.S.C. 40113; 49 U.S.C. 44701 to 44706; 49 U.S.C. 44709; 49 U.S.C. 44719

Abstract: This rulemaking would require certain airport certificate holders to develop, implement, maintain, and adhere to a safety management system (SMS) for its aviation related activities. An SMS is a formalized approach to managing safety by developing an organization-wide safety policy, developing formal methods of identifying hazards, analyzing and mitigating risk, developing methods for ensuring continuous safety improvement, and creating organization-wide safety promotion strategies.

Timetable:

Action	Date	FR Cite
NPRM	10/07/10	75 FR 62008
NPRM Comment Period Extended.	12/10/10	75 FR 76928
NPRM Comment Period End.	01/05/11	
End of Extended Comment Period.	03/07/11	
Second Extension of Comment Period.	03/07/11	76 FR 12300

Action	Date	FR Cite
End of Second Extended Comment Period.	07/05/11	
Second NPRM	07/14/16	81 FR 45871
Second NPRM Comment Period End.	09/12/16	
Final Rule	12/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: James Schroeder, Department of Transportation, Federal Aviation Administration, *Phone:* 202 267–4974, *Email:* james.schroeder@faa.gov.

RIN: 2120–AJ38

297. +Pilot Records Database (HR 5900)

E.O. 13771 Designation: Regulatory. *Legal Authority:* 49 U.S.C. 106(f); 49 U.S.C. 106(g); 49 U.S.C. 1155; 49 U.S.C. 40103; 49 U.S.C. 40113; 49 U.S.C. 40119; 49 U.S.C. 40120; 49 U.S.C. 41706; 49 U.S.C. 44101; 49 U.S.C. 44111; 49 U.S.C. 44701 to 44705; 49 U.S.C. 44709 to 44713; 49 U.S.C. 44715 to 44717; 49 U.S.C. 44722; 49 U.S.C. 45101 to 45105; 49 U.S.C. 46105; 49 U.S.C. 46306; 49 U.S.C. 46315; 49 U.S.C. 46316; 49 U.S.C. 46504; 49 U.S.C. 46507; 49 U.S.C. 47122; 49 U.S.C. 47508; 49 U.S.C. 47528 to 47531.

Abstract: This rulemaking would implement a Pilot Records Database as required by Public Law 111–216 (Aug. 1, 2010). Section 203 amends the Pilot Records Improvement Act by requiring the FAA to create a pilot records database that contains various types of pilot records. These records would be provided by the FAA, air carriers, and other persons who employ pilots. The FAA must maintain these records until it receives notice that a pilot is deceased. Air carriers would use this database to perform a record check on a pilot prior to making a hiring decision.

Timetable:

Action	Date	FR Cite
NPRM	03/30/20	85 FR 17660
NPRM Comment Period End.	06/29/20	
Final Rule	01/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Christopher Morris, Department of Transportation, Federal Aviation Administration, 6500 S MacArthur Blvd., Oklahoma City, OK 73169, *Phone:* 405–954–4646, *Email:* christopher.morris@faa.gov.

RIN: 2120–AK31

298. +Registration and Marking Requirements for Small Unmanned Aircraft

Regulatory Plan: This entry is Seq. No. 71 in part II of this issue of the **Federal Register**.

RIN: 2120–AK82

299. +Operations of Small Unmanned Aircraft Over People

E.O. 13771 Designation: Deregulatory. *Legal Authority:* 49 U.S.C. 106(f); 49 U.S.C. 40101; 49 U.S.C. 40103(b); 49 U.S.C. 44701(a)(5); Pub. L. 112–95, sec 333

Abstract: This rulemaking would address the performance-based standards and means-of-compliance for operation of small unmanned aircraft systems (UAS) over people not directly participating in the operation or not under a covered structure or inside a stationary vehicle that can provide reasonable protection from a falling small unmanned aircraft. This rule would provide relief from certain operational restrictions implemented in the Operation and Certification of Small Unmanned Aircraft Systems final rule (RIN 2120–AJ60).

Timetable:

Action	Date	FR Cite
NPRM	02/13/19	84 FR 3856
NPRM Comment Period End.	04/15/19	
Final Rule	01/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael Machnik, Department of Transportation, Federal Aviation Administration, Department of Transportation, Federal Aviation Administration, 2300 E Devon, Suite 261, Des Plaines, IL 60018, *Phone:* 630 488–0090, *Email:* michael.machnik@faa.gov.

RIN: 2120–AK85

300. +Remote Identification of Unmanned Aircraft Systems

E.O. 13771 Designation: Regulatory. *Legal Authority:* 118 Stat. 1095; 126 Stat. 11; 126 Stat. 75; 130 Stat. 615; 4 U.S.C. 1830; 49 U.S.C. 106(f); 49 U.S.C. 106(g); 49 U.S.C. 40101; 49 U.S.C. 40103; 49 U.S.C. 40103(b); 49 U.S.C. 40113; 49 U.S.C. 40114; 49 U.S.C. 40120; 49 U.S.C. 41703; 49 U.S.C. 44101 to 44108; 49 U.S.C. 44110 to 44113; 49 U.S.C. 44701; 49 U.S.C. 44701(a)(5); 49 U.S.C. 44703; 49 U.S.C. 44704; 49 U.S.C. 44709; 49 U.S.C. 44711 to 44713; 49 U.S.C. 44715 to 44717; 49 U.S.C. 44722; 49 U.S.C. 44805; 49 U.S.C. 44809(f); 49 U.S.C. 45302; 49 U.S.C. 45305; 49 U.S.C. 46104; 49 U.S.C. 46301; 49 U.S.C.

46306; 49 U.S.C. 46315; 49 U.S.C. 46316; 49 U.S.C. 46504; 49 U.S.C. 46506; 49 U.S.C. 46507; 49 U.S.C. 47122; 49 U.S.C. 47508; 49 U.S.C. 47528 to 47531; 49 U.S.C. 47534; 61 Stat. 1180; Pub. L. 108–297; Pub. L. 112–95; Pub. L. 114–190

Abstract: This action would require the remote identification of unmanned aircraft systems. The remote identification of unmanned aircraft systems in the airspace of the United States would address safety, national security, and law enforcement concerns regarding the further integration of these aircraft into the airspace of the United States while also enabling greater operational capabilities.

Timetable:

Action	Date	FR Cite
NPRM	12/31/19	84 FR 72438
NPRM Comment Period End.	03/02/20	
Final Rule	12/00/20	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Ben Walsh, Department of Transportation, Federal Aviation Administration, 470 L'Enfant Plaza, Office 3200, Washington, DC 20024, *Phone:* 202–267–8233, *Email:* ben.walsh@faa.gov.
RIN: 2120–AL31

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Aviation Administration (FAA)

Long-Term Actions

301. +Regulation of Flight Operations Conducted by Alaska Guide Pilots

E.O. 13771 Designation: Regulatory.
Legal Authority: 49 U.S.C. 106(g); 49 U.S.C. 1153; 49 U.S.C. 1155; 49 U.S.C. 40101 to 40103; 49 U.S.C. 40113; 49 U.S.C. 40120; 49 U.S.C. 44101; 49 U.S.C. 44105 to 44016; 49 U.S.C. 44111; 49 U.S.C. 44701 to 44717; 49 U.S.C. 44722; 49 U.S.C. 44901; 49 U.S.C. 44903 to 44904; 49 U.S.C. 44906; 49 U.S.C. 44912; 49 U.S.C. 44914; 49 U.S.C. 44936; 49 U.S.C. 44938; 49 U.S.C. 46103; 49 U.S.C. 46105; 49 U.S.C. 46306; 49 U.S.C. 46315 to 46316; 49 U.S.C. 46504; 49 U.S.C. 46506 to 46507; 49 U.S.C. 47122; 49 U.S.C. 47508; 49 U.S.C. 47528 to 47531; Articles 12 and 29 of 61 Statue 1180; Pub. L. 106–181, sec. 732

Abstract: The rulemaking would establish regulations concerning Alaska guide pilot operations. The rulemaking would implement Congressional legislation and establish additional

safety requirements for the conduct of these operations. The intended effect of this rulemaking is to enhance the level of safety for persons and property transported in Alaska guide pilot operations. In addition, the rulemaking would add a general provision applicable to pilots operating under the general operating and flight rules concerning falsification, reproduction, and alteration of applications, logbooks, reports, or records. This rulemaking is a statutory mandate under section 732 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, (Pub. Law 106–181).

Timetable: Next Action

Undetermined.

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Jeff Smith, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20785, *Phone:* 202 365–3617, *Email:* jeffrey.smith@faa.gov.
RIN: 2120–AJ78

302. +Drug and Alcohol Testing of Certain Maintenance Provider Employees Located Outside of the United States

E.O. 13771 Designation: Fully or Partially Exempt.

Legal Authority: 14 CFR; 49 U.S.C. 106(g); 49 U.S.C. 40113; 49 U.S.C. 44701; 49 U.S.C. 44702; 49 U.S.C. 44707; 49 U.S.C. 44709; 49 U.S.C. 44717

Abstract: This rulemaking would require controlled substance testing of some employees working in repair stations located outside the United States. The intended effect is to increase participation by companies outside of the United States in testing of employees who perform safety critical functions and testing standards similar to those used in the repair stations located in the United States. This action is necessary to increase the level of safety of the flying public. This rulemaking is a statutory mandate under section 308(d) of the FAA Modernization and Reform Act of 2012 (Pub. L. 112–95).

Timetable:

Action	Date	FR Cite
ANPRM	03/17/14	79 FR 14621
Comment Period Extended.	05/01/14	79 FR 24631
ANPRM Comment Period End.	05/16/14	
Comment Period End.	07/17/14	
NPRM	11/00/21	

Regulatory Flexibility Analysis
Required: Yes.

Agency Contact: Julia Brady, Program Analyst, Program Policy Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, *Phone:* 202 267–8083, *Email:* julia.brady@faa.gov.
RIN: 2120–AK09

303. +Helicopter Air Ambulance Pilot Training and Operational Requirements (HAA II) (FAA Reauthorization)

E.O. 13771 Designation: Regulatory.

Legal Authority: 49 U.S.C. 106(f); 49 U.S.C. 106(g); 49 U.S.C. 40113; 49 U.S.C. 41706; 49 U.S.C. 44701; 49 U.S.C. 44702; 49 U.S.C. 44705; 49 U.S.C. 44709; 49 U.S.C. 44711 to 44713; 49 U.S.C. 44715 to 44717; 49 U.S.C. 44722; 49 U.S.C. 44730; 49 U.S.C. 45101 to 45105

Abstract: This rulemaking would develop training requirements for crew resource management, flight risk evaluation, and operational control of the pilot in command, as well as to develop standards for the use of flight simulation training devices and line-oriented flight training. Additionally, it would establish requirements for the use of safety equipment for flight crewmembers and flight nurses. These changes will aide in the increase in aviation safety and increase survivability in the event of an accident. Without these changes, the Helicopter Air Ambulance industry may continue to see the unacceptable high rate of aircraft accidents. This rulemaking is a statutory mandate under section 306(e) of the FAA Modernization and Reform Act of 2012 (Pub. L. 112–95).

Timetable: Next Action

Undetermined.

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Chris Holliday, Department of Transportation, Federal Aviation Administration, 801 Pennsylvania Avenue NW, Washington, DC 20024, *Phone:* 202 267–4552, *Email:* chris.holliday@faa.gov.
RIN: 2120–AK57

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Motor Carrier Safety Administration (FMCSA)

Final Rule Stage

304. +Controlled Substances and Alcohol Testing: State Driver's Licensing Agency Downgrade of Commercial Driver's License (Section 610 Review)

E.O. 13771 Designation: Regulatory.

Legal Authority: 49 U.S.C. 31136(a); 49 U.S.C. 31305(a)

Abstract: FMCSA proposes to prohibit State Driver's Licensing Agencies (SDLAs) from issuing, renewing, upgrading, or transferring a commercial driver's license (CDL), or commercial learner's permit (CLP), for individuals prohibited under current regulations from driving a commercial motor vehicle (CMV) due to controlled substance (drug) and alcohol program violations. The CMV driving ban is intended to keep these drivers off the road until they comply with return-to-duty (RTD) requirements. FMCSA also seeks comment on alternate proposals establishing additional ways that SDLAs would use information, obtained through the Drug and Alcohol Clearinghouse (Clearinghouse), to increase compliance with the CMV driving prohibition. Further, the Agency proposes to revise how reports of actual knowledge violations, based on a citation for Driving Under the Influence (DUI) in a CMV, would be maintained in the Clearinghouse. These proposed changes would improve highway safety by increasing compliance with existing drug and alcohol program requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/28/20	85 FR 23670
NPRM Comment Period End.	06/29/20	
Final Rule	03/00/21	

Regulatory Flexibility Analysis

Required: No.

Agency Contact: Juan Moya, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, *Phone:* 202 366-4844, *Email:* juan.moya@dot.gov.

RIN: 2126-AC11

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Motor Carrier Safety Administration (FMCSA)

Long-Term Actions

305. +Safety Monitoring System and Compliance Initiative for Mexico-Domiciled Motor Carriers Operating in the United States

E.O. 13771 Designation: Regulatory. *Legal Authority:* Pub. L. 107-87, sec. 350; 49 U.S.C. 113; 49 U.S.C. 31136; 49 U.S.C. 31144; 49 U.S.C. 31502; 49 U.S.C. 504; 49 U.S.C. 5113; 49 U.S.C. 521(b)(5)(A)

Abstract: This rule would implement a safety monitoring system and compliance initiative designed to evaluate the continuing safety fitness of all Mexico-domiciled carriers within 18 months after receiving a provisional Certificate of Registration or provisional authority to operate in the United States. It also would establish suspension and revocation procedures for provisional Certificates of Registration and operating authority, and incorporate criteria to be used by FMCSA in evaluating whether Mexico-domiciled carriers exercise basic safety management controls. The interim rule included requirements that were not proposed in the NPRM but which are necessary to comply with the FY-2002 DOT Appropriations Act. On January 16, 2003, the Ninth Circuit Court of Appeals remanded this rule, along with two other NAFTA-related rules, to the agency, requiring a full environmental impact statement and an analysis required by the Clean Air Act. On June 7, 2004, the Supreme Court reversed the Ninth Circuit and remanded the case, holding that FMCSA is not required to prepare the environmental documents. FMCSA originally planned to publish a final rule by November 28, 2003.

Timetable:

Action	Date	FR Cite
NPRM	05/03/01	66 FR 22415
NPRM Comment Period End.	07/02/01	
Interim Final Rule	03/19/02	67 FR 12758
Interim Final Rule Comment Period End.	04/18/02	
Interim Final Rule Effective.	05/03/02	
Notice of Intent To Prepare an EIS.	08/26/03	68 FR 51322
EIS Public Scoping Meetings.	10/08/03	68 FR 58162
Next Action Undetermined.		

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Dolores Macias, Acting Division Chief, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, *Phone:* 202 366-2995, *Email:* dolores.macias@dot.gov.

RIN: 2126-AA35

DEPARTMENT OF TRANSPORTATION (DOT)

Saint Lawrence Seaway Development Corporation (SLSDC)

Final Rule Stage

306. • Seaway Regulations and Rules: Periodic Update, Various Categories (Rulemaking Resulting From a Section 610 Review)

E.O. 13771 Designation: Deregulatory. *Legal Authority:* 33 U.S.C. 981 *et seq* *Abstract:* The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Regulations and Rules (Practices and Procedures in Canada) in their respective jurisdictions. Under agreement with the SLSMC, the SLSDC is amending the joint regulations by updating the Seaway Regulations and Rules in various categories.

Timetable:

Action	Date	FR Cite
Final Action	11/00/20	

Regulatory Flexibility Analysis

Required: No.

Agency Contact: Carrie Lynn Lavigne, Chief Counsel, Department of Transportation, Saint Lawrence Seaway Development Corporation, 180 Andrews Street, Massena, NY 13662, *Phone:* 315 764-3231, *Email:* carrie.lavigne@dot.gov.

RIN: 2135-AA49

307. • Tariff of Tolls (Rulemaking Resulting From a Section 610 Review)

E.O. 13771 Designation: Deregulatory. *Legal Authority:* 33 U.S.C. 981 *et seq* *Abstract:* The Saint Lawrence Seaway Development corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Tariff of Tolls in their respective jurisdictions. The Tariff sets forth the level of tolls assessed on all commodities and vessels transiting the facilities operated by the SLSDC and the SLSMC.

Timetable:

Action	Date	FR Cite
Final Action	11/00/20	

Regulatory Flexibility Analysis

Required: No.

Agency Contact: Carrie Lynn Lavigne, Chief Counsel, Department of Transportation, Saint Lawrence Seaway

Development Corporation, 180 Andrews Street, Massena, NY 13662, *Phone:* 315 764-3231, *Email:* carrie.lavigne@dot.gov

RIN: 2135-AA50

DEPARTMENT OF TRANSPORTATION (DOT)

Pipeline and Hazardous Materials Safety Administration (PHMSA)

Final Rule Stage

308. +Pipeline Safety: Amendments to Parts 192 and 195 To Require Valve Installation and Minimum Rupture Detection Standards

E.O. 13771 Designation: Regulatory.

Legal Authority: 49 U.S.C. 60101 *et seq*

Abstract: PHMSA is proposing to revise the Pipeline Safety Regulations applicable to newly constructed or entirely replaced natural gas transmission and hazardous liquid pipelines to improve rupture mitigation and shorten pipeline segment isolation times in high consequence and select non-high consequence areas. The proposed rule defines certain pipeline events as “ruptures” and outlines certain performance standards related to rupture identification and pipeline segment isolation. PHMSA also proposes specific valve maintenance and inspection requirements, and 9–1–1 notification requirements to help operators achieve better rupture response and mitigation. The rule addresses congressional mandates, incorporate recommendations from the National Transportation Safety Board, and are necessary to reduce the serious consequences of large-volume,

uncontrolled releases of natural gas and hazardous liquids.

Timetable:

Action	Date	FR Cite
NPRM	02/06/20	85 FR 7162
NPRM Comment Period End.	04/06/20	
Final Rule	04/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Robert Jagger, Technical Writer, Department of Transportation, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue, Washington, DC 20590, *Phone:* 202-366-4595, *Email:* robert.jagger@dot.gov.

RIN: 2137-AF06

309. +Hazardous Materials: Enhanced Safety Provisions for Lithium Batteries Transported by Aircraft (FAA Reauthorization Act of 2018)

E.O. 13771 Designation: Regulatory.

Legal Authority: 49 U.S.C. 44701; 49 U.S.C. 5103(b); 49 U.S.C. 5120(b)

Abstract: This rulemaking amends the Hazardous Materials Regulations (HMR) to (1) prohibit the transport of lithium ion cells and batteries as cargo on passenger aircraft; (2) require all lithium ion cells and batteries to be shipped at not more than a 30 percent state of charge on cargo-only aircraft; and (3) limit the use of alternative provisions for small lithium cell or battery to one package per consignment. The amendments will not restrict passengers or crew members from bringing personal items or electronic devices containing lithium cells or batteries aboard aircraft, or restrict the air transport of lithium ion cells or batteries when packed with or contained in equipment. To accommodate persons in areas

potentially not serviced daily by cargo aircraft, PHMSA is providing a limited exception for not more than two replacement lithium cells or batteries specifically used for medical devices to be transported by passenger aircraft and at a state of charge greater than 30 percent, under certain conditions and as approved by the Associate Administrator. This rulemaking is necessary to meet the FAA Reauthorization Act of 2018, address a safety hazard, and harmonize the HMR with emergency amendments to the 2015–2016 edition of the International Civil Aviation Organization’s Technical Instructions for the Safe Transport of Dangerous Goods by Air.

Timetable:

Action	Date	FR Cite
NPRM	03/06/19	84 FR 8006
Interim Final Rule	03/06/19	
Interim Final Rule Effective.	03/06/19	84 FR 8006
Interim Final Rule Comment Period End.	05/06/19	
NPRM Comment Period End.	05/06/20	
Final Rule	07/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Shelby Geller, Transportation Regulations Specialist, Department of Transportation, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, *Phone:* 202 366-8553, *Email:* shelby.geller@dot.gov.

RIN: 2137-AF20

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Part XIII

Department of the Treasury

Semiannual Regulatory Agenda

DEPARTMENT OF THE TREASURY

31 CFR Subtitles A and B

Semiannual Agenda and Regulatory Plan

AGENCY: Department of the Treasury.
ACTION: Semiannual regulatory agenda and annual regulatory plan.

SUMMARY: This notice is given pursuant to the requirements of the Regulatory Flexibility Act and Executive Order (E.O.) 12866 (“Regulatory Planning and Review”), which require the publication by the Department of a semiannual agenda of regulations. E.O. 12866 also requires the publication by the Department of a regulatory plan for the upcoming fiscal year. The purpose of the agenda is to provide advance information about pending regulatory activities and encourage public participation in the regulatory process.

FOR FURTHER INFORMATION CONTACT: The Agency contact identified in the item relating to that regulation.

SUPPLEMENTARY INFORMATION: The semiannual regulatory agenda includes regulations that the Department has issued or expects to issue and rules currently in effect that are under departmental or bureau review. For this edition of the regulatory agenda, the most important significant regulatory actions and a Statement of Regulatory

Priorities are included in the Regulatory Plan, which appears in both the online Unified Agenda and in part II of the **Federal Register** publication that includes the Unified Agenda.

The complete Unified Agenda will be available online at *www.reginfo.gov* and *www.regulations.gov* in a format that offers users an enhanced ability to obtain information from the Agenda database. Because publication in the **Federal Register** is mandated for the regulatory flexibility agenda required by the Regulatory Flexibility Act (5 U.S.C. 602), Treasury’s printed agenda entries include only:

(1) Rules that are in the regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Rules that have been identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act’s Agenda requirements. Additional information on these entries is available in the Unified Agenda published on the internet. In addition, for fall editions of the Agenda, the entire Regulatory Plan will continue to be printed in the **Federal Register**, as in past years.

The Department has listed in this agenda all regulations and regulatory

reviews pending at the time of publication, except for technical, minor, and routine actions. On occasion, a regulatory matter may be inadvertently left off of the agenda or an emergency may arise that requires the Department to initiate a regulatory action not yet on the agenda. There is no legal significance to the omission of an item from this agenda. For most entries, Treasury includes a projected date for the next rulemaking action; however, the date is an estimate and is not a commitment to publish on the projected date. In addition, some agenda entries are marked as “withdrawn” when there has been no publication activity. Withdrawal of a rule from the agenda does not necessarily mean that a rule will not be included in a future agenda but may mean that further consideration is warranted and that the regulatory action is unlikely in the next 12 months.

Public participation in the rulemaking process is the foundation of effective regulations. For this reason, the Department invites comments on all regulatory and deregulatory items included in the agenda and invites input on items that should be included in the semiannual agenda.

Michael Briskin,

Deputy Assistant General Counsel for General Law and Regulation.

FINANCIAL CRIMES ENFORCEMENT NETWORK—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
310	Bank Secrecy Act Funds Record-Keeping and Transfer Rule Threshold Update	1506–AB41

COMPROLLER OF THE CURRENCY—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
311	Community Reinvestment Act Regulations	1557–AE34

CUSTOMS REVENUE FUNCTION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
312	Enforcement of Copyrights and the Digital Millennium Copyright Act	1515–AE26

INTERNAL REVENUE SERVICE—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
313	Section 42 Low-Income Housing Credit Average Income Test Regulations	1545–BO92
314	MEPs and the Unified Plan Rule	1545–BO97

INTERNAL REVENUE SERVICE—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
315	Guidance on the Elimination of Interbank Offered Rates	1545–BO91

DEPARTMENT OF THE TREASURY (TREAS)

Financial Crimes Enforcement Network (FINCEN)

Proposed Rule Stage

310. Bank Secrecy Act Funds Record-Keeping and Transfer Rule Threshold Update

E.O. 13771 Designation: Fully or Partially Exempt.

Legal Authority: 12 U.S.C. 1829b; 12 U.S.C. 1951 to 1959; 31 U.S.C. 5311 to 5314; 31 U.S.C. 5316 to 5332

Abstract: On October 27, 2020, the Board of Governors of the Federal Reserve System and FinCEN (collectively, the “Agencies”) issued a proposed rule to modify the threshold in the rule implementing the Bank Secrecy Act requiring financial institutions to collect and retain information on certain funds transfers and transmittals of funds. The proposed modification would reduce this threshold from \$3,000 to \$250 for funds transfers and transmittals of funds that begin or end outside the United States. FinCEN likewise proposed to reduce from \$3,000 to \$250 the threshold in the rule requiring financial institutions to transmit to other financial institutions in the payment chain information on funds transfers and transmittals of funds that begin or end outside the United States. The Agencies also proposed to clarify the meaning of “money” as used in these same rules to ensure that the rules apply to domestic and cross-border transactions involving convertible virtual currency, which is a medium of exchange (such as cryptocurrency) that either has an equivalent value as currency, or acts as a substitute for currency, but lacks legal tender status. The Agencies further proposed to clarify that these rules apply to domestic and cross-border transactions involving digital assets that have legal tender status.

Timetable:

Action	Date	FR Cite
NPRM	10/27/20	85 FR 68005
NPRM Comment Period End.	11/27/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: FinCEN Resource Center, Department of the Treasury, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183, *Phone:* 800 767–2825, *Email:* frc@fincen.gov. *RIN:* 1506–AB41

DEPARTMENT OF THE TREASURY (TREAS)

Comptroller of the Currency (OCC)

Completed Actions

311. Community Reinvestment Act Regulations

E.O. 13771 Designation: Independent agency.

Legal Authority: 12 U.S.C. 21; 12 U.S.C. 22; 12 U.S.C. 26; 12 U.S.C. 27; 12 U.S.C. 30; 12 U.S.C. 36; 12 U.S.C. 93(a); 12 U.S.C. 161; 12 U.S.C. 215; 12 U.S.C. 215(a); 12 U.S.C. 481; 12 U.S.C. 1462(a); 12 U.S.C. 1463; 12 U.S.C. 1464; 12 U.S.C. 1814; 12 U.S.C. 1816; 12 U.S.C. 1828(c); 12 U.S.C. 1835(a); 12 U.S.C. 2901 to 2908; 12 U.S.C. 3101 to 3111; 12 U.S.C. 5412(b)(2)(B)

Abstract: The OCC issued a final rule to encourage banks to provide billions more each year in Community Reinvestment Act-qualified lending, investment, and services by modernizing the Community Reinvestment Act (CRA) regulations to better achieve the law’s underlying statutory purpose of encouraging banks to serve their communities by making the regulatory framework more objective, transparent, consistent, and easy to understand. To accomplish these goals, this rule strengthens the CRA regulations by clarifying which activities qualify for CRA credit, updating where activities count for CRA credit, creating a more transparent and objective method for measuring CRA performance, and providing for more transparent, consistent, and timely CRA-related data collection, recordkeeping, and reporting.

Completed:

Reason	Date	FR Cite
Final Rule	06/05/20	85 FR 34734
Final Rule Effective.	10/01/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Allison Hester-Haddad, *Phone:* 202 649–7810, *Email:* allison.hester-haddad@occ.treas.gov.

Emily Boyes, *Phone:* 202 649–8647, *Email:* emily.boyes@occ.treas.gov.

RIN: 1557–AE34

DEPARTMENT OF THE TREASURY (TREAS)

Customs Revenue Function (CUSTOMS)

Final Rule Stage

312. Enforcement of Copyrights and the Digital Millennium Copyright Act

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: Not Yet Determined

Abstract: This rule amends the U.S. Customs and Border Protection (CBP) regulations pertaining to importations of merchandise that violate or are suspected of violating the copyright laws in accordance with title III of the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA) and certain provisions of the Digital Millennium Copyright Act (DMCA).

Timetable:

Action	Date	FR Cite
NPRM	10/16/19	84 FR 55251
NPRM Comment Period End.	12/16/19	
Final Rule	08/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Charles Steuart, Chief, Intellectual Property Rights Branch, Department of the Treasury, Customs Revenue Function, Regulations and Rulings, Office of International Trade, U.S. Customs and Border Protection, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, *Phone:* 202 325–0093, *Fax:* 202 325–0120, *Email:* charles.r.steuart@cbp.dhs.gov.

RIN: 1515–AE26

DEPARTMENT OF THE TREASURY (TREAS)

Internal Revenue Service (IRS)

Proposed Rule Stage

313. Section 42 Low-Income Housing Credit Average Income Test Regulations

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: 26 U.S.C. 7805; 26 U.S.C. 42

Abstract: The Consolidated Appropriations Act of 2018 added a new applicable minimum set-aside test under section 42(g) of the Internal Revenue Code known as the average income test. This proposed regulation will implement requirements related to the average income test.

Timetable:

Action	Date	FR Cite
NPRM	07/00/21	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Dillon J. Taylor, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Room 5107, Washington, DC 20224, *Phone:* 202 317-4137, *Fax:* 855 591-7867, *Email:* dillon.j.taylor@irs.counsel.treas.gov, *RIN:* 1545-BO92

314. MEPs and the Unified Plan Rule

E.O. 13771 Designation: Regulatory. *Legal Authority:* 26 U.S.C. 7805; 26 U.S.C. 413

Abstract: These proposed regulations provide guidance relating to the tax qualification of multiple employer plans

(MEPs) described in section 413(e) of the Internal Revenue Code (Code). The proposed regulations would provide an exception, if certain requirements are met, to the application of the “unified plan rule” for section 413(e) MEPs in the event of a failure by one or more participating employers to take actions required of them to satisfy the requirements of section 401(a) or 408 of the Code. The regulations affect participants in MEPs, MEP sponsors and administrators, and employers maintaining MEPs.

Timetable:

Action	Date	FR Cite
NPRM	07/03/19	84 FR 31777
NPRM Comment Period End.	10/01/19	
Second NPRM	12/00/20	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Jamie Dvoretzky, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224, *Phone:* 202 317-4102, *Fax:* 855 604-6087, *Email:* jamie.l.dvoretzky@irs.counsel.treas.gov, *RIN:* 1545-BO97

DEPARTMENT OF THE TREASURY (TREAS)

Internal Revenue Service (IRS)

Final Rule Stage

315. Guidance on the Elimination of Interbank Offered Rates

E.O. 13771 Designation: Regulatory.

Legal Authority: 26 U.S.C. 1001b and 7805; 26 U.S.C. 7805

Abstract: The final regulations will provide guidance on the tax consequences of the phased elimination of interbank offered rates (IBORs) that is underway in the United States and many foreign countries. Taxpayers have requested guidance that addresses whether a modification to a debt instrument or other financial contract to accommodate the elimination of the relevant IBOR will be treated as a realization event for federal income tax purposes.

Timetable:

Action	Date	FR Cite
NPRM	10/09/19	84 FR 54068
NPRM Comment Period End.	11/25/19	
Final Action	11/00/20	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Caitlin Holzem, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW, Room 3547, Washington, DC 20224, *Phone:* 202 317-7036, *Fax:* 855 574-9023, *Email:* caitlin.i.holzem@irs.counsel.treas.gov, *RIN:* 1545-BO91

[FR Doc. 2021-04326 Filed 3-30-21; 8:45 am]

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Part XIV

Committee for Purchase From People Who
Are Blind or Severely Disabled

Semiannual Regulatory Agenda

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

41 CFR Ch. 15

Semiannual Regulatory Agenda

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Semiannual regulatory agenda.

SUMMARY: This document sets forth the regulatory agenda of the Committee for Purchase From People Who Are Blind or Severely Disabled. This agenda is issued in accordance with Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists regulations that are currently under

development or review or that the Committee expects to have under development or review during the next 12 months. The purpose for publishing this agenda is to advise the public of the Committee’s current and future regulatory actions.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact Shelly Hammond, Director, Contracting and Policy, Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, VA 22202; (703) 603–2127.

SUPPLEMENTARY INFORMATION: Under Executive Order 12866 (58 FR 51735, October 4, 1993), each agency is required to prepare an agenda of all regulations under development or

review. The Regulatory Flexibility Act (5 U.S.C. 601–612) has a similar agenda requirement (5 U.S.C. 602). Under the law, the agenda must list any regulation that is likely to have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has issued guidelines prescribing the form and content of the regulatory agenda. Under those guidelines, the agenda must list all regulatory activities being conducted or reviewed in the next 12 months and provide certain specified information on each regulation. All of the items on this agenda are current or projected rulemakings.

Dated: September 1, 2020.
Shelly Hammond,
Director of Contracting & Policy.

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
316	AbilityOne Program, Department of Defense Section 898, Contracting Oversight, Accountability and Integrity Panel (Rulemaking Resulting From a Section 610 Review).	3037-AA14

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED (CPBSD)

Prerule Stage

316. AbilityOne Program, Department of Defense Section 898, Contracting Oversight, Accountability and Integrity Panel (Rulemaking Resulting From a Section 610 Review)

E.O. 13771 Designation: Other.
Legal Authority: 41 U.S.C. 85
Abstract: The Committee for Purchase From People Who Are Blind or Severely Disabled (Committee) is seeking comment in order to amend its regulation to incorporate specific recommendations from the Department of Defense (DoD) section 898 panel 1

review mandated by the National Defense Authorization Act for Fiscal Year 2017 (Pub. L. 114–328). The mission of the Panel is to assess the overall effectiveness and internal controls of the AbilityOne Program related to Department of Defense contracts and provide recommendations for changes in business practices. The proposed revisions to the Committee’s regulation address: Responsibilities and procedures associated with authorization/de-authorization; transfer of work within the AbilityOne Program; undesignation and unauthorization of nonperforming nonprofit agencies; and incorporation of an Alternate Dispute Resolution process in matters regarding contract disputes.

Timetable:

Action	Date	FR Cite
ANPRM	01/00/21	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Shelly Hammond, Director, Policy and Programs, Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, VA 22202, *Phone:* 703 603–2127, *Email:* shammond@abilityone.gov.

RIN: 3037-AA14

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Part XV

Environmental Protection Agency

Semiannual Regulatory Agenda

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Ch. I**

[FRL 10014–66–OP; EPA–HQ–OAR–2019–0168; EPA–HQ–OAR–2020–0099; EPA–HQ–OAR–2020–0106]

Fall 2020 Unified Agenda of Regulatory and Deregulatory Actions

AGENCY: Environmental Protection Agency.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Environmental Protection Agency (EPA) publishes the Semiannual Agenda of Regulatory and Deregulatory Actions online at <https://www.reginfo.gov> and at <https://www.regulations.gov> to update the public. This document contains information about:

- Regulations in the Semiannual Agenda that are under development, completed, or canceled since the last agenda; and
- Reviews of regulations with small business impacts under Section 610 of the Regulatory Flexibility Act.

FOR FURTHER INFORMATION CONTACT: If you have questions or comments about a particular action, please get in touch with the agency contact listed in each agenda entry. If you have general questions about the Semiannual Agenda, please contact: Caryn Muellerleile (muellerleile.caryn@epa.gov; 202–564–2855).

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SUPPLEMENTARY INFORMATION:**I. Introduction**

EPA is committed to a regulatory strategy that effectively achieves the Agency's mission of protecting the environment and the health, welfare, and safety of Americans while also supporting economic growth, job creation, competitiveness, and innovation. EPA publishes the Semiannual Agenda of Regulatory and Deregulatory Actions to update the public about regulatory activity undertaken in support of this mission. In the Semiannual Agenda, EPA provides notice of our plans to review, propose, and issue regulations.

Additionally, EPA's Semiannual Agenda includes information about rules that may have a significant economic impact on a substantial number of small entities, and review of those regulations under the Regulatory Flexibility Act, as amended.

In this document, EPA explains in greater detail the types of actions and information available in the Semiannual Agenda and actions that are currently undergoing review specifically for impacts on small entities.

A. EPA's Regulatory Information

"E-Agenda," "online regulatory agenda," and "semiannual regulatory agenda" all refer to the same comprehensive collection of information that, until 2007, was published in the **Federal Register**. Currently, this information is only available through an online database, at both www.reginfo.gov/ and www.regulations.gov.

"Regulatory Flexibility Agenda" refers to a document that contains information about regulations that may have a significant impact on a substantial number of small entities. We continue to publish this document in the **Federal Register** pursuant to the Regulatory Flexibility Act of 1980. This document is available at <https://www.govinfo.gov/app/collection/fr>.

"Unified Regulatory Agenda" refers to the collection of all agencies' agendas with an introduction prepared by the Regulatory Information Service Center facilitated by the General Service Administration.

"Regulatory Agenda Preamble" refers to the document you are reading now. It appears as part of the Regulatory Flexibility Agenda and introduces both EPA's Regulatory Flexibility Agenda and the e-Agenda.

"610 Review" as required by the Regulatory Flexibility Act means a periodic review within ten years of promulgating a final rule that has or may have a significant economic impact

on a substantial number of small entities. EPA maintains a list of these actions at <https://www.epa.gov/reg-flex/section-610-reviews>. EPA has three 610 reviews ongoing in fall 2020.

B. What key statutes and Executive Orders guide EPA's rule and policymaking process?

A number of environmental laws authorize EPA's actions, including but not limited to:

- Clean Air Act (CAA),
- Clean Water Act (CWA),
- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, or Superfund),
- Emergency Planning and Community Right-to-Know Act (EPCRA),
- Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA),
- Resource Conservation and Recovery Act (RCRA),
- Safe Drinking Water Act (SDWA), and
- Toxic Substances Control Act (TSCA).

Not only must EPA comply with environmental laws, but also administrative legal requirements that apply to the issuance of regulations, such as: The Administrative Procedure Act (APA), the Regulatory Flexibility Act (RFA) as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), the Unfunded Mandates Reform Act (UMRA), the Paperwork Reduction Act (PRA), the National Technology Transfer and Advancement Act (NTTAA), and the Congressional Review Act (CRA).

EPA also meets a number of requirements contained in numerous Executive Orders: 13771, "Reducing Regulation and Controlling Regulatory Costs" (82 FR 9339, Feb. 3, 2017); 12866, "Regulatory Planning and Review" (58 FR 51735, Oct. 4, 1993), as supplemented by Executive Order 13563, "Improving Regulation and Regulatory Review" (76 FR 3821, Jan. 21, 2011); 12898, "Environmental Justice" (59 FR 7629, Feb. 16, 1994); 13045, "Children's Health Protection" (62 FR 19885, Apr. 23, 1997); 13132, "Federalism" (64 FR 43255, Aug. 10, 1999); 13175, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, Nov. 9, 2000); 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001).

C. How can you be involved in EPA's rule and policymaking process?

You can make your voice heard by getting in touch with the contact person

provided in each agenda entry. EPA encourages you to participate as early in the process as possible. You may also participate by commenting on proposed rules published in the **Federal Register** (FR).

Instructions on how to submit your comments through <https://www.regulations.gov> are provided in each Notice of Proposed Rulemaking (NPRM). To be most effective, comments should contain information and data that support your position and you also should explain why EPA should incorporate your suggestion in the rule or other type of action. You can be particularly helpful and persuasive if you provide examples to illustrate your concerns and offer specific alternative(s) to that proposed by EPA.

EPA believes its actions will be more cost effective and protective if the development process includes stakeholders working with us to help identify the most practical and effective solutions to environmental problems. EPA encourages you to become involved in its rule and policymaking process. For more information about EPA's efforts to increase transparency, participation and collaboration in EPA activities, please visit <https://www.epa.gov/open>.

II. Semiannual Agenda of Regulatory and Deregulatory Actions

A. What actions are included in the e-Agenda and the Regulatory Flexibility Agenda?

EPA includes regulations in the e-Agenda. However, there is no legal significance to the omission of an item from the agenda, and EPA generally does not include the following categories of actions:

- Administrative actions such as delegations of authority, changes of address, or phone numbers;
- Under the CAA: Revisions to state implementation plans; equivalent methods for ambient air quality monitoring; deletions from the new source performance standards source categories list; delegations of authority to states; area designations for air quality planning purposes;
- Under FIFRA: Registration-related decisions, actions affecting the status of currently registered pesticides, and data call-ins;
- Under the Federal Food, Drug, and Cosmetic Act: Actions regarding pesticide tolerances and food additive regulations;
- Under RCRA: Authorization of State solid waste management plans; hazardous waste delisting petitions;
- Under the CWA: State Water Quality Standards; deletions from the

section 307(a) list of toxic pollutants; suspensions of toxic testing requirements under the National Pollutant Discharge Elimination System (NPDES); delegations of NPDES authority to States;

- Under SDWA: Actions on State underground injection control programs.

Meanwhile, the Regulatory Flexibility Agenda includes:

- Actions likely to have a significant economic impact on a substantial number of small entities;
- Rules the Agency has identified for periodic review under section 610 of the RFA.

EPA has three ongoing 610 reviews in this Agenda.

B. How is the e-Agenda organized?

Online, you can choose how to sort the agenda entries by specifying the characteristics of the entries of interest in the desired individual data fields for both the www.reginfo.gov and www.regulations.gov versions of the e-Agenda. You can sort based on the following characteristics: EPA subagency (such as Office of Water); stage of rulemaking as described in the following paragraphs; alphabetically by title; or the Regulation Identifier Number (RIN), which is assigned sequentially when an action is added to the agenda.

Each entry in the Agenda is associated with one of five rulemaking stages. The rulemaking stages are:

1. Prerule Stage—EPA's prerule actions generally are intended to determine whether the agency should initiate rulemaking. Prerulemakings may include anything that influences or leads to rulemaking; this would include Advance Notices of Proposed Rulemaking (ANPRMs), studies or analyses of the possible need for regulatory action.
2. Proposed Rule Stage—Proposed rulemaking actions include EPA's Notice of Proposed Rulemakings (NPRMs); these proposals are scheduled to publish in the **Federal Register** within the next year.
3. Final Rule Stage—Final rulemaking actions are those actions that EPA is scheduled to finalize and publish in the **Federal Register** within the next year.
4. Long-Term Actions—This section includes rulemakings for which the next scheduled regulatory action (such as publication of a NPRM or final rule) is twelve or more months into the future. We urge you to explore becoming involved even if an action is listed in the Long-Term category.
5. Completed Actions—EPA's completed actions are those that have

been promulgated and published in the **Federal Register** since publication of the spring 2020 Agenda. The term completed actions also includes actions that EPA is no longer considering and has elected to "withdraw" and the results of any RFA section 610 reviews.

C. What information is in the Regulatory Flexibility Agenda and the e-Agenda?

The Regulatory Flexibility Agenda entries include only the nine categories of information that are required by the Regulatory Flexibility Act of 1980 and by **Federal Register** Agenda printing requirements: Sequence Number, RIN, Title, Description, Statutory Authority, Section 610 Review, if applicable, Regulatory Flexibility Analysis Required, Schedule and Contact Person. Note that the electronic version of the Agenda (E-Agenda) replicates each of these actions with more extensive information, described below.

E-Agenda entries include:

Title: A brief description of the subject of the regulation. The notation "Section 610 Review" follows the title if we are reviewing the rule as part of our periodic review of existing rules under section 610 of the RFA (5 U.S.C. 610).

Priority: Each entry is placed into one of the five following categories:

- a. Economically Significant: Under Executive Order 12866, a rulemaking that may have an annual effect on the economy of \$100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.
- b. Other Significant: A rulemaking that is not economically significant but is considered significant for other reasons. This category includes rules that may:
 1. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
 2. Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients; or
 3. Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles in Executive Order 12866.

c. Substantive, Nonsignificant: A rulemaking that has substantive impacts but is not Significant, Routine and Frequent, or Informational/Administrative/Other.

d. Routine and Frequent: A rulemaking that is a specific case of a recurring application of a regulatory program in the Code of Federal

Regulations. If an action that would normally be classified Routine and Frequent is reviewed by the Office of Management and Budget (OMB) under Executive Order 12866, then we would classify the action as either “Economically Significant” or “Other Significant.”

e. Informational/Administrative/Other: An action that is primarily informational or pertains to an action outside the scope of Executive Order 12866.

Executive Order 13771 Designation: Each entry is placed into one of the following categories:

a. Deregulatory: When finalized, an action is expected to have total costs less than zero;

b. Regulatory: The action is either (i) a significant regulatory action as defined in section 3(f) of Executive Order 12866, or

(ii) a significant guidance document (e.g., significant interpretive guidance) reviewed by OMB’s Office of Information and Regulatory Affairs (OIRA) under the procedures of Executive Order 12866 that, when finalized, is expected to impose total costs greater than zero;

c. Fully or Partially Exempt: The action has been granted, or is expected to be granted, a full or partial waiver under one or more of the following circumstances:

(i) It is expressly exempt by Executive Order 13771 (issued with respect to a “military, national security, or foreign affairs function of the United States”; or related to “agency organization, management, or personnel”), or

(ii) it addresses an emergency such as critical health, safety, financial, or non-exempt national security matters (offset requirements may be exempted or delayed), or

(iii) it is required to meet a statutory or judicial deadline (offset requirements may be exempted or delayed), or

(iv) expected to generate de minimis costs;

d. Not subject to, not significant: is a NPRM or final rule AND is neither an Executive Order 13771 regulatory action nor an Executive Order 13771 deregulatory action;

e. Other: At the time of designation, either the available information is too preliminary to determine Executive Order 13771 status or other reasonable circumstances preclude a preliminary Executive Order 13771 designation.

f. Independent agency: Is an action an independent agency anticipates issuing and thus is not subject to Executive Order 13771.

Major: A rule is “major” under 5 U.S.C. 801 (Pub. L. 104–121) if it has

resulted or is likely to result in an annual effect on the economy of \$100 million or more or meets other criteria specified in the Congressional Review Act.

Unfunded Mandates: Whether the rule is covered by section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). The Act requires that, before issuing an NPRM likely to result in a mandate that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector of more than \$100 million in 1 year, the agency prepare a written statement on federal mandates addressing costs, benefits, and intergovernmental consultation.

Legal Authority: The sections of the United States Code (U.S.C.), Public Law (Pub. L.), Executive Order (E.O.), or common name of the law that authorizes the regulatory action.

CFR Citation: The sections of the Code of Federal Regulations that would be affected by the action.

Legal Deadline: An indication of whether the rule is subject to a statutory or judicial deadline, the date of that deadline, and whether the deadline pertains to a Notice of Proposed Rulemaking, a Final Action, or some other action.

Abstract: A brief description of the problem the action will address.

Timetable: The dates and citations (if available) for all past steps and a projected date for at least the next step for the regulatory action. A date displayed in the form 05/00/21 means the agency is predicting the month and year the action will take place but not the day it will occur. For some entries, the timetable indicates that the date of the next action is “to be determined.”

Regulatory Flexibility Analysis Required: Indicates whether EPA has prepared or anticipates preparing a regulatory flexibility analysis under section 603 or 604 of the RFA. Generally, such an analysis is required for proposed or final rules subject to the RFA that EPA believes may have a significant economic impact on a substantial number of small entities.

Small Entities Affected: Indicates whether the rule is anticipated to have any effect on small businesses, small governments or small nonprofit organizations.

Government Levels Affected: Indicates whether the rule may have any effect on levels of government and, if so, whether the affected governments are State, local, tribal, or Federal.

Federalism Implications: Indicates whether the action is expected to 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.

Energy Impacts: Indicates whether the action is a significant energy action under Executive Order 13211.

Sectors Affected: Indicates the main economic sectors regulated by the action. The regulated parties are identified by their North American Industry Classification System (NAICS) codes. These codes were created by the Census Bureau for collecting, analyzing, and publishing statistical data on the U.S. economy. There are more than 1,000 NAICS codes for sectors in agriculture, mining, manufacturing, services, and public administration.

International Trade Impacts: Indicates whether the action is likely to have international trade or investment effects, or otherwise be of international interest.

Agency Contact: The name, address, phone number, and email address, if available, of a person who is knowledgeable about the regulation.

Additional Information: Other information about the action including docket information.

URLs: For some actions, the internet addresses are included for reading copies of rulemaking documents, submitting comments on proposals, and getting more information about the rulemaking and the program of which it is a part.

RIN: The Regulation Identifier Number is used by OMB to identify and track rulemakings. The first four digits of the RIN correspond with the EPA office with lead responsibility for developing the action.

D. What tools are available for mining Regulatory Agenda data and for finding more about EPA rules and policies?

1. Federal Regulatory Dashboard

The <https://www.reginfo.gov/> searchable database maintained by the Regulatory Information Service Center and OIRA, allows users to view the Regulatory Agenda database (<https://www.reginfo.gov/public/do/eAgendaMain>), which includes search, display, and data transmission options.

2. Subject Matter EPA Websites

Some actions listed in the Agenda include a URL for an EPA-maintained website that provides additional information about the action.

3. Deregulatory Actions and Regulatory Reform

EPA maintains a list of its deregulatory actions under development, as well as those that are

completed, at <https://www.epa.gov/laws-regulations/epa-deregulatory-actions>. A completed list of regulatory actions, as defined under Executive Order 13771, is available at <https://www.epa.gov/laws-regulations/epa-regulatory-actions>. Additional information about EPA's regulatory reform activity is available to the public at <https://www.epa.gov/laws-regulations/regulatory-reform>.

4. Public Dockets

When EPA publishes either an Advance Notice of Proposed Rulemaking (ANPRM) or a Notice of Proposed Rulemaking (NPRM) in the

Federal Register, the Agency typically establishes a docket to accumulate materials developed throughout the development process for that rulemaking. The docket serves as the repository for the collection of documents or information related to that particular Agency action or activity. EPA most commonly uses dockets for rulemaking actions, but dockets may also be used for section 610 reviews and for various non-rulemaking activities, such as **Federal Register** documents seeking public comments on draft guidance, policy statements, information collection requests under the PRA, and other non-rule activities.

Docket information should be in that action's agenda entry. All of EPA's public dockets can be located at <https://www.regulations.gov>.

III. Review of Regulations Under 610 of the Regulatory Flexibility Act

A. Reviews of Rules With Significant Impacts on a Substantial Number of Small Entities

Section 610 of the RFA requires that an agency review, within 10 years of promulgation, each rule that has or will have a significant economic impact on a substantial number of small entities. At this time, EPA has three 610 reviews ongoing.

Review title	RIN	Docket ID #	Status
Section 610 Review of Renewable Fuels Standard Program	2060-AU44	EPA-HQ-OAR-2019-0168	Ongoing.
Section 610 Review of National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers.	2060-AU76	EPA-HQ-OAR-2020-0099	Ongoing.
Section 610 Review of National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial and Institutional Boilers and Process Heaters.	2060-AU77	EPA-HQ-OAR-2020-0106	Ongoing.

EPA has established public dockets for these 610 reviews. While comments for these reviews are no longer being accepted, submitted comments can be viewed at <https://www.regulations.gov/>, please see dockets EPA-HQ-OAR-2019-0168, EPA-HQ-OAR-2020-0099, and EPA-HQ-OAR-2020-0106.

B. What other special attention does EPA give to the impacts of rules on small businesses, small governments, and small nonprofit organizations?

For each of EPA's rulemakings, consideration is given to whether there will be any adverse impact on any small entity. EPA attempts to fit the regulatory requirements, to the extent feasible, to

the scale of the businesses, organizations, and governmental jurisdictions subject to the regulation.

Under the RFA as amended by SBREFA, the Agency must prepare a formal analysis of the potential negative impacts on small entities, convene a Small Business Advocacy Review Panel (proposed rule stage), and prepare a Small Entity Compliance Guide (final rule stage) unless the Agency certifies a rule will not have a significant economic impact on a substantial number of small entities. For more detailed information about the Agency's policy and practice with respect to implementing the RFA/SBREFA, please

visit EPA's RFA/SBREFA website at <https://www.epa.gov/reg-flex>.

IV. Thank You for Collaborating With Us

Finally, we would like to thank those of you who choose to join with us in making progress on the complex issues involved in protecting human health and the environment. Collaborative efforts such as EPA's open rulemaking process are a valuable tool for addressing the problems we face, and the regulatory agenda is an important part of that process.

Dated: November 12, 2020.

Brittany Bolen,

Associate Administrator, Office of Policy.

10—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
317	Section 610 Review of National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers (Section 610 Review).	2060-AU76
318	Section 610 Review of National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial and Institutional Boilers and Process Heaters (Section 610 Review).	2060-AU77

10—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
319	National Emission Standards for Hazardous Air Pollutants: Ethylene Oxide Commercial Sterilization and Fumigation Operations (Reg Plan Seq No. 78).	2060-AU37

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

10—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
320	Section 610 Review of Renewable Fuels Standard Program (Section 610 Review)	2060-AU44

35—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
321	1-Bromopropane; Rulemaking Under TSCA Section 6(a) (Reg Plan Seq No. 89)	2070-AK73

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

35—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
322	Trichloroethylene (TCE); Rulemaking Under TSCA Section 6(a); Vapor Degreasing	2070-AK11
323	N-Methylpyrrolidone; Regulation of Certain Uses Under TSCA Section 6(a)	2070-AK46

72—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
324	National Primary Drinking Water Regulations for Lead and Copper: Regulatory Revisions	2040-AF15

ENVIRONMENTAL PROTECTION AGENCY (EPA)

10

Prerule Stage

317. Section 610 Review of National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers (Section 610 Review)

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: 42 U.S.C. 7412 Clean Air Act

Abstract: On March 21, 2011, EPA promulgated National Emission Standards for Hazardous Air Pollutants for Area Sources: Industrial, Commercial, and Institutional Boilers (76 FR 15554). The rule (40 CFR part 63, subpart JJJJJJ) includes standards to control hazardous air pollutant emissions from new and existing industrial, commercial and institutional boilers fired with coal, oil, biomass or other solid and liquid non-waste materials located at area source facilities. Rule amendments that did not impose any additional regulatory requirements beyond those imposed by the March 2011 final rule and, in certain instances, would result in a decrease in burden, were promulgated on February 1, 2013 (78 FR 7488) and September 14, 2016 (81 FR 63112). This entry in the regulatory agenda describes EPA’s review of this action pursuant to section

610 of the Regulatory Flexibility Act, “Periodic Review of Rules” (5 U.S.C. 610) to determine if the provisions that could affect small entities should be continued without change or should be rescinded or amended to minimize adverse economic impacts on small entities. As part of this review, EPA is considering comments on the following factors as specified in section 610: (1) The continued need for the rule; (2) the nature of complaints or comments received concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates or conflicts with other federal, state or local government rules; and (5) the degree to which the technology, economic conditions or other factors have changed in the area affected by the rule. The results of EPA’s review will be summarized in a report and placed in the rulemaking docket at the conclusion of this review. This review’s Docket ID number is EPA-HQ-OAR-2020-0099; the docket can be accessed at www.regulations.gov.

Timetable:

Action	Date	FR Cite
Final Rule	03/21/11	76 FR 15553
Begin Review	06/30/20	
End Review	03/00/21	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Mary Johnson, Environmental Protection Agency, Office of Air and Radiation, 109 T.W. Alexander Drive, Mail Code D243-01, Research Triangle Park, NC 27711, *Phone:* 919 541-5025, *Email:* johnson.mary@epa.gov.

Nick Hutson, Environmental Protection Agency, Office of Air and Radiation, 109 T.W. Alexander Drive, Mail Code D243-01, Research Triangle Park, NC 27711, *Phone:* 919 541-2968, *Fax:* 919 541-4991, *Email:* hutson.nick@epa.gov.

RIN: 2060-AU76

318. Section 610 Review of National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial and Institutional Boilers and Process Heaters (Section 610 Review)

E.O. 13771 Designation: Other.

Legal Authority: 42 U.S.C. 7412 Clean Air Act

Abstract: On March 21, 2011, the EPA promulgated National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters (76 FR 15608). The rule (40 CFR part 63, subpart DDDDD) includes standards to control hazardous air pollutant emissions from new and existing industrial, commercial, and institutional boilers and process heaters fired with coal, oil, biomass, natural gas or other solid, liquid or gaseous non-

waste materials located at major source facilities. Rule amendments that did impose additional regulatory requirements beyond those imposed by the March 2011 final rule were estimated to result in an increase in burden were promulgated on January 31, 2013 (78 FR 7138). This entry in the regulatory agenda describes EPA's review of this action pursuant to Section 610 of the Regulatory Flexibility Act, "Periodic Review of Rules" (5 U.S.C. 610) to determine if the provisions that could affect small entities should be continued without change or should be rescinded or amended to minimize adverse economic impacts on small entities. As part of this review, EPA is considering comments on the following factors as specified in Section 610: (1) The continued need for the rule; (2) the nature of complaints or comments received concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates or conflicts with other federal, state or local government rules; and (5) the degree to which the technology, economic conditions or other factors have changed in the area affected by the rule. The results of EPA's review will be summarized in a report and placed in the rulemaking docket at the conclusion of this review. This review's Docket ID number is EPA-HQ-OAR-2020-0106; the docket can be accessed at www.regulations.gov.

Timetable:

Action	Date	FR Cite
Final Rule	03/21/11	76 FR 15607
Begin Review	06/30/20	
End Review	03/00/21	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Jim Eddinger, Environmental Protection Agency, Office of Air and Radiation, 109 T.W. Alexander Drive, Mail Code D243-01, Research Triangle Park, NC 27711, *Phone:* 919 541-5426, *Email:* edding.jim@epa.gov.

Nick Hutson, Environmental Protection Agency, Office of Air and Radiation, 109 T.W. Alexander Drive, Mail Code D243-01, Research Triangle Park, NC 27711, *Phone:* 919 541-2968, *Fax:* 919 541-4991, *Email:* hutson.nick@epa.gov.

RIN: 2060-AU77

ENVIRONMENTAL PROTECTION AGENCY (EPA)

10

Proposed Rule Stage

319. National Emission Standards for Hazardous Air Pollutants: Ethylene Oxide Commercial Sterilization and Fumigation Operations

Regulatory Plan: This entry is Seq. No. 78 in part II of this issue of the **Federal Register**.

RIN: 2060-AU37

ENVIRONMENTAL PROTECTION AGENCY (EPA)

10

Long-Term Actions

320. Section 610 Review of Renewable Fuels Standard Program (Section 610 Review)

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: 5 U.S.C. 610

Abstract: The rulemaking "Regulation of Fuels and Fuel Additives: Changes to Renewable Fuel Standard Program" was finalized by EPA in March 2010 (75 FR 14669, March 26, 2010). The final regulations made a number of changes to the existing Renewable Fuel Standard program while retaining many elements of the compliance and trading system already in place. The final rule also implemented the revised statutory definitions and criteria, most notably the greenhouse gas emission thresholds for renewable fuels and new limits on renewable biomass feedstocks. This entry in the regulatory agenda describes EPA's review of this action pursuant to section 610 of the Regulatory Flexibility Act (5 U.S.C. 610). As part of this review, EPA is considering comments on the following factors: (1) The continued need for the rule; (2) the nature of complaints or comments received concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other Federal, State, or local government rules; and (5) the degree to which the technology, economic conditions or other factors have changed in the area affected by the rule.

Timetable:

Action	Date	FR Cite
Final Rule	03/26/10	75 FR 14669
Begin Review	06/24/19	84 FR 29689
Comment Period Extended.	08/27/19	84 FR 44804

Action	Date	FR Cite
End Review	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jessica Mroz, Environmental Protection Agency, Office of Air and Radiation, 1200 Pennsylvania Avenue NW, Washington, DC 20460, *Phone:* 202 564-1094, *Email:* mroz.jessica@epa.gov.

Julia Burch, Environmental Protection Agency, Office of Air and Radiation, 1200 Pennsylvania Avenue NW, Washington, DC 20460, *Phone:* 202 564-0961, *Email:* burch.julia@epa.gov.

RIN: 2060-AU44

ENVIRONMENTAL PROTECTION AGENCY (EPA)

35

Proposed Rule Stage

321. • 1-Bromopropane; Rulemaking Under TSCA Section 6(A)

Regulatory Plan: This entry is Seq. No. 89 in part II of this issue of the **Federal Register**.

RIN: 2070-AK73

ENVIRONMENTAL PROTECTION AGENCY (EPA)

35

Long-Term Actions

322. Trichloroethylene (TCE); Rulemaking Under TSCA Section 6(A); Vapor Degreasing

E.O. 13771 Designation: Regulatory.

Legal Authority: 15 U.S.C. 2605 Toxic Substances Control Act

Abstract: Section 6(a) of the Toxic Substances Control Act (TSCA) provides authority for EPA to ban or restrict the manufacture (including import), processing, distribution in commerce, and use of chemical substances, as well as any manner or method of disposal. Section 26(l)(4) of TSCA authorizes EPA to issue rules under TSCA section 6 for chemicals listed in the 2014 update to the TSCA Work Plan for Chemical Assessments for which EPA published completed risk assessments prior to June 22, 2016, consistent with the scope of the completed risk assessment. In the June 2014 TSCA Work Plan Chemical Risk Assessment for trichloroethylene (TCE), EPA characterized risks from the use of TCE in commercial degreasing and in some consumer uses. EPA has preliminarily determined that these risks are unreasonable risks. On January

19, 2017, EPA proposed to prohibit the manufacture, processing, distribution in commerce, or commercial use of TCE in vapor degreasing. A separate action (RIN 2070-AK03), published on December 16, 2016, proposed to address the unreasonable risks from TCE when used as a spotting agent in dry cleaning and in commercial and consumer aerosol spray degreasers. The uses identified in the proposed rules are being considered as part of the risk evaluation currently being conducted for TCE under TSCA section 6(b).

Timetable:

Action	Date	FR Cite
NPRM	01/19/17	82 FR 7432
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Toni Krasnic, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, 1200 Pennsylvania Avenue NW, Mail Code 7405M, Washington, DC 20460, *Phone:* 202 564-0984, *Email:* krasnic.toni@epa.gov.

Joel Wolf, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, 1200 Pennsylvania Avenue NW, Mail Code 7405M, Washington, DC 20460, *Phone:* 202 564-0432, *Email:* wolf.joel@epa.gov. *RIN:* 2070-AK11

323. N-Methylpyrrolidone; Regulation of Certain Uses Under TSCA Section 6(A)

E.O. 13771 Designation: Regulatory *Legal Authority:* 15 U.S.C. 2605 Toxic Substances Control Act

Abstract: Section 6(a) of the Toxic Substances Control Act (TSCA) provides authority for EPA to ban or restrict the manufacture (including import), processing, distribution in commerce, and use of chemical substances, as well as any manner or method of disposal. Section 26(l)(4) of TSCA authorizes EPA to issue rules under TSCA section 6 for chemicals listed in the 2014 update to the TSCA Work Plan for Chemical Assessments for which EPA published completed risk assessments prior to June 22, 2016, consistent with the scope of the completed risk assessment and

other applicable requirements of section 6. N-methylpyrrolidone (NMP) is used in paint and coating removal in commercial processes and consumer products. In the March 2015 TSCA Work Plan Chemical Risk Assessment for NMP, EPA characterized risks from use of this chemical in paint and coating removal. On January 19, 2017, EPA preliminarily determined that the use of NMP in paint and coating removal poses an unreasonable risk of injury to health. In the final rule for methylene chloride in consumer paint and coating removal (RIN 2070-AK07), EPA explained that the Agency was not finalizing the proposed regulation for NMP as part of that action. NMP use in paint and coating removal was incorporated into the risk evaluation currently being conducted under TSCA section 6(b).

Timetable:

Action	Date	FR Cite
NPRM	01/17/17	82 FR 7464
Final Rule	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Eileen Sheehan, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, USEPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105, *Phone:* 415 972-3287, *Email:* sheehan.eileen@epa.gov.

Joel Wolf, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, 1200 Pennsylvania Avenue NW, Mail Code 7405M, Washington, DC 20460, *Phone:* 202 564-0432, *Email:* wolf.joel@epa.gov. *RIN:* 2070-AK46

ENVIRONMENTAL PROTECTION AGENCY (EPA)

72

Final Rule Stage

324. National Primary Drinking Water Regulations for Lead And Copper: Regulatory Revisions

E.O. 13771 Designation: Regulatory. *Legal Authority:* 42 U.S.C. 300f et seq., Safe Drinking Water Act

Abstract: EPA finalized revisions to the Lead and Copper Rule (LCR) to include a suite of actions to reduce lead exposure in drinking water where it is needed the most. The final rule identifies the most at-risk communities to ensure systems have plans in place to rapidly respond by taking actions to reduce elevated levels of lead in drinking water. The final LCR maintains the current Maximum Contaminant Level Goal (MCLG) of zero and the Action Level of 15 ppb. The rule requires a more comprehensive response at the action level and introduces a trigger level of 10 ppb that requires more proactive planning in communities with lead service lines. The revisions also include requirements for water systems to prepare an inventory of known lead service lines and to make the inventory publicly available. The final LCR takes a proactive and holistic approach to improving the current rule—from testing to treatment to telling the public about the levels and risks of lead in drinking water. This approach focuses on the following six key areas: (1) Identifying areas most impacted; (2) strengthening treatment requirements; (3) replacing lead service lines; (4) increasing sampling; (5) improving risk communication; and (6) protecting children in schools.

Timetable:

Action	Date	FR Cite
NPRM	11/13/19	84 FR 61684
Final Rule	11/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jeffrey Kempic, Environmental Protection Agency, Office of Water, 4607M, Washington, DC 20460, *Phone:* 202 564-4880, *Email:* kempic.jeffrey@epa.gov.

Lisa Christ, Environmental Protection Agency, Office of Water, 1200 Pennsylvania Avenue NW, Washington, DC 20460, *Phone:* 202 564-8354, *Email:* christ.lisa@epa.gov.

RIN: 2040-AF15

[FR Doc. 2021-04336 Filed 3-30-21; 8:45 am]

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Part XVI

General Services Administration

Semiannual Regulatory Agenda

GENERAL SERVICES ADMINISTRATION

41 CFR Chapters 101, 102, 105, 300, and 302

48 CFR Chapter 5

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: General Services Administration (GSA).

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the proposed regulatory actions that GSA plans for the next 12 months and those that were completed since the fall 2019 edition. This agenda was developed under the guidelines of Executive Orders 12866 “Regulatory Planning and Review,” as amended, Executive Order 13771 “Reducing Regulation and Controlling Regulatory Costs,” and Executive Order 13563 “Improving Regulation and Regulatory Review.” GSA’s purpose in publishing this agenda is to allow interested persons an opportunity to participate in the rulemaking process. GSA also invites interested persons to recommend existing significant regulations for review to determine whether they should be modified or eliminated. Published proposed rules may be

reviewed in their entirety at the Government’s rulemaking website at <http://www.regulations.gov>.

Since the fall 2007 edition, the internet has been the basic means for disseminating the Unified Agenda. The complete Unified Agenda will be available online at www.reginfo.gov, in a format that offers users a greatly enhanced ability to obtain information from the Agenda database.

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), GSA’s printed agenda entries include only:

(1) Rules that are in the Agency’s regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Any rules that the Agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act’s Agenda requirements. Additional information on these entries is available in the Unified Agenda published on the internet. In addition, for fall editions of

the Agenda, the entire Regulatory Plan will continue to be printed in the **Federal Register**, as in past years, including GSA’s regulatory plan.

FOR FURTHER INFORMATION CONTACT: Lois Mandell, Division Director, Regulatory Secretariat Division, 1800 F Street NW, 2nd Floor, Washington, DC 20405–0001, 202–501–2735.

This document of the General Services Administration was signed on September 4, 2020, by Jessica Salmoiraghi, Associate Administrator, Office of Government-wide Policy. That document with the original signature and date is maintained by the General Services Administration. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the General Services Administration has delegated authority to the undersigned RISC Federal Register Liaison Officer to re-sign and submit the document in electronic format for publication, as an official document of the General Services Administration. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Dated: March 16, 2021.

Alvin Levi Harrod,

Federal Register Liaison Officer, Regulatory Information Service Center.

GENERAL SERVICES ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
325	General Services Acquisition Regulation (GSAR); GSAR Case 2016–G511, Contract Requirements for GSA Information Systems.	3090–AJ84
326	General Services Acquisition Regulation (GSAR); GSAR Case 2019–G503, Streamlining GSA Commercial Contract Clause Requirements.	3090–AK09
327	General Services Acquisition Regulation (GSAR); GSAR Case 2020–G502, Increasing Order Level Competition for Federal Supply Schedules.	3090–AK15
328	General Service Acquisition Regulation (GSAR); GSAR Case 2020–G503, Increasing Order Level Competition for Indefinite-Delivery, Indefinite-Quantity Contracts.	3090–AK16
329	General Service Acquisition Regulation (GSAR); GSAR Case 2020–G504, Federal Supply Schedule Catalog Management.	3090–AK17
330	General Service Acquisition Regulation (GSAR); GSAR Case 2020–G505, Clarify Commercial Item Contract Terms and Conditions.	3090–AK18
331	General Service Acquisition Regulation (GSAR); GSAR Case 2020–G509, Extending Federal Supply Schedule Orders Beyond the Contract Term.	3090–AK19
332	General Service Acquisition Regulation (GSAR); GSAR Case 2020–G510, Federal Supply Schedule Economic Price Adjustment.	3090–AK20
333	General Service Acquisition Regulation (GSAR); GSAR Case 2020–G511, Updated Guidance for Non-Federal Entities Access to Federal Supply Schedules.	3090–AK21
334	General Service Acquisition Regulation (GSAR); GSAR Case 2020–G512, System for Award Management Representation for Leases.	3090–AK22
335	General Service Acquisition Regulation (GSAR); GSAR Case 2020–G513, Lease Payment Procedures	3090–AK23
336	General Service Acquisition Regulation (GSAR); GSAR Case 2020–G517, Contracting Exemption for Regulated Utilities.	3090–AK24
337	General Service Acquisition Regulation (GSAR); GSAR Case 2020–G534, Extension of Certain Telecommunication Prohibitions to Lease Acquisitions.	3090–AK29

GENERAL SERVICES ADMINISTRATION (GSA)

Office of Acquisition Policy

Proposed Rule Stage

325. General Services Acquisition Regulation (GSAR); GSAR Case 2016–G511, Contract Requirements for GSA Information Systems

E.O. 13771 Designation: Other.
Legal Authority: 40 U.S.C. 121(c)
Abstract: The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to streamline and update requirements for contracts that involve GSA information systems. GSA’s policies on cybersecurity and other information technology requirements have been previously issued and communicated by the Office of the Chief Information Officer through the GSA public website. By incorporating these requirements into the GSAR, the GSAR will provide centralized guidance to ensure consistent application across the organization. Integrating these requirements into the GSAR will also allow industry to provide public comments through the rulemaking process.

This rule will require contracting officers to incorporate applicable GSA cybersecurity requirements within the statement of work to ensure compliance with Federal cybersecurity requirements and implement best practices for preventing cyber incidents. Contract requirements for internal information systems, external contractor systems, cloud systems, and mobile systems will be covered by this rule. This rule will also update existing GSAR provision 552.239–70, Information Technology Security Plan and Security Authorization, and GSAR clause 552.239–71, Security Requirements for Unclassified Information Technology Resources, to only require the provision and clause when the contract will involve information or information systems connected to a GSA network.

Timetable:

Action	Date	FR Cite
NPRM	01/00/21	
NPRM Comment Period End.	03/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Johnnie McDowell, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 202 718–6112, *Email:* johnnie.mcdowell@gsa.gov.

RIN: 3090–AJ84

326. General Services Acquisition Regulation (GSAR); GSAR Case 2019–G503, Streamlining GSA Commercial Contract Clause Requirements

E.O. 13771 Designation: Other.
Legal Authority: 40 U.S.C. 121(c)
Abstract: The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to streamline requirements for GSA commercial contracts. This rule will update GSAR Clauses 552.212–71 and 552.212–72 to remove any requirements that are not necessary by law or Executive Order.

Timetable:

Action	Date	FR Cite
NPRM	01/00/21	
NPRM Comment Period End.	03/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Johnnie McDowell, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 202 718–6112, *Email:* johnnie.mcdowell@gsa.gov.
 RIN: 3090–AK09

327. General Services Acquisition Regulation (GSAR); GSAR Case 2020–G502, Increasing Order Level Competition for Federal Supply Schedules

E.O. 13771 Designation: Other.
Legal Authority: 40 U.S.C. 121(c)
Abstract: The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to streamline and update requirements for contracts that involve GSA information systems. GSA’s policies on cybersecurity and other information technology requirements have been previously issued and communicated by the Office of the Chief Information Officer through the GSA public website. By incorporating these requirements into the GSAR, the GSAR will provide centralized guidance to ensure consistent application across the organization. Integrating these requirements into the GSAR will also allow industry to provide public comments through the rulemaking process.

Timetable:

Action	Date	FR Cite
ANPRM	08/19/20	85 FR 50989
ANPRM Comment Period End.	09/18/20	

Action	Date	FR Cite
NPRM	03/00/21	
NPRM Comment Period End.	05/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Thomas O’Linn, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 202 445–0390, *Email:* thomas.olinn@gsa.gov.
 RIN: 3090–AK15

328. General Service Acquisition Regulation (GSAR); GSAR Case 2020–G503, Increasing Order Level Competition for Indefinite-Delivery, Indefinite-Quantity Contracts

E.O. 13771 Designation: Other.
Legal Authority: 40 U.S.C. 121(c)
Abstract: The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to implement section 876 of the National Defense Authorization Act (NDAA) for Fiscal Year 2019 (Pub. L. 115–232) as it relates to certain indefinite-delivery, indefinite-quantity contracts. Section 876 amended 41 U.S.C. 3306(c) by providing an exception to the requirement to consider price as an evaluation factor for the award of certain indefinite-delivery, indefinite-quantity contracts and Federal Supply Schedule contracts. A separate case, GSAR Case 2020–G502, will address the implementation of Section 876 in relation to Federal Supply Schedule contracts.

Timetable:

Action	Date	FR Cite
NPRM	03/00/21	
NPRM Comment Period End.	05/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Thomas O’Linn, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 202 445–0390, *Email:* thomas.olinn@gsa.gov.
 RIN: 3090–AK16

329. General Service Acquisition Regulation (GSAR); GSAR Case 2020–G504, Federal Supply Schedule Catalog Management

E.O. 13771 Designation: Other.
Legal Authority: 40 U.S.C. 121(c)
Abstract: The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to consolidate all terms related

to Federal Supply Schedule catalog management, which are currently spread across multiple clauses, into one consolidated clause.

Timetable:

Action	Date	FR Cite
NPRM	02/00/21	
NPRM Comment Period End.	04/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Byron Boyer, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 817 850-5580, *Email:* byron.boyer@gsa.gov. *RIN:* 3090-AK17

330. General Service Acquisition Regulation (GSAR); GSAR Case 2020-G505, Clarify Commercial Item Contract Terms and Conditions

E.O. 13771 Designation: Other. *Legal Authority:* 40 U.S.C. 121(c) *Abstract:* The General Services Administration (GSA) is proposing to amend the General Services Acquisition Regulation (GSAR) to clarify commercial item contract terms and conditions. This rule will update GSAR Clause 552.212-4 to clarify the prescription and language applicable for the different clause alternates.

Timetable:

Action	Date	FR Cite
NPRM	02/00/21	
NPRM Comment Period End.	04/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Johnnie McDowell, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 202 718-6112, *Email:* johnnie.mcdowell@gsa.gov. *RIN:* 3090-AK18

331. General Service Acquisition Regulation (GSAR); GSAR Case 2020-G509, Extending Federal Supply Schedule Orders Beyond the Contract Term

E.O. 13771 Designation: Other. *Legal Authority:* 40 U.S.C. 121(c) *Abstract:* The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to clarify, update, and incorporate existing Federal Supply Schedule (FSS) program policies and procedures regarding performance of orders beyond the term of the base FSS contract. Specifically, the local FSS

program policy titled I-FSS-163 Option to Extend the Term of the Contract (Evergreen) will be incorporated.

Timetable:

Action	Date	FR Cite
NPRM	03/00/21	
NPRM Comment Period End.	05/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Thomas O'Linn, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 202 445-0390, *Email:* thomas.olinn@gsa.gov. *RIN:* 3090-AK19

332. General Service Acquisition Regulation (GSAR); GSAR Case 2020-G510, Federal Supply Schedule Economic Price Adjustment

E.O. 13771 Designation: Other. *Legal Authority:* 40 U.S.C. 121(c) *Abstract:* The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to clarify, update, and incorporate Federal Supply Schedule (FSS) program policies and procedures regarding economic price adjustment. This rule will update GSAR Clause 552.216-70 to incorporate the clause alternates in GSA's existing class deviation CD-2019-14.

Timetable:

Action	Date	FR Cite
NPRM	03/00/21	
NPRM Comment Period End.	05/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Thomas O'Linn, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 202 445-0390, *Email:* thomas.olinn@gsa.gov. *RIN:* 3090-AK20

333. General Service Acquisition Regulation (GSAR); GSAR Case 2020-G511, Updated Guidance for Non-Federal Entities Access to Federal Supply Schedules

E.O. 13771 Designation: Other. *Legal Authority:* 40 U.S.C. 121(c); 40 U.S.C. 502 *Abstract:* The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to streamline and clarify the requirements for use of Federal Supply Schedules by eligible Non-Federal

Entities, such as state and local governments. Eligible Non Federal Entities are able to use Federal Supply Schedules based on authority from various laws, including 40 U.S.C. 502(c).

Timetable:

Action	Date	FR Cite
NPRM	03/00/21	
NPRM Comment Period End.	05/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Thomas O'Linn, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 202 445-0390, *Email:* thomas.olinn@gsa.gov. *RIN:* 3090-AK21

334. General Service Acquisition Regulation (GSAR); GSAR Case 2020-G512, System for Award Management Representation for Leases

E.O. 13771 Designation: Other. *Legal Authority:* 40 U.S.C. 121(c) *Abstract:* The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to remove the requirement for lease offerors to have an active System for Award Management (SAM) registration when submitting offers and instead allow offers up until the time of award to obtain an active SAM registration. Entities seeking Federal leases differ from the typical entities seeking Federal contracts in that common practice is to form a new entity for every new lease offer. Requiring representations from these entities prior to offer submission restricts competition. In addition, the tools in SAM typically used in the Government's evaluation of offers do not add value when evaluating lease offers.

Timetable:

Action	Date	FR Cite
NPRM	03/00/21	
NPRM Comment Period End.	05/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Marten Wallace, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-7736, *Email:* marten.wallace@gsa.gov. *RIN:* 3090-AK22

335. General Service Acquisition Regulation (GSAR); GSAR Case 2020–G513, Lease Payment Procedures

E.O. 13771 Designation: Other.
Legal Authority: 40 U.S.C. 121(c)
Abstract: The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to establish a new clause to allow for a pass-through of taxes under payments for lease construction. The real estate tax base for a newly built or renovated building is uncertain until a tax assessment is completed, which can be a year or more after occupancy in some jurisdictions. Removing the tax base from the shell rent of a lease and providing a pass-through of the real estate taxes in lieu of a real estate tax adjustment over a base during the term of the lease will remove an element of risk from the pricing of rent, will result in greater competition, and will lower rental rates.

Timetable:

Action	Date	FR Cite
NPRM	02/00/21	
NPRM Comment Period End.	04/00/21	

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Marten Wallace, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969–7736, *Email:* marten.wallace@gsa.gov. *RIN:* 3090–AK23

336. General Service Acquisition Regulation (GSAR); GSAR Case 2020–G517, Contracting Exemption for Regulated Utilities

E.O. 13771 Designation: Other.

Legal Authority: 40 U.S.C. 121(c)
Abstract: The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to remove the requirement to establish a contract for services provided by regulated public utilities. This rule provides a deviation to Federal Acquisition Regulation (FAR) 41.201 to remove the unnecessary and burdensome requirements to seek bilateral written contracts for services provided by public utilities and to implement new, more efficient procedures in the GSAR to streamline the process. This deviation only applies to the acquisition of services from regulated public utilities. Based on review of 31 U.S.C. 1501(a)(8) and opinions from the Government Accountability Office (GAO), the procedures set forth at FAR 41.2 are not necessary in order to comply with applicable fiscal law regarding the recording of obligations.

Timetable:

Action	Date	FR Cite
NPRM	03/00/21	
NPRM Comment Period End.	05/00/21	

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Clarence Harrison, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 202 227–7051, *Email:* clarence.harrison@gsa.gov. *RIN:* 3090–AK24

337. General Service Acquisition Regulation (GSAR); GSAR Case 2020–G534, Extension of Certain Telecommunication Prohibitions to Lease Acquisitions

E.O. 13771 Designation: Regulatory.
Legal Authority: 40 U.S.C. 121(c); 5 U.S.C. 801
Abstract: The General Services Administration (GSA) is amending the General Services Administration Acquisition Regulation (GSAR) to extend the requirements of section 889 of the National Defense Authorization Act (NDAA) for FY 19 (Pub. L. 115–232) to lease acquisitions by requiring inclusion of the related Federal Acquisition Regulation (FAR) provisions and clause. Generally, the FAR does not apply to leasehold acquisitions of real property. However, several FAR provisions have been adopted based on statutory requirements through GSAR part 570. Section 889 of the NDAA for FY 19 applies to Government lease acquisitions and extension of the FAR requirements will ensure compliance.

Timetable:

Action	Date	FR Cite
NPRM	02/00/21	
NPRM Comment Period End.	04/00/21	

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Stephen Carroll, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 817 253–7858, *Email:* stephen.carroll@gsa.gov. *RIN:* 3090–AK29



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Part XVII

Office of Management and Budget

Semiannual Regulatory Agenda

OFFICE OF MANAGEMENT AND BUDGET

2 CFR Chapters 1 and 2

48 CFR Chapter 99

Federal Regulations, Guidance, OFPP Policy Letters, and CASB Cost Accounting Standards Included in the Semiannual Agenda of Federal Activities

AGENCY: Office of Management and Budget.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Office of Management and Budget (OMB) is publishing its semiannual agenda of upcoming activities for Federal regulations, OMB Guidance, Office of Federal Procurement Policy (OFPP) Policy Letters, and Cost Accounting Standards (CAS) Board Cost Accounting Standards.

OMB Guidance and OFPP Policy Letters are published in accordance with OMB’s internal procedures for implementing Executive Order 12866 (58 FR 51735 (Oct. 4, 1993)). OMB policy guidelines are issued under authority derived from several sources, including: Subtitles I, II, and V of title 31, U.S. Code; Executive Order 11541; and other specific authority as cited. OMB Guidance and OFPP Policy Letters communicate guidance and instructions of a continuing nature to executive branch agencies. As such, most OMB Guidance and OFPP Policy Letters are not regulations. Nonetheless, because these issuances are typically of interest to the public, they are generally published in the **Federal Register** at both the proposed (for public comment) and final stages. For this reason, they are presented below in the standard format of “pre-rule,” “proposed rule,” and “final rule” stages.

CASB Cost Accounting Standards are issued under authority derived from 41

U.S.C. 1501 *et seq.* Cost Accounting Standards are rules governing the measurement, assignment, and allocation of costs to contracts entered into with the United States Government.

For purposes of this agenda, we have excluded directives that outline procedures to be followed in connection with the President’s budget and legislative programs, as well as directives that affect only the internal functions, management, or personnel of Federal agencies.

FOR FURTHER INFORMATION CONTACT: See the agency contact person listed for each entry in the agenda, c/o Office of Management and Budget, Washington, DC 20503. On the overall agenda, contact Laura Dennehy, (202) 579–6597, at the above address.

Deidre A. Harrison,
Acting Deputy Controller, Office of Management and Budget.

OFFICE OF MANAGEMENT AND BUDGET—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
338	Federal Acquisition Security Council Implementing Regulation	0348–AB83

OFFICE OF MANAGEMENT AND BUDGET—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
339	2 CFR Changes to Address Statutory and/or Regulatory Needs	0348–AB76

OFFICE OF MANAGEMENT AND BUDGET (OMB)

Final Rule Stage

338. Federal Acquisition Security Council Implementing Regulation

E.O. 13771 Designation: Other.

Legal Authority: Pub. L. 115–390 sec. 202(c)

Abstract: This interim final rule will implement subchapter III of chapter 13 of title 41, United States Code. Subchapter III creates the Federal Acquisition Security Council, and identifies a number of functions to be performed by the Council. The FASC is chaired by a designated OMB Senior-Level official, and Public Law 115–390 requires that the FASC publish an interim final rule to implement these functions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/01/20	85 FR 54263
Interim Final Rule Effective.	09/01/20	
Interim Final Rule Comment Period End.	11/02/20	
Final Rule	12/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Steven McAndrews, Office of Management and Budget, Phone: 202 881–7145, Email: steven.m.mcandrews@omb.eop.gov.

Lisa Barr, Office of Management and Budget, Phone: 202 881–6798, Email: lisa.n.barr@omb.eop.gov.

RIN: 0348–AB83

OFFICE OF MANAGEMENT AND BUDGET (OMB)

Completed Actions

339. 2 CFR Changes To Address Statutory and/or Regulatory Needs

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: 31 U.S.C. 503
Abstract: The Office of Management and Budget will pursue proposed rulemaking to revise parts of title 2 of the Code of Federal Regulations (2 CFR) Subtitle A—OMB Guidance for Grants and Agreements (Guidance). The Guidance is scheduled for review every five years after December 26, 2013, per 2 CFR (200.109 Review date). The intent of the proposed revisions are to address burden reduction for recipients, fix inconsistent terminology, resolve conflict within areas of 2 CFR, incorporate the President’s Management Agenda, and address statutes enacted since the final guidance was issued.

Timetable:

Action	Date	FR Cite
NPRM	01/22/20	85 FR 3766
NPRM Comment Period End.	03/23/20	
Final Rule	08/13/20	85 FR 49506

Action	Date	FR Cite
Final Rule Effective.	11/12/20	

*Regulatory Flexibility Analysis
Required: Yes.
Agency Contact: Nicole Waldeck,
Senior Policy Analyst, Office of*

Management and Budget, 725 17th
Street NW, Washington, DC 20006,
*Phone: 202 395-3819, Email:
nicole.r.waldeck@omb.eop.gov.*

RIN: 0348-AB76
[FR Doc. 2021-04349 Filed 3-30-21; 8:45 am]
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Part XVIII

Railroad Retirement Board

Semiannual Regulatory Agenda

RAILROAD RETIREMENT BOARD

20 CFR Ch. II

Semiannual Agenda of Regulations Under Development or Review

AGENCY: Railroad Retirement Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda contains a list of regulations that the Board is developing or proposes to develop in the next 12 months and regulations that are scheduled to be reviewed in that period.

ADDRESSES: 844 North Rush Street, Chicago, IL 60611-1275.

FOR FURTHER INFORMATION CONTACT: Marguerite P. Dadabo, Assistant General

Counsel, Office of General Counsel, Railroad Retirement Board, (312) 751-4945, Fax (312) 751-7102, TDD (312) 751-4701.

Dated: September 4, 2020.

By Authority of the Board.

Stephanie Hillyard,
Secretary to the Board.

RAILROAD RETIREMENT BOARD—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
340	Proposed Amendment to Update the Titles of Various Executive Committee Members Whose Office Titles Have Changed (Section 610 Review).	3220-AB72
341	Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Railroad Retirement Board (Section 610 Review).	3220-AB73

RAILROAD RETIREMENT BOARD (RRB)

Long-Term Actions

340. Proposed Amendment To Update the Titles of Various Executive Committee Members Whose Office Titles Have Changed (Section 610 Review)

E.O. 13771 Designation: Fully or Partially Exempt.

Legal Authority: 45 U.S.C. 231f; 45 U.S.C. 362

Abstract: The Railroad Retirement Board proposes to amend its regulations to update 20 CFR 375.5(b), which will change the titles of various Executive Committee members whose office titles have changed. The Railroad Retirement Board (Board) proposes to amend its regulations governing the Board’s policy on delegation of authority in case of national emergency. The regulation to be amended is contained in section 375.5. In section 375.5(b) of the Board’s regulations, the Board proposes to remove the language that refers to the “Director of Supply and Service” and the “Regional Directors,” to update the title of Director of Administration to

“Director of Administration/COOP Executive,” and to add the positions of “Chief Financial Officer” and “Director of Field Service” to the delegation of authority chain. Finally, the delegation of authority chain will be updated to reflect the addition of the updated titles and the removal of outdated positions.

Timetable:

Action	Date	FR Cite
Direct Final Rule	10/00/21	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, Office of General Counsel, 844 North Rush Street, Room 811, Chicago, IL 60611, *Phone:* 312 751-4945, *TDD Phone:* 312 751-4701, *Fax:* 312 751-7102.

RIN: 3220-AB72

341. Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Railroad Retirement Board (Section 610 Review)

E.O. 13771 Designation: Fully or Partially Exempt.

Legal Authority: 29 U.S.C. 794

Abstract: We propose to amend our regulations at 20 CFR part 365 to update terminology to refer to individuals with a disability. This amendment replaces the term “handicap” with the term “disability” to match the statutory language in the Rehabilitation Act Amendment of 1992, Public Law 102-569, 106 Stat. 4344.

Timetable:

Action	Date	FR Cite
Direct Final Rule	10/00/21	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, Office of General Counsel, 844 North Rush Street, Room 811, Chicago, IL 60611, *Phone:* 312 751-4945, *TDD Phone:* 312 751-4701, *Fax:* 312 751-7102.

RIN: 3220-AB73

[FR Doc. 2021-04331 Filed 3-30-21; 8:45 am]

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Part XIX

Small Business Administration

Semiannual Regulatory Agenda

SMALL BUSINESS ADMINISTRATION

13 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Semiannual regulatory agenda.

SUMMARY: This semiannual Regulatory Agenda (Agenda) is a summary of current and projected regulatory and deregulatory actions and completed actions of the Small Business Administration (SBA). This summary information is intended to enable the public to be more aware of, and effectively participate in, SBA’s regulatory and deregulatory activities. Accordingly, SBA invites the public to submit comments on any aspect of this Agenda.

FOR FURTHER INFORMATION CONTACT:

General

Please direct general comments or inquiries to K. Bundy, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416, (202) 205-6585, *kabundy@sba.gov*.

Specific

Please direct specific comments and inquiries on individual regulatory activities identified in this Agenda to the individual listed in the summary of the regulation as the point of contact for that regulation.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (RFA) requires SBA to publish in the **Federal Register** a semiannual regulatory flexibility agenda describing those Agency rules that are likely to have a significant economic impact on a substantial number of small entities (5 U.S.C. 602). The summary information published in the **Federal Register** is limited to those rules. Additional information regarding all of the

rulemakings SBA expects to consider in the next 12 months is included in the Federal Government’s unified Regulatory Agenda, which will be available online at *www.reginfo.gov* in a format that offers users enhanced ability to obtain information about SBA’s rules.

SBA is fully committed to implementing the Administration’s regulatory reform policies, as established by Executive Order 13771, Reducing Regulation and Controlling Regulatory Costs (January 30, 2017) and Executive Order 13777, Enforcing the Regulatory Reform Agenda (February 24, 2017). In order to fully implement the goal of these executive orders, SBA seeks feedback from the public in identifying any SBA regulations affected parties believe impose unnecessary burdens or costs that exceed their benefits; eliminate jobs or inhibit job creation; or are ineffective or outdated.

Tami Perriello,
Acting Administrator.

SMALL BUSINESS ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
342	Small Business Size Standards; Alternative Size Standard for 7(a), 504, and Disaster Loan Programs	3245-AG16
343	Small Business Size Standards: Agriculture, Forestry, Fishing and Hunting; Mining, Quarrying, and Oil and Gas Extraction; Utilities; Construction.	3245-AG89
344	Small Business Size Standards: Transportation and Warehousing; Information; Finance and Insurance; Real Estate and Rental and Leasing.	3245-AG90
345	Small Business Size Standards: Professional, Scientific and Technical Services; Management of Companies and Enterprises; Administrative and Support and Waste Management and Remediation Services.	3245-AG91
346	Small Business Size Standards: Manufacturing and Industries With Employee Based Size Standards in Other Sectors Except Wholesale Trade and Retail Trade.	3245-AH09
347	Small Business Size Standards: Wholesale Trade and Retail Trade	3245-AH10
348	National Defense Authorization Act of 2020, Credit for Lower Tier Subcontracting and Other Amendments (Reg Plan Seq No. 120).	3245-AH28

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

SMALL BUSINESS ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
349	Small Business Size Standards: Educational Services; Health Care and Social Assistance; Arts, Entertainment and Recreation; Accommodation and Food Services; Other Services.	3245-AG88
350	SBA Supervised Lenders Application Process	3245-AH04
351	Small Business Size Standards: Adjustment of Monetary Based Size Standards for Inflation	3245-AH17

SMALL BUSINESS ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
352	Small Business Development Center Program Revisions	3245-AE05
353	Small Business Timber Set-Aside Program	3245-AG69
354	Small Business Size Standards: Calculation of Average Annual Receipts in Business Loan, Disaster Loan, and Small Business Investment Company Programs.	3245-AH26

SMALL BUSINESS ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
355	8(a) Business Development (Completion of a Section 610 Review)	3245-AH19
356	Government Contracting Programs (Completion of a Section 610 Review)	3245-AH20
357	HUBZone Program (Completion of a Section 610 Review)	3245-AH21

SMALL BUSINESS ADMINISTRATION (SBA)

Proposed Rule Stage

342. Small Business Size Standards; Alternative Size Standard for 7(A), 504, and Disaster Loan Programs

E.O. 13771 Designation: Other.

Legal Authority: Pub. L. 111–240, sec. 1116

Abstract: SBA will propose amendments its size eligibility criteria for Business Loans, certified development company (CDC) loans under title V of the Small Business Investment Act (504) and economic injury disaster loans (EIDL). For the SBA 7(a) Business Loan Program and the 504 program, the amendments will provide an alternative size standard for loan applicants that do not meet the small business size standards for their industries. The Small Business Jobs Act of 2010 (Jobs Act) established alternative size standards that apply to both of these programs until SBA’s Administrator establishes other alternative size standards. For the disaster loan program, the amendments will provide an alternative size standard for loan applicants that do not meet the Small Business Size Standard for their industries. SBA loan program alternative size standards do not affect other Federal Government programs, including Federal procurement.

Timetable:

Action	Date	FR Cite
ANPRM	03/22/18	83 FR 12506
ANPRM Comment Period End.	05/21/18	
NPRM	05/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 205–7189, *Fax:* 202 205–6390, *Email:* khem.sharma@sba.gov

RIN: 3245–AG16

343. Small Business Size Standards: Agriculture, Forestry, Fishing and Hunting; Mining, Quarrying, and Oil and Gas Extraction; Utilities; Construction

E.O. 13771 Designation: Other.

Legal Authority: 15 U.S.C. 632(a)

Abstract: The Small Business Jobs Act of 2010 (Jobs Act) requires SBA to conduct every five years a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. As part of the second five-year review of size standards under the Jobs Act, in this proposed rule, SBA will evaluate each industry that has a receipts-based standard in North American Industry Classification System (NAICS) Sector 11 (Agriculture, Forestry, Fishing and Hunting), Sector 21 (Mining, Quarrying, and Oil and Gas Extraction), Sector 22 (Utilities), and Sector 23 (Construction), and make necessary adjustments to size standards in these sectors. This is one of a series of proposed rules that will examine groups of NAICS sectors. SBA will apply its Size Standards Methodology to this proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	10/02/20	85 FR 62239
NPRM Comment Period End.	12/01/20	
Final Rule	09/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 205–7189, *Fax:* 202 205–6390, *Email:* khem.sharma@sba.gov.

RIN: 3245–AG89

344. Small Business Size Standards: Transportation and Warehousing; Information; Finance and Insurance; Real Estate and Rental and Leasing

E.O. 13771 Designation: Other.

Legal Authority: 15 U.S.C. 632(a)

Abstract: The Small Business Jobs Act of 2010 (Jobs Act) requires SBA to conduct every five years a detailed review of all size standards and to make

appropriate adjustments to reflect market conditions. As part of the second five-year review of size standards under the Jobs Act, in this proposed rule, SBA will evaluate each industry that has a receipts-based standard in North American Industry Classification System (NAICS) Sector 48–49 (Transportation and Warehousing), Sector 51 (Information), Sector 52 (Finance and Insurance), and Sector 53 (Real Estate and Rental and Leasing) and make necessary adjustments to size standards in these sectors. This is one of a series of proposed rules that will examine groups of NAICS sectors. SBA will apply its Size Standards Methodology to this proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	10/02/20	85 FR 62372
NPRM Comment Period End.	12/01/20	
Final Rule	09/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 205–7189, *Fax:* 202 205–6390, *Email:* khem.sharma@sba.gov.

RIN: 3245–AG90

345. Small Business Size Standards: Professional, Scientific and Technical Services; Management of Companies and Enterprises; Administrative and Support and Waste Management and Remediation Services

E.O. 13771 Designation: Other.

Legal Authority: 15 U.S.C. 632(a)

Abstract: The Small Business Jobs Act of 2010 (Jobs Act) requires SBA to conduct every five years a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. As part of the second five-year review of size standards under the Jobs Act, in this proposed rule, SBA will evaluate each industry that has a receipts-based standard in North American Industry Classification System (NAICS) Sector 54 (Professional, Scientific and Technical Services), Sector 55 (Management of Companies

and Enterprises), and Sector 56 (Administrative and Support, Waste Management and Remediation Services) and make necessary adjustments to size standards in these sectors. This is one of a series of proposed rules that will examine groups of NAICS sectors. SBA will apply its Size Standards Methodology to this proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	11/13/20	85 FR 72584
NPRM Comment Period End.	01/12/21	
Final Rule	07/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 205-7189, *Fax:* 202 205-6390, *Email:* khem.sharma@sba.gov.

RIN: 3245-AG91

346. Small Business Size Standards: Manufacturing and Industries With Employee Based Size Standards in Other Sectors Except Wholesale Trade and Retail Trade

E.O. 13771 Designation: Other.
Legal Authority: 15 U.S.C. 632(a)
Abstract: The Small Business Jobs Act of 2010 (Jobs Act) requires SBA to conduct every five years a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. As part of the second 5-year review of size standards under the Jobs Act, in this proposed rule, SBA will evaluate all industries in North American Industry Classification System (NAICS) Sector 31-33 (Manufacturing) and industries with employee based size standards in other sectors except Wholesale Trade and Retail Trade and make necessary adjustments to their size standards. This is one of a series of proposed rules that will examine groups of NAICS sectors. SBA will apply its revised Size Standards Methodology, which is available on its website at <http://www.sba.gov/size>, to this proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	05/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC

20416, *Phone:* 202 205-7189, *Fax:* 202 205-6390, *Email:* khem.sharma@sba.gov.

RIN: 3245-AH09

347. Small Business Size Standards: Wholesale Trade and Retail Trade

E.O. 13771 Designation: Other.
Legal Authority: 15 U.S.C. 632(a)
Abstract: The Small Business Jobs Act of 2010 (Jobs Act) requires SBA to conduct every five years a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. As part of the second 5-year review of size standards under the Jobs Act, in this proposed rule, SBA will evaluate all industries in North American Industry Classification System (NAICS) Sector 42 (Wholesale Trade) and Sector 44-45 (Retail Trade) and make necessary adjustments to their size standards. This is one of a series of proposed rules that will examine groups of NAICS sectors. SBA will apply its revised Size Standards Methodology, which is available on its website at <http://www.sba.gov/size>, to this proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	05/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 205-7189, *Fax:* 202 205-6390, *Email:* khem.sharma@sba.gov.

RIN: 3245-AH10

348. National Defense Authorization Act of 2020, Credit for Lower Tier Subcontracting and Other Amendments

Regulatory Plan: This entry is Seq. No. 120 in part II of this issue of the **Federal Register**.

RIN: 3245-AH28

SMALL BUSINESS ADMINISTRATION (SBA)

Final Rule Stage

349. Small Business Size Standards: Educational Services; Health Care and Social Assistance; Arts, Entertainment and Recreation; Accommodation and Food Services; Other Services

E.O. 13771 Designation: Other.
Legal Authority: 15 U.S.C. 632(a)
Abstract: The Small Business Jobs Act of 2010 (Jobs Act) requires SBA to

conduct every five years a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. As part of the second five-year review of size standards under the Jobs Act, in this proposed rule, SBA will evaluate size standards for all industries in North American Industry Classification System (NAICS) Sector 61 (Educational Services), Sector 62 (Health Care and Social Assistance), Sector 71 (Arts, Entertainment and Recreation), Sector 72 (Accommodation and Food Services), and Sector 81 (Other Services) and make necessary adjustments to size standards in these sectors. This is one of a series of proposed rules that will examine groups of NAICS sectors. SBA will apply its Size Standards Methodology to this proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	11/27/20	85 FR 76390
NPRM Comment Period End.	01/26/21	
Final Rule	10/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 205-7189, *Fax:* 202 205-6390, *Email:* khem.sharma@sba.gov.

RIN: 3245-AG88

350. SBA Supervised Lenders Application Process

E.O. 13771 Designation: Other.
Legal Authority: 15 U.S.C. 632(r)
Abstract: SBA Supervised Lenders include Small Business Lending Companies (SBLCs) and Non-Federally Regulated Lenders (NFRLs). This rule aims to enhance the process for organizations seeking to participate as SBLCs or NFRLs in the 7(a) Loan Program and to clarify the factors SBA will consider in evaluating SBA Supervised Lender applications. An SBLC is a non-depository lending institution that is authorized by SBA to make loans pursuant to section 7(a) of the Small Business Act and to Intermediaries in SBA's Microloan Program. An SBLC is regulated, supervised, and examined solely by SBA. SBA imposed a moratorium on licensing new SBLCs in 1982. There are currently 14 SBLCs with full authority to make 7(a) loans up to the maximum amount of \$5 million and other SBLCs with more limited authority to make 7(a) loans. SBLCs are subject to SBA

regulations regarding their formation, capitalization, and enforcement actions. To operate as an SBLC with full authority, an organization must acquire the existing SBLC lending authority held by an SBLC. Non-Federally Regulated Lenders (NFRLs) are also authorized by the SBA to make loans under section 7(a). Unlike SBLCs, NFRLs are subject to regulation by a state; however, SBA is the sole federal regulator for these entities. This rule will also cover the application process for these NFRLs.

Timetable:

Action	Date	FR Cite
NPRM	01/13/20	85 FR 1783
NPRM Comment Period End.	03/13/20	
Final Rule	05/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Susan Streich, Director of Credit Risk Management, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 205-6641, *Email:* susan.streich@sba.gov.

RIN: 3245-AH04

351. Small Business Size Standards: Adjustment of Monetary Based Size Standards for Inflation

E.O. 13771 Designation: Deregulatory. *Legal Authority:* 15 U.S.C. 632(a)

Abstract: In this final rule, the U.S. Small Business Administration (SBA or Agency) adjusts all monetary based industry size standards (*i.e.*, receipts, assets, net worth, and net income) for inflation since the last adjustment in 2014. In accordance with its regulations in 13 CFR 121.102(c), SBA is required to review the effects of inflation on its monetary standards at least once every five years and adjust them, if necessary. In addition, the Small Business Jobs Act of 2010 (Jobs Act) also requires SBA to conduct every five years a detailed review of all size standards and to make appropriate adjustments to reflect market conditions. This action will restore the small business eligibility of businesses that have lost that status due to inflation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/18/19	84 FR 34261
Interim Final Rule Effective.	08/19/19	
Interim Final Rule Comment Period End.	09/16/19	
Final Action	05/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dr. Khem Raj Sharma, Chief, Office of Size Standards, Small Business Administration, 409 Third Street SW, Washington, DC 20416, *Phone:* 202 205-7189, *Fax:* 202 205-6390, *Email:* khem.sharma@sba.gov.

RIN: 3245-AH17

SMALL BUSINESS ADMINISTRATION (SBA)

Long-Term Actions

352. Small Business Development Center Program Revisions

E.O. 13771 Designation: Deregulatory. *Legal Authority:* 15 U.S.C. 634(b)(6); 15 U.S.C. 648

Abstract: This rule proposes to update the Small Business Development Center (SBDC) program regulations by proposing to amend: (1) Procedures for approving applications when a new Lead SBDC center is selected; (2) procedures and requirements regarding findings and disputes resulting from financial exams, programmatic reviews, accreditation reviews, and other SBA oversight activities; (3) requirements for new or renewal applications for SBDC grants, including electronic submission through the approved electronic Government submission facility; (4) procedures regarding the determination to affect suspension, termination or non-renewal of an SBDC's cooperative agreement; and (5) provisions regarding the collection and use of the individual SBDC client data.

Timetable:

Action	Date	FR Cite
ANPRM	04/02/15	80 FR 17708
ANPRM Comment Period End.	06/01/15	
NPRM	11/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Rachel Newman-Karton, *Phone:* 202 619-1816, *Email:* rachel.newman-karton@sba.gov. RIN: 3245-AE05

353. Small Business Timber Set-Aside Program

E.O. 13771 Designation: Regulatory. *Legal Authority:* 15 U.S.C. 631; 15 U.S.C. 644(a)

Abstract: The U.S. Small Business Administration (SBA or Agency) is amending its Small Business Timber Set-Aside Program (the Program) regulations. The Small Business Timber Set-Aside Program is rooted in the

Small Business Act, which tasked SBA with ensuring that small businesses receive a fair proportion of the total sales of government property. Accordingly, the Program requires Timber sales to be set aside for small business when small business participation falls below a certain amount. SBA considered comments received during the Advance Notice of Proposed Rulemaking and Notice of Proposed Rulemaking processes, including on issues such as, but not limited to, whether the saw timber volume purchased through stewardship timber contracts should be included in calculations, and whether the appraisal point used in set-aside sales should be the nearest small business mill. In addition, SBA is considering data from the timber industry to help evaluate the current program and economic impact of potential changes.

Timetable:

Action	Date	FR Cite
ANPRM	03/25/15	80 FR 15697
ANPRM Comment Period End.	05/26/15	
NPRM	09/27/16	81 FR 66199
NPRM Comment Period End.	11/28/16	
Final Rule	11/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: David W. Loines, *Phone:* 202 431-0472, *Email:* david.loines@sba.gov. RIN: 3245-AG69

354. Small Business Size Standards: Calculation of Average Annual Receipts in Business Loan, Disaster Loan, and Small Business Investment Company Programs

E.O. 13771 Designation: Other. *Legal Authority:* 15 U.S.C. 632(a)(2); Pub. L. 115-324

Abstract: The Small Business Runway Extension Act, Public Law 115-324, amended the Small Business Act to provide for calculation of average annual receipts using a 5-year average, rather than the prior 3-year average, in defined circumstances. For firms subject to SBA's receipt-based size standards (generally, service-industry, construction, and agricultural firms), a lengthened averaging period permits firms with increasing revenues to stay eligible for small business benefits for longer. In RIN 3245-AH16, SBA implemented the Small Business Runway Extension Act in programs other than SBA's loan programs—including SBA's procurement programs—and SBA issued its final rule in that first rulemaking on December 5,

2019 (84 FR 66561). This second rulemaking would consider how to address the Small Business Runway Extension Act in SBA's business loan, disaster loan, and SBIC programs.

Timetable:

Action	Date	FR Cite
NPRM	11/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Khem Raj Sharma, Phone: 202 205-7189, Fax: 202 205-6390, Email: khem.sharma@sba.gov. RIN: 3245-AH26

SMALL BUSINESS ADMINISTRATION (SBA)

Completed Actions

355. 8(A) Business Development (Completion of a Section 610 Review)

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: 15 U.S.C. 637

Abstract: Under part 124, 8(a) Business Development/Small Disadvantaged Business Status Determinations, SBA has promulgated several rules that the Agency certified would have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. These rules established eligibility requirements for participation in the 8(a) programs and application, certification, and protest procedures, among other things. SBA reviewed these rules under section 610 of the Regulatory Flexibility Act to determine if the rules should be continued without change, or should be amended or rescinded, to minimize adverse economic impacts on small entities. In the course of the review, SBA considered the following factors: (1) The continued need for the rule; (2) the comments received concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with Federal, State, or local government rules; and (5) the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. SBA solicited comments and conducted an analysis of these factors. After consideration of this information, SBA has determined that the rules should be continued without change.

Timetable:

Action	Date	FR Cite
Begin Review	04/28/20	85 FR 23487

Action	Date	FR Cite
Comment Period End.	07/27/20	
End Review	10/01/20	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Brenda J. Fernandez, Analyst, Office of Policy, Planning and Liaison, Small Business Administration, 409 Third Street SW, Washington, DC 20416, Phone: 202 205-7337, Email: brenda.fernandez@sba.gov. RIN: 3245-AH19

356. Government Contracting Programs (Completion of a Section 610 Review)

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: Regulatory Flexibility Act, 5 U.S.C. 610; 15 U.S.C. 634; 15 U.S.C. 637; 15 U.S.C. 644

Abstract: Under part 125, Government Contracting Programs, SBA has promulgated several rules that the Agency certified would have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. These rules established requirements for participation in SBA's government contracting programs, contracting provisions, and protest procedures, among other things. SBA reviewed these rules under section 610 of the Regulatory Flexibility Act to determine if the rules should be continued without change, or should be amended or rescinded, to minimize adverse economic impacts on small entities. In the course of the review, SBA considered the following factors: (1) The continued need for the rule; (2) the comments received concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with Federal, State, or local government rules; and (5) the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. SBA solicited comments and conducted an analysis of these factors. After consideration of this information, SBA has determined that the rules should be continued without change.

Timetable:

Action	Date	FR Cite
Begin Review	04/28/20	85 FR 23487
Comment Period End.	07/27/20	
End Review	10/01/20	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Brenda J. Fernandez, Analyst, Office of Policy, Planning and

Liaison, Small Business Administration, 409 Third Street SW, Washington, DC 20416, Phone: 202 205-7337, Email: brenda.fernandez@sba.gov.

RIN: 3245-AH20

357. Hubzone Program (Completion of a Section 610 Review)

E.O. 13771 Designation: Not subject to, not significant

Legal Authority: Regulatory Flexibility Act, 5 U.S.C. 610; 15 U.S.C. 632; 15 U.S.C. 657a

Abstract: Under part 126, HUBZone Program, SBA has promulgated several rules that the Agency certified would have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. These rules established eligibility requirements for qualified HUBZone small business concerns, procedures for certification program examinations and protests, and provisions relating to HUBZone contracts, among other things. SBA reviewed these rules under section 610 of the Regulatory Flexibility Act to determine if the rules should be amended or rescinded to minimize adverse economic impacts on small entities. In the course of the review, SBA considered the following factors: (1) The continued need for the rule; (2) the comments received concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with Federal, State, or local government rules; and (5) the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule. SBA solicited comments and conducted an analysis of these factors. After consideration of this information, SBA has determined that the rules should be continued without change.

Timetable:

Action	Date	FR Cite
Begin Review	04/28/20	85 FR 23487
Comment Period End.	07/27/20	
End Review	10/01/20	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Brenda J. Fernandez, Analyst, Office of Policy, Planning and Liaison, Small Business Administration, 409 Third Street SW, Washington, DC 20416, Phone: 202 205-7337, Email: brenda.fernandez@sba.gov.

RIN: 3245-AH21

[FR Doc. 2021-04708 Filed 3-30-21; 8:45 am]



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Part XX

Department of Defense

General Services Administration

National Aeronautics and Space Administration

Semiannual Regulatory Agenda

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Semiannual Regulatory Agenda

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of regulations being developed by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in

compliance with Executive Order 12866 “Regulatory Planning and Review.” This agenda is being published to allow interested persons an opportunity to participate in the rulemaking process. The Regulatory Secretariat Division has attempted to list all regulations pending at the time of publication, except for minor and routine or repetitive actions; however, unanticipated requirements may result in the issuance of regulations that are not included in this agenda. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the dates shown.

Published proposed rules may be reviewed in their entirety at the Government’s rulemaking website at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Lois Mandell, Division Director, Regulatory Secretariat Division, 1800 F Street NW, 2nd Floor, Washington, DC 20405–0001, 202–501–4755.

SUPPLEMENTARY INFORMATION: DoD, GSA, and NASA, under their several statutory authorities, jointly issue and maintain the FAR through periodic issuance of changes published in the **Federal Register** and produced electronically as Federal Acquisition Circulars (FACs).

The electronic version of the FAR, including changes, can be accessed on the FAR website at <http://www.acquisition.gov/far>.

Dated: September 4, 2020.
William F. Clark,
Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

DOD/GSA/NASA (FAR)—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
358	FAR Acquisition Regulation (FAR); FAR Case 2015–038, Reverse Auction Guidance	9000–AN31
359	Federal Acquisition Regulation (FAR); FAR Case 2017–014, Use of Acquisition 360 to Encourage Vendor Feedback.	9000–AN43
360	Federal Acquisition Regulation (FAR); FAR Case 2017–013, Breaches of Personally Identifiable Information.	9000–AN44
361	Federal Acquisition Regulation (FAR); FAR Case 2017–016, Controlled Unclassified Information (CUI)	9000–AN56
362	Federal Acquisition Regulation (FAR); FAR Case 2018–002, Protecting Life in Global Health Assistance ..	9000–AN62
363	Federal Acquisition Regulation (FAR); FAR Case 2018–006; Definition of Subcontract	9000–AN66
364	Federal Acquisition Regulation (FAR); FAR Case 2018–012, Rights to Federally Funded Inventions and Licensing of Government-Owned Inventions.	9000–AN71
365	Federal Acquisition Regulation (FAR); FAR Case 2018–013, Exemption of Commercial and COTS Item Contracts From Certain Laws and Regulations.	9000–AN72
366	Federal Acquisition Regulation (FAR); FAR Case 2018–014, Increasing Task-Order Level Competition	9000–AN73
367	Federal Acquisition Regulation (FAR); FAR Case 2019–007, Update of Historically Underutilized Business Zone Program.	9000–AN90
368	Federal Acquisition Regulation (FAR); FAR Case 2019–008, Small Business Program Amendments	9000–AN91
369	Federal Acquisition Regulation (FAR); FAR Case 2019–010, Efficient Federal Operations	9000–AN94
370	Federal Acquisition Regulation (FAR); FAR Case 2019–015, Improving Consistency Between Procurement & Non-Procurement Procedures on Suspension and Debarment.	9000–AN98
371	Federal Acquisition Regulation (FAR); FAR Case 2019–016, Maximizing Use of American-Made Goods, Products and Materials.	9000–AN99
372	Federal Acquisition Regulation (FAR); FAR Case 2020–004, Application of the MPT to Certain Task and Delivery Orders.	9000–AO04
373	Federal Acquisition Regulation (FAR); FAR Case 2020–005, Explanations to Unsuccessful Offerors on Certain Orders Under Task and Delivery Order Contracts.	9000–AO08
374	Federal Acquisition Regulation (FAR); FAR Case 2020–007, Accelerated Payments Applicable to Contracts With Certain Small Business Concerns.	9000–AO10
375	Federal Acquisition Regulation (FAR); FAR Case 2020–008, Prohibition on Criminal History Inquiries by Contractors Prior to Conditional Offer.	9000–AO11
376	Federal Acquisition Regulation (FAR); FAR Case 2020–010, Small Business Innovation Research and Technology Transfer Programs.	9000–AO12
377	Federal Acquisition Regulation (FAR); FAR Case 2020–013, Certification of Women-Owned Small Businesses.	9000–AO17

DOD/GSA/NASA (FAR)—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
378	Federal Acquisition Regulation: FAR Case 2016–005; Effective Communication Between Government and Industry.	9000–AN29
379	Federal Acquisition Regulation (FAR); FAR Case 2017–005, Whistleblower Protection for Contractor Employees.	9000–AN32
380	Federal Acquisition Regulation; FAR Case 2016–002, Applicability of Small Business Regulations Outside the United States.	9000–AN34

DOD/GSA/NASA (FAR)—FINAL RULE STAGE—Continued

Sequence No.	Title	Regulation Identifier No.
381	Federal Acquisition Regulation (FAR); FAR Case 2016–011, Revision of Limitations on Subcontracting	9000–AN35
382	Federal Acquisition Regulation (FAR); FAR Case 2017–003; Individual Sureties	9000–AN39
383	Federal Acquisition Regulation (FAR); FAR Case 2017–011, Section 508-Based Standards in Information and Communication Technology.	9000–AN46
384	Federal Acquisition Regulation (FAR); FAR Case 2017–018, Violation of Arms Control Treaties or Agreements With the United States.	9000–AN57
385	Federal Regulation Acquisition (FAR); FAR Case 2017–019, Policy on Joint Ventures	9000–AN59
386	Federal Acquisition Regulation (FAR); FAR Case 2018–016, Lowest Price Technically Acceptable Source Selection Process.	9000–AN75
387	Federal Acquisition Regulation (FAR); FAR Case 2018–020, Construction Contract Administration	9000–AN78
388	Federal Acquisition Regulation (FAR); FAR Case 2018–021, Reserve Officer Training Corps and Military Recruiting on Campus.	9000–AN79
389	Federal Acquisition Regulation (FAR); FAR Case 2018–023, Taxes-Foreign Contracts in Afghanistan	9000–AN81
390	Federal Acquisition Regulation (FAR); FAR Case 2018–017, Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment.	9000–AN83
391	Federal Acquisition Regulation (FAR); FAR Case 2019–001, Analysis for Equipment Acquisitions	9000–AN84
392	Federal Acquisition Regulation (FAR); FAR Case 2019–002, Recreational Services on Federal Lands	9000–AN85
393	Federal Acquisition Regulation (FAR); FAR Case 2019–003, Substantial Bundling and Consolidation	9000–AN86
394	Federal Acquisition Regulation (FAR); FAR Case 2019–004, Good Faith in Small Business Subcontracting.	9000–AN87
395	Federal Acquisition Regulation (FAR); FAR Case 2019–009, Prohibition on Contracting With Entities Using Certain Telecommunications and Video Surveillance Services or Equipment.	9000–AN92
396	Federal Acquisition Regulation (FAR); FAR Case 2020–006, Documentation of Market Research	9000–AO09
397	Federal Acquisition Regulation (FAR); FAR Case 2020–011, Implementation of Issued Exclusion and Removal Orders.	9000–AO13
398	Federal Acquisition Regulation (FAR); FAR Case 2020–012, Scope of Review by Procurement Center Representatives.	9000–AO16

DOD/GSA/NASA (FAR)—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
399	Federal Acquisition Regulation (FAR); FAR Case 2014–002; Set-Asides Under Multiple Award Contracts	9000–AM93
400	Federal Acquisition Regulation (FAR); FAR Case 2016–013, Tax on Certain Foreign Procurement	9000–AN38
401	Federal Acquisition Regulations (FAR); FAR Case 2015–002, Requirements for DD Form 254, Contract Security Classification Specification.	9000–AN40
402	Federal Acquisition Regulation (FAR); FAR Case 2017–010, Evaluation Factors for Multiple-Award Contracts.	9000–AN54
403	Federal Acquisition Regulation (FAR); FAR Case 2018–004; Increased Micro-Purchase and Simplified Acquisition Thresholds.	9000–AN65
404	Federal Acquisition Regulation (FAR); FAR Case 2018–005, Modifications to Cost or Pricing Data and Reporting Requirements.	9000–AN69
405	Federal Acquisition Regulation (FAR); FAR Case 2018–022; Orders Issued Via Fax or Electronic Commerce.	9000–AN80
406	Federal Acquisition Regulation (FAR); FAR Case 2019–013, Inflation Adjustment of Acquisition-Related Thresholds.	9000–AN96

**DEPARTMENT OF DEFENSE/
GENERAL SERVICES
ADMINISTRATION/NATIONAL
AERONAUTICS AND SPACE
ADMINISTRATION (FAR)**

Proposed Rule Stage

**358. Far Acquisition Regulation (FAR);
FAR Case 2015–038, Reverse Auction
Guidance**

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement policies addressing the

effective use of reverse auctions. Reverse auctions involve offerors lowering their pricing over multiple rounds of bidding in order to win Federal contracts. This change incorporates guidance from the Office of Federal Procurement Policy (OFPP) memorandum, “Effective Use of Reverse Auctions,” which was issued in response to recommendations from the GAO report, *Reverse Auctions: Guidance is Needed to Maximize Competition and Achieve Cost Savings* (GAO–14–108). Reverse auctions are one tool used by Federal agencies to increase competition and reduce the cost of certain items. Reverse auctions differ from traditional auctions in that

sellers compete against one another to provide the lowest price or highest-value offer to a buyer. This change to the FAR will include guidance that will standardize agencies’ use of reverse auctions to help agencies maximize competition and savings when using reverse auctions.

Timetable:

Action	Date	FR Cite
NPRM	12/07/20	85 FR 78815
NPRM Comment Period End.	06/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Curtis E. Glover Sr., Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 501-1448, *Email:* curtis.glover@gsa.gov.
RIN: 9000-AN31

359. Federal Acquisition Regulation (FAR); FAR Case 2017-014, Use of Acquisition 360 To Encourage Vendor Feedback

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to address the solicitation of contractor feedback on both contract formation and contract administration activities. Agencies would consider this feedback, as appropriate, to improve the efficiency and effectiveness of their acquisition activities. The rule would create FAR policy to encourage regular feedback in accordance with agency practice (both for contract formation and administration activities) and a standard FAR solicitation provision to support a sustainable model for broadened use of the Acquisition 360 survey to elicit feedback on the pre-award and debriefing processes in a consistent and standardized manner. Agencies would be able to use the solicitation provision to notify interested sources that a procurement is part of the Acquisition 360 survey and encourage stakeholders to voluntarily provide feedback on their experiences of the pre-award process.

Timetable:

Action	Date	FR Cite
ANPRM	07/23/18	83 FR 34820
ANPRM Comment Period End.	09/21/18	
NPRM	09/15/20	85 FR 57177
NPRM Comment Period End.	11/16/20	
Final Rule	04/00/21	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Curtis E. Glover Sr., Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 501-1448, *Email:* curtis.glover@gsa.gov.
RIN: 9000-AN43

360. Federal Acquisition Regulation (FAR); FAR CASE 2017-013, Breaches of Personally Identifiable Information

E.O. 13771 Designation: Regulatory.
Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal

Acquisition Regulation (FAR) to create and implement appropriate contract clauses and regulatory coverage to address contractor requirements for a breach response consistent with the requirements. This FAR change will implement the requirements outlined in the Office of Management and Budget (OMB) Memorandum, M-17-12, "Preparing for and Responding to a Breach of Personally Identifiable Information," section V part B.

Timetable:

Action	Date	FR Cite
NPRM	01/00/21	
NPRM Comment Period End.	03/00/21	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Camara Francis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 550-0935, *Email:* camara.francis@gsa.gov.
RIN: 9000-AN44

361. Federal Acquisition Regulation (FAR); FAR CASE 2017-016, Controlled Unclassified Information (CUI)

E.O. 13771 Designation: Regulatory.
Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement the National Archives and Records Administration (NARA) Controlled Unclassified Information (CUI) program of Executive Order 13556 of November 4, 2010. As the executive agent designated to oversee the Governmentwide CUI program, NARA issued implementing regulations in late 2016 designed to address Federal agency policies for designating, safeguarding, disseminating, marking, decontrolling, and disposing of CUI. The NARA rule, which is codified at 32 CFR 2002, affects contractors that handle, possess, use, share, or receive CUI. This FAR rule helps to ensure uniform implementation of the requirements of the CUI program in contracts across Government agencies.

Timetable:

Action	Date	FR Cite
NPRM	03/00/21	
NPRM Comment Period End.	05/00/21	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Camara Francis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington,

DC 20405, *Phone:* 202 550-0935, *Email:* camara.francis@gsa.gov.

RIN: 9000-AN56

362. Federal Acquisition Regulation (FAR); FAR CASE 2018-002, Protecting Life in Global Health Assistance

E.O. 13771 Designation: Regulatory.

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement Presidential Memorandum, "The Mexico City Policy," issued on January 13, 2017, in accordance with the Department of State's implementation plan dated May 9, 2017. This rule would extend requirements of the memorandum and plans to new funding agreements for global health assistance furnished by all Federal departments or agencies. This expanded policy will cover global health assistance to include funding for international health programs, such as those for HIV/AIDS, maternal and child health, malaria, global health security, and certain family planning and reproductive health.

Timetable:

Action	Date	FR Cite
NPRM	09/14/20	85 FR 56549
NPRM Comment Period End.	11/13/20	
Final Rule	05/00/21	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: FAR Policy, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-4075, *Email:* farpolicy@gsa.gov.
RIN: 9000-AN62

363. Federal Acquisition Regulation (FAR); FAR CASE 2018-006; Definition of Subcontract

E.O. 13771 Designation: Other.

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 820 of the National Defense Authorization Act (NDAA) for FY 2018. Section 820 amends 41 U.S.C. 1906(c)(1) to change the definition of "subcontract" for the procurement of commercial items to exclude agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Federal Government and other parties and are not identifiable to any particular contract.

Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End.	03/00/21 05/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 208–4949, *Email:* michaelo.jackson@gsa.gov.
RIN: 9000–AN66

364. Federal Acquisition Regulation (FAR); FAR Case 2018–012, Rights to Federally Funded Inventions and Licensing of Government-Owned Inventions

E.O. 13771 Designation: Regulatory.
Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the FAR to implement the changes to 37 CFR parts 401 and 404, “Rights to Federally Funded Inventions and Licensing of Government-Owned Inventions,” dated May 14, 2018. The changes reduce regulatory burdens on the public, but increase burdens on the Government, provide greater clarity to large businesses by codifying the applicability of Bayh-Dole as directed in Executive Order 12591, and provide greater clarity to all Federal funding recipients by updating regulatory provisions to align with provisions of the Leahy-Smith America Invents Act in terms of definitions and timeframes.

Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End.	03/00/21 04/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 208–4949, *Email:* michaelo.jackson@gsa.gov.
RIN: 9000–AN71

365. Federal Acquisition Regulation (FAR); FAR Case 2018–013, Exemption of Commercial and COTS Item Contracts From Certain Laws and Regulations

E.O. 13771 Designation: Deregulatory.
Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch.137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 839 of the John S.

McCain National Defense Authorization Act for fiscal year 2019. Paragraph (a) requires the FAR Council to review each past determination made not to exempt contracts and subcontracts for commercial products, commercial services, and commercially available off-the-shelf (COTS) items from certain laws when these contracts would otherwise have been exempt under 41 U.S.C. 1906(d) or 41 U.S.C. 1907(b). The FAR Council or the Administrator for Federal Procurement Policy has to determine whether there still exists specific reason not to provide exemptions from certain laws. If no determination is made to continue to exempt commercial contracts and subcontracts from certain laws, paragraph (a) requires that revisions to the FAR be proposed to reflect exemptions from those laws.

Paragraph (b) requires the FAR Council to review the FAR to assess every regulation that requires a specific clause in contracts for commercial products or commercial services, unless the regulation is required by law or Executive Order. Paragraph (b) also requires that revisions to the FAR be proposed to eliminate those regulations unless the FAR Council makes a determination not to eliminate a regulation.

Paragraph (c) requires the FAR Council to review the FAR to assess every regulation that requires a prime contractor to include a specific clause in subcontracts for commercially available off-the-shelf items, unless the clause is required by law or Executive Order. Paragraph (c) also requires that revisions to the FAR be proposed to eliminate those regulations unless the FAR Council makes a determination not to eliminate a regulation.

Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End.	04/00/21 06/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mahruba Uddowla, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 703 605–2868, *Email:* mahruba.uddowla@gsa.gov.
RIN: 9000–AN72

366. Federal Acquisition Regulation (FAR); FAR Case 2018–014, Increasing Task-Order Level Competition

E.O. 13771 Designation: Deregulatory.
Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 876 of the John S. McCain National Defense Authorization Act for fiscal year 2019, which would provide civilian agencies with an exception to the existing statutory requirement to include price to the Federal Government as an evaluation factor that must be considered in the evaluation of proposals for all contracts. The exception would only apply to IDIQ contracts and to Federal Supply Schedule contracts for services that are priced at an hourly rate. Furthermore, the exception would only apply in those instances where the Government intends to make a contract award to all qualifying offerors, thus affording maximum opportunity for effective competition at the task order level. An offeror would be qualified only if it is a responsible source and submits a proposal that conforms to the requirements of the solicitation, meets any technical requirements, and is otherwise eligible for award.

Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End.	05/00/21 07/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Curtis E. Glover Sr., Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 501–1448, *Email:* curtis.glover@gsa.gov.
RIN: 9000–AN73

367. Federal Acquisition Regulation (FAR); FAR Case 2019–007, Update of Historically Underutilized Business Zone Program

E.O. 13771 Designation: Other.
Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement regulatory changes issued in a final rule on November 26, 2019 by the Small Business Administration regarding the Historically Underutilized Business Zone (HUBZone) Program. The regulatory changes are intended to reduce the regulatory burden associated with the HUBZone Program.

Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End.	03/00/21 05/00/21	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Malissa Jones, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, Phone: 703 605-2815, Email: malissa.jones@gsa.gov.

RIN: 9000-AN90

368. Federal Acquisition Regulation (FAR); FAR Case 2019-008, Small Business Program Amendments

E.O. 13771 Designation: Other.

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement regulatory changes proposed by the Small Business Administration regarding small business programs. The proposed regulatory changes include the timing of the determination of size status for multiple-award contracts for which price is not evaluated at the contract level; the grounds for size-status protests; and the grounds for socioeconomic status protests.

Timetable:

Action	Date	FR Cite
NPRM	03/00/21	
NPRM Comment Period End.	05/00/21	

Regulatory Flexibility Analysis
Required: Yes.

Agency Contact: Malissa Jones, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, Phone: 703 605-2815, Email: malissa.jones@gsa.gov.

RIN: 9000-AN91

369. Federal Acquisition Regulation (FAR); FAR Case 2019-010, Efficient Federal Operations

E.O. 13771 Designation: Deregulatory.

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement Executive Order 13834, "Efficient Federal Operations." Executive Order 13834 directs Federal agencies to comply with statutory requirements related to energy and environmental performance in a manner that increases efficiency, maximizes performance, eliminates unnecessary use of resources, and protects the environment. This rule promotes the efficient acquisition of sustainable products, services, and construction methods in order to reduce energy and water consumption, reliance on natural resources, and enhance pollution

prevention, within the Federal Government.

Timetable:

Action	Date	FR Cite
NPRM	01/00/21	
NPRM Comment Period End.	03/00/21	

Regulatory Flexibility Analysis
Required: Yes.

Agency Contact: Kevin Funk, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, Phone: 202 357-5805, Email: kevin.funk@gsa.gov.

RIN: 9000-AN94

370. Federal Acquisition Regulation (FAR); FAR Case 2019-015, Improving Consistency Between Procurement & Non-Procurement Procedures on Suspension and Debarment

E.O. 13771 Designation: Other.

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to bring the FAR and the Non-procurement Common Rule (NCR) procedures on suspension and debarment into closer alignment. The FAR covers procurement matters and the NCR covers other transactions, such as grants, cooperative agreements, contracts of assistance, loans and loan guarantees.

The Government uses suspension and debarment procedures to exercise business judgment. These procedures give Federal officials a discretionary means to exclude parties from participation in certain transactions, while affording those parties due process.

Timetable:

Action	Date	FR Cite
NPRM	05/00/21	
NPRM Comment Period End.	07/00/21	

Regulatory Flexibility Analysis
Required: Yes.

Agency Contact: Curtis E. Glover Sr., Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, Phone: 202 501-1448, Email: curtis.glover@gsa.gov.

RIN: 9000-AN98

371. Federal Acquisition Regulation (FAR); FAR Case 2019-016, Maximizing Use of American-Made Goods, Products and Materials

E.O. 13771 Designation: Fully or Partially Exempt.

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement Executive Order (E.O.) 13881, Maximizing Use of American-Made Goods, Products, and Materials, which would provide that materials shall be considered to be of foreign origin if: (A) for iron and steel end products, the cost of foreign iron and steel used in such iron and steel end products constitutes 5 percent or more of the cost of all the products used in such iron and steel end products; or (B) for all other end products, the cost of the foreign products used in such end products constitutes 45 percent or more of the cost of all the components. In addition, the E.O. provides that in determining price reasonableness or public interest, the evaluation factors of 20 percent (for other than small businesses), or 30 percent (for small businesses) shall be applied to offers of materials of foreign origin.

Timetable:

Action	Date	FR Cite
NPRM	09/14/20	85 FR 56558
NPRM Comment Period End.	11/13/20	
Final Rule	01/00/21	

Regulatory Flexibility Analysis
Required: Yes.

Agency Contact: Zenaida Delgado, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, Phone: 202 969-7207, Email: zenaida.delgado@gsa.gov.

RIN: 9000-AN99

372. Federal Acquisition Regulation (FAR); FAR Case 2020-004, Application of the MPT To Certain Task and Delivery Orders

E.O. 13771 Designation: Deregulatory.
Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the FAR by implementing section 826 of the NDAA for FY 2020 (Pub. L. 116-92) which increases the threshold for requiring fair opportunity on orders under multiple-award contracts from \$3,500 to the micro-purchase threshold, unless an exception applies. This change applies the word-based threshold to ensure continued alignment with any future changes to the thresholds.

Timetable:

Action	Date	FR Cite
NPRM	10/22/20	85 FR 67327
NPRM Comment Period End.	12/21/20	
Final Rule	05/00/21	

*Regulatory Flexibility Analysis**Required: Yes.*

Agency Contact: Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 208-4949, *Email:* michaelo.jackson@gsa.gov.

RIN: 9000-AO04

373. Federal Acquisition Regulation (FAR); FAR Case 2020-005, Explanations to Unsuccessful Offerors on Certain Orders Under Task and Delivery Order Contracts

E.O. 13771 Designation: Other.

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 874 of the NDAA for FY 2020, which requires, when awarding a task or delivery order in an amount greater than the simplified acquisition threshold, but not greater than \$5.5 million, contracting officers, upon written request from an unsuccessful offeror, to provide a brief explanation as to why the offeror was unsuccessful, including the rationale for award and an evaluation of the significant weak or deficient factors in the offeror's offer.

Timetable:

Action	Date	FR Cite
NPRM	04/00/21	
NPRM Comment Period End.	06/00/21	

*Regulatory Flexibility Analysis**Required: Yes.*

Agency Contact: Dana L. Bowman, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 202 357-9652, *Email:* dana.bowman@gsa.gov.

RIN: 9000-AO08

374. Federal Acquisition Regulation (FAR); FAR Case 2020-007, Accelerated Payments Applicable to Contracts With Certain Small Business Concerns

E.O. 13771 Designation: Other.

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to establish an accelerated payment date for small business contractors, to the fullest extent permitted by law, with a goal of 15 days after receipt of a proper invoice, if a specific payment date is not established by contract. For contractors that subcontract with small businesses, the proposed rule, to the fullest extent permitted by law, establishes an

accelerated payment date, with a goal of 15 days after receipt of a proper invoice, if: (1) A specific payment date is not established by contract, and (2) the contractor agrees to make accelerated payments to the subcontractor without any further consideration from, or fees charged to, the subcontractor. This change implements section 873 of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92). Section 873 amends 31 U.S.C. 3903(a).

Timetable:

Action	Date	FR Cite
NPRM	01/00/21	
NPRM Comment Period End.	03/00/21	

*Regulatory Flexibility Analysis**Required: Yes.*

Agency Contact: Zenaida Delgado, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-7207, *Email:* zenaida.delgado@gsa.gov.

RIN: 9000-AO10

375. Federal Acquisition Regulation (FAR); FAR Case 2020-008, Prohibition on Criminal History Inquiries by Contractors Prior to Conditional Offer

E.O. 13771 Designation: Other.

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement section 1123 of the NDAA for FY 2020 (Pub. L. 116-92) for the prohibition on criminal history inquiries by contractors prior to conditional offer to an individual or sole proprietor.

Timetable:

Action	Date	FR Cite
NPRM	05/00/21	
NPRM Comment Period End.	07/00/21	

*Regulatory Flexibility Analysis**Required: Yes.*

Agency Contact: Curtis E. Glover Sr., Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 501-1448, *Email:* curtis.glover@gsa.gov.

RIN: 9000-AO11

376. Federal Acquisition Regulation (FAR); FAR Case 2020-010, Small Business Innovation Research and Technology Transfer Programs

E.O. 13771 Designation: Other.

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA and NASA are proposing to amend the Federal

Acquisition Regulation (FAR) to implement changes to the U.S. Small Business Administration (SBA) Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Policy Directive issued (May 2, 2019). The proposed changes include updating FAR 27 to add reference to the STTR program, revise: definitions, allocation of rights, protection period, SBIR/STTR rights notice, data rights marking provisions, and add language to FAR 6.302-5(b) to acknowledge the unique competition requirements for SBIR/STTR Phase III contracts permitted by the Small Business Act.

Timetable:

Action	Date	FR Cite
NPRM	04/00/21	
NPRM Comment Period End.	06/00/21	

*Regulatory Flexibility Analysis**Required: Yes.*

Agency Contact: Mahruba Uddowla, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 703 605-2868, *Email:* mahruba.uddowla@gsa.gov.

RIN: 9000-AO12

377. • Federal Acquisition Regulation (FAR); FAR CASE 2020-013, Certification of Women-Owned Small Businesses

E.O. 13771 Designation: Other.

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: The purpose of this new FAR case is to implement the statutory requirement for certification of women-owned and economically disadvantaged women-owned small businesses participating in the Women-Owned Small Business Program (section 825 of the National Defense Authorization Act for Fiscal Year 2015), as implemented by the Small Business Administration in its final rule published May 11, 2020.

Timetable:

Action	Date	FR Cite
NPRM	05/00/21	
NPRM Comment Period End.	07/00/21	

*Regulatory Flexibility Analysis**Required: Yes.*

Agency Contact: Malissa Jones, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 703 605-2815, *Email:* malissa.jones@gsa.gov.

RIN: 9000-AO17

**DEPARTMENT OF DEFENSE/
GENERAL SERVICES
ADMINISTRATION/NATIONAL
AERONAUTICS AND SPACE
ADMINISTRATION (FAR)**

Final Rule Stage

**378. Federal Acquisition Regulation:
FAR Case 2016–005; Effective
Communication Between Government
and Industry**

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement section 887 of the NDAA for FY 2016 (Pub. L. 114–92). This law provides that Government acquisition personnel are permitted and encouraged to engage in responsible and constructive exchanges with industry. This change will permit and encourage Government acquisition personnel to engage in responsible and constructive exchanges with industry as part of market research as long as those exchanges are consistent with existing laws and regulations and promote a fair competitive environment.

Timetable:

Action	Date	FR Cite
NPRM	11/29/16	81 FR 85914
NPRM Comment Period End.	03/02/17	
Final Rule	01/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 208–4949, *Email:* michaelo.jackson@gsa.gov. *RIN:* 9000–AN29

379. Federal Acquisition Regulation (FAR); FAR Case 2017–005, Whistleblower Protection for Contractor Employees

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement 41 U.S.C. 4712, “Enhancement of Contractor Protection From Reprisal for Disclosure of Certain Information,” and makes the pilot program permanent. The pilot was enacted on January 2, 2013, by section 828 of the National Defense Authorization Act (NDAA) for fiscal

year (FY) 2013. The rule clarifies that contractors and subcontractors are prohibited from discharging, demoting, or otherwise discriminating against an employee as a reprisal for disclosing to any of the entities such as agency Inspector Generals and Congress information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract; a gross waste of Federal funds; an abuse of authority relating to a Federal contract; a substantial and specific danger to public health or safety; or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract.) This rule enhances whistleblower protections for contractor employees by making permanent the protection for disclosure of the aforementioned information, and ensuring that the prohibition on reimbursement for legal fees accrued in defense against reprisal claims applies to both contractors and subcontractors.

Timetable:

Action	Date	FR Cite
NPRM	12/26/18	83 FR 66223
NPRM Comment Period End.	02/25/19	
Final Rule	03/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Curtis E. Glover Sr., Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 501–1448, *Email:* curtis.glover@gsa.gov. *RIN:* 9000–AN32

380. Federal Acquisition Regulation; FAR Case 2016–002, Applicability of Small Business Regulations Outside the United States

E.O. 13771 Designation: Fully or Partially Exempt.

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to support SBA’s policy of including overseas contracts in agency small business contracting goals. SBA revised its regulation at 13 CFR 125.2, as finalized in its rule “Acquisition Process: Task and Delivery Order Contracts, Bundling, Consolidation” issued on October 2, 2013, to clarify that overseas contracting is not excluded from agency responsibilities to foster small business participation.

In its final rule, SBA has clarified that, as a general matter, its small business contracting regulations apply

regardless of the place of performance. In light of these changes, there is a need to amend the FAR, both to support the changes to SBA’s regulation, and to give agencies the tools they need, especially the ability to use set-asides to maximize opportunities for small businesses overseas.

Timetable:

Action	Date	FR Cite
NPRM	08/12/19	84 FR 39793
NPRM Comment Period End.	10/11/19	
Final Rule	01/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mahruba Uddowla, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 703 605–2868, *Email:* mahruba.uddowla@gsa.gov. *RIN:* 9000–AN34

381. Federal Acquisition Regulation (FAR); FAR Case 2016–011, Revision of Limitations on Subcontracting

E.O. 13771 Designation: Deregulatory. *Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to revise and standardize the limitations on subcontracting, including the nonmanufacturer rule, that apply to small business concerns under FAR part 19 procurements. This rule incorporates the Small Business Administration’s (SBA) final rule that implemented the statutory requirements of section 1651 of the National Defense Authorization Act (NDAA) for fiscal year 2013. This action is necessary to meet the Congressional intent of clarifying the limitations on subcontracting with which small businesses must comply, as well as the ways in which they can comply. The rule will benefit both small businesses and Federal agencies. The rule will allow small businesses to take advantage of subcontracts with similarly situated entities. As a result, these small businesses will be able to compete for larger contracts, which would positively affect their potential for growth as well as that of their potential subcontractors.

Timetable:

Action	Date	FR Cite
NPRM	12/04/18	83 FR 62540
NPRM Comment Period End.	02/04/19	
Final Rule	01/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mahruba Uddowla, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 703 605–2868, *Email:* mahruba.uddowla@gsa.gov.
RIN: 9000–AN35

382. Federal Acquisition Regulation (FAR); FAR Case 2017–003; Individual Sureties

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to change the kinds of assets that individual sureties must use as security for their individual surety bonds. This change implements section 874 of the National Defense Authorization Act (NDAA) for FY 2016 (Pub. L. 114–92), codified at 31 U.S.C. 9310, Individual Sureties. Individual sureties will no longer be able to pledge real property, corporate stocks, corporate bonds, or irrevocable letters of credit. The requirements of 31 U.S.C. 9310 are intended to strengthen the assets pledged by individual sureties, thereby mitigating risk to the Government.

Timetable:

Action	Date	FR Cite
NPRM	02/12/20	85 FR 7910
NPRM Comment Period End.	04/13/20	
Final Rule	01/00/21	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Zenaida Delgado, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969–7207, *Email:* zenaida.delgado@gsa.gov.
RIN: 9000–AN39

383. Federal Acquisition Regulation (FAR); FAR Case 2017–011, Section 508-Based Standards in Information and Communication Technology

E.O. 13771 Designation: Regulatory.
Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to incorporate recent revisions and updates to accessibility standards issued by the U.S. Access Board pursuant to section 508 of the Rehabilitation Act of 1973. This FAR change incorporates the U.S. Access Board’s final rule, “Information and Communication Technology (ICT) Standards and Guidelines,” which published on January 18, 2017. This rule updates the

FAR to ensure that the updated accessibility standards are appropriately considered in Federal ICT acquisitions.

Timetable:

Action	Date	FR Cite
NPRM	03/31/20	85 FR 17831
Correction	04/16/20	85 FR 21139
NPRM Comment Period End.	06/01/20	
Final Rule	01/00/21	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Camara Francis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 550–0935, *Email:* camara.francis@gsa.gov.
RIN: 9000–AN46

384. Federal Acquisition Regulation (FAR); FAR Case 2017–018, Violation of Arms Control Treaties or Agreements With the United States

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement section 1290(c)(3) of the National Defense Authorization Act (NDAA) for FY 2017, which requires an offeror or any of its subsidiaries to certify that it does not engage in any activity that contributed to or is a significant factor in the determination that a country is not in full compliance with its obligations undertaken in all arms control, nonproliferation, and disarmament agreements or commitments in which the United States is a participating state.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/15/18	83 FR 28145
Interim Final Rule Comment Period End.	08/14/18	
Final Rule	11/00/20	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 208–4949, *Email:* michaelo.jackson@gsa.gov.
RIN: 9000–AN57

385. Federal Regulation Acquisition (FAR); FAR Case 2017–019, Policy on Joint Ventures

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement regulatory changes made by the Small Business Administration (SBA), Small Business Mentor Protégé Programs, published on July 25, 2016 (81 FR 48557), regarding joint ventures and to clarify policy on 8(a) joint ventures. The regulatory changes provide industry with a new way to compete for small business or socioeconomic set-asides using a joint venture made up of a mentor and a protégé. The 8(a) joint venture clarification prevents confusion on an 8(a) joint venture’s eligibility to compete for an 8(a) competitive procurement.

Timetable:

Action	Date	FR Cite
NPRM	06/05/20	85 FR 34561
NPRM Comment Period End.	08/04/20	
Final Rule	06/00/21	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Malissa Jones, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 703 605–2815, *Email:* malissa.jones@gsa.gov.
RIN: 9000–AN59

386. Federal Acquisition Regulation (FAR); FAR Case 2018–016, Lowest Price Technically Acceptable Source Selection Process

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement section 880 of the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 to avoid using lowest price technically acceptable source selection criteria in circumstances that would deny the Government the benefits of cost and technical tradeoffs in the source selection process.

Timetable:

Action	Date	FR Cite
NPRM	10/02/19	84 FR 52425
NPRM Comment Period End.	12/02/19	
Final Rule	11/00/20	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA

(FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 208–4949, *Email:* michaelo.jackson@gsa.gov.
RIN: 9000–AN75

387. Federal Acquisition Regulation (FAR); FAR Case 2018–020, Construction Contract Administration

E.O. 13771 Designation: Not subject to, not significant.
Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113
Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement section 855 of the NDAA for FY 2019 (Pub. L. 115–232). Section 855 requires, for solicitations for construction contracts anticipated to be awarded to a small business, notification to prospective offerors regarding agency policies or practices in complying with FAR requirements relating to the timely definitization of requests for equitable adjustment and agency past performance in definitizing such requests.
Timetable:

Action	Date	FR Cite
NPRM	04/01/20	85 FR 18181
NPRM Comment Period End.	06/01/20	
Final Rule	04/00/21	

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Dana L. Bowman, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 202 357–9652, *Email:* dana.bowman@gsa.gov.
RIN: 9000–AN78

388. Federal Acquisition Regulation (FAR); FAR Case 2018–021, Reserve Officer Training Corps and Military Recruiting on Campus

E.O. 13771 Designation: Fully or Partially Exempt.
Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113
Abstract: DoD, GSA and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement the requirements at 10 U.S.C. 983, which prohibits the award of certain Federal contracts or grants to institutions of higher education that prohibit Senior Reserve Officer Training Corps units or military recruiting on campus.
Timetable:

Action	Date	FR Cite
NPRM	09/24/19	84 FR 49974
NPRM Comment Period End.	11/25/19	

Action	Date	FR Cite
Final Rule	10/23/20	85 FR 67619
Final Rule Effective.	11/23/20	

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Zenaida Delgado, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969–7207, *Email:* zenaida.delgado@gsa.gov.
RIN: 9000–AN79

389. Federal Acquisition Regulation (FAR); Far Case 2018–023, Taxes-Foreign Contracts in Afghanistan

E.O. 13771 Designation: Not subject to, not significant.
Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113
Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement the provisions on taxes, duties, and fees contained in the Security and Defense Cooperation Agreement (dated 2014) and the North Atlantic Treaty Organization Status of Forces Agreement (dated 2014) with the Islamic Republic of Afghanistan. Both Agreements exempt the United States Government, and its contractors and subcontractors (other than those who are Afghan legal entities or residents), from paying any tax or similar charge assessed on activities associated with contracts performed within Afghanistan. The Agreements also exempt the acquisition, importation, exportation, reexportation, transportation, and use of supplies and services in Afghanistan, by or on behalf of the United States Government, from any taxes, customs, duties, fees, or similar charges in Afghanistan.
Timetable:

Action	Date	FR Cite
NPRM	09/20/19	84 FR 49502
Correction	10/15/19	84 FR 55109
NPRM Comment Period End.	11/19/19	
Final Rule	10/23/20	85 FR 67623
Final Rule Effective.	11/23/20	

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Kevin Funk, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 357–5805, *Email:* kevin.funk@gsa.gov.
RIN: 9000–AN81

390. Federal Acquisition Regulation (FAR); FAR Case 2018–017, Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

E.O. 13771 Designation: Fully or Partially Exempt.
Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113
Abstract: DoD, GSA, and NASA amended the Federal Acquisition Regulation (FAR) to implement section 889 (a)(1)(A) of the National Defense Authorization Act (NDAA) for FY 19 (Pub. L. 115–232). Section 889(a)(1)(A) prohibits the Government from procuring covered telecommunications equipment and services from Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Technology Company, or Dahua Technology Company, to include any subsidiaries or affiliates. Provisions have been added to the FAR which require that an offeror represent at an entity level in SAM, and if applicable on an offer-by-offer basis, if the offeror will or will not provide any covered telecommunications equipment or services to the Government. If an offeror responds in an offer that it will provide covered telecommunications, the offeror will need to provide additional disclosures. This FAR rule is needed to protect U.S. networks against cyber activities conducted through Chinese Government-supported telecommunications equipment and services.
Timetable:

Action	Date	FR Cite
Interim Final Rule	08/13/19	84 FR 40216
Interim Final Rule Comment Period End.	10/15/19	
Interim Final Rule Effective.	12/13/19	84 FR 68314
Interim Final Rule Comment Period End.	12/13/19	
Interim Final Rule Comment Period End.	02/11/20	
Final Rule	03/00/21	

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: FAR Policy, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969–4075, *Email:* farpolicy@gsa.gov.
RIN: 9000–AN83

391. Federal Acquisition Regulation (FAR); FAR Case 2019–001, Analysis for Equipment Acquisitions

E.O. 13771 Designation: Other.
Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the FAR by implementing section 555 of the Federal Aviation Administration (FAA) Reauthorization Act for FY 2018 (Pub. L. 115–254), which requires equipment to be acquired using the method of acquisition most advantageous to the Government based on a case-by-case analysis of costs and other factors. Section 555 requires the methods of acquisition to be compared in the analysis to include, at a minimum: (1) Purchase; (2) long-term lease or rental; (3) short-term lease or rental; (4) interagency acquisition; or, (5) acquisition agreements with a State or local government. Section 555 exempts certain acquisitions from this required analysis.

Timetable:

Action	Date	FR Cite
NPRM	08/24/20	85 FR 52081
NPRM Comment Period End.	10/23/20	
Final Rule	04/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 208–4949, *Email:* michaelo.jackson@gsa.gov.

RIN: 9000–AN84

392. Federal Acquisition Regulation (FAR); FAR Case 2019–002, Recreational Services on Federal Lands

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to exempt contracts for seasonal recreational services and seasonal recreational equipment rental on Federal lands from the Executive Order 13658 minimum wage requirements. This rule implements Executive Order 13838 that was issued on May 25, 2018, and associated Department of Labor final rule published on September 26, 2018. In accordance with Executive Order 13838, this rule will not limit Executive Order 13658’s coverage of lodging and food services associated with seasonal recreational services, even when seasonal recreational services or seasonal recreational equipment rental are also provided under the same contract.

Timetable:

Action	Date	FR Cite
NPRM	10/21/19	84 FR 56157
NPRM Comment Period End.	12/20/19	
Final Rule	10/23/20	85 FR 67626
Final Rule Effective.	11/23/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kevin Funk, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 357–5805, *Email:* kevin.funk@gsa.gov. *RIN:* 9000–AN85

393. Federal Acquisition Regulation (FAR); FAR Case 2019–003, Substantial Bundling and Consolidation

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are amending the Federal Acquisition Regulation (FAR) to implement section 863 of the National Defense Authorization Acts (NDAA) for FY 2016 and the Small Business Administration (SBA) implementing regulations requiring publication of a notice of substantial bundling and a notice of consolidation of contract requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/27/20	85 FR 23299
NPRM Comment Period End.	06/26/20	
Final Rule	04/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dana Bowman, Procurement Analyst, DoD/GSA/NASA (FAR), DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 208–4949, *Email:* dana.bowman@gsa.gov. *RIN:* 9000–AN86

394. Federal Acquisition Regulation (FAR); FAR Case 2019–004, Good Faith in Small Business Subcontracting

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement section 1821 of the National Defense Authorization Act (NDAA) for FY 2017 and the Small Business Administration regulatory changes relating to small business subcontracting plans. Section 1821

requires examples of activities that would be considered a failure to make a good faith effort to comply with small business subcontracting plan requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/03/20	85 FR 34155
NPRM Comment Period End.	08/03/20	
Final Rule	05/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dana L. Bowman, Procurement Analyst, General Services Administration, 1800 F Street NW, Washington, DC 20405, *Phone:* 202 357–9652, *Email:* dana.bowman@gsa.gov. *RIN:* 9000–AN87

395. Federal Acquisition Regulation (FAR); FAR Case 2019–009, Prohibition on Contracting With Entities Using Certain Telecommunications and Video Surveillance Services or Equipment

E.O. 13771 Designation: Other. *Legal Authority:* 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are amending the Federal Acquisition Regulation (FAR) to implement paragraph (a)(1)(B) of section 889 of the National Defense Authorization Act (NDAA) for FY 19 (Pub. L. 115–232). Beginning two years from the enacted date, paragraph (a)(1)(B) of section 889 prohibits the Government from entering into a contract or extending or renewing a contract with an entity that uses any equipment, system, or service that uses covered telecommunications equipment and services from Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Technology Company, or Dahua Technology Company, to include any subsidiaries or affiliates. This FAR rule is needed to protect U.S. networks against cyber activities conducted through Chinese Government-supported telecommunications equipment and services. Paragraph (a)(1)(A) of section 889 is being implemented separately through FAR Case 2018–017.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/14/20	85 FR 42665
Interim Final Rule Effective.	08/13/20	
Interim Final Rule	08/27/20	85 FR 53126
Interim Final Rule Comment Period End.	09/14/20	
Interim Final Rule Comment Period End.	10/26/20	

Action	Date	FR Cite
Interim Final Rule Effective.	10/26/20	
Final Rule	05/00/21	

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: FAR Policy, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 969-4075, *Email:* farpolicy@gsa.gov.
RIN: 9000-AN92

396. Federal Acquisition Regulation (FAR); FAR Case 2020-006, Documentation of Market Research

E.O. 13771 Designation: Not subject to, not significant.
Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch 137; 51 U.S.C. 20113
Abstract: DoD, GSA, and NASA opened this case to implement section 818 of the NDAA for FY 2020. Section 818 amends 10 U.S.C. 2377(c) and 41 U.S.C. 3307(d) to require the head of the agency document the results of market research in a manner appropriate to the size and complexity of the acquisition.
Timetable:

Action	Date	FR Cite
Final Rule	10/23/20	85 FR 67623
Final Rule Effective.	11/23/20	

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Camara Francis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 550-0935, *Email:* camara.francis@gsa.gov.
RIN: 9000-AO09

397. Federal Acquisition Regulation (FAR); FAR Case 2020-011, Implementation of Issued Exclusion and Removal Orders

E.O. 13771 Designation: Other.
Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113
Abstract: This rule will amend the Federal Acquisition Regulation (FAR) to address implementation of issued exclusion and removal orders authorized by section 202 of the SECURE Technology Act (115 Pub. L. 390), which amends 41 U.S.C. 1323 by creating the Federal Acquisition Security Council (FASC) and authorizing the Secretary of Homeland Security, the Secretary of Defense, and the Director of National Intelligence to issue exclusion and removal orders, upon the recommendation of the FASC. These orders are issued to protect national security by excluding certain

covered products, services, or sources from the Federal supply chain.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/00/21	
Interim Final Rule Comment Period End.	03/00/21	

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Camara Francis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 202 550-0935, *Email:* camara.francis@gsa.gov.
RIN: 9000-AO13

398. Federal Acquisition Regulation (FAR); FAR Case 2020-012, Scope of Review by Procurement Center Representatives

E.O. 13771 Designation: Not subject to, not significant.
Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: The purpose of this new FAR case is to implement section 1811 of the National Defense Authorization Act for Fiscal Year 2017 (15 U.S.C. 644(l)(9)(A)), as implemented by the Small Business Administration's final rule published November 29, 2019 (84 FR 65647). 15 U.S.C. 644(l)(9)(A) allows procurement center representatives to review solicitations without regard to whether the contract or order is set aside for small business, or reserved in the case of a multiple-award contract, or whether the solicitation would result in a bundled or consolidated contract or order.

Timetable:

Action	Date	FR Cite
Direct Final Rule	04/00/21	
Direct Final Rule Comment Period End.	06/00/21	

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Malissa Jones, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW, Washington, DC 20405, *Phone:* 703 605-2815, *Email:* malissa.jones@gsa.gov.
RIN: 9000-AO16

DEPARTMENT OF DEFENSE/ GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Completed Actions

399. Federal Acquisition Regulation (FAR); FAR Case 2014-002; Set-Asides Under Multiple Award Contracts

E.O. 13771 Designation: Fully or Partially Exempt.
Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113
Abstract: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement regulatory changes made by the Small Business Administration, which provide Governmentwide policy for partial set-asides and reserves and for set-asides of orders for small business concerns under multiple-award contracts.
Completed:

Reason	Date	FR Cite
Final Rule Effective.	03/30/20	

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Mahruba Uddowla, *Phone:* 703 605-2868, *Email:* mahruba.uddowla@gsa.gov.
RIN: 9000-AM93

400. Federal Acquisition Regulation (FAR); FAR Case 2016-013, Tax on Certain Foreign Procurement

E.O. 13771 Designation: Not subject to, not significant.
Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 37; 51 U.S.C. 20113
Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement a final rule issued by the Department of the Treasury that implements section 301 of the James Zadroga 9/11 Health and Compensation Act of 2010, Public Law 111-347. This section imposes on any foreign person that receives a specified Federal procurement payment a tax equal to two percent of the amount of such payment. This rule applies to foreign persons that are awarded Federal Government contracts to provide goods or services.
completed:

Reason	Date	FR Cite
Final Rule	05/06/20	85 FR 27098
Final Rule Effective.	06/05/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Zenaida Delgado,
Phone: 202 969-7207, Email:
zenaida.delgado@gsa.gov.
RIN: 9000-AN38

401. Federal Acquisition Regulations (FAR); FAR Case 2015-002, Requirements for DD Form 254, Contract Security Classification Specification

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to require the use of Department of Defense (DoD) Wide Area Workflow (WAWF) for the electronic submission of the DD Form 254, "Contract Security Classification Specification." This form is used to convey security requirements regarding classified information to contractors and subcontractors and must be submitted to the Defense Security Services (DSS) when contractors or subcontractors require access to classified information under contracts awarded by agencies that are covered by the National Industrial Security Program (NISP). By changing the submittal process of the form from a manual process to an automated one, the Government will reduce the cost of maintaining the forms, while also providing a centralized repository for classified contract security requirements and supporting data.

Completed:

Reason	Date	FR Cite
Final Rule	07/02/20	85 FR 40061
Final Rule Effective.	08/03/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Curtis E. Glover,
Phone: 202 501-1448, Email:
curtis.glover@gsa.gov.
RIN: 9000-AN40

402. Federal Acquisition Regulation (FAR); FAR Case 2017-010, Evaluation Factors for Multiple-Award Contracts

E.O. 13771 Designation: Deregulatory.
Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement section 825 of the National Defense Authorization Act (NDAA) for FY 17 (Pub. L. 114-328). Section 825 amends 10 U.S.C. 2305(a)(3) to change the requirement regarding the consideration of cost or price to the

Government as a factor in the evaluation of proposals for certain multiple-award task order contracts awarded by DoD, NASA, or the Coast Guard. At the Government's discretion, solicitations for multiple-award contracts, which intend to award the same or similar services to each qualifying offeror, do not require price or cost as an evaluation factor for the base contract award. This rule will streamline the award of contracts for DoD, NASA, and the Coast Guard because they will not be required to consider cost or price in the evaluation of the award decision. Relieving the requirement to account for cost or price when evaluating proposals for these types of contracts, which feature competitive orders, will enable procurement officials to focus their energy on establishing and evaluating the non-price factors that will result in more meaningful distinctions among offerors.

Completed:

Reason	Date	FR Cite
Final Rule	07/02/20	85 FR 40068
Final Rule Effective.	08/03/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael O. Jackson,
Phone: 202 208-4949, Email:
michaelo.jackson@gsa.gov.
RIN: 9000-AN54

403. Federal Acquisition Regulation (FAR); FAR Case 2018-004; Increased Micro-Purchase and Simplified Acquisition Thresholds

E.O. 13771 Designation: Deregulatory.
Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the FAR to implement sections 805, 806, and 1702(a) of the National Defense Authorization Act (NDAA) for FY 2018. Section 805 increases the micro-purchase threshold (MPT) to \$10,000 and limits the use of convenience checks to not more than one half of the MPT amount (i.e., \$5,000). Section 806 increases the simplified acquisition threshold (SAT) to \$250,000. Section 1702(a) amends section 15(j)(1) of the Small Business Act (15 U.S.C. 644(j)(1)) to replace specific dollar thresholds with the terms "micro-purchase threshold" and "simplified acquisition threshold."

Completed:

Reason	Date	FR Cite
Final Rule	07/02/20	85 FR 40064

Reason	Date	FR Cite
Final Rule Effective.	08/31/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael O. Jackson,
Phone: 202 208-4949, Email:
michaelo.jackson@gsa.gov.
RIN: 9000-AN65

404. Federal Acquisition Regulation (FAR); FAR Case 2018-005, Modifications to Cost or Pricing Data and Reporting Requirements

E.O. 13771 Designation: Deregulatory.

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to increase the Truth in Negotiation Act (TINA) threshold to \$2 million and require other than certified cost or pricing data. The rule reduces the burden on contractors because they would not be required to certify their cost or pricing data between \$750,000 and \$2 million. This change implements section 811 of the National Defense Authorization Act (NDAA) for FY 2018. Section 811 modifies 10 U.S.C. 2306a and 41 U.S.C. 3502.

Completed:

Reason	Date	FR Cite
Final Rule	07/02/20	85 FR 40071
Final Rule Effective.	08/03/20	
Correction	08/28/20	85 FR 53247
Final Rule Effective.	08/28/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Zenaida Delgado,
Phone: 202 969-7207, Email:
zenaida.delgado@gsa.gov.
RIN: 9000-AN69

405. Federal Acquisition Regulation (FAR); FAR Case 2018-022; Orders Issued Via Fax or Electronic Commerce

E.O. 13771 Designation: Not subject to, not significant.

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule amending a Federal Acquisition Regulation (FAR) clause to permit the issuance of task or delivery orders via facsimile or electronic commerce and clarify when an order is considered "issued" when using these methods.

Completed:

Reason	Date	FR Cite
Final Rule	07/02/20	85 FR 40075
Final Rule Effective.	08/03/20	

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Curtis E. Glover, Phone: 202 501-1448, Email: curtis.glover@gsa.gov. RIN: 9000-AN80

406. Federal Acquisition Regulation (FAR); FAR Case 2019-013, Inflation Adjustment of Acquisition-Related Thresholds

E.O. 13771 Designation: Other.

Legal Authority: 40 U.S.C. 121(c) ; 10 U.S.C. ch. 137; 51 U.S.C. 20113
Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement the inflation adjustment of acquisition-related dollar thresholds. A statute (41 U.S.C. 1908) requires an adjustment every 5 years of acquisition-related thresholds for inflation using the Consumer Price Index for all urban consumers, except for the Construction Wage Rate Requirements statute (formerly Davis-Bacon Act), Service Contract Labor Standards statute, and trade agreements thresholds.

Completed:

Reason	Date	FR Cite
NPRM	06/30/20	85 FR 39146
Final Rule	10/02/20	85 FR 62485
Final Rule Effective.	10/01/20	

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Michael O. Jackson, Phone: 202 208-4949, Email: michaelo.jackson@gsa.gov. RIN: 9000-AN96

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Part XXI

Commodity Futures Trading Commission

Semiannual Regulatory Agenda

COMMODITY FUTURES TRADING COMMISSION

17 CFR Ch. I

Regulatory Flexibility Agenda

AGENCY: Commodity Futures Trading Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Commodity Futures Trading Commission (“Commission”), in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of rulemakings that the Commission expects to propose or promulgate over the next year. The Commission welcomes comments from small entities and others on the agenda.

FOR FURTHER INFORMATION CONTACT: Christopher J. Kirkpatrick, Secretary of the Commission, (202) 418–5964, ckirkpatrick@cftc.gov, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (“RFA”), 5 U.S.C. 601, *et seq.*, includes a requirement that each agency publish semiannually in the **Federal Register** a regulatory flexibility agenda. Such agendas are to contain the following elements, as specified in 5 U.S.C. 602(a):

1. A brief description of the subject area of any rule that the agency expects to propose or promulgate, which is likely to have a significant economic impact on a substantial number of small entities;

2. A summary of the nature of any such rule under consideration for each subject area listed in the agenda, the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

3. The name and telephone number of an agency official knowledgeable about the items listed in the agenda.

Accordingly, the Commission has prepared an agenda of rulemakings that

it presently expects may be considered during the course of the next year. Subject to a determination for each rule, it is possible as a general matter that some of these rules may have some impact on small entities.¹ The Commission notes also that, under the RFA, it is not precluded from considering or acting on a matter not included in the regulatory flexibility agenda, nor is it required to consider or act on any matter that is listed in the agenda. See 5 U.S.C. 602(d).

The Commission’s Fall 2020 regulatory flexibility agenda is included in the Unified Agenda of Federal Regulatory and Deregulatory Actions. The complete Unified Agenda will be available online at www.reginfo.gov, in a format that offers users enhanced ability to obtain information from the Agenda database.

Issued in Washington, DC, on September 15, 2020, by the Commission.

Christopher Kirkpatrick,
Secretary of the Commission.

COMMODITY FUTURES TRADING COMMISSION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
407	Regulation Automated Trading	3038–AD52

COMMODITY FUTURES TRADING COMMISSION (CFTC)

Completed Actions

407. Regulation Automated Trading

E.O. 13771 Designation: Independent agency.

¹ The Commission published its definition of a “small entity” for purposes of rulemaking proceedings at 47 FR 18618 (April 30, 1982). Pursuant to that definition, the Commission is not required to list—but nonetheless does—many of the items contained in this regulatory flexibility agenda. See also 5 U.S.C. 602(a)(1). Moreover, for certain items listed in this agenda, the Commission has previously certified, under section 605 of the RFA, 5 U.S.C. 605, that those items will not have a significant economic impact on a substantial number of small entities. For these reasons, the listing of a rule in this regulatory flexibility agenda should not be taken as a determination that the rule, when proposed or promulgated, will in fact require a regulatory flexibility analysis. Rather, the Commission has chosen to publish an agenda that includes significant and other substantive rules, regardless of their potential impact on small entities, to provide the public with broader notice of new or revised regulations the Commission may consider and to enhance the public’s opportunity to participate in the rulemaking process.

Legal Authority: 7 U.S.C. 1a(23); 7 U.S.C. 6c(a); 7 U.S.C. 7(d); 7 U.S.C. 12(a)(5)

Abstract: On November 7, 2016, the Commodity Futures Trading Commission (“Commission”) approved a supplemental notice of proposed rulemaking for Regulation AT (“Supplemental NPRM”). The Supplemental NPRM modified certain rules proposed in the Commission’s December 2015, notice of proposed rulemaking (NPRM) for Regulation AT. The Supplemental NPRM was published in the **Federal Register** on November 25, 2016, with a 90-day comment period closing on January 24, 2017. The Commission subsequently extended the comment period until May 1, 2017. The NPRM and Supplemental NPRM, through a set of proposed regulations collectively referred to as “Regulation AT,” would have required registration of certain market participants that engage in proprietary algorithmic trading; impose pre-trade risk control, testing, and certification

requirements on market participants, futures commission merchants, and/or designated contract markets; and set forth preservation and access obligations relating to algorithmic trading source code. The NPRM and Supplemental NPRM are withdrawn and superseded by Electronic Trading Risk Principles, 3038–AF04.

Completed:

Reason	Date	FR Cite
Withdrawn	07/15/20	85 FR 42755

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Marilee Dahlman, Phone: 202 418–5264, Email: mdahlman@cftc.gov.

Joseph Otchin, Phone: 202 418–5623, Email: jotchin@cftc.gov.

RIN: 3038–AD52

[FR Doc. 2021–04339 Filed 3–30–21; 8:45 am]

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Part XXII

Bureau of Consumer Financial Protection

Semiannual Regulatory Agenda

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Ch. X

Semiannual Regulatory Agenda

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Bureau of Consumer Financial Protection (Bureau) is publishing this agenda as part of the Fall 2020 Unified Agenda of Federal Regulatory and Deregulatory Actions. The Bureau reasonably anticipates having the regulatory matters identified below under consideration during the period from November 2020 to November 2021. The next agenda will be published in spring 2021 and will update this agenda through spring 2022. Publication of this agenda is in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

DATES: This information is current as of September 11, 2020.

ADDRESSES: Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552.

FOR FURTHER INFORMATION CONTACT: A staff contact is included for each regulatory item listed herein. If you require this document in an alternative electronic format, please contact CFPB_Accessibility@cfpb.gov.

SUPPLEMENTARY INFORMATION: The Bureau is publishing its fall 2020 Agenda as part of the Fall 2020 Unified Agenda of Federal Regulatory and Deregulatory Actions, which is coordinated by the Office of Management and Budget under Executive Order 12866. The agenda lists the regulatory matters that the Bureau reasonably anticipates having under consideration during the period from November 2020 to November 2021, as described further below.¹ The complete Unified Agenda is available to the public at the following website: <http://www.reginfo.gov>.

Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (Dodd-Frank Act), the Bureau has rulemaking, supervisory, enforcement, consumer education, and other authorities relating to consumer financial products and services. These authorities include the authority to issue regulations under more than a dozen Federal consumer financial laws,

which transferred to the Bureau from seven Federal agencies on July 21, 2011. The Bureau's general purpose, as specified in section 1021(a) of the Dodd-Frank Act, is to implement and enforce Federal consumer financial law consistently for the purpose of ensuring that all consumers have access to markets for consumer financial products and services and that markets for consumer financial products and services are fair, transparent, and competitive.

In addition, section 1021 of the Dodd-Frank Act specifies the objectives of the Bureau, including ensuring that, with respect to consumer financial products and services, consumers are provided with timely and understandable information to make responsible decisions about financial transactions; consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination; outdated, unnecessary, or unduly burdensome regulations are regularly identified and addressed in order to reduce unwarranted regulatory burdens; that Federal consumer financial law is enforced consistently, without regard to the status of a person as a depository institution, in order to promote fair competition; and markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.

As a general matter, the Bureau believes that it can best achieve these statutory purposes and objectives by using its various tools to focus on the prevention of consumer harm. With specific regard to rulemaking, the Bureau seeks to articulate clear rules of the road for regulated entities that promote compliance with the law, foster competition, increase transparency, and preserve fair markets for financial products and services. If Congress directs the Bureau to promulgate rules or address specific issues through rulemaking, the Bureau will comply with the law. If the Bureau has discretion, the Bureau will focus on preventing consumer harm by maximizing informed consumer choice, and by reducing unwarranted regulatory burden which can adversely affect competition and consumers' access to financial products and services. Consistent with these priorities and to enhance transparency, the Unified Agenda identifies the rulemaking activities in which the Bureau is likely to be engaged over the next 12 months and those that are contemplated in the ensuing year.

Rulemaking To Implement EGRRCPA

The Bureau is conducting the two remaining rulemakings mandated in the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018, Public Law 115–174, 132 Stat. 1297 (EGRRCPA). As part of these rulemakings, the Bureau is working to maximize consumer welfare and achieve other statutory objectives through protecting consumers from harm and minimizing regulatory burden, including facilitating industry compliance with rules.

First, section 307 of the EGRRCPA amends the Truth in Lending Act (TILA) to mandate that the Bureau prescribe certain regulations relating to “Property Assessed Clean Energy” (PACE) financing. As defined by EGRRCPA section 307, PACE financing results in a tax assessment on a consumer's real property and covers the costs of home improvements. The required regulations must carry out the purposes of TILA's ability-to-repay (ATR) requirements, currently in place for residential mortgage loans, with respect to PACE financing, and apply TILA's general civil liability provision for violations of the ATR requirements the Bureau will prescribe for PACE financing. The regulations must “account for the unique nature” of PACE financing. Section 307 of the EGRRCPA also specifically authorizes the collection of data and information necessary to support a PACE rulemaking. In March 2019 the Bureau issued an Advance Notice of Proposed Rulemaking (ANPRM) and is continuing to engage with stakeholders and collect information for the rulemaking, including by pursuing quantitative data on the effect of PACE on consumers' financial outcomes.

Second, section 108 of the EGRRCPA directs the Bureau to conduct a rulemaking to exempt from the escrow requirement loans made by certain creditors with assets of \$10 billion or less and meeting other criteria, adding to a 2013 rule issued by the Bureau under the Dodd-Frank Act that created an exemption for creditors with under \$2 billion in assets and meeting other criteria. In anticipation of future rulemaking activity, the Bureau conducted, and in late summer 2019 released, a preliminary analysis of the number of lenders potentially impacted by implementation of the new exemption in section 108 of EGRRCPA. This analysis showed that a limited number of additional lenders would be exempt under section 108 of EGRRCPA once implemented by rule. The Bureau issued a Notice of Proposed Rulemaking

¹ The listing does not include certain routine, frequent, or administrative matters. The Bureau is reporting information for this Unified Agenda in a manner consistent with past practice.

(NPRM) in July 2020 and expects to issue a final rule in early 2021.

Rulemakings To Implement the Dodd-Frank Act and Other Statutes

1. Continuation of Other Rulemakings

The Bureau is continuing certain other rulemakings described in its Spring 2020 Agenda to articulate clear rules of the road for regulated entities that promote compliance with the law, foster competition, increase transparency, and preserve fair markets for financial products and services.

Section 1071 of the Dodd-Frank Act amended the Equal Credit Opportunity Act to require, subject to rules prescribed by the Bureau, financial institutions to collect, report, and make public certain information concerning credit applications made by women-owned, minority-owned, and small businesses. The Bureau hosted a symposium on small business data collection in November 2019 to facilitate its decisionmaking. In addition, in July 2020, the Bureau released a survey of lenders to obtain estimates of one-time costs lenders of varying sizes would incur to collect and report data pursuant to section 1071. In September 2020, the Bureau released an outline of proposals under consideration and alternatives considered in advance of convening a panel under the Small Business Regulatory Enforcement Fairness Act (SBREFA), in conjunction with the Office of Management and Budget and the Small Business Administration's Chief Counsel for Advocacy, to obtain feedback from representatives of small businesses on the likely impacts the rules the Bureau is considering proposing to implement section 1071 would have on small entities. The Bureau expects to convene a SBREFA panel in October 2020 and consistent with the Bureau's statutory obligations under SBREFA, will complete the panel report within 60 days of the panel's convening.

In addition, to consider concerns about possible unwarranted regulatory burden, the Bureau also issued an ANPRM in May 2019 concerning certain data points that are reported under the 2015 Home Mortgage Disclosure Act (HMDA) rule and coverage of certain business or commercial purpose loans. The Bureau expects to issue an NPRM in early 2021 to follow up on the ANPRM. The Bureau also expects to issue an NPRM in early 2021 addressing the public disclosure of HMDA data in light of consumer privacy interests, so that stakeholders can concurrently consider and comment on the collection

and reporting of data points and public disclosure of those data points. This NPRM will follow up on the Bureau's 2018 final policy guidance regarding disclosure of the HMDA data. Until the Bureau promulgates a final rule, it anticipates that it will continue to disclose HMDA data in the manner detailed in the 2018 final policy guidance.

The Bureau also issued an NPRM in May 2019 that would prescribe rules under Regulation F to govern the activities of debt collectors, as that term is defined under the Fair Debt Collection Practices Act. The Bureau's proposal would, among other things, address communications in connection with debt collection; interpret and apply prohibitions on harassment or abuse, false or misleading representations, and unfair practices in debt collection; and clarify requirements for certain consumer-facing debt collection disclosures. The proposal builds on the Bureau's research and pre-rulemaking activities regarding the debt collection market; the conduct of debt collectors remains a top source of complaints to the Bureau. The Bureau expects to issue a final rule in October 2020 with regard to the May 2019 NPRM. The Bureau has also engaged in testing of time-barred debt disclosures that were not the focus of the May 2019 proposal. In early 2020, after completing the testing, the Bureau published a supplemental NPRM related to time-barred debt disclosures. The Bureau expects to issue a final rule in December 2020 addressing disclosures related to the validation notice and time-barred debt.

In July 2019, the Bureau issued an ANPRM to solicit information about possible amendments to the qualified mortgage provisions of Regulation Z, which implement provisions of TILA. With certain exceptions, Regulation Z requires creditors to make a reasonable, good faith determination of a consumer's ability to repay any residential mortgage loan, and loans that meet Regulation Z's requirements for "qualified mortgages" obtain certain protections from liability. One category of qualified mortgages (QMs) covers certain loans that are eligible for purchase or guarantee by either the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac). Under Regulation Z, this category of QMs (Temporary GSE QM or "Patch" loans) is scheduled to expire no later than January 10, 2021. In June, the Bureau proposed amendments to the definition of General QM that would move away from the 43 percent Debt-to-Income (DTI) requirement and instead

establish an alternative, such as a pricing threshold (*i.e.*, the difference between the loan's annual percentage rate (APR) and the average prime offer rate (APOR) for a comparable transaction) for loans to qualify as QMs. General QM loans would still have to meet the statutory criteria for QM status, including restrictions related to loan features, up-front costs, and underwriting. The Bureau also proposed in June 2020 to extend the Patch for a short period until the effective date of the proposed alternative or until one or more of the GSEs exits conservatorship, whichever comes first. This would help ensure a smooth and orderly transition away from the Patch by (among other things) allowing the Bureau to complete this rulemaking and to avoid any gap between the expiration of the Patch and the effective date of the proposed alternative. Finally, in August 2020 the Bureau proposed a new "seasoning" definition of QM. This definition would create an alternative pathway to QM safe-harbor status for certain mortgages when the borrower has consistently made timely payments for a period. The Bureau expects to take final action on each of these proposals later this year.

The Bureau is participating in interagency rulemaking processes with the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Federal Housing Finance Agency to develop regulations to implement the amendments made by the Dodd-Frank Act to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) concerning appraisals. The FIRREA amendments require implementing regulations for quality control standards for automated valuation models (AVMs). These standards are designed to ensure a high level of confidence in the estimates produced by the valuation models, protect against the manipulation of data, seek to avoid conflicts of interest, require random sample testing and reviews, and account for any other such factor that the Agencies determine to be appropriate. The Agencies will continue to work to develop a proposed rule to implement the Dodd-Frank Act's AVM amendments to FIRREA.

The Bureau is continuing a rulemaking to address the anticipated expiration of the LIBOR index, which the UK Financial Conduct Authority has stated that it cannot guarantee the publication of beyond the end of 2021. The Bureau's work is designed to facilitate compliance by open-end and

closed-end creditors and to lessen the financial impact to consumers by providing examples of replacement indices that meet Regulation Z requirements. For creditors for home equity lines of credit (HELOCs) (including reverse mortgages) and card issuers for credit card accounts, the rule would facilitate the transition of existing accounts to an alternative index, beginning around March 2021, well in advance of LIBOR's anticipated expiration. The rule also would address change-in-terms notice provisions for HELOCs and credit card accounts and how they apply to the transition away from LIBOR, to ensure that consumers are informed of the replacement index and any adjusted margin. To facilitate compliance by card issuers, the rule would address how the rate re-evaluation provisions applicable to credit card accounts apply to the transition from LIBOR to a replacement index. This rulemaking will enable the Bureau to facilitate compliance by creditors with Regulation Z as they transition away from LIBOR. The Bureau issued an NPRM in June 2020 and expects to issue a final rule in January 2021.

New Projects and Planning for Future Rulemakings

The Bureau anticipates issuing an NPRM in spring 2021 to consider possible amendments to the Bureau's mortgage servicing rules to address actions required of servicers working with borrowers affected by natural disasters or other emergencies. In January 2013, the Bureau issued final mortgage servicing rules, pursuant to Regulations X and Z, implementing numerous provisions of the Real Estate Settlement Procedures Act (RESPA) and TILA, as amended by title XIV of the Dodd-Frank Act. The Bureau has since made various corrections, clarifications, and other amendments to the January 2013 rules. In June 2020, the Bureau issued an Interim Final Rule (IFR) amending aspects of the mortgage servicing rules to address the exigencies of COVID-19. Comments received on the IFR and information gathered through the Bureau's market monitoring suggest that the rules may need additional updates to address natural disasters or other emergencies.

Section 1033 of the Dodd-Frank Act provides that, subject to rules prescribed by the Bureau, covered persons shall make available to consumers, upon request, transaction data and other information concerning a consumer financial product or service that the consumer obtains from a covered person. Section 1033 also states that the

Bureau shall prescribe by rule standards to promote the development and use of standardized formats for information made available to consumers. In November 2016, the Bureau issued a Request for Information seeking comment from the public to better understand the consumer benefits and risks associated with market developments that rely on access to consumer financial account and account-related information. In October 2017, the Bureau issued Consumer Protection Principles for Consumer-Authorized Financial Data Sharing and Aggregation to express the Bureau's vision for the data aggregation market. The Bureau hosted a symposium on consumer authorized financial data sharing in February 2020. In fall 2020, the Bureau expects to issue an Advance Notice of Proposed Rulemaking concerning consumer data access to implement section 1033 of the Dodd-Frank Act.

The Bureau has decided to add two new items to its long-term regulatory agenda. This portion of the agenda focuses on potential regulatory actions that an agency may engage in beyond the current fiscal year. First, the Bureau is adding an entry related to its TILA/RESPA Integrated Disclosures (TRID) rule. The Dodd-Frank Act directed the Bureau to integrate the mortgage disclosures required under TILA and RESPA. In November 2013, the Bureau issued a final rule to implement this requirement (the TILA/RESPA Integrated Disclosure or TRID rule). The Bureau amended the 2013 final rule on two occasions before its effective date, and the amended rule took effect on October 3, 2015. The Bureau subsequently amended the 2013 final rule in July 2017 and April 2018. The July 2017 Amendments took effect on October 10, 2017, and the April 2018 Amendments took effect on June 1, 2018. As noted below, in October 2020 the Bureau will publish a report of its assessment of the TRID rule, as amended when the rule took effect in October 2015, as required by section 1022(d) of the Dodd-Frank Act. The Bureau has received feedback—in response to a November 2019 Request for Information in connection with the TRID rule assessment, the Bureau's 2018 Calls for Evidence, and other Bureau outreach—suggesting that modifications of aspects of the TRID rule may make the rule more effective. As the Bureau continues to monitor market developments, the Bureau will evaluate possible policy responses to issues identified, including potential rulemaking, guidance, or other

activities. Possible topics for consideration will be determined based on the findings in the Bureau's assessment report as well as other input the Bureau receives on the TRID rule.

Second, the Bureau has commenced research that focuses on providing information to consumers about the costs associated with payday loans. The goal of this research is to identify possible ways the Bureau may be able to improve consumer understanding and aid consumer decisionmaking around payday loans through rulemaking or other actions. The first phase of this research involves qualitative testing, which the Bureau anticipates completing by the end of September 2021. The results of the qualitative testing will inform the Bureau in deciding whether and how to move forward with quantitative testing that might support possible future rulemaking or other actions related to payday loan disclosures.

The Bureau is also actively reviewing existing regulations. Section 1022(d) of the Dodd-Frank Act requires the Bureau to conduct an assessment of each significant rule or order adopted by the Bureau under Federal consumer financial law and publish a report of each assessment not later than 5 years after the effective date of the subject matter or order. The Bureau expects to complete an assessment of its TRID rule and certain amendments in October 2020.

The Regulatory Flexibility Act (RFA) also requires the Bureau to consider the effect on small entities of certain rules it promulgates. The Bureau published in May 2019 its plan for conducting reviews, consistent with section 610 of the RFA, of certain regulations which are believed to have a significant impact on a substantial number of small entities. Congress specified that the purpose of such reviews shall be to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the stated objectives of the applicable statutes, to minimize any significant economic impact of the rules upon a substantial number of such small entities. In August 2020 the Bureau commenced its review pursuant to section 610 of the RFA of Regulation Z rules that implement the Credit Card Accountability Responsibility and Disclosure Act of 2009. Specifically, the Bureau will review an interim final rule and three final rules published by the Board of Governors of the Federal Reserve System (Board) from July 2009 to April 2011.

Finally, as required by the Dodd-Frank Act, the Bureau is also continuing

to monitor markets for consumer financial products and services to identify risks to consumers and the proper functioning of such markets. As discussed in a recent report by the Government Accountability Office, the

Bureau's Division of Research, Markets, and Regulations and specifically its Markets Offices continuously monitor market developments and risks to consumers. The Bureau also has created a number of cross-Bureau working

groups focused around specific markets which advance the Bureau's market monitoring work. The Bureau's market monitoring work assists in identifying issues for potential future rulemaking work.

CONSUMER FINANCIAL PROTECTION BUREAU—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
408	Business Lending Data (Regulation B)	3170-AA09

CONSUMER FINANCIAL PROTECTION BUREAU—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
409	Debt Collection Rule	3170-AA41

CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

Prerule Stage

408. Business Lending Data (Regulation B)

E.O. 13771 Designation: Independent agency.

Legal Authority: 15 U.S.C. 1691c-2

Abstract: Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amended the Equal Credit Opportunity Act (ECOA) to require, subject to rules prescribed by the Bureau, financial institutions to report information concerning credit applications made by women-owned, minority-owned, and small businesses. The amendments to ECOA made by the Dodd-Frank Act require that certain data be collected, maintained, and reported, including the number of the application and date the application was received; the type and purpose of the loan or credit applied for; the amount of credit applied for and approved; the type of action taken with regard to each application and the date of such action; the census tract of the principal place of business; the gross annual revenue of the business; and the race, sex, and ethnicity of the principal owners of the business. The Dodd-Frank Act also provides authority for the Bureau to require any additional data that the Bureau determines would aid in fulfilling the purposes of this section. The Bureau may adopt exceptions to any requirement of section 1071 and may exempt any financial institution from its requirements, as the Bureau deems necessary or appropriate to carry out section 1071's purposes. The Bureau issued a Request for Information in 2017 seeking public comment on, among other things, the types of credit products

offered and the types of data currently collected by lenders in this market, and the potential complexity, cost of, and privacy issues related to, small business data collection. In November 2019, the Bureau hosted a symposium on small business data collection to facilitate its decision-making. The symposium explored how to efficiently collect appropriate data without imposing unnecessary or undue costs that could limit access to credit from existing market participants or discourage new entrants into the market for small business credit. The information received in response to the Request for Information and the symposium will help the Bureau as it determines how to implement the statute efficiently while minimizing burdens on lenders. In addition, in July 2020, the Bureau released a survey of lenders to obtain estimates of one-time costs lenders of varying sizes would incur to collect and report data pursuant to section 1071. In September 2020, the Bureau released an outline of proposals under consideration and alternatives considered in advance of convening a panel under the Small Business Regulatory Enforcement Fairness Act (SBREFA), in conjunction with the Office of Management and Budget and the Small Business Administration's Chief Counsel for Advocacy. Through this SBREFA process, the Bureau will obtain feedback from representatives of small businesses on the likely impacts the rules the Bureau is considering to implement section 1071 would have on small entities. The Bureau convened a SBREFA panel in October 2020 and consistent with the Bureau's statutory obligations under SBREFA, will complete the panel report within 60 days of the panel's convening.

Timetable:

Action	Date	FR Cite
Request for Information.	05/15/17	82 FR 22318
Request for Information Comment Period End.	09/14/17	
Pre-rule Activity—SBREFA Outline.	09/15/20	
Pre-rule Activity—SBREFA Report.	12/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kristine Andreassen, Office of Regulations, Consumer Financial Protection Bureau, Washington, DC 20552, *Phone:* 202 435-7700.

RIN: 3170-AA09

CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

Final Rule Stage

409. Debt Collection Rule

E.O. 13771 Designation: Independent agency.

Legal Authority: 15 U.S.C. 1692l(d)

Abstract: In May 2019, the Bureau issued a Notice of Proposed Rulemaking (NPRM), which would prescribe rules under Regulation F to govern the activities of debt collectors, as that term is defined under the Fair Debt Collection Practices Act (FDCPA). The Bureau's proposal would, among other things, address communications in connection with debt collection; interpret and apply prohibitions on harassment or abuse, false or misleading representations, and unfair practices in debt collection; and clarify requirements

for certain consumer-facing debt collection disclosures. The proposal builds on the Bureau’s research and pre-rulemaking activities regarding the debt collection market, including convening a panel in August 2016 under the Small Business Regulatory Enforcement Fairness Act (SBREFA) in conjunction with the Office of Management and Budget and the Small Business Administration’s Chief Counsel for Advocacy. The conduct of debt collectors remains a top source of complaints to the Bureau. The Bureau expects to issue a final rule in October 2020 with regard to the May 2019 NPRM. The Bureau has also engaged in testing of time-barred debt disclosures that were not addressed in the May 2019 proposed rule. In early 2020, after completing the testing, the Bureau issued a supplemental NPRM related to time-barred debt disclosures. The Bureau expects to issue a final rule in December 2020 addressing disclosures

related to the validation notice and time-barred debt.

Timetable:

Action	Date	FR Cite
ANPRM	11/12/13	78 FR 67847
ANPRM Comment Period Extended.	01/14/14	79 FR 2384
ANPRM Comment Period End.	02/10/14	
ANPRM Comment Period Extended End.	02/28/14	
Pre-Rule Activity—SBREFA Outline.	07/28/16	
NPRM	05/21/19	84 FR 23274
NPRM Comment Period Extended.	08/02/19	84 FR 37806
NPRM Comment Period End.	08/19/19	
NPRM Comment Period Extended End.	09/18/19	

Action	Date	FR Cite
Supplemental NPRM.	03/03/20	85 FR 12672
Supplemental NPRM Comment Period Extended.	03/27/20	85 FR 17299
Supplemental NPRM Comment Period Extended End.	08/04/20	
Final Rule 1	11/00/20	
Final Rule 2—Disclosures.	12/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kristin McPartland, Office of Regulations, Consumer Financial Protection Bureau, Washington, DC 20552, *Phone:* 202 435–7700.

RIN: 3170–AA41

[FR Doc. 2021–04346 Filed 3–30–21; 8:45 am]

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Part XXIII

Consumer Product Safety Commission

Semiannual Regulatory Agenda

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Chapter II

Semiannual Regulatory Agenda

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: In this document, the Commission publishes its semiannual regulatory flexibility agenda. In addition, this document includes an agenda of regulatory actions that the Commission expects to be under development or review by the agency during the next year. This document meets the requirements of the Regulatory Flexibility Act and Executive Order 12866.

DATES: The Commission welcomes comments on the agenda and on the individual agenda entries. Submit comments to the Division of the Secretariat on or before April 30, 2021.

ADDRESSES: Caption comments on the regulatory agenda, "Regulatory Flexibility Agenda." You can submit comments by email to: *cpsc-os@cpsc.gov*. You can also submit comments by mail or delivery to the Division of the Secretariat, U.S. Consumer Product Safety Commission, Room 820, 4330 East-West Highway, Bethesda, MD 20814-4408.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda, in general, contact Meridith L. Kelsch, Office of the General Counsel, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814-4408, *mkelsch@cpsc.gov*. For further information regarding a particular item on the agenda, contact the person listed in the column titled, "Contact," for that particular item.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (RFA; 5 U.S.C. 601-612) contains several provisions intended to reduce unnecessary and disproportionate

regulatory requirements on small businesses, small governmental organizations, and other small entities. Section 602 of the RFA requires each agency to publish, twice a year, a regulatory flexibility agenda containing "a brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities." 5 U.S.C. 602. The agency must provide a summary of the nature of the rule, the objectives and legal basis for the rule, and an approximate schedule for acting on each rule for which the agency has issued a notice of proposed rulemaking. *Id.* In addition, the regulatory flexibility agenda must contain the name and telephone number of an agency official who is knowledgeable about the items listed. *Id.* Agencies must attempt to provide notice of their agendas to small entities and solicit their comments, by directly notifying them, or by including the agenda in publications that small entities are likely to obtain. *Id.*

In addition, Executive Order 12866, *Regulatory Planning and Review* (Sept. 30, 1993), requires each agency to publish, twice a year, a regulatory agenda of regulations under development or review during the next year. 58 FR 51735 (Oct. 4, 1993). The Executive Order states that agencies may combine this agenda with the regulatory flexibility agenda required under the RFA. The agenda required by Executive Order 12866 must include all of the regulatory activities the agency expects to be under development or review during the next 12 months, regardless of whether they may have a significant economic impact on a substantial number of small entities. This agenda also includes regulatory activities that the Commission listed in the spring 2020 agenda and has completed prior to publishing this agenda.

The agenda contains a brief description and summary of each

regulatory activity, including the objectives and legal basis for each; an approximate schedule of target dates, subject to revision, for the development or completion of each activity; and the name and telephone number of an agency official who is knowledgeable about items in the agenda.

The internet is the primary means for disseminating the Unified Agenda. The complete Unified Agenda will be available online at: *www.reginfo.gov*, in a format that allows users to obtain information from the agenda database.

Because agencies must publish in the **Federal Register** the regulatory flexibility agenda required by the RFA (5 U.S.C. 602), the Commission's printed agenda entries include only:

- (1) Rules that are in the agency's regulatory flexibility agenda, in accordance with the RFA, because they are likely to have a significant economic impact on a substantial number of small entities; and
- (2) Rules that the agency has identified for periodic review under section 610 of the RFA.

The entries in the Commission's printed agenda are limited to fields that contain information that the RFA requires in an agenda. Additional information on these entries is available in the Unified Agenda published on the internet.

The agenda reflects the Commission's assessment of the likelihood that the specified event will occur during the next year; the precise dates for each rulemaking are uncertain. New information, changes of circumstances, or changes in the law, may alter anticipated timing. In addition, you should not infer from this agenda a final determination by the Commission or its staff regarding the need for, or the substance of, any rule or regulation.

Alberta E. Mills,
Secretary, Consumer Product Safety Commission.

CONSUMER PRODUCT SAFETY COMMISSION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
410	Regulatory Options for Table Saws (Reg Plan Seq No. 124)	3041-AC31
411	Recreational Off-Road Vehicles	3041-AC78

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

CONSUMER PRODUCT SAFETY COMMISSION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
412	Portable Generators	3041-AC36

CONSUMER PRODUCT SAFETY COMMISSION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
413	Standard for Gates and Other Enclosures	3041-AD44

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Final Rule Stage

410. Regulatory Options for Table Saws

Regulatory Plan: This entry is Seq. No. 124 in part II of this issue of the **Federal Register**.
RIN: 3041-AC31

411. Recreational Off-Road Vehicles

E.O. 13771 Designation: Independent agency.
Legal Authority: 15 U.S.C. 2056; 15 U.S.C. 2058
Abstract: The Commission is considering whether recreational off-road vehicles (ROVs) present an unreasonable risk of injury that should be regulated. Staff conducted testing and evaluation programs to develop performance requirements addressing vehicle stability, vehicle handling, and occupant protection. In 2014, the Commission issued an NPRM proposing standards addressing vehicle stability, vehicle handling, and occupant protection. Congress directed in fiscal year 2016, and reaffirmed in subsequent fiscal year appropriations, that none of the amounts made available by the Appropriations Bill may be used to finalize or implement the proposed Safety Standard for Recreational Off-Highway Vehicles until after the National Academy of Sciences completes a study to determine specific information as set forth in the Appropriations Bill. Staff ceased work on a Final Rule briefing package and instead engaged the Recreational Off-Highway Vehicle Association (ROHVA) and Outdoor Power Equipment Institute (OPEI) in the development of voluntary standards for ROVs. Staff conducted dynamic and static tests on ROVs, shared test results with ROHVA and OPEI, and participated in the development of revised voluntary standards to address staff's concerns with vehicle stability, vehicle handling, and occupant protection. The voluntary standards for ROVs were revised and published in 2016 (ANSI/ROHVA 1-2016 and ANSI/OPEI B71.9-2016). Staff assessed the new voluntary standard requirements and prepared a termination of rulemaking briefing package that was submitted to the Commission on November 22, 2016. The Commission voted not to terminate the

rulemaking associated with ROVs. In the FY 2020 Operating Plan, the Commission directed staff to prepare a rulemaking termination briefing package. Staff is working on a rulemaking termination briefing package.
Timetable:

Action	Date	FR Cite
Staff Sends ANPRM Briefing Package to Commission.	10/07/09	
Commission Decision.	10/21/09	
ANPRM	10/28/09	74 FR 55495
ANPRM Comment Period Extended.	12/22/09	74 FR 67987
Extended Comment Period End.	03/15/10	
Staff Sends NPRM Briefing Package to Commission.	09/24/14	
Staff Sends Supplemental Information on ROVs to Commission.	10/17/14	
Commission Decision.	10/29/14	
NPRM Published in Federal Register .	11/19/14	79 FR 68964
NPRM Comment Period Extended.	01/23/15	80 FR 3535
Extended Comment Period End.	04/08/15	
Staff Sends Briefing Package Assessing Voluntary Standards to Commission.	11/22/16	
Commission Decision Not to Terminate.	01/25/17	
Staff Sends Briefing Package to Commission.	11/00/20	

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Caroleene Paul, Project Manager, Directorate for Engineering Sciences, Consumer Product Safety Commission, National Product Testing and Evaluation Center, 5 Research Place, Rockville, MD 20850,

Phone: 301 987-2225, *Email:* cpaul@cpsc.gov.
RIN: 3041-AC78

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Long-Term Actions

412. Portable Generators

E.O. 13771 Designation: Independent agency.
Legal Authority: 15 U.S.C. 2051
Abstract: In 2006, the Commission issued an advance notice of proposed rulemaking (ANPRM) under the Consumer Product Safety Act (CPSA) concerning portable generators. The ANPRM discussed regulatory options that could reduce deaths and injuries related to portable generators, particularly those involving carbon monoxide (CO) poisoning. In FY 2006, staff awarded a contract to develop a prototype generator engine with reduced CO in the exhaust. Also, in FY 2006, staff entered into an interagency agreement (IAG) with the National Institute of Standards and Technology (NIST) to conduct tests with a generator, in both off-the-shelf and prototype configurations, operating in the garage attached to NIST's test house. In FY 2009, staff entered into a second IAG with NIST with the goal of developing CO emission performance requirements for a possible proposed regulation that would be based on health effects criteria. After additional staff and contractor work, the Commission issued a notice of proposed rulemaking (NPRM) in 2016, proposing a performance standard that would limit the CO emissions from operating portable generators. In 2018, two voluntary standards adopted different CO mitigation requirements intended to address the CO poisoning hazard associated with portable generators. Staff developed a simulation and analysis plan to evaluate the effectiveness of those voluntary standards' requirements. In 2019, the Commission sought public comments on staff's plan. Staff considered those comments and revised the plan and is now executing it. In August 2020, staff submitted to the Commission a draft notice of availability of the modified plan for evaluating the voluntary

standards; the Commission published the notice of availability in August 2020.

Timetable:

Action	Date	FR Cite
Staff Sent ANPRM to Commission.	07/06/06	
Staff Sent Supplemental Material to Commission.	10/12/06	
Commission Decision.	10/26/06	
Staff Sent Draft ANPRM to Commission.	11/21/06	
ANPRM	12/12/06	71 FR 74472
ANPRM Comment Period End.	02/12/07	
Staff Releases Research Report for Comment.	10/10/12	
NPRM	11/21/16	81 FR 83556
NPRM Comment Period Extended.	12/13/16	81 FR 89888
Public Hearing for Oral Comments.	03/08/17	82 FR 8907
NPRM Comment Period End.	04/24/17	
Staff Sends Notice of Availability to the Commission.	06/26/19	
Commission Decision.	07/02/19	
Notice of Availability.	07/09/19	84 FR 32729
Staff Sends Notice of Availability to Commission.	08/12/20	
Commission Decision.	08/19/20	
Notice of Availability.	08/24/20	85 FR 52096

Action	Date	FR Cite
Staff Report on Evaluation of Voluntary Standards.		To Be Determined

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Janet L. Buyer, Project Manager, Directorate for Engineering Sciences, Consumer Product Safety Commission, National Product Testing and Evaluation Center, 5 Research Place, Rockville, MD 20850, Phone: 301 987-2293, Email: jbuyer@cpsc.gov.
RIN: 3041-AC36

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Completed Actions

413. Standard for Gates and Other Enclosures

E.O. 13771 Designation: Independent agency.
Legal Authority: Pub. L. 110-314, sec. 104
Abstract: Section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA) requires the Commission to issue consumer product safety standards for durable infant or toddler products. The Commission is directed to assess the effectiveness of applicable voluntary standards, and in accordance with the Administrative Procedure Act, promulgate consumer product safety standards that are the same as the voluntary standard or more stringent than the voluntary standard if the Commission determines that more stringent standards would further

reduce the risk of injury associated with the product. The Commission issued a notice of proposed rulemaking (NPRM) for gates and enclosures as part of this series of standards for durable infant or toddler products. Staff provided a final rule briefing package to the Commission in May 2020, and the Commission voted to approve the final rule, which was published in the **Federal Register** in July 2020. The final rule becomes effective in July 2021.

Timetable:

Action	Date	FR Cite
Staff Sends NPRM Briefing Package to Commission.	06/19/19	
Commission Decision.	06/25/19	
NPRM	07/08/19	84 FR 32346
Staff Sends Final Rule Briefing Package to Commission.	05/27/20	
Commission Decision.	06/02/20	
Final Rule	07/06/20	85 FR 40100
Final Rule Effective.	07/06/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Hope Nesteruk, Project Manager, Directorate for Engineering Sciences, Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850, Phone: 301 987-2579, Email: hnesteruk@cpsc.gov.

RIN: 3041-AD44

[FR Doc. 2021-04330 Filed 3-30-21; 8:45 am]

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Part XXIV

Federal Communications Commission

Semiannual Regulatory Agenda

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

Unified Agenda of Federal Regulatory and Deregulatory Actions—Fall 2020

AGENCY: Federal Communications Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: Twice a year, in spring and fall, the Commission publishes in the **Federal Register** a list in the Unified Agenda of those major items and other significant proceedings under development or review that pertain to the Regulatory Flexibility Act (U.S.C. 602). The Unified Agenda also provides the Code of Federal Regulations citations and legal authorities that govern these proceedings. The complete Unified Agenda will be published on the internet in a searchable format at www.reginfo.gov.

ADDRESSES: Federal Communications Commission, 445 12th Street SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Maura McGowan, Telecommunications Policy Specialist, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, (202) 418-0990.

SUPPLEMENTARY INFORMATION:

Unified Agenda of Major and Other Significant Proceedings

The Commission encourages public participation in its rulemaking process. To help keep the public informed of significant rulemaking proceedings, the Commission has prepared a list of important proceedings now in progress. The General Services Administration publishes the Unified Agenda in the **Federal Register** in the spring and fall of each year.

The following terms may be helpful in understanding the status of the proceedings included in this report:

Docket Number—assigned to a proceeding if the Commission has issued either a Notice of Proposed Rulemaking or a Notice of Inquiry concerning the matter under consideration. The Commission has used docket numbers since January 1, 1978. Docket numbers consist of the last two digits of the calendar year in which the docket was established plus a sequential number that begins at 1 with the first docket initiated during a calendar year (e.g., Docket No. 15-1 or Docket No. 17-1). The abbreviation for the responsible bureau usually precedes the docket number, as in “MB Docket No. 17-289,” which indicates that the responsible bureau is the Media Bureau. A docket number consisting of only five digits (e.g., Docket No. 29622) indicates that the docket was established before January 1, 1978.

Notice of Inquiry (NOI)—issued by the Commission when it is seeking information on a broad subject or trying to generate ideas on a given topic. A comment period is specified during which all interested parties may submit comments.

Notice of Proposed Rulemaking (NPRM)—issued by the Commission when it is proposing a specific change to Commission rules and regulations. Before any changes are actually made, interested parties may submit written comments on the proposed revisions.

Further Notice of Proposed Rulemaking (FNPRM)—issued by the Commission when additional comment in the proceeding is sought.

Memorandum Opinion and Order (MO&O)—issued by the Commission to deny a petition for rulemaking, conclude an inquiry, modify a decision, or address a petition for reconsideration of a decision.

Rulemaking (RM) Number—assigned to a proceeding after the appropriate bureau or office has reviewed a petition for rulemaking, but before the Commission has taken action on the petition.

Report and Order (R&O)—issued by the Commission to state a new or amended rule or state that the Commission rules and regulations will not be revised.

Marlene H. Dortch,
Secretary, Federal Communications Commission.

CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
414	Rules and Regulations Implementing the Telephone Consumer Protection Act (TCPA) of 1991 (CG Docket No. 02-278).	3060-AI14
415	Rules and Regulations Implementing Section 225 of the Communications Act (Telecommunications Relay Service) (CG Docket No. 03-123).	3060-AI15
416	Structure and Practices of the Video Relay Service (VRS) Program (CG Docket No. 10-51)	3060-AJ42
417	Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services; CG Docket No. 13-24.	3060-AK01
418	Advanced Methods to Target and Eliminate Unlawful Robocalls (CG Docket No. 17-59)	3060-AK62

ECONOMICS—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
419	Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans.	3060-AJ15
420	Universal Service Reform Mobility Fund (WT Docket No. 10-208)	3060-AJ58
421	Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions (GN Docket No. 12-268).	3060-AJ82

OFFICE OF ENGINEERING AND TECHNOLOGY—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
422	Encouraging the Provision of New Technologies and Services to the Public (GN Docket No. 18–22)	3060–AK80
423	Spectrum Horizon (ET Docket No. 18–21)	3060–AK81
424	Use of the 5.850–5.925 GHz Band (ET Docket No. 19–138)	3060–AK96

INTERNATIONAL BUREAU—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
425	International Settlements Policy Reform (IB Docket No. 11–80)	3060–AJ77
426	Update to Parts 2 and 25 Concerning NonGeostationary, Fixed-Satellite Service Systems, and Related Matters: IB Docket No. 16–408.	3060–AK59
427	Amendment of Parts 2 and 25 of the FCC Rules to Facilitate the Use of Earth Stations in Motion Communicating With Geostationary Orbit Space Stations in FSS Bands: IB Docket No. 17–95.	3060–AK84
428	Further Streamlining Part 25 Rules Governing Satellite Services: IB Docket No. 18–314	3060–AK87
429	Facilitating the Communications of Earth Stations in Motion With Non-Geostationary Orbit Space Stations: IB Docket No. 18–315.	3060–AK89
430	Mitigation of Orbital Debris in the New Space Age: IB Docket No. 18–313	3060–AK90
431	Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership (IB Docket No. 16–155).	3060–AL12

INTERNATIONAL BUREAU—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
432	Streamlining Licensing Procedures for Small Satellites; IB Docket No. 18–86	3060–AK88

MEDIA BUREAU—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
433	Authorizing Permissive Use of the “Next Generation” Broadcast Television Standard (GN Docket No. 16–142).	3060–AK56
434	2018 Quadrennial Regulatory Review of the Commission’s Broadcast Ownership Rules (MB Docket 18–349).	3060–AK77
435	Children’s Television Programming Rules (MB Docket 18–202)	3060–AK78
436	Amendment of Part 74 of the Commission’s Rules Regarding FM Translator Interference (MB Docket 18–119).	3060–AK79
437	Equal Employment Opportunity Enforcement (MB Docket 19–177)	3060–AK86
438	Revision of the Commission’s Part 76 Review Procedures (MB Docket No. 20–70)	3060–AL08
439	Significantly Viewed Stations (MB Docket No. 20–73)	3060–AL09
440	Promoting Broadcast Internet Innovation through ATSC 3.0 (MB Docket No. 20–145)	3060–AL10

OFFICE OF MANAGING DIRECTOR—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
441	Assessment and Collection of Regulatory Fees	3060–AK64

PUBLIC SAFETY AND HOMELAND SECURITY BUREAU—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
442	Wireless E911 Location Accuracy Requirements: PS Docket No. 07–114	3060–AJ52
443	Improving Outage Reporting for Submarine Cables and Enhancing Submarine Cable Outage Data; GN Docket No. 15–206.	3060–AK39
444	Amendments to Part 4 of the Commission’s Rules Concerning Disruptions to Communications: PS Docket No. 15–80.	3060–AK40
445	New Part 4 of the Commission’s Rules Concerning Disruptions to Communications; ET Docket No. 04–35	3060–AK41
446	Wireless Emergency Alerts (WEA): PS Docket No. 15–91	3060–AK54
447	Blue Alert EAS Event Code	3060–AK63

WIRELESS TELECOMMUNICATIONS BUREAU—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
448	Amendment of Parts 1, 2, 22, 24, 27, 90, and 95 of the Commission's Rules to Improve Wireless Coverage Through the Use of Signal Boosters (WT Docket No. 10-4).	3060-AJ87
449	Amendment of the Commission's Rules Governing Certain Aviation Ground Station Equipment (Squitter) (WT Docket Nos. 10-61 and 09-42).	3060-AJ88
450	Promoting Technological Solutions to Combat Wireless Contraband Device Use in Correctional Facilities; GN Docket No. 13-111.	3060-AK06
451	Promoting Investment in the 3550-3700 MHz Band; GN Docket No. 17-258	3060-AK12
452	Use of Spectrum Bands Above 24 GHz for Mobile Services—Spectrum Frontiers: WT Docket 10-112	3060-AK44
453	Transforming the 2.5 GHz Band	3060-AK75
454	Expanding Flexible Use of the 3.7 to 4.2 GHz Band; GN Docket No. 18-122	3060-AK76
455	Amendment of the Commission's Rules to Promote Aviation Safety: WT Docket No. 19-140	3060-AK92

WIRELINE COMPETITION BUREAU—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
456	Local Telephone Networks That LECs Must Make Available to Competitors	3060-AH44
457	Numbering Resource Optimization	3060-AH80
458	Jurisdictional Separations	3060-AJ06
459	Rural Call Completion; WC Docket No. 13-39	3060-AJ89
460	Rates for Inmate Calling Services; WC Docket No. 12-375	3060-AK08
461	Comprehensive Review of the Part 32 Uniform System of Accounts (WC Docket No. 14-130)	3060-AK20
462	Restoring Internet Freedom (WC Docket No. 17-108); Protecting and Promoting the Open Internet (GN Docket No. 14-28).	3060-AK21
463	Technology Transitions; GN Docket No 13-5, WC Docket No. 05-25; Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment; WC Docket No. 17-84.	3060-AK32
464	Implementation of the Universal Service Portions of the 1996 Telecommunications Act	3060-AK57
465	Toll Free Assignment Modernization and Toll Free Service Access Codes: WC Docket No. 17-192, CC Docket No. 95-155.	3060-AK91
466	Call Authentication Trust Anchor	3060-AL00
467	Implementation of the National Suicide Improvement Act of 2018	3060-AL01
468	Modernizing Unbundling and Resale Requirements in an Era of Next-Generation Networks and Services	3060-AL02
469	Eliminating Ex Ante Pricing Regulation and Tariffing of Telephone Access Charges (WC Docket 20-71) ...	3060-AL03

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Consumer and Governmental Affairs Bureau

Long-Term Actions

414. Rules and Regulations Implementing the Telephone Consumer Protection Act (TCPA) of 1991 (CG Docket No. 02-278)

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 227

Abstract: In this docket, the Commission considers rules and policies to implement the Telephone Consumer Protection Act of 1991 (TCPA). The TCPA places requirements on robocalls (calls using an automatic telephone dialing system, an autodialer, a prerecorded or, an artificial voice), telemarketing calls, and unsolicited fax advertisements.

Timetable:

Action	Date	FR Cite
NPRM	10/08/02	67 FR 62667
FNPRM	04/03/03	68 FR 16250
Order	07/25/03	68 FR 44144

Action	Date	FR Cite
Order Effective	08/25/03	
Order on Reconsideration.	08/25/03	68 FR 50978
Order	10/14/03	68 FR 59130
FNPRM	03/31/04	69 FR 16873
Order	10/08/04	69 FR 60311
Order	10/28/04	69 FR 62816
Order on Reconsideration.	04/13/05	70 FR 19330
Order	06/30/05	70 FR 37705
NPRM	12/19/05	70 FR 75102
Public Notice	04/26/06	71 FR 24634
Order	05/03/06	71 FR 25967
NPRM	12/14/07	72 FR 71099
Declaratory Ruling	02/01/08	73 FR 6041
R&O	07/14/08	73 FR 40183
Order on Reconsideration.	10/30/08	73 FR 64556
NPRM	03/22/10	75 FR 13471
R&O	06/11/12	77 FR 34233
Public Notice	06/30/10	75 FR 34244
Public Notice (Reconsideration Petitions Filed).	10/03/12	77 FR 60343
Announcement of Effective Date.	10/16/12	77 FR 63240
Opposition End Date.	10/18/12	
Rule Corrections	11/08/12	77 FR 66935
Declaratory Ruling (release date).	11/29/12	

Action	Date	FR Cite
Declaratory Ruling (release date).	05/09/13	
Declaratory Ruling and Order.	10/09/15	80 FR 61129
NPRM	05/20/16	81 FR 31889
Declaratory Ruling R&O	07/05/16	
	11/16/16	81 FR 80594
Declaratory Ruling	12/06/19	
Declaratory Ruling	12/09/19	
Order	03/17/20	
Declaratory Ruling	03/20/20	
Declaratory Ruling	06/25/20	
Declaratory Ruling and Order.	06/25/20	
Order on Reconsideration.	08/28/20	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kristi Thornton, Deputy Division Chief, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-2467, Email: kristi.thornton@fcc.gov.

RIN: 3060-A114

**415. Rules and Regulations
Implementing Section 225 of the
Communications Act
(Telecommunications Relay Service)
(CG Docket No. 03–123)**

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 225

Abstract: This proceeding continues the Commission's inquiry into improving the quality of telecommunications relay service (TRS) and furthering the goal of functional equivalency, consistent with Congress' mandate that TRS regulations encourage the use of existing technology and not discourage or impair the development of new technology. In this docket, the Commission explores ways to improve emergency preparedness for TRS facilities and services, new TRS technologies, public access to information and outreach, and issues related to payments from the Interstate TRS Fund.

Timetable:

Action	Date	FR Cite
NPRM	08/25/03	68 FR 50993
R&O, Order on Reconsideration.	09/01/04	69 FR 53346
FNPRM	09/01/04	69 FR 53382
Public Notice	02/17/05	70 FR 8034
Declaratory Ruling/Interpretation.	02/25/05	70 FR 9239
Public Notice	03/07/05	70 FR 10930
Order	03/23/05	70 FR 14568
Public Notice/Announcement of Date.	04/06/05	70 FR 17334
Order	07/01/05	70 FR 38134
Order on Reconsideration.	08/31/05	70 FR 51643
R&O	08/31/05	70 FR 51649
Order	09/14/05	70 FR 54294
Order	09/14/05	70 FR 54298
Public Notice	10/12/05	70 FR 59346
R&O/Order on Reconsideration.	12/23/05	70 FR 76208
Order	12/28/05	70 FR 76712
Order	12/29/05	70 FR 77052
NPRM	02/01/06	71 FR 5221
Declaratory Ruling/Clarification.	05/31/06	71 FR 30818
FNPRM	05/31/06	71 FR 30848
FNPRM	06/01/06	71 FR 31131
Declaratory Ruling/Dismissal of Petition.	06/21/06	71 FR 35553
Clarification	06/28/06	71 FR 36690
Declaratory Ruling on Reconsideration.	07/06/06	71 FR 38268
Order on Reconsideration.	08/16/06	71 FR 47141
MO&O	08/16/06	71 FR 47145
Clarification	08/23/06	71 FR 49380
FNPRM	09/13/06	71 FR 54009
Final Rule; Clarification.	02/14/07	72 FR 6960

Action	Date	FR Cite	Action	Date	FR Cite
Order	03/14/07	72 FR 11789	Petition for Reconsideration;	12/16/13	78 FR 76096
R&O	08/06/07	72 FR 43546	Request for Comment.		
Public Notice	08/16/07	72 FR 46060	Petition for Reconsideration;	12/16/13	78 FR 76097
Order	11/01/07	72 FR 61813	Request for Comment.		
Public Notice	01/04/08	73 FR 863	Request for Clarification; Request for Comment; Correction.	12/30/13	78 FR 79362
R&O/Declaratory Ruling.	01/17/08	73 FR 3197	Petition for Reconsideration Comment Period End.	01/10/14	
Order	02/19/08	73 FR 9031	NPRM Comment Period End.	01/21/14	
Order	04/21/08	73 FR 21347	Announcement of Effective Date.	07/11/14	79 FR 40003
R&O	04/21/08	73 FR 21252	Announcement of Effective Date.	08/28/14	79 FR 51446
Order	04/23/08	73 FR 21843	Correction—Announcement of Effective Date.	08/28/14	79 FR 51450
Public Notice	04/30/08	73 FR 23361	Technical Amendments.	09/09/14	79 FR 53303
Order	05/15/08	73 FR 28057	Public Notice	09/15/14	79 FR 54979
Declaratory Ruling	07/08/08	73 FR 38928	R&O and Order ...	10/21/14	79 FR 62875
FNPRM	07/18/08	73 FR 41307	FNPRM	10/21/14	79 FR 62935
R&O	07/18/08	73 FR 41286	FNPRM Comment Period End.	12/22/14	
Public Notice	08/01/08	73 FR 45006	Final Action (Announcement of Effective Date).	10/30/14	79 FR 64515
Public Notice	08/05/08	73 FR 45354	Final Rule Effective.	10/30/14	
Public Notice	10/10/08	73 FR 60172	FNPRM	11/08/15	80 FR 72029
Order	10/23/08	73 FR 63078	FNPRM Comment Period End.	01/01/16	
2nd R&O and Order on Reconsideration.	12/30/08	73 FR 79683	Public Notice	01/20/16	81 FR 3085
Order	05/06/09	74 FR 20892	Public Notice Comment Period End.	02/16/16	
Public Notice	05/07/09	74 FR 21364	R&O	03/21/16	81 FR 14984
NPRM	05/21/09	74 FR 23815	FNPRM	08/24/16	81 FR 57851
Public Notice	05/21/09	74 FR 23859	FNPRM Comment Period End.	09/14/16	
Public Notice	06/12/09	74 FR 28046	NOI and FNPRM	04/12/17	82 FR 17613
Order	07/29/09	74 FR 37624	NOI and FNPRM Comment Period End.	05/30/17	
Public Notice	08/07/09	74 FR 39699	R&O	04/13/17	82 FR 17754
Order	09/18/09	74 FR 47894	R&O	04/27/17	82 FR 19322
Order	10/26/09	74 FR 54913	FNPRM	04/27/17	82 FR 19347
Public Notice	05/12/10	75 FR 26701	FNPRM Comment Period End.	07/11/17	
Order Denying Stay Motion (Release Date).	07/09/10		R&O	06/23/17	82 FR 28566
Order	08/13/10	75 FR 49491	Public Notice	07/21/17	82 FR 33856
Order	09/03/10	75 FR 54040	Public Notice—Correction.	07/25/17	82 FR 34471
NPRM	11/02/10	75 FR 67333	Public Notice Comment Period End.	08/17/17	
NPRM	05/02/11	76 FR 24442	R&O	08/30/13	78 FR 53684
Order	07/25/11	76 FR 44326	FNPRM	09/03/13	78 FR 54201
Final Rule (Order)	09/27/11	76 FR 59551	NPRM	10/23/13	78 FR 63152
Final Rule; Announcement of Effective Date.	11/22/11	76 FR 72124	FNPRM Comment Period End.	11/18/13	
Proposed Rule (Public Notice).	02/28/12	77 FR 11997	R&O	08/30/13	78 FR 53684
Proposed Rule (FNPRM).	02/01/12	77 FR 4948	FNPRM	09/03/13	78 FR 54201
First R&O	07/25/12	77 FR 43538	NPRM	10/23/13	78 FR 63152
Public Notice	10/29/12	77 FR 65526	FNPRM Comment Period End.	11/18/13	
Order on Reconsideration.	12/26/12	77 FR 75894	R&O	08/30/13	78 FR 53684
Order	02/05/13	78 FR 8030	FNPRM	09/03/13	78 FR 54201
Order (Interim Rule).	02/05/13	78 FR 8032	NPRM	10/23/13	78 FR 63152
NPRM	02/05/13	78 FR 8090	FNPRM Comment Period End.	11/18/13	
Announcement of Effective Date.	03/07/13	78 FR 14701	R&O	08/30/13	78 FR 53684
NPRM Comment Period End.	03/13/13		FNPRM	09/03/13	78 FR 54201
FNPRM	07/05/13	78 FR 40407	NPRM	10/23/13	78 FR 63152
FNPRM Comment Period End.	09/18/13		FNPRM Comment Period End.	11/18/13	
R&O	07/05/13	78 FR 40582	R&O	08/22/17	82 FR 39673
R&O	08/15/13	78 FR 49693	Announcement of Effective Date.	10/17/17	82 FR 48203
FNPRM	08/15/13	78 FR 49717			
FNPRM Comment Period End.	09/30/13				
R&O	08/30/13	78 FR 53684			
FNPRM	09/03/13	78 FR 54201			
NPRM	10/23/13	78 FR 63152			
FNPRM Comment Period End.	11/18/13				

Action	Date	FR Cite
Public Notice; Petition for Reconsideration.	10/25/17	82 FR 49303
Oppositions Due Date.	11/20/17	
R&O and Declaratory Ruling.	06/27/18	83 FR 30082
FNPRM	07/18/18	83 FR 33899
FNPRM Comment Period End.	11/15/18	
Public Notice	08/23/18	83 FR 42630
Public Notice Opposition Period End.	09/17/18	
Announcement of Effective Date.	02/04/19	84 FR 1409
R&O	03/08/19	84 FR 8457
FNPRM	03/14/19	84 FR 9276
FNPRM Comment Period End.	04/29/19	
R&O	06/06/19	84 FR 26364
FNPRM	06/06/19	84 FR 26379
Petition for Recon Request for Comment.	06/18/19	84 FR 28264
Petition for Recon Comment Period End.	07/15/19	
FNPRM Comment Period End.	08/05/19	
R&O	01/06/20	85 FR 462
R&O	01/09/20	85 FR 1125
NPRM	01/09/20	85 FR 1134
NPRM Comment Period End.	02/13/20	
Announcement of Effective Date.	02/19/20	85 FR 9392
Final Rule; removal of compliance notices.	05/06/20	85 FR 26857
Report & Order ...	05/08/20	85 FR 27309
Final Rule; correction.	08/26/20	85 FR 52489
Next Action Undetermined.		

program and threatened its long-term viability. The Commission also considers the most effective and efficient way to make VRS available and to determine what is the most fair, efficient, and transparent cost-recovery methodology. In addition, the Commission looks at various ways to measure the quality of VRS so as to ensure a better consumer experience.

Timetable:

Action	Date	FR Cite
Declaratory Ruling	05/07/10	75 FR 25255
Declaratory Ruling	07/13/10	75 FR 39945
Order	07/13/10	75 FR 39859
Notice of Inquiry ..	07/19/10	75 FR 41863
NPRM	08/23/10	75 FR 51735
Interim Final Rule	02/15/11	76 FR 8659
Public Notice	03/02/11	76 R 11462
R&O	05/02/11	76 FR 24393
FNPRM	05/02/11	76 FR 24437
NPRM	05/02/11	76 FR 24442
R&O (Correction)	05/27/11	76 FR 30841
Order	07/25/11	76 FR 44326
2nd R&O	08/05/11	76 FR 47469
Order (Interim Final Rule).	08/05/11	76 FR 47476
Final Rule; Announcement of Effective Date.	09/26/11	76 FR 59269
Final Rule; Petition for Reconsideration; Public Notice.	09/27/11	76 FR 59557
Oppositions Due Date.	10/07/11	
Final Rule; Clarification (MO&O).	10/31/11	76 FR 67070
FNPRM	10/31/11	76 FR 67118
Interim Final Rule; Announcement of Effective Date.	11/03/11	76 FR 68116
Final Rule; Announcement of Effective Date.	11/04/11	76 FR 68328
Final Rule; Announcement of Effective Date.	11/07/11	76 FR 68642
Final Rule; Announcement of Effective Date.	12/30/11	
FNPRM Comment Period End.		
FNPRM	02/01/12	77 FR 4948
FNPRM Comment Period End.	03/19/12	
Final Rule; Correction.	03/27/12	77 FR 18106
Correcting Amendments.	06/07/12	77 FR 33662
Order (Release Date).	07/25/12	
Correcting Amendments.	10/04/12	77 FR 60630
Public Notice	10/29/12	77 FR 65526
Comment Period End.	11/29/12	
FNPRM	07/05/13	78 FR 40407
R&O	07/05/13	78 FR 40582
FNPRM Comment Period End.	09/18/13	
Public Notice	09/11/13	78 FR 55696
Public Notice	09/15/14	79 FR 54979
Comment Period End.	10/10/14	

Action	Date	FR Cite
Final Action (Announcement of Effective Date).	10/30/14	79 FR 64515
Final Rule Effective.	10/30/14	
FNPRM	11/18/15	80 FR 72029
FNPRM Comment Period End.	02/01/16	
R&O	03/21/16	81 FR 14984
FNPRM	08/24/16	81 FR 57851
FNPRM Comment Period End.	09/14/16	
NOI and FNPRM	04/12/17	82 FR 17613
NOI and FNPRM Comment Period End.	05/30/17	
R&O	04/13/17	82 FR 17754
R&O	04/27/17	82 FR 19322
FNPRM	04/27/17	82 FR 19347
FNPRM Comment Period End.	07/01/17	
Order	06/23/17	82 FR 28566
Public Notice	07/21/17	82 FR 33856
Public Notice Comment Period End.	07/31/17	
Public Notice Correction.	07/25/17	82 FR 34471
Public Notice Correction Comment Period End.	08/17/17	
R&O and Order ...	08/22/17	82 FR 39673
Announcement of Effective Date.	10/17/17	82 FR 48203
Public Notice; Petition for Reconsideration.	10/25/17	82 FR 49303
Oppositions Due Date.	11/20/17	
R&O	06/06/19	84 FR 26364
FNPRM	06/06/19	84 FR 26379
FNPRM Comment Period End.	08/05/19	
Report & Order ...	05/08/20	85 FR 27309
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Eliot Greenwald, Deputy Chief, Disability Rights Office, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-2235, *Email:* eliot.greenwald@fcc.gov.
RIN: 3060-AI15

416. Structure and Practices of the Video Relay Service (VRS) Program (CG Docket No. 10-51)

E.O. 13771 Designation: Independent agency.
Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 225; 47 U.S.C. 303(r)
Abstract: The Commission takes a fresh look at its VRS rules to ensure that it is available to and used by the full spectrum of eligible users, encourages innovation, and is provided efficiently to be less susceptible to the waste, fraud, and abuse that have plagued the

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Eliot Greenwald, Deputy Chief, Disability Rights Office, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-2235, *Email:* eliot.greenwald@fcc.gov.
RIN: 3060-AJ42

417. Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services; CG Docket No. 13-24

E.O. 13771 Designation: Independent agency.
Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 225
Abstract: The Federal Communications Commission (FCC) initiated this proceeding in its effort to ensure that Internet-Protocol Captioned

Telephone Service (IP CTS) is provided effectively and in the most efficient manner. In doing so, the FCC adopted rules to address certain practices related to the provision and marketing of IP CTS, as well as compensation of TRS providers. IP CTS is a form of relay service designed to allow people with hearing loss to speak directly to another party on a telephone call and to simultaneously listen to the other party and read captions of what that party is saying over an IP-enabled device. To ensure that IP CTS is provided efficiently to persons who need to use this service, the Commission adopted rules establishing several requirements and issued an FNPRM to address additional issues.

Timetable:

Action	Date	FR Cite
NPRM	02/05/13	78 FR 8090
Order (Interim Rule).	02/05/13	78 FR 8032
Order	02/05/13	78 FR 8030
Announcement of Effective Date.	03/07/13	78 FR 14701
NPRM Comment Period End.	03/12/13	
R&O	08/30/13	78 FR 53684
FNPRM	09/03/13	78FR 54201
FNPRM Comment Period End.	11/18/13	
Petition for Reconsideration Request for Comment.	12/16/13	78 FR 76097
Petition for Reconsideration Comment Period End.	01/10/14	
Announcement of Effective Date.	07/11/14	79 FR 40003
Announcement of Effective Date.	08/28/14	79 FR 51446
Correction—Announcement of Effective Date.	08/28/14	79 FR 51450
Technical Amendments.	09/09/14	79 FR 53303
R&O and Declaratory Ruling.	06/27/18	83 FR 30082
FNPRM	07/18/18	83 FR 33899
Public Notice	08/23/18	83 FR 42630
Public Notice Opposition Period End.	09/17/18	
FNPRM Comment Period End.	11/15/18	
Announcement of Effective Date.	02/04/19	84 FR 1409
R&O	03/08/19	84 FR 8457
FNPRM	03/14/19	84 FR 9276
FNPRM Comment Period End.	04/29/19	
Petition for Recon Request for Comment.	06/18/19	84 FR 28264
Petition for Recon Comment Period End.	07/15/19	
R&O	01/06/20	85 FR 462

Action	Date	FR Cite
Announcement of Effective Date.	02/19/20	85 FR 9392
Final Rule; removal of compliance notes.	05/06/20	85 FR 26857
Final Rule; correction.	08/26/20	85 FR 52489
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Eliot Greenwald, Deputy Chief, Disability Rights Office, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–2235, *Email:* eliot.greenwald@fcc.gov.

RIN: 3060–AK01

418. Advanced Methods To Target and Eliminate Unlawful Robocalls (CG Docket No. 17–59)

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 201 and 202; 47 U.S.C. 227; 47 U.S.C. 251(e)

Abstract: The Telephone Consumer Protection Act of 1991 restricts the use of robocalls autodialed or prerecorded calls in certain instances. In CG Docket No. 17–59, the Commission considers rules and policies aimed at eliminating unlawful robocalling. Among the issues it examines in this docket are whether to allow carriers to block calls that purport to be from unallocated or unassigned phone numbers through the use of spoofing, whether to allow carriers to block calls based on their own analyses of which calls are likely to be unlawful and whether to establish a database of reassigned phone numbers to help prevent robocalls to consumers, who did not consent to such calls.

Timetable:

Action	Date	FR Cite
NPRM/NOI	05/17/17	82 FR 22625
2nd NOI	07/13/17	
NPRM Comment Period End.	07/31/17	
FNPRM	01/08/18	83 FR 770
R&O	01/12/18	83 FR 1566
2nd FNPRM	04/23/18	83 FR 17631
2nd FNPRM Comment Period End.	06/07/18	
2nd FNPRM Reply Comment Period End.	07/09/18	
2nd R&O	03/26/19	84 FR 11226
3rd FNPRM	06/24/19	84 FR 29478
Declaratory Ruling	06/24/19	84 FR 29387
Public Notice Seeking Input on Report.	12/30/19	

Action	Date	FR Cite
Public Notice Seeking Comment on Reassigned Numbers.	01/24/20	
Public Notice Seeking Comment on RND Cost/Fee Structure.	02/26/20	
Public Notice Establishing Guidelines for RND.	04/16/20	
Report	06/25/20	
3rd NPRM Comment Date.	06/26/20	
Announcement of Compliance Dates.	06/26/20	85 FR 38334
3rd R&O, Order of Reconsideration, 4th FNPRM.	07/31/20	85 FR 46063
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Karen Schroeder, Associate Division Chief, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–0654, *Email:* karen.schroeder@fcc.gov.

Jerusha Burnett, Attorney Advisor, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–0526, *Email:* jerusha.burnett@fcc.gov.

RIN: 3060–AK62

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Economics

Long-Term Actions

419. Development of Nationwide Broadband Data To Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans

E.O. 13771 Designation: Independent agency.

Legal Authority: 15 U.S.C. 251; 47 U.S.C. 252; 47 U.S.C. 257; 47 U.S.C. 271; 47 U.S.C. 1302; 47 U.S.C. 160(b); 47 U.S.C. 161(a)(2)

Abstract: The Report and Order streamlined and reformed the Commission’s Form 477 Data Program, which is the Commission’s primary tool to collect data on broadband and telephone services.

Timetable:

Action	Date	FR Cite
NPRM	05/16/07	72 FR 27519
Order	07/02/08	73 FR 37861
Order	10/15/08	73 FR 60997
NPRM	02/08/11	76 FR 10827
Order	06/27/13	78 FR 49126
NPRM	08/24/17	82 FR 40118
NPRM Comment Period End.	09/25/17	
NPRM Reply Comment Pe- riod End.	10/10/17	
R&O and FNPRM Next Action Unde- termined.	08/22/19	84 FR 43764

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Suzanne Mendez, Program Analyst, OEA, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-0941, Email: suzanne.mendez@fcc.gov.

RIN: 3060-AJ15

420. Universal Service Reform Mobility Fund (WT Docket No. 10-208)

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 155; 47 U.S.C. 160; 47 U.S.C. 201; 47 U.S.C. 205; 47 U.S.C. 225; 47 U.S.C. 254; 47 U.S.C. 301; 47 U.S.C. 303; 47 U.S.C. 303(c); 47 U.S.C. 303(f); 47 U.S.C. 303(r); 47 U.S.C. 303(y); 47 U.S.C. 309; 47 U.S.C. 310

Abstract: This proceeding establishes the Mobility Fund, which the Commission is implementing in two phases. Mobility Fund Phase I consisted of two reverse auctions that provided initial infusions of funds toward solving persistent gaps in mobile services through targeted, one-time support for the build-out of current and next-generation wireless infrastructure in areas where these services are unavailable. The Mobility Fund Phase II (MF-II) reverse auction aims to provide support funds over a 10-year term to support build-out of current and next-generation wireless infrastructure in areas where unsubsidized services are unavailable. MF-II began with a one-time collection of existing wireless broadband coverage data from current providers to determine the areas in which qualified service has been deployed, which data was used to create a map of areas presumptively eligible for MF-II support. Entities could challenge asserted unsubsidized 4G LTE coverage through the Mobility Fund Phase II challenge process, and providers may file response data countering challenges. The results of the challenge process will determine the

final list of areas eligible for funding through the MF-II auction.

Timetable:

Action	Date	FR Cite
NPRM	10/14/10	75 FR 67060
NPRM Comment Period End.	01/18/11	
R&O	11/29/11	76 FR 73830
FNPRM	12/16/11	76 FR 78384
R&O	12/28/11	76 FR 81562
2nd R&O	07/03/12	77 FR 39435
4th Order on Recon.	08/14/12	77 FR 48453
FNPRM	07/09/14	79 FR 39196
R&O, Declaratory Ruling, Order, MO&O, and 7th Order on Recon.	07/09/14	79 FR 39163
FNPRM Comment Period End.	09/08/14	
R&O	10/07/16	81 FR 69696
FNPRM	10/07/16	81 FR 69772
FNPRM	03/13/17	82 FR 13413
R&O	03/28/17	82 FR 15422
R&O Correction ...	04/04/17	82 FR 16297
Order on Recon and 2nd R&O.	09/08/17	82 FR 42473
2nd Order on Recon.	04/25/18	83 FR 17934
Order and MO&O	08/30/18	83 FR 44241
NPRM	08/30/18	83 FR 44254
3rd R&O	03/06/19	84 FR 8003
Next Action Unde- termined.		

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Audra Hale-Maddox, Attorney Advisor, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-2109, Email: audra.hale-maddox@fcc.gov. RIN: 3060-AJ58

421. Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions (GN Docket No. 12-268)

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 309(j)(8)(G); 47 U.S.C. 1452

Abstract: In February 2012, the Middle Class Tax Relief and Job Creation Act was enacted (Pub. L. 112-96, 126 Stat. 156 (2012)). Title VI of that statute, commonly known as the Spectrum Act, provides the Commission with the authority to conduct incentive auctions to meet the growing demand for wireless broadband. Pursuant to the Spectrum Act, the Commission may conduct incentive auctions that will offer new initial spectrum licenses subject to flexible-use service rules on spectrum made available by licensees that voluntarily relinquish some or all of their spectrum usage rights in exchange for a portion, based on the value of the

relinquished rights as determined by an auction, of the proceeds of bidding for the new licenses. In addition to granting the Commission general authority to conduct incentive auctions, the Spectrum Act requires the Commission to conduct an incentive auction of broadcast TV spectrum and sets forth special requirements for such an auction.

The Spectrum Act requires that the BIA consist of a reverse auction “to determine the amount of compensation that each broadcast television licensee would accept in return for voluntarily relinquishing some or all of its spectrum usage rights” and a forward auction of licenses in the reallocated spectrum for flexible-use services, including mobile broadband. Broadcast television licensees who elected to voluntarily participate in the auction had three bidding options: Go off-the-air, share spectrum with another broadcast television licensee, or move channels to the upper or lower VHS band in exchange for receiving part of the proceeds from auctioning that spectrum to wireless providers. The Spectrum Act also authorized the Commission to reorganize the 600 MHz band following the BIA including, as necessary, reassigning full power and Class A television stations to new channels in order to clear the spectrum sold in the BIA. That post-auction reorganization (known as the repack) is currently underway and all of the stations who were assigned new channels are scheduled to have vacated their pre-auction channels by July 3, 2020, pursuant to a 10-phase transition schedule adopted by the Commission.

In May 2014, the Commission adopted a Report and Order that laid out the general framework for the BIA. The auction started on March 29, 2016, with the submission of initial commitments by eligible broadcast licensees. The BIA ended on April 13, 2017, with the release of the Auction Closing and Channel Reassignment Public Notice that also marked the start of the 39-month transition period during which 987 of the full power and Class A television stations remaining on-the-air will transition their stations to their post-auction channel assignments in the reorganized television band. Pursuant to the Spectrum Act, the Commission will reimburse 957 of those full power and Class A stations for the reasonable costs associated with relocating to their post-auction channel assignments and will reimburse multichannel video programming distributors for their costs associated with continuing to carry the signals of those stations.

In March 2018, the Consolidated Appropriations Act (Pub. L. 115–141, at Div. E, Title V, 511, 132 Stat. 348 (2018), codified at 47 U.S.C. 1452(j)–(n)) (the Reimbursement Expansion Act or REA), extended the deadline for reimbursement of eligible entities from April 2020 to no later than July 3, 2023, and also expanded the universe of entities eligible for reimbursement to include low-power television stations and TV translator stations displaced by the BIA for their reasonably incurred costs to relocate to a new channel, and FM broadcast stations for their reasonably incurred costs for facilities necessary to reasonably minimize disruption of service as a result of the post-auction reorganization of the television band. On March 15, 2019, the Commission adopted a Report and Order setting rules for the reimbursement of eligible costs to those newly eligible entities.

Timetable:

Action	Date	FR Cite
NPRM	11/21/12	77 FR 69933
R&O	08/15/14	79 FR 48441
Final Rule	10/11/17	82 FR 47155
NPRM	08/27/18	83 FR 43613
R&O	03/26/19	84 FR 11233
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jean L. Kiddoo, Chair, Incentive Auction Task Force, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–7757, *Email:* jean.kiddoo@fcc.gov.
RIN: 3060–AJ82

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Office of Engineering and Technology
Long-Term Actions

422. Encouraging the Provision of New Technologies and Services to the Public (GN Docket No. 18–22)

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 154(3)

Abstract: In this proceeding, the FCC seeks to establish rules describing guidelines and procedures to implement the stated policy goal of section 7 to encourage the provision of new technologies and services to the public. Although the forces of competition and technological growth work together to enable the development and

deployment of many new technologies and services to the public, the Commission has at times been slow to identify and take action to ensure that important new technologies or services are made available as quickly as possible. The Commission has sought to overcome these impediments by streamlining many of its processes but all too often regulatory delays can adversely impact newly proposed technologies or services.

Timetable:

Action	Date	FR Cite
NPRM	04/04/18	83 FR 14395
Comment Period End.	05/04/18	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Paul Murray, Attorney Advisor, Federal Communications Commission, Office of Engineering and Technology, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–0688, *Fax:* 202 418–7447, *Email:* paul.murray@fcc.gov.
RIN: 3060–AK80

423. Spectrum Horizon (ET Docket No. 18–21)

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 151 and 152; 47 U.S.C. 154; 47 U.S.C. 157; 47 U.S.C. 201; 47 U.S.C. 301; 47 U.S.C. 302(a); 47 U.S.C. 303; 47 U.S.C. 307; 47 U.S.C. 310; 47 U.S.C. 332; sec. 76 of 1996 Telecom Act, as amended, 47 U.S.C. 302 and sec. 1.411

Abstract: In this proceeding, the FCC seeks to implement a plan to make the spectrum above 95 GHz more readily accessible for new innovative services and technologies. Throughout its history, when the Commission has expanded access to what was thought to be the upper reaches of the usable spectrum, new technological advances have emerged to push the boundary of usable spectrum even further. The frequencies above 95 GHz are today’s spectrum horizons. The Notice sought comment on proposed rules to permit licensed fixed point-to-point operations in a total of 102.2 gigahertz of spectrum; on making 15.2 gigahertz of spectrum available for unlicensed use; and on creating a new category of experimental licenses to increase opportunities for entities to develop new services and technologies from 95 GHz to 3 THz with no limits on geography or technology.

Timetable:

Action	Date	FR Cite
NPRM	04/02/18	83 FR 13888
ANPRM Comment Period End.	05/02/18	
R&O	06/14/19	84 FR 25685
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael Ha, Deputy Division Chief, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 201 418–2099, *Email:* michael.ha@fcc.gov.

RIN: 3060–AK81

424. Use of the 5.850–5.925 GHz Band (ET Docket No. 19–138)

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 1; 47 U.S.C. 4(i); 47 U.S.C.301; 47 U.S.C.302; 47 U.S.C.303; 47 U.S.C.316; 47 U.S.C.332; 47 CFR 1.411

Abstract: In this proceeding, the Commission proposes to amend its rules for the 5.850–5.925 GHz (5.9 GHz) band. The proposal would permit unlicensed devices to operate in the lower 45-megahertz portion of the band at 5.850–5.895 GHz under part 15 of the Commission’s rules. It would also permit Intelligent Transportation System (ITS) operations in the upper 30-megahertz portion of the band at 5.895–5.925 GHz under parts 90 and 95 of the Commission’s rules. ITS operations would consist of Cellular Vehicle to Everything (C–V2X) devices at 5.905–5.925 GHz, and C–V2X and/or Dedicated Short Range Communications (DSRC) devices at 5.895–5.905 GHz.

Timetable:

Action	Date	FR Cite
NPRM	02/06/20	85 FR 6841
NPRM Comment Period End.	03/09/20	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Howard Griboff, Attorney Advisor, Federal Communications Commission, Office of Engineering and Technology, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–0657, *Fax:* 202 418–2824, *Email:* howard.griboff@fcc.gov.

RIN: 3060–AK96

FEDERAL COMMUNICATIONS COMMISSION (FCC)

International Bureau

Long-Term Actions

425. International Settlements Policy Reform (IB Docket No. 11–80)

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 151 to 152; 47 U.S.C. 154; 47 U.S.C. 201 to 205; 47 U.S.C. 208; 47 U.S.C. 211; 47 U.S.C. 214; 47 U.S.C. 303(r); 47 U.S.C. 309; 47 U.S.C. 403

Abstract: The FCC is reviewing the International Settlements Policy (ISP). It governs the ways U.S. carriers negotiate with foreign carriers for the exchange of international traffic and is the structure by which the Commission has sought to respond to concerns that foreign carriers with market power are able to take advantage of the presence of multiple U.S. carriers serving a particular market. In 2011, the FCC released an NPRM that proposed to further deregulate the international telephony market and enable U.S. consumers to enjoy competitive prices when they make calls to international destinations. First, it proposed to remove the ISP from all international routes except Cuba. Second, the FCC sought comment on a proposal to enable the Commission to better protect U.S. consumers from the effects of anticompetitive conduct by foreign carriers in instances necessitating Commission intervention. In 2012, the FCC adopted a Report and Order that eliminated the ISP on all routes but maintained the nondiscrimination requirement of the ISP on the U.S.-Cuba route and codified it in 47 CFR 63.22(f). In the Report and Order, the FCC also adopted measures to protect U.S. consumers from anticompetitive conduct by foreign carriers. In 2016, the FCC released an FNPRM seeking comment on removing the discrimination requirement on the U.S.-Cuba route.

Timetable:

Action	Date	FR Cite
NPRM	05/13/11	76 FR 42625
NPRM Comment Period End.	09/02/11	
Report and Order	02/15/13	78 FR 11109
FNPRM	03/04/16	81 FR 11500
FNPRM Comment Period End.	04/18/16	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: David Krech, Assoc. Chief, Telecommunications & Analysis

Division, Federal Communications Commission, International Bureau, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–7443, *Fax:* 202 418–2824, *Email:* david.krech@fcc.gov.

RIN: 3060–AJ77

426. Update to Parts 2 and 25 Concerning Nongeostationary, Fixed-Satellite Service Systems, and Related Matters: IB Docket No. I6–408

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 154(i); 47 U.S.C. 303; 47 U.S.C. 316

Abstract: On January 11, 2017, the Commission began a rulemaking to update its rules and policies concerning non-geostationary-satellite orbit (NGSO), fixed-satellite service (FSS) systems and related matters. The proposed changes would, among other things, provide for more flexible use of the 17.8–20.2 GHz bands for FSS, promote shared use of spectrum among NGSO FSS satellite systems, and remove unnecessary design restrictions on NGSO FSS systems. The Commission subsequently adopted a Report and Order establishing new sharing criteria among NGSO FSS systems and providing additional flexibility for FSS spectrum use. The Commission also released a Further Notice of Proposed Rulemaking proposing to remove the domestic coverage requirement for NGSO FSS systems.

Timetable:

Action	Date	FR Cite
NPRM	01/11/17	82 FR 3258
NPRM Comment Period End.	04/10/17	
FNPRM	11/15/17	82 FR 52869
R&O	12/18/17	82 FR 59972
FNPRM Comment Period End.	01/02/18	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Clay DeCell, Attorney Advisor, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–0803, *Email:* clay.dec@fcc.gov.

RIN: 3060–AK59

427. Amendment of Parts 2 and 25 of the FCC Rules To Facilitate the Use of Earth Stations in Motion Communicating With Geostationary Orbit Space Stations in FSS Bands: IB Docket No. 17–95

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 154(i); 47 U.S.C. 157(a); 47 U.S.C. 303; 47 U.S.C. 308(b); 47 U.S.C. 316

Abstract: In June 2017, the Commission began a rulemaking to streamline, consolidate, and harmonize rules governing earth stations in motion (ESIMs) used to provide satellite-based services on ships, airplanes and vehicles communicating with geostationary-satellite orbit (GSO), fixed-satellite service (FSS) satellite systems. In September 2018, the Commission adopted rules governing communications of ESIMs with GSO satellites. These rules addressed communications in the conventional C-, Ku-, and Ka-bands, as well as portions of the extended Ku-band. At the same time, the Commission also released a Further Notice of Proposed Rulemaking that sought comment on allowing ESIMs to operate in all of the frequency bands in which earth stations at fixed locations operating in GSO FSS satellite networks can be blanket-licensed. Specifically, comment was sought on expanding the frequencies available for communications of ESIMs with GSO FSS satellites to include the following frequency bands: 10.7–10.95 GHz, 11.2–11.45 GHz, 17.8–18.3 GHz, 18.8–19.3 GHz, 19.3–19.4 GHz, 19.6–19.7 GHz (space-to-Earth); and 28.6–29.1 GHz (Earth-to-space).

Timetable:

Action	Date	FR Cite
NPRM	06/16/17	82 FR 27652
NPRM Comment Period End.	08/30/17	
OMB-approval for Information Collection of R&O Comment Period End.	08/28/18	
FNPRM	07/24/20	85 fr 44818
R&O	07/24/20	85 FR 44772
FNPRM Comment Period End.	09/22/20	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Cindy Spiers, Attorney Advisor, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–1593, *Email:* cindy.spiers@fcc.gov.

RIN: 3060–AK84

428. Further Streamlining Part 25 Rules Governing Satellite Services: IB Docket No. 18–314

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 154(i); 47 U.S.C. 161; 47 U.S.C. 303; 47 U.S.C. 316

Abstract: Under the Commission's rules, satellite operators must follow separate application and authorization processes for the satellites and earth stations that make up their networks and have no option for a single, unified network license. In this Notice of Proposed Rulemaking, the FCC proposes to create a new, optional, unified license to include both space stations and earth stations operating in a geostationary-satellite orbit, fixed-satellite service (GSO FSS) satellite network. In addition, the Commission proposes to repeal or modify unnecessarily burdensome rules in Part 25 governing satellite services, such as annual reporting requirements. These proposals would greatly simplify the Commission's licensing and regulation of satellite systems.

Timetable:

Action	Date	FR Cite
NPRM	01/31/19	84 FR 638
NPRM Comment Period End.	03/18/19	
NPRM Reply Comment Period End.	04/16/19	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Clay DeCell, Attorney Advisor, Federal Communications Commission, 445 12th Street, Washington, DC 20554, *Phone:* 202 418-0803, *Email:* clay.decell@fcc.gov.
RIN: 3060-AK87

429. Facilitating the Communications of Earth Stations in Motion With Non-Geostationary Orbit Space Stations: IB Docket No. 18-315

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 154(i); 47 U.S.C. 157(a); 47 U.S.C. 303; 47 U.S.C. 308(b); 47 U.S.C. 316

Abstract: In November 2018, the Commission adopted a notice of proposed rulemaking that proposed to expand the scope of the Commission's rules governing ESIMs operations to cover communications with NGSO FSS satellites. Comment was sought on establishing a regulatory framework for communications of ESIMs with NGSO FSS satellites that would be analogous to that which exists for ESIMs communicating with GSO FSS satellites. In this context, comment was sought on: (1) Allowing ESIMs to communicate in many of the same conventional Ku-band, extended Ku-band, and Ka-band frequencies that were allowed for

communications of ESIMs with GSO FSS satellites (with the exception of the 18.6-18.8 GHz and 29.25-29.5 GHz frequency bands); (2) extending blanket licensing to ESIMs communicating with NGSO satellites; and (3) revisions to specific provisions in the Commission's rules to implement these changes. The specific frequency bands for communications of ESIMs with NGSO FSS satellites on which comment was sought are as follows: 10.7-11.7 GHz; 11.7-12.2 GHz; 14.0-14.5 GHz; 17.8-18.3 GHz; 18.3-18.6 GHz; 18.8-19.3 GHz; 19.3-19.4 GHz; 19.6-19.7 GHz; 19.7-20.2 GHz; 28.35-28.6 GHz; 28.6-29.1 GHz; and 29.5-30.0 GHz.

Timetable:

Action	Date	FR Cite
NPRM	12/28/18	83 FR 67180
NPRM Comment Period End.	03/13/19	
R&O	07/24/20	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Cindy Spiers, Attorney Advisor, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-1593, *Email:* cindy.spiers@fcc.gov.
RIN: 3060-AK89

430. Mitigation of Orbital Debris in the New Space Age: IB Docket No. 18-313

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 154; 47 U.S.C. 157; 47 U.S.C. 301; 47 U.S.C. 302; 47 U.S.C. 303; 47 U.S.C. 307; 47 U.S.C. 308; 47 U.S.C. 309; 47 U.S.C. 310; 47 U.S.C. 319; 47 U.S.C. 332; 47 U.S.C. 336; 47 U.S.C. 605; 47 U.S.C. 721

Abstract: The Commission's current orbital debris rules were first adopted in 2004. Since then, significant changes have occurred in satellite technologies and market conditions, particularly in Low Earth Orbit, *i.e.*, below 2000 kilometers altitude. These changes include the increasing use of lower cost small satellites and proposals to deploy large constellations of non-geostationary satellite orbit (NGSO) systems, some involving thousands of satellites.

The NPRM proposes changes to improve disclosure of debris mitigation plans. The NPRM also makes proposals and seeks comment related to satellite disposal reliability and methodology, appropriate deployment altitudes in low-Earth-orbit, and on-orbit lifetime, with a particular focus on large NGSO satellite constellations. Other aspects of the NPRM include new rule proposals

for geostationary orbit satellite (GSO) license term extension requests, and consideration of disclosure requirements related to several emerging technologies and new types of commercial operations, including rendezvous and proximity operations.

Timetable:

Action	Date	FR Cite
NPRM	02/19/19	84 FR 4742
NPRM Comment Period End.	05/06/19	
R&O	08/25/20	85 FR 52422
FNPRM	08/25/20	
FNPRM Comment Period End.	10/09/20	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Merissa Velez, Attorney Advisor, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-0751, *Email:* merissa.velez@fcc.gov.
RIN: 3060-AK90

431. • Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership (IB Docket No. 16-155)

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C 154(l); 47 U.S.C. 154(j); 47 U.S.C. 214; 47 U.S.C. 303; 47 U.S.C. 309; 47 U.S.C. 310; 47 U.S.C. 413; 47 U.S.C. 34-39; E.O. 10530; 3 U.S.C. 301

Abstract: In this proceeding, the Commission considers rules and procedures that streamline and improve the timeliness and transparency of the process by which the Commission refers certain applications and petitions for declaratory ruling to the Executive Branch agencies for assessment of any national security, law enforcement, foreign policy or trade policy issues related to foreign investment in the applicants and petitioners.

Timetable:

Action	Date	FR Cite
NPRM	04/27/20	85 FR 29914
NPRM	07/02/20	
NPRM	07/19/20	
NPRM Comment Period End.	09/02/20	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Arthur T. Lechtman, Attorney Advisor, Federal

Communications Commission, International Bureau, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-1465, Fax: 202 418-0175, Email: arthur.lechtman@fcc.gov. RIN: 3060-AL12

FEDERAL COMMUNICATIONS COMMISSION (FCC)

International Bureau

Completed Actions

432. Streamlining Licensing Procedures for Small Satellites; IB Docket No. 18-86

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 154(i); 47 U.S.C. 157; 47 U.S.C. 158; 47 U.S.C. 301; 47 U.S.C. 303; 47 U.S.C.308; 47 U.S.C.309

Abstract: On April 17, 2018, the Commission released a Notice of Proposed Rulemaking (NPRM) proposing to modify the Commission’s part 25 satellite licensing rules to create a new category of application specific to small satellites. The Commission sought comment on criteria that would define this new category and proposed that applicants meeting the criteria could take advantage of a simplified application, faster processing, and lower fees, among other things. The proposed streamlined licensing process was developed based on the features and characteristics that typically distinguish small satellite operations from other types of satellite operations, such as shorter orbital lifetime and less intensive frequency use. The NPRM detailed this small satellite procedure, which would serve as an optional alternative to existing procedures for authorization of small satellites. The NPRM also provided background information on the Commission’s other processes for licensing and authorizing small satellites, including under the experimental (part 5) and amateur (part 97) rules, although no changes were proposed to either of those parts. The NPRM also sought comment on topics related to spectrum use by small satellites. The Commission asked for comment on typical small satellite frequency use characteristics, how to facilitate compatibility with Federal operations, use of particular spectrum for inter-satellite links by small satellites, and other issues related to operations by small satellites in frequency bands. Finally, the NPRM sought comment on the appropriate application fee that would apply to the proposed optional part 25 streamlined

process. The Commission proposed a \$30,000 application fee. It noted that any changes to the annual regulatory fees applicable to the small satellites authorized under the streamlined process would be addressed through the separate annual proceeding for review of regulatory fees.

Timetable:

Action	Date	FR Cite
NPRM	04/18/18	83 FR 24064
NPRM Comment Period End.	08/07/18	
R&O	07/20/20	85 FR 43711

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Merissa Velez, Attorney Advisor, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-0751, Email: merissa.velez@fcc.gov. RIN: 3060-AK88

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Media Bureau

Long-Term Actions

433. Authorizing Permissive Use of the “Next Generation” Broadcast Television Standard (GN Docket No. 16-142)

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 157; 47 U.S.C. 301; 47 U.S.C. 303; 47 U.S.C. 307 to 309; 47 U.S.C. 316; 47 U.S.C. 319; 47 U.S.C. 325(b); 47 U.S.C. 336; 47 U.S.C. 399(b); 47 U.S.C. 403; 47 U.S.C. 534; 47 U.S.C. 535

Abstract: In this proceeding, the Commission seeks to authorize television broadcasters to use the “Next Generation” ATSC 3.0 broadcast television transmission standard on a voluntary, market-driven basis, while they continue to deliver current-generation digital television broadcast service to their viewers. In the Report and Order, the Commission adopted rules to afford broadcasters flexibility to deploy ATSC 3.0-based transmissions, while minimizing the impact on, and costs to, consumers and other industry stakeholders.

In the 2nd R&O, the Commission provided additional guidance to broadcasters deploying Next Gen TV.

Timetable:

Action	Date	FR Cite
NPRM	03/10/17	82 FR 13285

Action	Date	FR Cite
NPRM Comment Period End.	05/09/17	
FNPRM	12/20/17	82 FR 60350
R&O	02/02/18	83 FR 4998
FNPRM Comment Period End.	02/20/18	
FNPRM Reply Comment Period End.	03/20/18	
NPRM	05/13/20	85 FR 28586
2nd R&O Order on Recon. Next Action Undetermined.	07/17/20	85 FR 43478

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Evan Baranoff, Attorney, Policy Division, Federal Communications Commission, Media Bureau, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-7142, Email: evan.baranoff@fcc.gov. RIN: 3060-AK56

434. 2018 Quadrennial Regulatory Review of the Commission’s Broadcast Ownership Rules (MB Docket 18-349)

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 152(a); 47 U.S.C. 154(i); 47 U.S.C. 257; 47 U.S.C. 303; 47 U.S.C. 307; 47 U.S.C. 309 and 310; 47 U.S.C. 403; sec. 202(h) of the Telecommunications Act

Abstract: Section 202(h) of the Telecommunications Act of 1996 requires the Commission to review its broadcast ownership rules every 4 years and to determine whether any such rules are necessary in the public interest as the result of competition. The rules subject to review in the 2018 quadrennial review are the Local Radio Ownership Rule, the Local Television Ownership Rule, and the Dual Network Rule. The Commission also sought comment on potential pro-diversity proposals including extending cable procurement requirements to broadcasters, adopting formulas aimed at creating media ownership limits that promote diversity, and developing a model for market-based, tradeable diversity credits to serve as an alternative method for setting ownership limits.

Timetable:

Action	Date	FR Cite
NPRM	02/28/19	84FR 6741
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Brendan Holland, Chief, Industry Analysis Division,

Media Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-2486, *Email:* brendan.holland@fcc.gov.
RIN: 3060-AK77

435. Children’s Television Programming Rules (MB Docket 18-202)

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 303; 47 U.S.C. 303b; 47 U.S.C. 307; 47 U.S.C. 336

Abstract: The Children’s Television Act (CTA) of 1990 requires that the Commission consider, in its review of television license renewals, the extent to which the licensee has served the educational and informational needs of children through its overall programming, including programming specifically designed to serve such needs. The Commission adopted rules implementing the CTA in 1991 and revised these rules in 1996, 2004, and 2006. In this proceeding, the Commission proposes to revise the children’s television programming rules to modify outdated requirements and to give broadcasters greater flexibility in serving the educational and informational needs of children.

Timetable:

Action	Date	FR Cite
NPRM	07/25/18	83 FR 35158
NPRM Comment Period End.	09/28/18	
R&O	08/16/19	84 FR 41947
FNPRM	08/16/19	84 FR 41949
FNPRM Comment Period End.	09/16/19	
FNPRM Reply Comment Period End.	10/15/19	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kathy Berthot, Attorney, Policy Division Media Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-7454, *Email:* kathy.berthot@fcc.gov.
RIN: 3060-AK78

436. Amendment of Part 74 of the Commission’s Rules Regarding FM Translator Interference (MB Docket 18-119)

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i) and 154(j); 47 U.S.C. 301; 47 U.S.C. 303; 47 U.S.C. 307 to 309; 47 U.S.C. 316; 47 U.S.C. 319

Abstract: In this proceeding, the Commission proposes to streamline the rules relating to interference caused by FM translators and expedite the translator complaint resolution process. The rule changes are intended to limit or avoid protracted and contentious interference resolution disputes, provide translator licensees both additional flexibility to remediate interference and additional investment certainty, and allow earlier and expedited resolution of interference complaints by affected stations.

Timetable:

Action	Date	FR Cite
NPRM	06/06/18	83 FR 26229
NPRM Comment Period End.	07/06/18	
R&O	06/14/19	84 FR 27734
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Christine Goepf, Attorney, Audio Div., Media Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-7834, *Email:* christine.goepf@fcc.gov.
RIN: 3060-AK79

437. Equal Employment Opportunity Enforcement (MB Docket 19-177)

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 154(j); 47 U.S.C. 334; 47 U.S.C. 554

Abstract: In this proceeding, the Commission seeks comment on ways in which it can make improvements to equal employment opportunity (EEO) compliance and enforcement.

Timetable:

Action	Date	FR Cite
NPRM	07/22/19	84 FR 35063
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Radhika Karmarker, Attorney Advisor, IAD, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-1523, *Email:* radhika.karmarker@fcc.gov.
RIN: 3060-AK86

438. • Revision of the Commission’s Part 76 Review Procedures (MB Docket No. 20-70)

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C 151; 47 U.S.C . 154(i); 47 U.S.C. 154(j); 47 U.S.C. 303(r); 47 U.S.C. 536; 47 U.S.C. 548; 47 U.S.C. 573

Abstract: In this proceeding, the Commission considers changes to procedural rules governing the resolution of program carriage disputes between video programming vendors and multichannel video programming distributors. The rule changes are intended to make the Commission’s procedures more consistent and encourage the timely resolution of program carriage disputes.

Timetable:

Action	Date	FR Cite
NPRM	04/16/20	85 FR 21131
NPRM Comment Period End.	05/18/20	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John Cobb, Attorney, Policy Division, Media Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-2120, *Email:* john.cobb@fcc.gov.
RIN: 3060-AL08

439. • Significantly Viewed Stations (MB Docket No. 20-73)

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 303; 47 U.S.C . 325; 47 U.S.C. 339; 47 U.S.C. 340; 47 U.S.C. 534

Abstract: In this proceeding, the Commission reviews the methodology for determining whether a television broadcast station is significantly viewed in a community outside of its local television market and thus may be treated as a local station in that community. Under the Commission’s rules, a significantly viewed station is permitted to be carried by cable systems and satellite operators. The existing process for determining a station’s significantly viewed status was adopted nearly fifty years ago, and marketplace changes during this period lead the Commission to this examination of whether this process has become outdated or overly burdensome, particularly for smaller entities.

Timetable:

Action	Date	FR Cite
NPRM	04/14/20	85 FR 20649
ANPRM Comment Period End.	05/14/20	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kathy Berthot, Attorney, Policy Division Media Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-7454, *Email:* kathy.berthot@fcc.gov.
RIN: 3060-AL09

440. • Promoting Broadcast Internet Innovation Through ATSC 3.0 (MB Docket No. 20-145)

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C 151; 47 U.S.C . 154(i); 47 U.S.C. 154(j); 47 U.S.C. 303(r); 47 U.S.C. 336

Abstract: In this proceeding, the Commission reassess its existing rules in light of the broadcast television conversion to ATSC 3.0 as the new TV transmission standard to ensure that its rules help to foster the introduction of new services and the efficient use of spectrum.

Timetable:

Action	Date	FR Cite
NPRM	07/16/20	85 FR 43195
NPRM Comment Period End.	08/17/20	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John Cobb, Attorney, Policy Division, Media Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554. *Phone:* 202 418-2120, *Email:* john.cobb@fcc.gov.
RIN: 3060-AL10

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Office of Managing Director

Long-Term Actions

441. Assessment and Collection of Regulatory Fees

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 159

Abstract: Section 9 of the Communications Act of 1934, as amended (47 U.S.C. 159), requires the Federal Communications Commission to recover the cost of its activities by assessing and collecting annual regulatory fees from beneficiaries of the activities.

Timetable:

Action	Date	FR Cite
NPRM	06/06/17	82 FR 26019
R&O	09/22/17	82 FR 44322
NPRM	06/14/18	83 FR 27846
NPRM Comment Period End.	06/21/18	
R&O	09/18/18	83 FR 47079
NPRM	06/05/19	84 FR 26234
NPRM Comment Period End.	06/07/19	
R&O	09/26/19	84 FR 50890
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roland Helvajian, Office of the Managing Director, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-0444, *Email:* roland.helvajian@fcc.gov.
RIN: 3060-AK64

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Public Safety and Homeland Security Bureau

Long-Term Actions

442. Wireless E911 Location Accuracy Requirements: PS Docket No. 07-114

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 332

Abstract: This rulemaking is related to the proceedings in which the FCC previously acted to improve the quality of all emergency services. Wireless carriers must provide specific automatic location information in connection with 911 emergency calls to Public Safety Answering Points (PSAPs). Wireless licensees must satisfy enhanced 911 location accuracy standards at either a county-based or a PSAP-based geographic level.

Timetable:

Action	Date	FR Cite
NPRM	06/20/07	72 FR 33948
R&O	02/14/08	73 FR 8617
Public Notice	09/25/08	73 FR 55473
FNPRM; NOI	11/02/10	75 FR 67321
Public Notice	11/18/09	74 FR 59539
2nd R&O	11/18/10	75 FR 70604
Second NPRM	08/04/11	76 FR 47114
Second NPRM Comment Period End.	11/02/11	
Final Rule	04/28/11	76 FR 23713
NPRM, 3rd R&O, and 2nd FNPRM.	09/28/11	76 FR 59916
3rd FNPRM	03/28/14	79 FR 17820

Action	Date	FR Cite
Order Extending Comment Period.	06/10/14	79 FR 33163
3rd FNPRM Comment Period End.	07/14/14	
Public Notice (Release Date).	11/20/14	
Public Notice Comment Period End.	12/17/14	
4th R&O	03/04/15	80 FR 11806
Final Rule	08/03/15	80 FR 45897
Order Granting Waiver.	07/10/17	
NPRM	09/26/18	83 FR 54180
4th NPRM	03/18/19	84 FR 13211
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Brenda Boykin, Attorney Advisor, Public Safety and Homeland Security Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-2062, *Email:* brenda.boykin@fcc.gov.
RIN: 3060-AJ52

443. Improving Outage Reporting for Submarine Cables and Enhancing Submarine Cable Outage Data; GN Docket No. 15-206

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 34 to 39; 47 U.S.C. 301

Abstract: This proceeding takes steps toward assuring the reliability and resiliency of submarine cables, a critical piece of the Nation's communications infrastructure, by proposing to require submarine cable licensees to report to the Commission when outages occur and communications are disrupted. The Commission's intent is to enhance national security and emergency preparedness by these actions.

Timetable:

Action	Date	FR Cite
NPRM (Release Date).	09/18/15	
R&O	06/24/16	81 FR 52354
Petitions for Recon.	09/08/16	
Petitions for Recon—Public Comment.	10/17/16	81 FR 75368
Order on Recon.	12/20/19	
Order on Recon ..	12/20/19	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Brenda Villanueva, Attorney Advisor, Public Safety and Homeland Security Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-7005, *Email:* brenda.villanueva@fcc.gov.
RIN: 3060-AK39

444. Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications: PS Docket No. 15-80

E.O. 13771 Designation: Independent agency.

Legal Authority: Sec. 1, 4(i), 4(j), 4(o), 251(e)(3), 254, 301, 303(b), 303(g), 303(r), 307, 309(a), 309(j); 316, 332, 403, 615a-1, and 615c of Pub. L. 73-416, 4 Stat. 1064, as amended; and section 706 of Pub. L. 104-104, 110 Stat. 56; 47 U.S.C. 151, 154(i)-(j) & (o), 251(e)(3), 254, 301, 303(b), 303(g), 303(r), 307; 309(a), 309(j), 316, 332, 403, 615a-1, 615c, and 1302, unless otherwise noted

Abstract: The 2004 Report and Order (R&O) extended the Commission's communication disruptions reporting rules to non-wireline carriers and streamlined reporting through a new electronic template (see docket ET Docket 04-35). In 2015, this proceeding, PS Docket 15-80, was opened to amend the original communications disruption reporting rules from 2004 in order to reflect technology transitions observed throughout the telecommunications sector. The Commission seeks to further study the possibility to share the reporting database information and access with State and other Federal entities. In May 2016, the Commission released a Report and Order, FNPRM, and Order on Reconsideration (see also Dockets 11-82 and 04-35). The R&O adopted rules to update the part 4 requirements to reflect technology transitions. The FNPRM sought comment on sharing information in the reporting database. Comments and replies were received by the Commission in August and September 2016.

Timetable:

Action	Date	FR Cite
NPRM, 2nd R&O, Order on Recon.	06/16/15	80 FR 34321
NPRM Comment Period End.	07/31/15	
R&O	07/12/16	81 FR 45055
FNPRM, 1 Part 4 R&O, Order on Recon.	08/11/16	81 FR 45059
Order Denying Reply Comment Deadline Extension Request.	09/08/16	

Action	Date	FR Cite
FNPRM Comment Period End.	09/12/16	
Announcement of Effective Date for Rule Changes in R&O.	06/22/17	82 FR 28410
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Robert Finley, Attorney Advisor, Public Safety and Homeland Security Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-7835, *Email:* robert.finley@fcc.gov.
RIN: 3060-AK40

445. New Part 4 of the Commission's Rules Concerning Disruptions to Communications; ET Docket No. 04-35

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 154 and 155; 47 U.S.C. 201; 47 U.S.C. 251; 47 U.S.C. 307; 47 U.S.C. 316

Abstract: The proceeding creates a new part 4 in title 47 and amends part 63.100. The proceeding updates the Commission's communication disruptions reporting rules for wireline providers formerly in 47 CFR 63.100 and extends these rules to other non-wireline providers. Through this proceeding, the Commission streamlines the reporting process through an electronic template. The Report and Order received several petitions for reconsideration, of which two were eventually withdrawn. In 2015, seven were addressed in an Order on Reconsideration and in 2016 another petition was addressed in an Order on Reconsideration. One petition (CPUC Petition) remains pending regarding NORS database sharing with States, which is addressed in a separate proceeding, PS Docket 15-80. To the extent the communication disruption rules cover VoIP, the Commission studies and addresses these questions in a separate docket, PS Docket 11-82.

In May 2016, the Commission released a Report and Order, FNPRM, and Order on Reconsideration (see Dockets 11-82 and 15-80). The Order on Reconsideration addressed outage reporting for events at airports, and the FNPRM sought comment on database sharing. The Commission received comments and replies in August and September 2016.

Timetable:

Action	Date	FR Cite
NPRM	03/26/04	69 FR 15761
R&O	11/26/04	69 FR 68859
Denial for Petition for Partial Stay.	12/02/04	
Seek Comment on Petition for Recon.	02/02/10	
Reply Period End	03/19/10	
Seek Comment on Broadband and Inter-connected VOIP Service Providers.	07/02/10	
Reply Period End	08/16/12	
2nd R&O, and Order on Recon, NPRM.	06/16/15	80 FR 34321
R&O	07/12/16	81 FR 45055
FNPRM, 1 Part 4 R&O, Order on Recon.	08/11/16	81 FR 45095, 81 FR 45055
Order Denying Extension of Time to File Reply Comments.	09/08/16	
Announcement of Effective Date for Rule Changes in R&O.	06/22/17	82 FR 28410
Second Further Notice of Proposed Rule-making.	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Robert Finley, Attorney Advisor, Public Safety and Homeland Security Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-7835, *Email:* robert.finley@fcc.gov.
RIN: 3060-AK41

446. Wireless Emergency Alerts (WEA): PS Docket No. 15-91

E.O. 13771 Designation: Independent agency.

Legal Authority: Pub. L. 109-347, title VI; 47 U.S.C. 151; 47 U.S.C. 154(i)

Abstract: This proceeding was initiated to improve Wireless Emergency Alerts (WEA) messaging, ensure that WEA alerts reach only those individuals to whom they are relevant, and establish an end-to-end testing program based on advancements in technology.

Timetable:

Action	Date	FR Cite
NPRM	11/19/15	80 FR 77289
NPRM Comment Period End.	01/13/16	

Action	Date	FR Cite
NPRM Reply Comment Period End.	02/12/16	
Order	11/01/16	81 FR 75710
FNPRM	11/08/16	81 FR 78539
Comment Period End.	12/08/16	
Petition for Recon Order on Recon ..	12/19/16	81 FR 91899
2nd R&O and 2nd Order on Recon.	12/04/17	82 FR 57158
Public Notice	02/28/18	83 FR 8619
Public Notice Comment Period End.	04/26/18	83 FR 18257
Public Notice Reply Comment Period End.	05/29/18	
Next Action Undetermined.	06/11/18	

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: James Wiley, Attorney Advisor, Public Safety and Homeland Security Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-1678, Email: james.wiley@fcc.gov.
 RIN: 3060-AK54

447. Blue Alert EAS Event Code

E.O. 13771 Designation: Independent agency.
Legal Authority: 47 U.S.C. 151 and 152; 47 U.S.C. 154(i) and 154(o); 47 U.S.C. 301; 47 U.S.C. 303(r) and (v); 47 U.S.C. 307; 47 U.S.C. 309; 47 U.S.C. 335; 47 U.S.C. 403; 47 U.S.C. 544(g); 47 U.S.C. 606 and 615

Abstract: In 2015, Congress adopted the Blue Alert Act to help the States provide effective alerts to the public and law enforcement when police and other law enforcement officers are killed or are in danger. To ensure that these State plans are compatible and integrated throughout the United States as envisioned by the Blue Alert Act, the Blue Alert Coordinator made a series of recommendations in a 2016 Report to Congress. Among these recommendations, the Blue Alert Coordinator identified the need for a dedicated EAS event code for Blue Alerts, and noted the alignment of the EAS with the implementation of the Blue Alert Act. On June 22, 2017, the FCC released an NPRM proposing to revise the EAS rules to adopt a new event code, which would allow transmission of Blue Alerts to the public over the EAS and thus satisfy the stated need for a dedicated EAS event code. On December 14, 2017, the Commission released an Order adopting a new Blue Alert EAS Code-BLU. EAS participants must be able to implement the BLU

code by January 19, 2019. BLU alerts must be available to wireless emergency alerts by July, 2019.
Timetable:

Action	Date	FR Cite
NPRM	06/30/17	82 FR 29811
NPRM Comment Period End.	07/31/17	
NPRM Reply Comment Period End.	08/29/17	
Order	12/14/18	83 FR 2557
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Linda Pintro, Attorney Advisor, Policy and Licensing Division, PSHSB, Federal Communications Commission, 445 12th Street SW, Washington, DC 21043, Phone: 202 418-7490, Email: linda.pintro@fcc.gov.
 RIN: 3060-AK63

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Wireless Telecommunications Bureau
 Long-Term Actions

448. Amendment of Parts 1, 2, 22, 24, 27, 90, and 95 of the Commission's Rules To Improve Wireless Coverage Through the Use of Signal Boosters (WT Docket No. 10-4)

E.O. 13771 Designation: Independent agency.
Legal Authority: 15 U.S.C. 79; 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 154(j); 47 U.S.C. 155; 47 U.S.C. 157; 47 U.S.C. 225; 47 U.S.C. 227; 47 U.S.C. 303(r)

Abstract: This action adopts new technical, operational, and registration requirements for signal boosters. It creates two classes of signal boosters—consumer and industrial—with distinct regulatory requirements for each, thereby establishing a two-step transition process for equipment certification for both consumer and industrial signal boosters sold and marketed in the United States.

Timetable:

Action	Date	FR Cite
NPRM	05/10/11	76 FR 26983
R&O	04/11/13	78 FR 21555
Petition for Reconsideration.	06/06/13	78 FR 34015
Order on Reconsideration.	11/08/14	79 FR 70790
FNPRM	11/28/14	79 FR 70837
2nd R&O and 2nd FNPRM.	03/23/18	83 FR 17131

Action	Date	FR Cite
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Amanda Huetinck, Attorney Advisor, WTB, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-7090, Email: amanda.huetinck@fcc.gov.
 RIN: 3060-AJ87

449. Amendment of the Commission's Rules Governing Certain Aviation Ground Station Equipment (Squitter) (WT Docket Nos. 10-61 and 09-42)

E.O. 13771 Designation: Independent agency.
Legal Authority: 48 Stat. 1066, 1082 as amended; 47 U.S.C. 154; 47 U.S.C. 303; 47 U.S.C. 307(e); 47 U.S.C. 151 to 156; 47 U.S.C. 301

Abstract: This action amends part 87 rules to authorize new ground station technologies to promote safety and allow use of frequency 1090 MHz by aeronautical utility mobile stations for airport surface detection equipment (commonly referred to as "squitters") to help reduce collisions between aircraft and airport ground vehicles.

Timetable:

Action	Date	FR Cite
NPRM	04/28/10	75 FR 22352
R&O	03/01/13	78 FR 61023
NPRM (release date).	06/07/19	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.
Agency Contact: Tim Maguire, Electronics Engineer, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-2155, Fax: 202 418-7247, Email: tim.maguire@fcc.gov.
 RIN: 3060-AJ88

450. Promoting Technological Solutions To Combat Wireless Contraband Device Use in Correctional Facilities; GN Docket No. 13-111

E.O. 13771 Designation: Independent agency.
Legal Authority: 47 U.S.C. 151 to 152; 47 U.S.C. 154(i); 47 U.S.C. 154(j); 47 U.S.C. 301; 47 U.S.C. 303(a); 47 U.S.C. 303(b); 47 U.S.C. 307 to 310; 47 U.S.C. 332; 47 U.S.C. 302(a)
Abstract: In the Report and Order, the Commission addresses the problem of illegal use of contraband wireless devices by inmates in correctional

facilities by streamlining the process of deploying contraband wireless device interdiction systems (CIS)—systems that use radio communications signals requiring Commission authorization—in correctional facilities. In particular, the Commission eliminates certain filing requirements and provides for immediate approval of the lease applications needed to operate these systems.

In the Further Notice, the Commission seeks comment on a process for wireless providers to disable contraband wireless devices once they have been identified. The Commission also seeks comment on additional methods and technologies that might prove successful in combating contraband device use in correctional facilities, and on various other proposals related to the authorization process for CISs and their deployment.

Timetable:

Action	Date	FR Cite
NPRM	06/18/13	78 FR 36469
NPRM Comment Period End.	08/08/13	
FNPRM	05/18/17	82 FR 22780
R&O	05/18/17	82 FR 22742
Final Rule Effective (Except for Rules Requiring OMB Approval).	06/19/17	
FNPRM Comment Period End.	07/17/17	
Final Rule Effective for 47 CFR 1.9020(n), 1.9030(m), 1.9035 (o), and 20.23(a).	10/20/17	82 FR 48773
Final Rule Effective for 47 CFR 1.902(d)(8), 1.9035(d)(4), 20.18(a), and 20.18(r).	02/12/18	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Melissa Conway, Attorney Advisor, Mobility Div., Wireless Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–2887, *Email:* melissa.conway@fcc.gov, *RIN:* 3060–AK06

451. Promoting Investment in the 3550–3700 MHz Band; GN Docket No. 17–258

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 151 and 152; 47 U.S.C. 154(i); 47 U.S.C. 154(j); 47 U.S.C. 302(a); 47 U.S.C. 303 and 304; 47 U.S.C. 307(e); 47 U.S.C. 316

Abstract: The Report and Order and Second Further Notice of Proposed Rulemaking (NPRM) adopted by the Commission established a new Citizens Broadband Radio Service for shared wireless broadband use of the 3550 to 3700 MHz band. The Citizens Broadband Radio Service is governed by a three-tiered spectrum authorization framework to accommodate a variety of commercial uses on a shared basis with incumbent Federal and non-Federal users of the band. Access and operations will be managed by a dynamic spectrum access system. The three tiers are: Incumbent Access, Priority Access, and General Authorized Access. Rules governing the Citizens Broadband Radio Service are found in part 96 of the Commission’s rules.

The Order on Reconsideration and Second Report and Order addressed several Petitions for Reconsideration submitted in response to the Report and Order and resolved the outstanding issues raised in the Second Further Notice of Proposed Rulemaking.

The 2017 NPRM sought comment on limited changes to the rules governing Priority Access Licenses in the band, adjacent channel emissions limits, and public release of base station registration information.

The 2018 Report and Order addressed the issues raised in the 2017 NPRM and implemented changes rules governing Priority Access Licenses in the band and public release of base station registration information.

On July 2020, the Commission commenced an auction of Priority Access Licenses in the band.

Timetable:

Action	Date	FR Cite
NPRM	01/08/13	78 FR 1188
NPRM Comment Period End.	03/19/13	
FNPRM	06/02/14	79 FR 31247
FNPRM Comment Period End.	08/15/14	
R&O and 2nd FNPRM.	06/15/15	80 FR 34119
2nd FNPRM Comment Period End.	08/14/15	
Order on Recon and 2nd R&O.	07/26/16	81 FR 49023
NPRM	11/28/17	82 FR 56193
NPRM Comment Period End.	01/29/18	
R&O	12/07/18	83 FR 6306
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Paul Powell, Assistant Chief, Mobility Division, WTb, Federal Communications

Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–1613, *Email:* paul.powell@fcc.gov.

RIN: 3060–AK12

452. Use of Spectrum Bands Above 24 GHz for Mobile Services—Spectrum Frontiers: WT Docket 10–112

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 151 to 154; 47 U.S.C. 157; 47 U.S.C. 160; 47 U.S.C. 201; 47 U.S.C. 225; 47 U.S.C. 227; 47 U.S.C. 301 and 302; 47 U.S.C. 302(a); 47 U.S.C. 303 and 304; 47 U.S.C. 307; 47 U.S.C. 309 and 310; 47 U.S.C. 316; 47 U.S.C. 319; 47 U.S.C. 332; 47 U.S.C. 336; 47 U.S.C. 1302

Abstract: In this proceeding, the Commission adopted service rules for licensing of mobile and other uses for millimeter wave (mmW) bands. These high frequencies previously have been best suited for satellite or fixed microwave applications; however, recent technological breakthroughs have newly enabled advanced mobile services in these bands, notably including very high speed and low latency services. This action will help facilitate Fifth Generation mobile services and other mobile services. In developing service rules for mmW bands, the Commission will facilitate access to spectrum, develop a flexible spectrum policy, and encourage wireless innovation.

Timetable:

Action	Date	FR Cite
NPRM	01/13/16	81 FR 1802
NPRM Comment Period End.	02/26/16	
FNPRM	08/24/16	81 FR 58269
Comment Period End.	09/30/16	
FNPRM Reply Comment Period End.	10/31/16	
R&O	11/14/16	81 FR 79894
R&O	01/02/18	83 FR 37
FNPRM	01/02/18	83 FR 85
FNPRM Comment Period End.	01/23/18	
R&O	07/20/18	83 FR 34478
FNPRM	07/20/18	83 FR 34520
FNPRM Comment Period End.	09/28/18	
R&O	02/05/19	84 FR 1618
R&O	05/01/19	84 FR 18405
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John Schauble, Deputy Chief, Broadband Division, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW, Washington, DC

20554, Phone: 202 418-0797, Email: john.schauble@fcc.gov.

RIN: 3060-AK44

453. Transforming the 2.5 GHz Band

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 151 to 153; 47 U.S.C. 154(i); 47 U.S.C. 157; 47 U.S.C. 201; 47 U.S.C. 301 and 302; 47 U.S.C. 304; 47 U.S.C. 307 to 310; 47 U.S.C. 1302

Abstract: The 2.5 GHz band (2496–2690 MHz) constitutes the single largest band of contiguous spectrum below 3 GHz and has been identified as prime spectrum for next generation mobile operations, including 5G uses. Significant portions of this band, however, currently lie fallow across approximately one-half of the United States, primarily in rural areas. Moreover, access to the Educational Broadband Service (EBS) has been strictly limited since 1995, and current licensees are subject to a regulatory regime largely unchanged from the days when educational TV was the only use envisioned for this spectrum. The Commission proposes to allow more efficient and effective use of this spectrum band by providing greater flexibility to current EBS licensees as well as providing new opportunities for additional entities to obtain unused 2.5 GHz spectrum to facilitate improved access to next generation wireless broadband, including 5G. The Commission also seeks comment on additional approaches for transforming the 2.5 GHz band, including by moving directly to an auction for some or all of the spectrum.

Timetable:

Action	Date	FR Cite
NPRM	06/07/18	83 FR 26396
NPRM Comment Period Extended.	06/21/18	83 FR 31515
NPRM Comment Period End.	09/07/18	
Final Rule	10/25/19	84 FR 57343
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John Schauble, Deputy Chief, Broadband Division, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-0797, Email: john.schauble@fcc.gov.

RIN: 3060-AK75

454. Expanding Flexible Use of the 3.7 to 4.2 GHz Band: GN Docket No. 18-122

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C.151 to 153; 47 U.S.C.154(i); 47 U.S.C 157; 47 U.S.C. 201; 47 U.S.C. 301 to 304; 47 U.S.C. 307 to 310; 47 U.S.C. 1302; . . .

Abstract: In the 2020 Report and Order, the Commission adopted rules to make 280 megahertz of mid-band spectrum available for flexible use (plus a 20-megahertz guard band) throughout the contiguous United States. Pursuant to the Report and Order, existing fixed satellite service (FSS) and fixed services (FS) must relocate operations out of the lower portion of the 3.7–4.0 GHz band. The Commission will issue flexible use licenses in the 3.7–3.98 GHz portion of the band in the contiguous United States via a system of competitive bidding. The Commission established rules to govern the transition including optional payments for satellite operators that choose to relocate on an accelerated schedule and provide reimbursement to FSS operators and their associated earth stations for reasonable expenses incurred to facilitate the transition. The Report and Order also established service and technical rules for the new flexible use licenses that will be issued in the 3.7–3.98 GHz portion of the band.

Timetable:

Action	Date	FR Cite
NPRM	08/29/18	83 FR 44128
NPRM Comment Period End.	11/27/18	
Public Notice	05/20/19	84 FR 22733
Certifications and Data Filing Deadline.	05/28/19	
Public Notice	06/03/19	84 FR 22514
Public Notice Comment Period End.	07/03/19	
Public Notice Reply Comment Period End.	07/18/19	
R&O	04/23/20	85 FR 22804
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Peter Daronco, Deputy Division Chief, Broadband Division, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-7235, Email: peter.daronco@fcc.gov.

RIN: 3060-AK76

455. Amendment of the Commission’s Rules To Promote Aviation Safety: WT Docket No. 19-140

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 154; 47 U.S.C. 303; 307(e)

Abstract: The Federal Communications Commission regulates the Aviation Radio Service, a family of services using dedicated spectrum to enhance the safety of aircraft in flight, facilitate the efficient movement of aircraft both in the air and on the ground, and otherwise ensure the reliability and effectiveness of aviation communications. Recent technological advances have prompted the Commission to open this new rulemaking proceeding to ensure the timely deployment and use of today’s state-of-the-art safety-enhancing technologies. With this Notice of Proposed Rulemaking, the Commission proposes changes to its part 87 Aviation Radio Service rules to support the deployment of more advanced avionics technology, increase the efficient use of limited spectrum resources, and generally improve aviation safety.

Timetable:

Action	Date	FR Cite
NPRM	07/02/19	84 FR 31542
NPRM Comment Period End.	09/03/19	
NPRM Reply Comment Period End.	09/30/19	
Next Action Undetermined.		

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Jeff Tobias, Attorney Advisor, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW, Washington, DC 20554, Phone: 202 418-1617, Email: jeff.tobias@fcc.gov.

RIN: 3060-AK92

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Wireline Competition Bureau

Long-Term Actions

456. Local Telephone Networks That LECs Must Make Available to Competitors

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 251

Abstract: The Commission adopted rules applicable to incumbent local

exchange carriers (LECs) to permit competitive carriers to access portions of the incumbent LECs' networks on an unbundled basis. Unbundling allows competitors to lease portions of the incumbent LECs' network to provide telecommunications services. These rules, adopted in dockets CC 96–98, WC 01–338, and WC 04–313, are intended to accelerate the development of local exchange competition.

Timetable:

Action	Date	FR Cite
Second FNPRM ..	04/26/99	64 FR 20238
Fourth FNPRM	01/14/00	65 FR 2367
Errata Third R&O and Fourth FNPRM.	01/18/00	65 FR 2542
Second Errata Third R&O and Fourth FNPRM.	01/18/00	65 FR 2542
Supplemental Order.	01/18/00	65 FR 2542
Third R&O	01/18/00	65 FR 2542
Correction	04/11/00	65 FR 19334
Supplemental Order Clarification.	06/20/00	65 FR 38214
Public Notice	02/01/01	66 FR 8555
Public Notice	03/05/01	66 FR 18279
Public Notice	04/10/01	
Public Notice	04/23/01	
Public Notice	05/14/01	
NPRM	01/15/02	67 FR 1947
Public Notice	05/29/02	
Public Notice	08/01/02	
Public Notice	08/13/02	
NPRM	08/21/03	68 FR 52276
R&O and Order on Remand.	08/21/03	68 FR 52276
Errata	09/17/03	
Report	10/09/03	68 FR 60391
Order	10/28/03	
Order	01/09/04	
Public Notice	01/09/04	
Public Notice	02/18/04	
Order	07/08/04	
Second R&O	07/08/04	69 FR 43762
Order on Recon ..	08/09/04	69 FR 54589
Interim Order	08/20/04	69 FR 55111
NPRM	08/20/04	69 FR 55128
Public Notice	09/10/04	
Public Notice	09/13/04	
Public Notice	10/20/04	
Order on Recon ..	12/29/04	69 FR 77950
Order on Remand	02/04/04	
Public Notice	04/25/05	70 FR 29313
Public Notice	05/25/05	70 FR 34765
Declaratory Ruling	05/26/11	
Inactive per Maura McGowan.	12/12/11	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Edward Krachmer, Attorney Dvisor, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554,

Phone: 202 418–1525, *Email:* edward.krachmer@fcc.gov.
RIN: 3060–AH44

457. Numbering Resource Optimization

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 201 *et seq.*; 47 U.S.C. 251(e)

Abstract: To slow the rate of numbering exhaust in the U.S. and prolong the life of the North American Numbering Plan, this proceeding considers and implements a number of strategies to ensure that telephone numbers are used efficiently, and that all carriers have the numbering resources they need to compete in the rapidly expanding telecommunications marketplace.

In 1999, the Commission released the Numbering Resource Optimization Notice of Proposed Rulemaking (Notice) in CC Docket 99–200. The Notice examined and sought comment on several administrative and technical measures aimed at improving the efficiency with which telecommunications numbering resources are used and allocated. It incorporated input from the North American Numbering Council (NANC), a Federal advisory committee, which advises the Commission on issues related to number administration.

In the Numbering Resource Optimization First Report and Order and Further Notice of Proposed Rulemaking (NRO First Report and Order), released on March 31, 2000, the Commission adopted a mandatory utilization data reporting requirement, a uniform set of categories of numbers for which carriers must report their utilization, and a utilization threshold framework to increase carrier accountability and incentives to use numbers efficiently. In addition, the Commission adopted a single system for allocating numbers in blocks of 1,000, rather than 10,000, wherever possible, and established a plan for national rollout of thousands-block number pooling. The Commission also adopted numbering resource reclamation requirements to ensure that unused numbers are returned to the North American Numbering Plan (NANP) inventory for assignment to other carriers. Also, to encourage better management of numbering resources, carriers are required, to the extent possible, to first assign numbering resources within thousands blocks (a form of sequential numbering).

In the NRO Second Report and Order, the Commission adopted a measure that requires all carriers to use at least 60

percent of their numbering resources before they may get additional numbers in a particular area. That 60 percent utilization threshold increases to 75 percent over the next three years. The Commission also established a 5-year term for the national pooling administrator and an auditing program to verify carrier compliance with the Commission's rules. Furthermore, the Commission declined to amend the existing Federal rules for area code relief or specify any new Federal guidelines for the implementation of area code relief. The Commission also declined to state a preference for either all-services overlays or geographic splits as a method of area code relief. Regarding mandatory nationwide 10-digit dialing, the Commission declined to adopt this measure at the present time. Furthermore, the Commission declined to mandate nationwide expansion of the "D digit" (the "N" of an NXX or central office code) to include zero or one, or to grant State commissions the authority to implement the expansion of the "D" digit as a numbering resource optimization measure presently.

In the NRO Third Report and Order, the Commission addressed national thousands-block number pooling administration issues, including declining to alter the implementation date for covered CMRS carriers to participate in pooling. The Commission also addressed Federal cost recovery for national thousands-block number pooling, and continued to require States to establish cost recovery mechanisms for costs incurred by carriers participating in pooling trials. The Commission reaffirmed the Months-To-Exhaust (MTE) requirement for carriers. The Commission declined to lower the utilization threshold established in the Second Report and Order, and declined to exempt pooling carriers from the utilization threshold. The Commission also established a safety valve mechanism to allow carriers that do not meet the utilization threshold in a given rate center to obtain additional numbering resources. In the NRO Third Report and Order, the Commission lifted the ban on technology-specific overlays (TSOs) and delegated authority to the Common Carrier Bureau, in consultation with the Wireless Telecommunications Bureau, to resolve any such petitions. Furthermore, the Commission found that carriers who violate its numbering requirements, or fail to cooperate with an auditor conducting either a "for cause" or random audit, should be denied numbering resources in certain

instances. The Commission also reaffirmed the 180-day reservation period, declined to impose fees to extend the reservation period, and found that State commissions should be allowed password-protected access to the NANP Administrator database for data pertaining to NPAs located within their State. The measures adopted in the NRO orders will allow the Commission to monitor more closely the way numbering resources are used within the NANP, and will promote more efficient allocation and use of NANP resources by tying a carrier's ability to obtain numbering resources more closely to its actual need for numbers to serve its customers.

In NRO Third Order on Recon in CC Docket No. 99–200, Third Further Notice of Proposed Rulemaking in CC Docket No. 99–200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 95–116, the Commission reversed its clarification that those requirements extend to all carriers in the largest 100 MSAs, regardless of whether they have received a request from another carrier to provide LNP. The Commission also sought comment on whether the Commission should again extend the LNP requirements to all carriers in the largest 100 MSAs, regardless of whether they receive a request to provide LNP. The Commission also sought comment on whether all carriers in the top 100 MSAs should be required to participate in thousands-block number pooling, regardless of whether they are required to be LNP capable. In addition, the Commission sought comment on whether all MSAs included in Combined Metropolitan Statistical Areas (CMSAs) on the Census Bureau's list of the largest 100 MSAs should be included on the Commission's list of the top 100 MSAs.

In the NRO Fourth Report and Order and Further Notice of Proposed Rulemaking, the Commission reaffirmed that carriers must deploy LNP in switches within the 100 largest Metropolitan Statistical Areas (MSAs) for which another carrier has made a specific request for the provision of LNP. The Commission delegated the authority to State commissions to require carriers operating within the largest 100 MSAs that have not received a specific request for LNP from another carrier to provide LNP, under certain circumstances and on a case-by-case basis. The Commission concluded that all carriers, except those specifically exempted, are required to participate in thousands-block number pooling in accordance with the national rollout schedule, regardless of whether they are

required to provide LNP, including commercial mobile radio service (CMRS) providers that were required to deploy LNP as of November 24, 2003. The Commission specifically exempted from the pooling requirement rural telephone companies and Tier III CMRS providers that have not received a request to provide LNP. The Commission also exempted from the pooling requirement carriers that are the only service provider receiving numbering resources in a given rate center. Additionally, the Commission sought further comment on whether these exemptions should be expanded to include carriers where there are only two service providers receiving numbering resources in the rate center. Finally, the Commission reaffirmed that the 100 largest MSAs are identified in the 1990 U.S. Census reports, as well as those areas included on any subsequent U.S. Census report of the 100 largest MSAs.

In the NRO Order and Fifth Further Notice of Proposed Rulemaking, the Commission granted petitions for delegated authority to implement mandatory thousands-block pooling filed by the Public Service Commission of West Virginia, the Nebraska Public Service Commission, the Oklahoma Corporation Commission, the Michigan Public Service Commission, and the Missouri Public Service Commission. In granting these petitions, the Commission permitted these States to optimize numbering resources and further extend the life of the specific numbering plan areas. In the Further Notice of Proposed Rulemaking, the Commission sought comment on whether it should delegate authority to all States to implement mandatory thousands-block number pooling consistent with the parameters set forth in the NRO Order.

In its 2013 Notice of Proposed Rulemaking, the Commission proposed to allow interconnected Voice over Internet Protocol (VOIP) providers to obtain telephone numbers directly from the North American Numbering Plan Administrator and the Pooling Administrator, subject to certain requirements. The Commission also sought comment on a forward-looking approach to numbers for other types of providers and uses, including telematics and public safety, and the benefits and number exhaust risks of granting providers other than interconnected VoIP providers direct access.

In its 2015 Report and Order, the Commission established an authorization process to enable interconnected VoIP providers that choose to obtain access to North

American Numbering Plan telephone numbers directly from the North American Numbering Plan Administrator and/or the Pooling Administrator (Numbering Administrators), rather than through intermediaries. The Order also set forth several conditions designed to minimize number exhaust and preserve the integrity of the numbering system. Specifically, the Commission required interconnected VoIP providers obtaining numbers to comply with the same requirements applicable to carriers seeking to obtain numbers. The requirements included any State requirements pursuant to numbering authority delegated to the States by the Commission, as well as industry guidelines and practices, among others. The Commission also required interconnected VoIP providers to comply with facilities readiness requirements adapted to this context, and with numbering utilization and optimization requirements. In addition, as conditions to requesting and obtaining numbers directly from the Numbering Administrators, the Commission required interconnected VoIP providers to (1) provide the relevant State commissions with regulatory and numbering contacts when requesting numbers in those States, (2) request numbers from the Numbering Administrators under their own unique OCN, (3) file any requests for numbers with the relevant State commissions at least 30 days prior to requesting numbers from the Numbering Administrators, and (4) provide customers with the opportunity to access all abbreviated dialing codes (N11 numbers) in use in a geographic area. Finally, the Order also modified Commission's rules in order to permit VoIP Positioning Center providers to obtain pseudo-Automatic Number Identification codes directly from the Numbering Administrators for purposes of providing E911 services.

Timetable:

Action	Date	FR Cite
NPRM	06/17/99	64 FR 32471
R&O and FNPRM	06/16/00	65 FR 37703
Second R&O and Second FNPRM.	02/08/01	66 FR 9528
Third R&O and Second Order on Recon.	02/12/02	67 FR 643
Third R&O on Recon and Third FNPRM.	04/05/02	67 FR 16347
Fourth R&O and Fourth NPRM.	07/21/03	68 FR 43003
Order and Fifth FNPRM.	03/15/06	71 FR 13393
Order	06/19/13	78 FR 36679

Action	Date	FR Cite
NPRM & NOI	06/19/13	78 FR 36725
R&O	10/29/15	80 FR 66454
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

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RIN: 3060-AH80

458. Jurisdictional Separations

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i) and 154(j); 47 U.S.C. 205; 47 U.S.C. 221(c); 47 U.S.C. 254; 47 U.S.C. 403; 47 U.S.C. 410

Abstract: Jurisdictional separations is the process, pursuant to part 36 of the Commission's rules, by which incumbent local exchange carriers apportion regulated costs between the intrastate and interstate jurisdictions. In 1997, the Commission initiated a proceeding seeking comment on the extent to which legislative changes, technological changes, and marketplace changes warrant comprehensive reform of the separations process. In 2001, the Commission adopted the Federal-State Joint Board on Jurisdictional Separations' Joint Board's recommendation to impose an interim freeze on the part 36 category relationships and jurisdictional cost allocation factors for a period of 5 years, pending comprehensive reform of the part 36 separations rules. In 2006, the Commission issued an Order and Further Notice of Proposed Rulemaking that extended the separations freeze for a period of 3 years and sought comment on comprehensive reform. In 2009, the Commission issued a Report and Order extending the separations freeze an additional year to June 2010. In 2010, the Commission issued a Report and Order extending the separations freeze for an additional year to June 2011. In 2011, the Commission adopted a Report and Order extending the separations freeze for an additional year to June 2012. In 2012, the Commission issued a Report and Order extending the separations freeze for an additional 2 years to June 2014. In 2014, the Commission issued a Report and Order extending the separations freeze for an additional 3 years to June 2017.

In 2016, the Commission issued a Report and Order extending the

separations freeze for an additional 18 months until January 1, 2018. In 2017, the Joint Board issued a Recommended Decision recommending changes to the part 36 rules designed to harmonize them with the Commission's previous amendments to its part 32 accounting rules. In February 2018, the Commission issued a Notice of Proposed Rulemaking proposing amendments to part 36 consistent with the Joint Board's recommendations. In October 2018, the Commission issued a Report and Order adopting each of the Joint Board's recommendations and amending the part 36 consistent with those recommendations. In July 2018, the Commission issued a Notice of Proposed Rulemaking proposing to extend the separations freeze for an additional 15 years and to provide rate-of-return carriers that had elected to freeze their category relationships a time limited opportunity to opt out of that freeze. In December 2018, the Commission issued a Report and Order extending the freeze for up to 6 years until December 31, 2024, and granting rate-of-return carriers that had elected to freeze their category relationships a one-time opportunity to opt out of that freeze.

Timetable:

Action	Date	FR Cite
NPRM	11/05/97	62 FR 59842
NPRM Comment Period End.	12/10/97	
Order	06/21/01	66 FR 33202
Order and FNPRM.	05/26/06	71 FR 29882
Order and FNPRM Comment Period End.	08/22/06	
R&O	05/15/09	74 FR 23955
R&O	05/25/10	75 FR 30301
R&O	05/27/11	76 FR 30840
R&O	05/23/12	77 FR 30410
R&O	06/13/14	79 FR 36232
R&O	06/02/17	82 FR 25535
Recommended Decision.	10/27/17	
NPRM	03/13/18	83 FR 10817
NPRM Comment Period End.	04/27/18	
NPRM	07/27/18	83 FR 35589
NPRM Comment Period End.	09/10/18	
R&O	12/11/18	83 FR 63581
R&O	02/15/19	84 FR 4351
Announcement of OMB Approval.	03/01/19	84 FR 6977
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

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RIN: 3060-AJ06

459. Rural Call Completion; WC Docket No. 13-39

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 154; 47 U.S.C. 217; 47 U.S.C. 201; 47 U.S.C. 202; 47 U.S.C. 218; 47 U.S.C. 220; 47 U.S.C. 262; 47 U.S.C. 403(b)(2)(B); 47 U.S.C. 251(a); 47 U.S.C. 225; 47 U.S.C. 620; 47 U.S.C. 251; 47 U.S.C. 251(e); 47 U.S.C. 254(k); 47 U.S.C. 616; 47 U.S.C. 226; 47 U.S.C. 227; 47 U.S.C. 228; 47 U.S.C. 1401-1473

Abstract: The Third RCC Order began implementation of the Improving Rural Call Quality and Reliability Act of 2017 (RCC Act), by adopting rules designed to ensure the integrity of our nation's telephone network and prevent unjust or unreasonable discrimination among areas of the United States in the delivery of telephone service. In particular, the Third RCC Order adopted rules to establish a registry for intermediate providers entities that transmit, but do not originate or terminate, voice calls. The Order requires intermediate providers to register with the Commission before offering to transmit covered voice communications, and requires covered providers entities that select the initial long-distance route for a large number of lines to use only registered intermediate providers to transmit covered voice communications.

The Fourth RCC Order completed the Commission's implementation of the RCC Act by adopting service quality standards for intermediate providers, as well as an exception to those standards for intermediate providers that qualify for the covered provider safe harbor in our existing rules. The Order also set forth procedures to enforce our intermediate provider requirements. Finally, the Fourth RCC Order adopted provisions to sunset the rural call completion data recording and retention requirements adopted in the First RCC Order one year after the effective date of the new intermediate provider service quality standards.

Timetable:

Action	Date	FR Cite
NPRM	04/12/13	78 FR 21891
Public Notice	05/07/13	78 FR 26572
NPRM Comment Period End.	05/28/13	
R&O and FNPRM	12/17/13	78 FR 76218
PRA 60 Day Notice.	12/30/13	78 FR 79448

Action	Date	FR Cite
FNPRM Comment Period End.	02/18/14	
PRA Comments Due.	03/11/14	
Public Notice	05/06/14	79 FR 25682
Order on Reconsideration.	12/10/14	79 FR 73227
Erratum	01/08/15	80 FR 1007
Public Notice	03/04/15	80 FR 11593
2nd FNPRM	07/27/17	82 FR 34911
2nd FNPRM Comment Period End.	08/28/17	
Reply Comment Period End.	09/25/17	
2nd Order	04/17/18	83 FR 21723
3rd FNPRM	04/17/18	83 FR 21983
3rd FNPRM Comment Period End.	06/04/18	
3rd FNPRM Reply Comment Period End.	06/19/18	
3rd Order	08/13/18	83 FR 47296
4th Order	03/15/19	84 FR 25692
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

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460. Rates for Inmate Calling Services; WC Docket No. 12-375

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 151 and 152; 47 U.S.C. 154(i) and (j); 47 U.S.C. 225; 47 U.S.C. 276; 47 U.S.C. 303(r); 47 CFR 64; 47 U.S.C. 201

Abstract: In the Second Report and Order, the Federal Communications Commission adopted rule changes to ensure that rates for both interstate and intrastate inmate calling services (ICS) are fair, just, and reasonable limits on ancillary service charges imposed by ICS providers. In the Second Report and Order, the Commission set caps on all interstate and intrastate calling rates for ICS, established a tiered rate structure based on the size and type of facility being served, limited the types of ancillary services that ICS providers may charge for and capped the charges for permitted fees, banned flat-rate calling, facilitated access to ICS by people with disabilities by requiring providers to offer free or steeply discounted rates for calls using TTY, and imposed reporting and certification requirements to facilitate continued

oversight of the ICS market. In the Third Further Notice portion of the item, the Commission sought comment on ways to promote competition for ICS, video visitation, and rates for international calls, and considered an array of solutions to further address areas of concern in the ICS industry. In an Order on Reconsideration, the Commission amended its rate caps and the definition of “mandatory tax or mandatory fee.”

On June 13, 2017, the D.C. Circuit vacated the rate caps adopted in the Second Report and Order, as well as reporting requirements related to video visitation. The court held that the Commission lacked jurisdiction over intrastate ICS calls and that the rate caps the Commission adopted for interstate calls were arbitrary and capricious. The court also remanded the Commission’s caps on ancillary fees. On September 26, 2017, the court denied a petition for rehearing en banc. On December 21, 2017, the court issued two separate orders: One vacating the 2016 Order on Reconsideration insofar as it purports to set rate caps on inmate calling services, and one dismissing as moot challenges to the Commission’s First Report and Order on ICS.

On February 4, 2020, the Commission’s Wireline Competition Bureau released a Public Notice seeking to refresh the record on ancillary service charges imposed in connection with inmate calling services.

On August 6, 2020, the Commission adopted a Report and Order on Remand and a Fourth Further Notice of Proposed Rulemaking responding to remands by the U.S. Court of Appeals for the District of Columbia Circuit and proposing to comprehensively reform rates and charges for the inmate calling services within the Commission’s jurisdiction. The Report and Order on Remand found that the Commission’s five permitted ancillary service charges (1) automated payment fees; (2) fees for single-call and related services; (3) live agent fees; (4) paper bill/statement fees; and (5) third-party financial transaction fees generally, cannot be practically segregated between interstate and intrastate inmate telephone calls, except in a limited number of cases. Accordingly, the Commission prohibited inmate calling services providers from imposing ancillary service fees higher than the Commission’s caps, or imposing fees for additional ancillary services unless imposed in connection with purely intrastate inmate telephone service calls. The Order also reinstated a rule prohibiting providers from marking up third-party fees for single-call services; reinstated rule language that prohibits

providers from marking up mandatory taxes or fees that they pass on to inmate telephone service consumers; and amended certain of the inmate calling services rules consistent with the D.C. Circuit’s mandates to reflect that the Commission’s rate and fee caps on inmate calling service apply only to interstate and international inmate calling. The Fourth FNPRM proposes to substantially reduce the interstate rate cap for inmate telephone calls from the current interim rate caps of \$0.21 per minute for debit or prepaid calls and \$0.25 per minute for collect calls for all types of correctional facilities, to permanent rate caps of \$0.14 per minute for all interstate calls from prisons and \$0.16 for all interstate calls from jails. The Fourth FNPRM also proposes to adopt rate caps for international inmate calling services calls for the first time based on the proposed interstate rate caps, plus the amount that the provider must pay its underlying international service provider for an international call. It also proposes a waiver process for providers that believe the Commission’s rate caps would not allow them to recover their costs of serving a particular facility or contract. Finally, it seeks comment on a further mandatory data collection to continue efforts to reform these rates and fees.

Timetable:

Action	Date	FR Cite
NPRM	01/22/13	78 FR 4369
FNPRM	11/13/13	78 FR 68005
R&O	11/13/13	78 FR 67956
FNPRM Comment Period End.	12/20/13	
Announcement of Effective Date.	06/20/14	79 FR 33709
2nd FNPRM	11/21/14	79 FR 69682
2nd FNPRM Comment Period End.	01/15/15	
2nd FNPRM Reply Comment Period End.	01/20/15	
3rd FNPRM	12/18/15	80 FR 79020
2nd R&O	12/18/15	80 FR 79136
3rd FNPRM Comment Period End.	01/19/16	
3rd FNPRM Reply Comment Period End.	02/08/16	
Order on Reconsideration.	09/12/16	81 FR 62818
Announcement of OMB Approval.	03/01/17	82 FR 12182
Correction to Announcement of OMB Approval.	03/08/17	82 FR 12922
Announcement of OMB Approval.	02/06/20	85 FR 6947
Public Notice	02/19/20	85 FR 9444

Action	Date	FR Cite
Public Notice Comment Period End.	03/20/20	
Public Notice Reply Comment Period End.	04/06/20	
R&O on Remand & 4th FNPRM. Next Action Undetermined.	08/06/20	

Regulatory Flexibility Analysis

Required: Yes.

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461. Comprehensive Review of the Part 32 Uniform System of Accounts (WC Docket No. 14-130)

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 201(b); 47 U.S.C. 219 and 220

Abstract: The Commission initiates a rulemaking proceeding to review the Uniform System of Accounts (USOA) to consider ways to minimize the compliance burdens on incumbent local exchange carriers while ensuring that the Agency retains access to the information it needs to fulfill its regulatory duties. In light of the Commission's actions in areas of price cap regulation, universal service reform, and intercarrier compensation reform, the Commission stated that it is likely appropriate to streamline the existing rules even though those reforms may not have eliminated the need for accounting data for some purposes. The Commission's analysis and proposals are divided into three parts. First, the Commission proposes to streamline the USOA accounting rules while preserving their existing structure. Second, the Commission seeks more focused comment on the accounting requirements needed for price cap carriers to address our statutory and regulatory obligations. Third, the Commission seeks comment on several related issues, including state requirements, rate effects, implementation, continuing property records, and legal authority.

On February 23, 2017, the Commission adopted a Report and Order that revised the part 32 USOA to substantially reduce accounting burdens for both price cap and rate-of-return carriers. First, the Order streamlines the

USOA for all carriers. In addition, the USOA will be aligned more closely with generally accepted accounting principles, or GAAP. Second, the Order allows price cap carriers to use GAAP for all regulatory accounting purposes as long as they comply with targeted accounting rules, which are designed to mitigate any impact on pole attachment rates. Alternatively, price cap carriers can elect to use GAAP accounting for all purposes other than those associated with pole attachment rates and continue to use the part 32 accounts for pole attachment rates for up to 12 years. Third, the Order addresses several miscellaneous issues, including referral to the Federal-State Joint Board on Separations the issue of examining jurisdictional separations rules in light of the reforms adopted to part 32.

Timetable:

Action	Date	FR Cite
NPRM	09/15/14	79 FR 54942
NPRM Comment Period End.	11/14/14	
NPRM Reply Comment Period End.	12/15/14	
R&O	04/04/17	82 FR 20833
Next Action Undetermined.		

Regulatory Flexibility Analysis

Required: Yes.

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462. Restoring Internet Freedom (WC Docket No. 17-108); Protecting and Promoting the Open Internet (GN Docket No. 14-28)

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i) and (j); 47 U.S.C. 201(b)

Abstract: In December 2017, the Commission adopted the Restoring internet Freedom Declaratory Ruling, Report and Order, and Order (Restoring internet Freedom Order), which restored the light-touch regulatory framework under which the internet had grown and thrived for decades by classifying broadband internet access service as an information service. The Restoring internet Freedom Order ends title II regulation of the internet and returns broadband internet access service to its long-standing classification as an information service; reinstates the determination that mobile broadband internet access service is not a

commercial mobile service and returns it to its original classification as a private mobile service; finds that transparency, internet Service Providers (ISPs) economic incentives, and antitrust and consumer protection laws will protect the openness of the internet, and that title II regulation is unnecessary to do so; and adopts a transparency rule similar to that in the 2010 Open internet Order, requiring disclosure of network management practices, performance characteristics, and commercial terms of service. Additionally, the transparency rule requires ISPs to disclose any blocking, throttling, paid prioritization, or affiliate prioritization, and eliminates the internet conduct standard and the bright-line conduct rules set forth in the 2015 title II Order.

Timetable:

Action	Date	FR Cite
NPRM	07/01/14	79 FR 37448
NPRM Comment Period End.	07/18/14	
NPRM Reply Comment Period End.	09/15/14	
R&O on Remand, Declaratory Ruling, and Order.	04/13/15	80 FR 19737
NPRM	06/02/17	82 FR 25568
NPRM Comment Period End.	07/03/17	
Declaratory Ruling, R&O, and Order.	02/22/18	83 FR 7852
Next Action Undetermined.		

Regulatory Flexibility Analysis

Required: Yes.

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463. Technology Transitions; GN Docket No. 13-5, WC Docket No. 05-25; Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment; WC Docket No. 17-84

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 214; 47 U.S.C. 251

Abstract: On April 20, 2017, the Commission adopted a Notice of Proposed Rulemaking, Notice of Inquiry, and Request for Comment (Wireline Infrastructure NPRM, NOI, and RFC) seeking input on a number of actions designed to accelerate: (1) The

deployment of next-generation networks and services by removing barriers to infrastructure investment at the Federal, State, and local level; (2) the transition from legacy copper networks and services to next-generation fiber-based networks and services; and (3) the reduction of Commission regulations that raise costs and slow, rather than facilitate, broadband deployment.

On November 16, 2017, the Commission adopted a Report and Order (R&O), Declaratory Ruling, and Further Notice of Proposed Rulemaking (Wireline Infrastructure Order) that takes a number of actions and seeks comment on further actions designed to accelerate the deployment of next-generation networks and services through removing barriers to infrastructure investment.

The Wireline Infrastructure Order took a number of actions. First, the Report and Order revised the pole attachment rules to reduce costs for attachers, reforms the pole access complaint procedures to settle access disputes more swiftly, and increases access to infrastructure for certain types of broadband providers. Second, the Report and Order revised the section 214(a) discontinuance rules and the network change notification rules, including those applicable to copper retirements, to expedite the process for carriers seeking to replace legacy network infrastructure and legacy services with advanced broadband networks and innovative new services. Third, the Report and Order reversed a 2015 ruling that discontinuance authority is required for solely wholesale services to carrier-customers. Fourth, the Declaratory Ruling abandoned the 2014 “functional test” interpretation of when section 214 discontinuance applications are required, bringing added clarity to the section 214(a) discontinuance process for carriers and consumers alike. Finally, the Further Notice of Proposed Rulemaking sought comment on additional potential pole attachment reforms, reforms to the network change disclosure and section 214(a) discontinuance processes, and ways to facilitate rebuilding networks impacted by natural disasters. Various parties filed a Petition for Review of the Wireline Infrastructure Order in the U.S. Court of Appeals for the Ninth Circuit. The Ninth Circuit denied the Petition on January 23, 2020 on the grounds that the parties lacked standing.

On June 7, 2018, the Commission adopted a Second Report and Order (Wireline Infrastructure Second Report and Order) taking further actions designed to expedite the transition from

legacy networks and services to next generation networks and advanced services that benefit the American public and to promote broadband deployment by further streamlining the section 214(a) discontinuance rules, network change disclosure processes, and part 68 customer notification process.

The Wireline Infrastructure NPRM, NOI, and RFC sought comment on additional issues not addressed in the November Wireline Infrastructure Order or the June Wireline Infrastructure Second Report and Order. It sought comment on changes to the Commission’s pole attachment rules to: (1) Streamline the timeframe for gaining access to utility poles; (2) reduce charges paid by attachers for work done to make a pole ready for new attachments; and (3) establish a formula for computing the maximum pole attachment rate that may be imposed on an incumbent LEC.

The Wireline Infrastructure NPRM, NOI, and RFC also sought comment on whether the Commission should enact rules, consistent with its authority under section 253 of the Act, to promote the deployment of broadband infrastructure by preempting State and local laws that inhibit broadband deployment. It also sought comment on whether there are State laws governing the maintenance or retirement of copper facilities that serve as a barrier to deploying next-generation technologies and services that the Commission might seek to preempt.

Previously, in November 2014, the Commission adopted a Notice of Proposed Rulemaking and Declaratory Ruling that: (1) Proposed new backup power rules; (2) proposed new or revised rules for copper retirements and service discontinuances; and (3) adopted a functional test in determining what constitutes a service for purposes of section 214(a) discontinuance review. In August 2015, the Commission adopted a Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking that: (i) Lengthened and revised the copper retirement process; (ii) determined that a carrier must obtain Commission approval before discontinuing a service used as a wholesale input if the carrier’s actions will discontinue service to a carrier-customer’s retail end users; (iii) adopted an interim rule requiring incumbent LECs that seek to discontinue certain TDM-based wholesale services to commit to certain rates, terms, and conditions; (iv) proposed further revisions to the copper retirement discontinuance process; and (v) upheld the November 2014

Declaratory Ruling. In July 2016, the Commission adopted a Second Report and Order, Declaratory Ruling, and Order on Reconsideration that: (i) Adopted a new test for obtaining streamlined treatment when carriers seek Commission authorization to discontinue legacy services in favor of services based on newer technologies; (ii) set forth consumer education requirements for carriers seeking to discontinue legacy services in favor of services based on newer technologies; (iii) allowed notice to customers of discontinuance applications by email; (iv) required carriers to provide notice of discontinuance applications to Tribal entities; (v) made a technical rule change to create a new title for copper retirement notices and certifications; and (vi) harmonized the timeline for competitive LEC discontinuances caused by incumbent LEC network changes.

On August 2, 2018, the Commission adopted a Third Report and Order and Declaratory Ruling (Wireline Infrastructure Third Report and Order) establishing a new framework for the vast majority of pole attachments governed by Federal law by instituting a one-touch make-ready regime, in which a new attacher may elect to perform all simple work to prepare a pole for new wireline attachments in the communications space. This new framework includes safeguards to promote coordination among parties and ensures that new attachers perform work safely and reliably. The Commission retained its multi-party pole attachment process for attachments that are complex or above the communications space of a pole, but made significant modifications to speed deployment, promote accurate billing, expand the use of self-help for new attachers when attachment deadlines are missed, and reduce the likelihood of coordination failures that lead to unwarranted delays. The Commission also improved its pole attachment rules by codifying and redefining Commission precedent that requires utilities to allow attachers to overlash existing wires, thus maximizing the usable space on the pole; eliminating outdated disparities between the pole attachment rates that incumbent carriers must pay compared to other similarly-situated cable and telecommunications attachers; and clarifying that the Commission will preempt, on an expedited case-by-case basis, State and local laws that inhibit the rebuilding or restoration of broadband infrastructure after a disaster. The Commission also adopted a Declaratory Ruling that

interpreted section 253(a) of the Communications Act to prohibit State and local express and *de facto* moratoria on the deployment of telecommunications services or facilities and directed the Wireline Competition and Wireless Telecommunications Bureaus to act promptly on petitions challenging specific alleged moratoria. Numerous parties filed appeals of the Wireline Infrastructure Third Report and Order, and the appeals were consolidated in the U.S. Court of Appeals of the Ninth Circuit. On August 12, 2020, the Ninth Circuit issued an opinion upholding the Wireline Infrastructure Third Report and Order in all respects.

Timetable:

Action	Date	FR Cite
NPRM	01/06/15	80 FR 450
NPRM Comment Period End.	02/05/15	
NPRM Reply Comment Period End.	03/09/15	
FNPRM	09/25/15	80 FR 57768
R&O	09/25/15	80 FR 57768
FNPRM Comment Period End.	10/26/15	
FNPRM Reply Comment Period End.	11/24/15	
2nd R&O	09/12/16	81 FR 62632
NPRM	05/16/17	82 FR 224533
NPRM Comment Period End.	06/15/17	
NPRM Reply Comment Period End.	07/17/17	
R&O	12/28/17	82 FR 61520
FNPRM Comment Period End.	01/17/18	
FNPRM Reply Comment Period End.	02/16/18	
2nd R&O	07/09/18	83 FR 31659
3rd R&O	09/14/18	83 FR 46812
Next Action Undetermined.		

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Michele Berlove, Special Counsel, Competition Policy Div., WCB, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-1477, *Email:* michele.berlove@fcc.gov. *RIN:* 3060-AK32

464. Implementation of the Universal Service Portions of the 1996 Telecommunications Act

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 151 *et seq.*

Abstract: The Telecommunications Act of 1996 expanded the traditional

goal of universal service to include increased access to both telecommunications and advanced services such as high-speed internet for all consumers at just, reasonable and affordable rates. The Act established principles for universal service that specifically focused on increasing access to evolving services for consumers living in rural and insular areas, and for consumers with low-incomes. Additional principles called for increased access to high-speed internet in the nation's schools, libraries, and rural healthcare facilities. The FCC established four programs within the Universal Service Fund to implement the statute: Connect America Fund (formally known as High-Cost Support) for rural areas; Lifeline (for low-income consumers), including initiatives to expand phone service for Native Americans; Schools and Libraries (E-rate); and Rural Healthcare.

The Universal Service Fund is paid for by contributions from telecommunications carriers, including wireline and wireless companies, and interconnected Voice over internet Protocol (VoIP) providers, including cable companies that provide voice service, based on an assessment on their interstate and international end-user revenues. The Universal Service Administrative Company, or USAC, administers the four programs and collects monies for the Universal Service Fund under the direction of the FCC.

On February 7, 2020, the Commission launched \$20 Billion Rural Digital Opportunity Fund.

On April 2, 2020, the Commission fought COVID-19 with \$200M; Adopts Long-Term Connected Care Study.

On July 17, 2020, the Commission integrated provisions of the recently enacted Secure and Trusted Communications Networks Acts of 2019 into the existing supply chain rulemaking.

Timetable:

Action	Date	FR Cite
R&O and FNPRM	01/13/17	82 FR 4275
NPRM Comment Period End.	02/13/17	
NPRM Reply Comment Period End.	02/27/17	
R&O and Order on Recon.	03/21/17	82 FR 14466
Order on Recon ..	05/19/17	82 FR 22901
Order on Recon ..	06/08/17	82 FR 26653
Memorandum, Opinion & Order.	06/21/17	82 FR 228224
NPRM	07/30/19	84 FR 36865
NPRM	08/21/19	84 FR 43543

Action	Date	FR Cite
R&O and Order on Recon.	11/07/19	84 FR 59937
Order on Recon ..	12/09/19	84 FR 67220
R&O	12/20/19	84 FR 70026
R&O	12/27/19	84 FR 71308
R&O	01/17/20	85 FR 3044
Report & Order ...	03/10/20	85 FR 13773
Report & Order ...	05/11/20	85 FR 19892
Declaratory Ruling/2nd FNPRM.	08/04/20	85 FR 48134
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Nakesha Woodward, Program Support Assistant, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-1502, *Email:* kesha.woodward@fcc.gov. *RIN:* 3060-AK57

465. Toll Free Assignment Modernization and Toll Free Service Access Codes: WC Docket No. 17-192, CC Docket No. 95-155

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 201(b); 47 U.S.C. 251(e)(1)

Abstract: In this Report and Order (Order), the Federal Communications Commission (FCC) initiates an auction to distribute certain toll free numbers. The numbers to be auctioned will be in the new 833 toll free code for which there have been multiple, competing requests.

By using an auction, the FCC will ensure that sought-after numbers are awarded to the parties that value them most. In addition, the FCC will reserve certain 833 numbers for distribution to government and non-profit entities that request them for public health and safety purposes. The FCC will study the results of the auction to determine how to best use the mechanism to distribute toll-free numbers equitably and efficiently in the future as well.

Revenues from the auction will be used to defray the cost of toll-free numbering administration, reducing the cost of numbering for all users. The Order establishing the toll-free number auction will also authorize and accommodate the use of a secondary market for numbers awarded at auction to further distribute these numbers to the entities that value them most. The Order also adopted several definitional and technical updates to improve clarity and flexibility in toll-free number assignment.

The Commission sought comment and then adopted auctions procedures and

deadlines on August 2, 2019. Bidding for the auction occurred on December 17, 2019, and Somos issued an announcement of the winning bidders on December 20, 2019. On December 16, 2019, to facilitate the preparation of its study of the auction, the Bureau charged the North American Numbering Council, via its Toll Free Access Modernization Working Group, to issue a report evaluating various aspects of the 833 Auction, and recommending improvements for any future toll free number auctions.

On January 16, 2020, Somos released all of the 833 Auction data for public review. On March 13, 2020, the Bureau invited public comment on the 833 Auction in preparation for issuing a report on the lessons learned from the Auction. Comments were due on April 13, 2020. On July 14, 2020, the North American Numbering Council approved the Toll Free Assignment Modernization Working Group's report, Perspectives on the December 2019 Auction of Numbers in the 833 Numbering Plan Area.

Timetable:

Action	Date	FR Cite
NPRM	10/13/17	82 FR 47669
NPRM Comment Period End.	11/13/17	
Final Rule	10/23/18	83 FR 53377
Next Action Undetermined.		

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Matthew Collins, Attorney Advisor, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-7141, *Email:* matthew.collins@fcc.gov, *RIN:* 3060-AK91

466. Call Authentication Trust Anchor

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 201; 47 U.S.C. 251; 47 U.S.C. 227b

Abstract: On June 6, 2019, the Commission adopted a Declaratory Ruling and Third Further Notice of Proposed Rulemaking (CG Docket No. 17-59, WC Docket No. 17-97) that proposed and sought comment on mandating implementation of STIR/SHAKEN in the event that major voice service providers did not voluntarily implement the framework by the end of 2019.

On December 30, 2019, Congress enacted the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act. Along with numerous other provisions directed at addressing robocalls, the

TRACED Act directs the Commission to require all voice service providers to implement STIR/SHAKEN in the internet Protocol (IP) portions of their networks, and to implement an effective caller ID authentication framework in the non-IP portions of their networks. The TRACED Act further creates processes by which voice service providers may be exempt from this mandate if the Commission determines they have achieved certain implementation benchmarks, and by which voice service providers may be granted a delay in compliance based on a finding of undue hardship because of burdens or barriers to implementation or based on a delay in development of a caller ID authentication protocol for calls delivered over non-IP networks.

On March 31, 2020, the Commission adopted a Report and Order and Further Notice of Proposed Rulemaking (WC Docket Nos. 17-97, 20-67). The Report and Order mandated that all originating and terminating voice service providers implement the STIR/SHAKEN caller ID authentication framework in the IP portions of their networks by June 30, 2021. In the Further Notice the Commission sought comment on extending the STIR/SHAKEN implementation mandate to intermediate providers. The Commission also sought comment on proposals to (1) grant an extension for compliance with the STIR/SHAKEN implementation mandate for small voice service providers so long as those providers implement a robocall mitigation program; (2) require voice service providers using non-IP technology either to upgrade their networks to IP to enable STIR/SHAKEN implementation, or work to develop non-IP caller ID authentication technology and implement a robocall mitigation program in the interim; (3) establish a process whereby a voice service provider may be exempt from the STIR/SHAKEN implementation mandate if the provider has achieved certain implementation benchmarks; (4) prohibit voice service providers from imposing line item charges on consumer and small business subscribers for caller ID authentication; and (5) propose and seek comment on measures to implement other TRACED Act provisions concerning caller ID authentication and access to number resources.

Timetable:

Action	Date	FR Cite
NOI	07/14/17	
DR and 3rd FNPRM.	06/06/19	84 FR 29478

Action	Date	FR Cite
NPRM	06/24/19	84 FR 29478
NPRM Comment Period End.	08/23/19	
3rd FNPRM Comment Period End.	08/23/19	
R&O and FNPRM Comment Period End.	03/31/20	85 FR 22029
Next Action Undetermined.	05/29/20	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Matthew Collins, Attorney Advisor, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418-7141, *Email:* matthew.collins@fcc.gov, *RIN:* 3060-AL00

467. Implementation of the National Suicide Improvement Act of 2018

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 201; 47 U.S.C. 251

Abstract: On August 14, 2018, Congress passed the National Suicide Hotline Improvement Act (Act). Public Law 115-233, 132 Stat. 2424 (2018). The purpose of the Act was to study and report on the feasibility of designating a 3-digit dialing code to be used for a national suicide prevention and mental health crisis hotline system by considering each of the current N11 designations. The Act directed the Commission to: (1) Conduct a study that examines the feasibility of designating a simple, easy-to-remember, 3-digit dialing code to be used for a national suicide prevention and mental health crisis hotline system; and (2) analyze how well the current National Suicide Prevention Lifeline is working to address the needs of veterans. The Act also directed the Commission to coordinate with the Department of Health and Human Services' Substance Abuse and Mental Health Services Administration (SAMHSA), the Secretary of Veterans Affairs, and the North American Numbering Council (NANC) in conducting the study, and to produce a report on the study by August 14, 2019.

On August 14, 2019, the Wireline Competition Bureau and Office of Economics and Analytics submitted its report to Congress recommending that: (1) A 3-digit dialing code be used for a national suicide prevention and mental health crisis hotline system; and (2) the Commission should initiate a rulemaking proceeding to consider designating 988 as the 3-digit code.

On December 12, 2019, the Commission released a notice of proposed rulemaking (NPRM) proposing to designate 988 as a new, nationwide, 3-digit dialing code for a suicide prevention and mental health crisis hotline. WC Docket No. 18–336. The NPRM proposes that calls made to 988 be directed to the existing National Suicide Prevention Lifeline, which is made up of an expansive network of over 170 crisis centers located across the United States, and to the Veterans Crisis Line. The NPRM also proposes to require all telecommunications carriers and interconnected VoIP service providers to make, within 18 months, any changes necessary to ensure that users can dial 988 to reach the National Suicide Prevention Lifeline and Veterans Crisis Line.

On July 16, 2020, the Commission adopted an Order designating 988 as the 3-digit number to reach the Lifeline and Veterans Crisis Line (800–273–TALK or 800–273–8255) and requiring all telecommunications carriers, interconnected voice over internet Protocol (VoIP) providers, and one-way VoIP providers to make any network changes necessary to ensure that users can dial 988 to reach the Lifeline by July 16, 2022.

Timetable:

Action	Date	FR Cite
NPRM	01/15/20	85 FR 2359
NPRM Comment Period End.	03/16/20	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michelle Sclater, Attorney, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–0388, *Email:* michelle.sclater@fcc.gov. *RIN:* 3060–AL01

468. Modernizing Unbundling and Resale Requirements in an Era of Next-Generation Networks and Services

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 10; 47 U.S.C. 251

Abstract: On November 22, 2019, the Commission adopted a Notice of Proposed Rulemaking (NPRM) seeking comment on proposals to update the unbundling and avoided-cost resale obligations stemming from the 1996 Act and applicable only to incumbent LECs. Many of these obligations appear to no longer be necessary in many geographic areas due to vigorous competition for

mass market broadband services in urban areas and numerous intermodal voice capabilities and services. But recognizing that rural areas pose special challenges for broadband deployment, the NPRM does not propose any change to unbundling requirements for broadband-capable loops in rural areas. The NPRM seeks to promote the Commission’s efforts to reduce unnecessary and outdated regulatory burdens that appear to discourage the deployment of next-generation networks, delay the IP transition, unnecessarily burden incumbent LECs with no similar obligations placed on their competitors, and no longer benefit consumers or serve the purpose for which they were intended.

Timetable:

Action	Date	FR Cite
NPRM	01/06/20	85 FR 472
NPRM Comment Period End.	03/06/20	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michele Berlove, Special Counsel, Competition Policy Div., WCB, Federal Communications Commission, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–1477, *Email:* michele.berlove@fcc.gov. *RIN:* 3060–AL02

469. Eliminating Ex Ante Pricing Regulation and Tariffing of Telephone Access Charges (WC Docket 20–71)

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 160; 47 U.S.C. 201 to 203; 47 U.S.C. 214; 47 U.S.C. 225; 47 U.S.C. 251; 47 U.S.C. 254; 47 U.S.C. 303(r); 47 U.S.C. 616

Abstract: The NPRM proposes to deregulate and detariff Telephone Access Charges, which represent the last handful of interstate end-user charges that remain subject to regulation. The Notice also proposes to prohibit all carriers from separately listing these charges on customers’ bills, given that some Telephone Access Charges are used to calculate contributions to the Federal Universal Service Fund and other federal programs as well as high cost support this Notice also proposes and seeks comment on ways to ensure stability in funding these programs.

Timetable:

Action	Date	FR Cite
NPRM	04/01/20	85 FR 30899

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Victoria Goldberg, Attorney–Advisor, Federal Communications Commission, Wireline Competition Bureau, 445 12th Street SW, Washington, DC 20554, *Phone:* 202 418–7353, *Email:* victoria.goldberg@fcc.gov.

RIN: 3060–AL03

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Completed Actions

470. Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership (IB Docket No. 16–155)

E.O. 13771 Designation: Independent agency.

Legal Authority: 47 U.S.C. 154(i); 47 U.S.C. 154(j); 47 U.S.C. 214; 47 U.S.C. 303; 47 U.S.C. 309; 47 U.S.C. 310; 47 U.S.C. 34–39; Executive Order No. 10530, Section 5(a) reprinted as amended in 3 U.S.C. 301

Abstract: The FCC is reviewing the process by which it coordinates review of certain applications and petitions with the Executive Branch. The FCC refers certain applications to the relevant Executive Branch agencies for their input on any national security, law enforcement, foreign policy, and trade policy concerns that may arise from the foreign ownership interests held in the applicants and petitioners. In an NPRM released in 2016, the FCC sought comment on proposals to streamline and facilitate the process for obtaining information necessary for Executive Branch review and identify expected time frames, while ensuring that it continues to take Executive Branch concerns into consideration as part of its public interest review. Specifically, the FCC sought comment on proposals that applicants provide (for Executive Branch review) additional information on ownership, network operations, and related matters when filing their applications; that require applicants to make certain law enforcement/national security-related certifications; that establish timeframes for Executive Branch review; and other revisions to the application process to streamline the review process.

Timetable:

Action	Date	FR Cite
NPRM	07/09/16	81 FR 46870
NPRM Comment Period End.	09/02/16	

Action	Date	FR Cite
Merged With 3060-AL12.	09/28/20	

International Bureau, 445 12th Street
SW, Washington, DC 20554, *Phone:* 202
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arthur.lechtman@fcc.gov.

RIN: 3060-AL04

[FR Doc. 2021-04333 Filed 3-30-21; 8:45 am]

BILLING CODE 6712-01-P

*Regulatory Flexibility Analysis
Required: Yes.*

Agency Contact: Arthur T. Lechtman,
Attorney Advisor, Federal
Communications Commission,



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Part XXV

Federal Reserve System

Semiannual Regulatory Agenda

FEDERAL RESERVE SYSTEM

12 CFR Chapter II

Semiannual Regulatory Flexibility Agenda

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Board is issuing this agenda under the Regulatory Flexibility Act and the Board’s Statement of Policy Regarding Expanded Rulemaking Procedures. The Board anticipates having under consideration regulatory matters as indicated below during the period November 1, 2020, through April 30, 2020. The next agenda will be published in spring 2021.

DATES: Comments about the form or content of the agenda may be submitted any time during the next 6 months.

ADDRESSES: Comments should be addressed to Ann E. Misback, Secretary of the Board, Board of Governors of the Federal Reserve System, Washington, DC 20551.

FOR FURTHER INFORMATION CONTACT: A staff contact for each item is indicated with the regulatory description below.

SUPPLEMENTARY INFORMATION: The Board is publishing its fall 2020 agenda as part of the Fall 2020 Unified Agenda of Federal Regulatory and Deregulatory Actions, which is coordinated by the Office of Management and Budget under Executive Order 12866. The agenda also identifies rules the Board has selected for review under section 610(c) of the Regulatory Flexibility Act, and public comment is invited on those entries. The complete Unified Agenda will be available to the public at the following website: *www.reginfo.gov*. Participation by the Board, as an independent

Agency, in the Unified Agenda is on a voluntary basis.

The Board’s agenda is divided into four sections. The first, Proposed Rule Stage, reports on matters the Board may consider for public comment during the next 6 months. The second section, Final Rule Stage, reports on matters that have been proposed and are under Board consideration. The third section, Long-Term Actions, reports on matters where the next action is undetermined, 00/00/0000, or will occur more than 12 months after publication of the Agenda. And a fourth section, Completed Actions, reports on regulatory matters the Board has completed or is not expected to consider further. A dot (•) preceding an entry indicates a new matter that was not a part of the Board’s previous agenda.

Yao-Chin Chao,
Assistant Secretary of the Board.

FEDERAL RESERVE SYSTEM—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
471	Source of Strength (Section 610 Review)	7100–AE73
472	Regulation LL—Savings and Loan Holding Companies and Regulation MM—Mutual Holding Companies (Docket No: R–1429).	7100–AD80

FEDERAL RESERVE SYSTEM—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
473	Regulation O—Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks (Docket No: R–1722).	7100–AF93

FEDERAL RESERVE SYSTEM (FRS)

Long-Term Actions

471. Source of Strength (Section 610 Review)

E.O. 13771 Designation: Independent agency.

Legal Authority: 12 U.S.C. 1831(o)

Abstract: The Board of Governors of the Federal Reserve System (Board), the Office of the Comptroller of the Currency (OCC), and the Federal Deposit Insurance Corporation (FDIC) plan to issue a proposed rule to implement section 616(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Section 616(d) requires that bank holding companies, savings and loan holding companies, and other companies that directly or indirectly control an insured depository institution serve as a source of strength for the insured depository institution.

Timetable:

Action	Date	FR Cite
Next Action Undetermined.	To Be Determined	

Regulatory Flexibility Analysis Required: Undetermined.
Agency Contact: Melissa Clark, Lead Financial Institution Policy Analyst, Federal Reserve System, Division of Supervision and Regulation, Washington, DC 20551, *Phone:* 202 452–2277.

Barbara Bouchard, Senior Associate Director, Federal Reserve System, Division of Supervision and Regulation, Washington, DC 20551, *Phone:* 202 452–3072.

Jay Schwarz, Special Counsel, Federal Reserve System, Legal Division, Washington, DC 20551, *Phone:* 202 452–2970.

Claudia Von Pervieux, Senior Counsel, Federal Reserve System, Legal Division, Washington, DC 20551, *Phone:* 202 452–2552.

RIN: 7100–AE73

472. Regulation LL—Savings and Loan Holding Companies and Regulation MM—Mutual Holding Companies (Docket No: R–1429)

E.O. 13771 Designation: Independent agency.

Legal Authority: 5 U.S.C. 552; 5 U.S.C. 559; 5 U.S.C. 1813; 5 U.S.C. 1817; 5 U.S.C. 1828

Abstract: The Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) transferred responsibility for supervision of Savings and Loan Holding Companies (SLHCs) and their non-depository subsidiaries from the Office of Thrift Supervision (OTS) to the Board of Governors of the Federal Reserve System (the Board), on July 21, 2011. The Act also transferred supervisory functions related to Federal savings associations and State savings associations to the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC), respectively. The Board on August 12, 2011, approved an

interim final rule for SLHCs, including a request for public comment. The interim final rule transferred from the OTS to the Board the regulations necessary for the Board to supervise SLHCs, with certain technical and substantive modifications. The interim final rule has three components: (1) New Regulation LL (part 238), which sets forth regulations generally governing SLHCs; (2) new Regulation MM (part 239), which sets forth regulations governing SLHCs in mutual form; and (3) technical amendments to existing Board regulations necessary to accommodate the transfer of supervisory authority for SLHCs from the OTS to the Board. The structure of interim final Regulation LL closely follows that of the Board's Regulation Y, which governs bank holding companies, in order to provide an overall structure to rules that were previously found in disparate locations. In many instances, interim final Regulation LL incorporated OTS regulations with only technical modifications to account for the shift in supervisory responsibility from the OTS to the Board. Interim final Regulation LL also reflects statutory changes made by the Dodd-Frank Act with respect to SLHCs, and incorporates Board precedent and practices with respect to applications processing procedures and control issues, among other matters. Interim final Regulation MM organized existing OTS regulations governing SLHCs in mutual form (MHCs) and their subsidiary holding companies into a single part of the Board's regulations. In many instances, interim final Regulation MM incorporated OTS regulations with only technical modifications to account for the shift in supervisory responsibility from the OTS to the Board. Interim final Regulation MM also reflects statutory changes made by the Dodd-Frank Act with respect to MHCs. The interim final rule also made technical amendments to Board rules to facilitate supervision of SLHCs, including to rules implementing Community Reinvestment Act requirements and to Board procedural and administrative rules. In addition,

the Board made technical amendments to implement section 312(b)(2)(A) of the Act, which transfers to the Board all rulemaking authority under section 11 of the Home Owner's Loan Act relating to transactions with affiliates and extensions of credit to executive officers, directors, and principal shareholders. These amendments include revisions to parts 215 (Insider Transactions) and part 223 (Transactions with Affiliates) of Board regulations.

Timetable:

Action	Date	FR Cite
Board Requested Comment.	09/13/11	76 FR 56508
Board Expects Further Action.	12/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Keisha Patrick, Special Counsel, Federal Reserve System, Legal Division, Washington, DC 20551, *Phone:* 202 452-3559.

RIN: 7100-AD80

FEDERAL RESERVE SYSTEM (FRS)

Completed Actions

473. • Regulation O—Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks (Docket No: R-1722)

E.O. 13771 Designation: Independent agency.

Legal Authority: 12 U.S.C. 375

Abstract: On April 17, 2020, the Board of Governors of the Federal Reserve System issued an interim final rule to except certain loans made by June 30, 2020, that are guaranteed under the Small Business Administration's Paycheck Protection Program from the requirements of section 22(h) of the Federal Reserve Act and the corresponding provisions of the Board's Regulation O. The Board is issuing this interim final rule to expand the exception to apply to PPP loans made through August 8, 2020.

Timetable:

Action	Date	FR Cite
Interim Final Rule Effective.	07/16/20	
Board Adopted Interim Final Rule.	07/16/20	85 FR 39464

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Laurie Schaffer, Deputy General Counsel, Federal Reserve System, Legal Division, Washington, DC 20551, *Phone:* 202 452-2272.

Alison Thro, Deputy Associate General Counsel, Federal Reserve System, Legal Division, Washington, DC 20551, *Phone:* 202 452-3236, *Email:* alison.thro@frb.gov.

Benjamin McDonough, Assistant General Counsel, Federal Reserve System, Legal Division, Washington, DC 20551, *Phone:* 202 452-2036.

Daniel Hickman, Counsel, Federal Reserve System, Legal Division, Washington, DC 20552, *Phone:* 202 973-7432.

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Anna Lee Hewko, Associate Director, Federal Reserve System, Division of Supervision and Regulation, Washington, DC 20551, *Phone:* 202 530-6260.

Constance Horsley, Deputy Associate Director, Federal Reserve System, Division of Supervision and Regulation, Washington, DC 20551, *Phone:* 202 452-5239.

Juan Climent, Assistant Director, Federal Reserve System, Division of Supervision and Regulation, Washington, DC 20551, *Phone:* 202 872-7526.

Kathryn Ballintine, Manager, Federal Reserve System, Division of Supervision and Regulation, Washington, DC 20551, *Phone:* 202 452-2555.

RIN: 7100-AF93

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Part XXVI

Nuclear Regulatory Commission

Semiannual Regulatory Agenda

NUCLEAR REGULATORY COMMISSION

[NRC–2020–0197]

10 CFR Chapter I

Unified Agenda of Federal Regulatory and Deregulatory Actions+

AGENCY: Nuclear Regulatory Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: We are publishing our semiannual regulatory agenda (the Agenda) in accordance with Public Law 96–354, “The Regulatory Flexibility Act,” and Executive Order 12866, “Regulatory Planning and Review.” This Agenda issuance also contains our annual regulatory plan, which contains information on some of the more important regulatory actions that we are considering issuing in proposed or final form during Fiscal Year 2021. The NRC’s complete Agenda, available on the Office of Management and Budget’s website at <https://www.reginfo.gov>, is a compilation of all rulemaking activities on which we have recently completed action or have proposed or are considering action. We have completed 7 rulemaking activities since publication of our last Agenda on, August 26, 2020 (85 FR 52858). This issuance of our Agenda contains 32 active and 17 long-term rulemaking activities: 2 are Economically Significant; 15 represent Other Significant agency priorities; 28 are Substantive, Nonsignificant rulemaking activities; and 4 are Administrative rulemaking activities. In addition, 2 rulemaking activities impact small entities; the entries for these activities are printed in this document. We are requesting comment on the rulemaking activities as identified in this Agenda.

DATES: Submit comments on rulemaking activities as identified in this Agenda by April 30, 2021.

ADDRESSES: Submit comments on any rulemaking activity in the Agenda by the date and methods specified in the **Federal Register** notice for the rulemaking activity. Comments received on rulemaking activities for which the comment period has closed will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before the closure date specified in the **Federal Register** notice. You may submit comments on this Agenda through the Federal Rulemaking website by going to <https://www.regulations.gov> and searching for Docket ID NRC–2020–0197. Address questions about NRC

dockets to Carol Gallagher; telephone: 301–415–3463; email: Carol.Gallagher@nrc.gov.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Cindy Bladley, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–3280; email: Cindy.Bladley@nrc.gov. Persons outside the Washington, DC, metropolitan area may call, toll-free: 1–800–368–5642. For further information on the substantive content of any rulemaking activity listed in the Agenda, contact the individual listed under the heading “Agency Contact” for that rulemaking activity.

SUPPLEMENTARY INFORMATION:

Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2020–0197 when contacting the NRC about the availability of information for this document. You may obtain publicly-available information related to this document by any of the following methods:

- *Federal Rulemaking Website:* Go to <http://www.regulations.gov> and search for Docket ID NRC–2020–0197.

- *Attention:* The Public Document Room (PDR), where you may examine and order copies of public documents is currently closed. You may submit your request to the PDR via email at PDR.Resource@nrc.gov or call 1–800–397–4209 between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

- *Reginfo.gov:*

- For completed rulemaking activities go to <https://www.reginfo.gov/public/do/eAgendaHistory?showStage=completed>, select “Fall 2020 The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions” from drop down menu, and select “Nuclear Regulatory Commission” from drop down menu.

- For active rulemaking activities go to <https://www.reginfo.gov/public/do/eAgendaMain> and select “Nuclear Regulatory Commission” from drop down menu.

- For long-term rulemaking activities go to <https://www.reginfo.gov/public/do/eAgendaMain>, select link for “Current Long Term Actions”, and select “Nuclear Regulatory Commission” from drop down menu.

B. Submitting Comments

Please include Docket ID NRC–2020–0197 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <http://www.regulations.gov> as well as enter the comment submissions into the Agencywide Documents Access and Management System (ADAMS). The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

Introduction

The Agenda is a compilation of all rulemaking activities on which an agency has recently completed action or has proposed or is considering action. The Agenda reports rulemaking activities in three major categories: Completed, active, and long-term. Completed rulemaking activities are those that were completed since publication of an agency’s last Agenda; active rulemaking activities are those that an agency currently plans to have an Advance Notice of Proposed Rulemaking, a Proposed Rule, or a Final Rule issued within the next 12 months; and long-term rulemaking activities are rulemaking activities under development but for which an agency does not expect to have a regulatory action within the 12 months after publication of the current edition of the Unified Agenda.

Introduction

The NRC assigns a “Regulation Identifier Number” (RIN) to a rulemaking activity when our Commission initiates a rulemaking and approves a rulemaking plan, or when the NRC staff begins work on a Commission delegated rulemaking that does not require a rulemaking plan. The Office of Management and Budget uses this number to track all relevant documents throughout the entire “lifecycle” of a particular rulemaking activity. The NRC reports all rulemaking activities in the Agenda that have been assigned a RIN and meet the definition

The NRC assigns a “Regulation Identifier Number” (RIN) to a rulemaking activity when our Commission initiates a rulemaking and approves a rulemaking plan, or when the NRC staff begins work on a Commission delegated rulemaking that does not require a rulemaking plan. The Office of Management and Budget uses this number to track all relevant documents throughout the entire “lifecycle” of a particular rulemaking activity. The NRC reports all rulemaking activities in the Agenda that have been assigned a RIN and meet the definition

for a completed, an active, or a long-term rulemaking activity.

The information contained in this Agenda is updated to reflect any action that has occurred on a rulemaking activity since publication of our last Agenda on, August 26, 2020 (85 FR 52858). Specifically, the information in this Agenda has been updated through September 4, 2020. The NRC provides additional information on planned rulemaking and petition for rulemaking activities, including priority and schedule, on our website at <https://www.nrc.gov/about-nrc/regulatory/rulemaking/rules-petitions.html#cpulist>.

The date for the next scheduled action under the heading “Timetable” is the date the next regulatory action for the rulemaking activity is scheduled to be published in the **Federal Register**. The date is considered tentative and is not binding on the Commission or its staff.

The Agenda is intended to provide the public early notice and opportunity to participate in our rulemaking process. However, we may consider or act on any rulemaking activity even though it is not included in the Agenda.

Section 610 Periodic Reviews Under the Regulatory Flexibility Act

Section 610 of the Regulatory Flexibility Act (RFA) requires agencies to conduct a review within 10 years of promulgation of those regulations that have or will have a *significant* economic impact on a *substantial* number of small entities. We undertake these reviews to decide whether the rules should be unchanged, amended, or withdrawn. At this time, we do not have any rules that have a *significant* economic impact on a *substantial* number of small entities; therefore, we have not included any RFA Section 610 periodic reviews in

this edition of the Agenda. A complete listing of our regulations that impact small entities and related Small Entity Compliance Guides are available from the NRC’s website at <http://www.nrc.gov/about-nrc/regulatory/rulemaking/flexibility-act/small-entities.html>.

Public Comments Received on NRC Unified Agenda

The comment period on the NRC’s last Agenda (published on, August 26, 2020 (85 FR 52858)) will close on September 25, 2020.

Dated at Rockville, Maryland, this 4th day of September 2020.

For the Nuclear Regulatory Commission.

Cindy K. Bladley,
Chief, Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Office of Nuclear Material Safety and Safeguards.

NUCLEAR REGULATORY COMMISSION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
474	Revision of Fee Schedules: Fee Recovery for FY 2021 [NRC–2018–0292] (Reg Plan Seq No. 128)	3150–AK24

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

NUCLEAR REGULATORY COMMISSION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
475	Revision of Fee Schedules: Fee Recovery for FY 2022 [NRC–2020–0031]	3150–AK44

NUCLEAR REGULATORY COMMISSION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
476	Revision of Fee Schedules: Fee Recovery for FY 2020 [NRC–2017–0228]	3150–AK10

NUCLEAR REGULATORY COMMISSION (NRC)

Proposed Rule Stage

474. Revision of Fee Schedules: Fee Recovery for FY 2021 [NRC–2018–0292]

Regulatory Plan: This entry is Seq. No. 128 in part II of this issue of the **Federal Register**.

RIN: 3150–AK24

NUCLEAR REGULATORY COMMISSION (NRC)

Long-Term Actions

475. Revision of Fee Schedules: Fee Recovery for FY 2022 [NRC–2020–0031]

E.O. 13771 Designation: Independent agency.

Legal Authority: 31 U.S.C. 483; 42 U.S.C. 2201; 42 U.S.C. 2214; 42 U.S.C. 5841

Abstract: This rulemaking would amend the NRC’s regulations for fee schedules. The NRC conducts this rulemaking annually to recover approximately 100 percent of the NRC’s FY 2022 budget authority, less excluded activities to implement NEIMA. This rulemaking would affect the fee schedules for licensing, inspection, and annual fees charged to the NRC’s applicants and licensees.

Timetable:

Action	Date	FR Cite
NPRM	02/00/22	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Anthony Rossi, Nuclear Regulatory Commission, Office of the Chief Financial Officer, Washington, DC 20555–0001, *Phone:* 301 415–7341, *Email:* anthony.rossi@nrc.gov

RIN: 3150–AK44

NUCLEAR REGULATORY COMMISSION (NRC)

Completed Actions

476. Revision of Fee Schedules: Fee Recovery for FY 2020 [NRC–2017–0228]

E.O. 13771 Designation: Independent agency.

Legal Authority: 31 U.S.C. 483; 42 U.S.C. 2201; 42 U.S.C. 2214; 42 U.S.C. 5841

Abstract: This rulemaking would amend the NRC's regulations for fee schedules. The NRC conducts this rulemaking annually to recover approximately 90 percent of its budget authority in a given fiscal year to implement the Omnibus Budget Reconciliation Act of 1990, as amended. This rulemaking would affect the fee schedules for licensing, inspection, and

annual fees charged to the NRC's applicants and licensees.

Timetable:

Action	Date	FR Cite
NPRM	02/18/20	85 FR 9328
NPRM Comment Period End.	03/19/20	
Final Rule	06/19/20	85 FR 37250
Final Rule Effective.	08/18/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Anthony Rossi, Nuclear Regulatory Commission, Office of the Chief Financial Officer, Washington, DC 20555-0001, *Phone:* 301 415-7341, *Email:* anthony.rossi@nrc.gov.

RIN: 3150-AK10

[FR Doc. 2021-04347 Filed 3-30-21; 8:45 am]

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Part XXVII

Securities and Exchange Commission

Semiannual Regulatory Agenda

SECURITIES AND EXCHANGE COMMISSION

17 CFR Chapter II

[Release Nos. 33-10873, 34-90131, IA-5610, IC-34047, File No. S7-14-20]

Regulatory Flexibility Agenda

AGENCY: Securities and Exchange Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Securities and Exchange Commission is publishing the Chairman’s agenda of rulemaking actions pursuant to the Regulatory Flexibility Act (RFA) (Pub. L. 96-354, 94 Stat. 1164) (Sep. 19, 1980). The items listed in the Regulatory Flexibility Agenda for Fall 2020 reflect only the priorities of the Chairman of the U.S. Securities and Exchange Commission, and do not necessarily reflect the view and priorities of any individual Commissioner.

Information in the agenda was accurate on October 7, 2020, the date on which the Commission’s staff completed compilation of the data. To the extent possible, rulemaking actions by the Commission since that date have been reflected in the agenda. The Commission invites questions and public comment on the agenda and on the individual agenda entries.

The Commission is now printing in the **Federal Register**, along with our preamble, only those agenda entries for which we have indicated that preparation of an RFA analysis is required.

The Commission’s complete RFA agenda will be available online at www.reginfo.gov.

DATES: Comments should be received on or before April 30, 2021.

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

Electronic Comments

- Use the Commission’s internet comment form (<http://www.sec.gov/rules/other.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number S7-14-20 on the subject line.

Paper Comments

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

All submissions should refer to File No. S7-14-20. This file number should be included on the subject line if email is used. To help us 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/other.shtml>).

Comments are also available for website viewing and printing in the Commission’s Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Sarit Klein, Office of the General Counsel, 202-551-5037.

SUPPLEMENTARY INFORMATION: The RFA requires each Federal agency, twice each year, to publish in the **Federal Register** an agenda identifying rules that the agency expects to consider in the next 12 months that are likely to have

a significant economic impact on a substantial number of small entities (5 U.S.C. 602(a)). The RFA specifically provides that publication of the agenda does not preclude an agency from considering or acting on any matter not included in the agenda and that an agency is not required to consider or act on any matter that is included in the agenda (5 U.S.C. 602(d)). The Commission may consider or act on any matter earlier or later than the estimated date provided on the agenda. While the agenda reflects the current intent to complete a number of rulemakings in the next year, the precise dates for each rulemaking at this point are uncertain. Actions that do not have an estimated date are placed in the long-term category; the Commission may nevertheless act on items in that category within the next 12 months. The agenda includes new entries, entries carried over from prior publications, and rulemaking actions that have been completed (or withdrawn) since publication of the last agenda.

The following abbreviations for the acts administered by the Commission are used in the agenda:

- “Securities Act”—Securities Act of 1933
- “Exchange Act”—Securities Exchange Act of 1934
- “Investment Company Act”—Investment Company Act of 1940
- “Investment Advisers Act”—Investment Advisers Act of 1940
- “Dodd Frank Act”—Dodd-Frank Wall Street Reform and Consumer Protection Act

The Commission invites public comment on the agenda and on the individual agenda entries.

By the Commission.

Dated: October 8, 2020.

Vanessa A. Countryman,
Secretary.

DIVISION OF CORPORATION FINANCE—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
477	Mandated Electronic Filings	3235-AM15
478	Amendments to Rule 701/Form S-8	3235-AM38
479	Rule 144 Holding Period and Form 144 Filings	3235-AM78
480	Temporary Rules to Include Certain “Platform Workers” in Compensatory Offerings Under Rule 701 and Form S-8.	3235-AM79

DIVISION OF CORPORATION FINANCE—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
481	Universal Proxy	3235-AL84
482	Filing Fee Disclosure and Payment Methods Modernization	3235-AL96
483	Harmonization of Exempt Offerings	3235-AM27

DIVISION OF CORPORATION FINANCE—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
484	Listing Standards for Recovery of Erroneously Awarded Compensation	3235-AK99
485	Pay Versus Performance	3235-AL00
486	Corporate Board Diversity	3235-AL91

DIVISION OF CORPORATION FINANCE—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
487	Amendments to Financial Disclosures About Acquired Businesses	3235-AL77
488	Amending the “Accredited Investor” Definition	3235-AM19
489	Procedural Requirements and Resubmission Thresholds Under Exchange Act Rule 14a-8	3235-AM49
490	Amendments to Exemptions From the Proxy Rules for Proxy Voting Advice	3235-AM50

DIVISION OF INVESTMENT MANAGEMENT—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
491	Investment Company Shareholder Report and Modernization of Certain Investment Company Disclosure	3235-AM52
492	Amendments to the Family Office Rule	3235-AM67

DIVISION OF INVESTMENT MANAGEMENT—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
493	Use of Derivatives by Registered Investment Companies and Business Development Companies	3235-AL60
494	Investment Adviser Advertisements; Compensation for Solicitations	3235-AM08
495	Investment Company Fair Value	3235-AM71

DIVISION OF INVESTMENT MANAGEMENT—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
496	Reporting of Proxy Votes on Executive Compensation and Other Matters	3235-AK67
497	Amendments to Form 13F Filer Threshold	3235-AM65
498	Amendments to the Custody Rules for Investment Companies	3235-AM66
499	Amendments to Rule 17a-7 Under the Investment Company Act	3235-AM69
500	Amendments to Improve Fund Proxy System	3235-AM73

DIVISION OF INVESTMENT MANAGEMENT—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
501	Fund of Funds Arrangements	3235-AM29
502	Amendments to Procedures With Respect to Applications under the Investment Company Act of 1940	3235-AM51

DIVISION OF TRADING AND MARKETS—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
503	Removal of Certain References to Credit Ratings Under the Securities Exchange Act of 1934	3235-AL14

OFFICES AND OTHER PROGRAMS—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
504	Amendments to Certain Provisions of the Auditor Independence Rules	3235-AM63

SECURITIES AND EXCHANGE COMMISSION (SEC)

Division of Corporation Finance

Proposed Rule Stage

477. Mandated Electronic Filings

E.O. 13771 Designation: Independent agency.

Legal Authority: 15 U.S.C. 77d; 15 U.S.C. 77f; 15 U.S.C. 77g; 15 U.S.C. 77h; 15 U.S.C. 77j; 15 U.S.C. 77s(a); 15 U.S.C. 78c; 15 U.S.C. 78l; 15 U.S.C. 78m; 15 U.S.C. 78n; 15 U.S.C. 78o(d); 15 U.S.C. 78p; 15 U.S.C. 78w(a); 15 U.S.C. 78ll

Abstract: The Division is considering recommending that the Commission propose amendments to Regulation S–T that would update the mandated electronic submissions requirements to include additional filings.

Timetable:

Action	Date	FR Cite
NPRM	10/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Sean Harrison, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, Phone: 202 551–3430, Email: harrisons@sec.gov.

RIN: 3235–AM15

478. Amendments to Rule 701/Form S–8

E.O. 13771 Designation: Independent agency.

Legal Authority: 15 U.S.C. 77bb

Abstract: The Division is considering recommending that the Commission propose rule amendments to Securities Act Rule 701, the exemption from registration for securities issued by non-reporting companies pursuant to compensatory arrangements, and Form S–8, the registration statement for compensatory offerings by reporting companies.

Timetable:

Action	Date	FR Cite
ANPRM	07/24/18	83 FR 34958
ANPRM Comment Period End.	09/24/18	
NPRM	11/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Anne M. Krauskopf, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, Phone: 202 551–3500, Email: krauskopfa@sec.gov.

RIN: 3235–AM38

479. • Rule 144 Holding Period and Form 144 Filings

E.O. 13771 Designation: Independent agency.

Legal Authority: 12 U.S.C. 5461 *et seq.*; 15 U.S.C. 77b; 15 U.S.C. 77b note; 15 U.S.C. 77c; 15 U.S.C. 77d; 15 U.S.C. 77f; 15 U.S.C. 77g; 15 U.S.C. 77h; 15 U.S.C. 77j; 15 U.S.C. 77r; 15 U.S.C. 77s; 15 U.S.C. 77s(a); 15 U.S.C. 77z–2; 15 U.S.C. 77z–3; 15 U.S.C. 77sss; 15 U.S.C. 77sss(a); 15 U.S.C. 78a *et seq.*; 15 U.S.C. 78c; 15 U.S.C. 78c(b); 15 U.S.C. 78d; 15 U.S.C. 78j; 15 U.S.C. 78l; 15 U.S.C. 78m; 15 U.S.C. 78n; 15 U.S.C. 78o; 15 U.S.C. 78o–7 note; 15 U.S.C. 78o(d); 15 U.S.C. 78t; 15 U.S.C. 78u–5; 15 U.S.C. 78w; 15 U.S.C. 78w(a); 15 U.S.C. 78ll; 15 U.S.C. 78ll(d); 15 U.S.C. 78mm; 15 U.S.C. 80a–2(a); 15 U.S.C. 80a–3; 15 U.S.C. 80a–6(c); 15 U.S.C. 80a–8; 15 U.S.C. 80a–9; 15 U.S.C. 80a–10; 15 U.S.C. 80a–13; 15 U.S.C. 80a–24; 15 U.S.C. 80a–26; 15 U.S.C. 80a–28; 15 U.S.C. 80a–29; 15 U.S.C. 80a–30; 15 U.S.C. 80a–37; 15 U.S.C. 7201 *et seq.*; 18 U.S.C. 1350; Sec 953(b) Pub. L. 111–203, 124 Stat. 1904; Sec 102(a)(3) Pub. L. 112–106, 126 Stat. 309 (2012); Sec 107 Pub. L. 112–106, 126 Stat. 313 (2012); Sec 201(a) Pub. L. 112–106, 126 Stat. 313 (2012); Sec 401 Pub. L. 112–106, 126 Stat. 313 (2012); Sec 72001 Pub. L. 114–94, 129 Stat. 1312 (2015), unless otherwise noted;

Abstract: The Division is considering recommending that the Commission propose amendments to Rule 144, a non-exclusive safe harbor that permits the public resale of restricted or control securities if the conditions of the rule are met, and rule amendments to update the electronic filing requirements applicable to Form 144.

Timetable:

Action	Date	FR Cite
NPRM	12/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John Fieldsend, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, Phone: 202 551–3430, Email: fieldsendj@sec.gov.

RIN: 3235–AM78

480. • Temporary Rules To Include Certain “Platform Workers” in Compensatory Offerings Under Rule 701 and Form S–8

E.O. 13771 Designation: Independent agency.

Legal Authority: 15 U.S.C. 77g; 15 U.S.C. 77j; 15 U.S.C. 77s(a); 15 U.S.C. 78c(b); 15 U.S.C. 78l; 15 U.S.C. 78m; 15

U.S.C. 78o; 15 U.S.C. 78w(a); 15 U.S.C. 78mm; . . .

Abstract: The Division is considering recommending that the Commission propose temporary rule amendments to Rule 701 and Form S–8 for offers and sales of securities for a compensatory purpose to certain platform workers.

Timetable:

Action	Date	FR Cite
NPRM	11/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Elliot Staffin, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, Phone: 202 551–3450, Email: staffine@sec.gov.

RIN: 3235–AM79

SECURITIES AND EXCHANGE COMMISSION (SEC)

Division of Corporation Finance

Final Rule Stage

481. Universal Proxy

E.O. 13771 Designation: Independent agency.

Legal Authority: 15 U.S.C. 78n; 15 U.S.C. 78w(a)

Abstract: The Division is considering recommending that the Commission adopt amendments to the proxy rules to allow a shareholder voting by proxy to choose among duly-nominated candidates in a contested election of directors.

Timetable:

Action	Date	FR Cite
NPRM	11/10/16	81 FR 79122
NPRM Comment Period End.	01/09/17	
Final Action	10/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Ted Yu, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, Phone: 202 551–3440, Email: yut@sec.gov.

RIN: 235–AL84

482. Filing Fee Disclosure and Payment Methods Modernization

E.O. 13771 Designation: Independent agency.

Legal Authority: 15 U.S.C. 77g; 15 U.S.C. 77j; 15 U.S.C. 77s(a); 15 U.S.C. 78c; 15 U.S.C. 78l; 15 U.S.C. 78m; 15 U.S.C. 78o(d); 15 U.S.C. 78s(a); 15

U.S.C. 78ll; 15 U.S.C. 80a–8; 15 U.S.C. 80a–24; 15 U.S.C. 80a–29; 15 U.S.C. 80a–37

Abstract: The Division is considering recommending that the Commission adopt amendments that would modernize filing fee disclosure and payment methods by requiring fee calculation information to be provided in a structured format, and by updating the fee payment options. The amendments are intended to improve filing fee preparation and payment processing by facilitating both enhanced validation through fee structuring and lower-cost, easily routable payments.

Timetable:

Action	Date	FR Cite
NPRM	12/27/19	84 FR 71580
NPRM Comment Period End.	02/25/20	
Final Action	05/00/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mark W. Green, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–0301, *Phone:* 202 551–3430, *Email:* greenm@sec.gov. *RIN:* 3235–AL96

483. Harmonization of Exempt Offerings

E.O. 13771 Designation: Independent agency.

Legal Authority: 15 U.S.C. 77a *et seq.* *Abstract:* The Division is considering recommending that the Commission adopt rule amendments to harmonize and streamline the Commission’s rules for exempt offerings under the Securities Act of 1933, including Regulation A, Regulation D, and Regulation Crowdfunding, in order to enhance their clarity and ease of use.

Timetable:

Action	Date	FR Cite
ANPRM	06/26/19	84 FR 30460
ANPRM Comment Period End.	09/24/19	
NPRM	03/31/20	85 FR 17956
NPRM Comment Period End.	06/01/20	
Final Action	11/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jennifer Zepralka, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551–3430, *Email:* zepralkaj@sec.gov. *RIN:* 3235–AM27

SECURITIES AND EXCHANGE COMMISSION (SEC)

Division of Corporation Finance

Long-Term Actions

484. Listing Standards for Recovery of Erroneously Awarded Compensation

E.O. 13771 Designation: Independent agency.

Legal Authority: Pub. L. 111–203, sec. 954; 15 U.S.C. 78j–4

Abstract: The Commission proposed rules to implement section 954 of the Dodd-Frank Act, which requires the Commission to adopt rules to direct national securities exchanges to prohibit the listing of securities of issuers that have not developed and implemented a policy providing for disclosure of the issuer’s policy on incentive-based compensation and mandating the clawback of such compensation in certain circumstances.

Timetable:

Action	Date	FR Cite
NPRM	07/14/15	80 FR 41144
NPRM Comment Period End.	09/14/15	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Anne M. Krauskopf, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551–3500, *Email:* krauskopfa@sec.gov. *RIN:* 3235–AK99

485. Pay Versus Performance

E.O. 13771 Designation: Independent agency.

Legal Authority: Pub. L. 111–203, sec. 953(a); 15 U.S.C. 78c(b); 15 U.S.C. 78n; 15 U.S.C. 78w(a); 15 U.S.C. 78mm

Abstract: The Commission proposed rules to implement section 953(a) of the Dodd-Frank Act, which added section 14(i) to the Exchange Act to require issuers to disclose information that shows the relationship between executive compensation actually paid and the financial performance of the issuer.

Timetable:

Action	Date	FR Cite
NPRM	05/07/15	80 FR 26329
NPRM Comment Period End.	07/06/15	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Steven G. Hearne, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551–3430, *Email:* hearnes@sec.gov.

RIN: 3235–AL00

486. Corporate Board Diversity

E.O. 13771 Designation: Independent agency.

Legal Authority: 15 U.S.C. 77c(b); 15 U.S.C. 77f; 15 U.S.C. 77g; 15 U.S.C. 78l; 15 U.S.C. 78m

Abstract: The Division is considering recommending that the Commission propose amendments to the proxy rules to require additional disclosure about the diversity of board members and nominees.

Timetable: Next Action

Undetermined.

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Felicia H. Kung, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551–3430, *Email:* kungf@sec.gov.

RIN: 3235–AL91

SECURITIES AND EXCHANGE COMMISSION (SEC)

Division of Corporation Finance

Completed Actions

487. Amendments to Financial Disclosures About Acquired Businesses

E.O. 13771 Designation: Independent agency.

Legal Authority: 15 U.S.C. 77g; 15 U.S.C. 77j; 15 U.S.C. 77s(a); 15 U.S.C. 77z–3; 15 U.S.C. 78c(b); 15 U.S.C. 78l; 15 U.S.C. 78m; 15 U.S.C. 78o(d); 15 U.S.C. 78w(a); 15 U.S.C. 778mm; 15 U.S.C. 77c; 15 U.S.C. 77f; 15 U.S.C. 80a–6(c); 15 U.S.C. 80a–8; 15 U.S.C. 80a–24(a); 15 U.S.C. 80a–29; 15 U.S.C. 80a–37

Abstract: The Commission adopted amendments to Regulation S–X (Rule 3–05) that affect the disclosure of financial information of acquired businesses. When a registrant acquires a business other than a real estate operation, Rule 305 generally requires a registrant to provide separate audited annual and unaudited interim pre-acquisition financial statements of the business if it is significant to the registrant.

Timetable:

Action	Date	FR Cite
ANPRM	10/01/15	80 FR 59083

Action	Date	FR Cite
ANPRM Comment Period End.	11/30/15	
NPRM NPRM Comment Period End.	05/28/19 07/29/19	84 FR 24600
Final Action	08/31/20	85 FR 54002

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Todd Hardiman, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-3516, *Email:* hardimant@sec.gov.

Patrick Gilmore, Deputy Chief Accountant, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-3406, *Email:* gilmorep@sec.gov.

RIN: 3235-AL77

488. Amending the “Accredited Investor” Definition

E.O. 13771 Designaion: Independent agency.

Legal Authority: 15 U.S.C. 77a et seq.

Abstract: The Commission adopted amendments to the definition of accredited investor” to add new categories of qualifying natural persons and entities and to make certain other modifications to the existing definition. The amendments are intended to update and improve the definition to identify more effectively investors that have sufficient knowledge and expertise to participate in investment opportunities that do not have the rigorous disclosure and procedural requirements, and related investor protections, provided by registration under the Securities Act of 1933. Specifically, the amendments add new categories of natural persons that may qualify as accredited investors based on certain professional certifications or designations or other credentials or their status as a private fund’s knowledgeable employee,” expand the list of entities that may qualify as accredited investors, add entities owning \$5 million in investments, add family offices with at least \$5 million in assets under management and their family clients, and add the term spousal equivalent” to the definition. The amendments also include amendments to the qualified institutional buyer” definition in Rule 144A under the Securities Act to expand the list of entities that are eligible to qualify as qualified institutional buyers.

Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End.	01/15/20 03/16/20	85 FR 2574
Final Action Final Action Effective.	10/09/20 12/08/20	85 FR 64234

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jennifer Zepralka, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-3430, *Email:* zepralkaj@sec.gov.

RIN: 3235-AM19

489. Procedural Requirements and Resubmission Thresholds Under Exchange Act Rule 14A-8

E.O. 13771 Designation: Independent agency

Legal Authority: 15 U.S.C. 78a et seq.; 15 U.S.C. 78c(b); 15 U.S.C. 78n; 15 U.S.C. 78w(a)

Abstract: The Commission adopted amendments regarding the thresholds for shareholder proposals under Rule 14a-8.

Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End.	12/04/19 02/03/20	84 FR 66458
Final Action Final Action Effective—Except for Amending Instruction 2.b which is effective 1/4/2021 thru 1/1/23.	11/04/20 01/04/21	85 FR 70240

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dan Greenspan, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-3623, *Email:* greenspand@sec.gov.

RIN: 3235-AM49

490. Amendments to Exemptions From the Proxy Rules for Proxy Voting Advice

E.O. 13771 Designation: Independent agency.

Legal Authority: 15 U.S.C. 78a et seq. *Abstract:* The Commission adopted amendments to its rules governing proxy solicitations so that investors who use proxy voting advice receive more transparent, accurate, and complete information on which to make their voting decisions, without imposing undue costs or delays that could

adversely affect the timely provision of proxy voting advice. The amendments add conditions to the availability of certain existing exemptions from the information and filing requirements of the Federal proxy rules that are commonly used by proxy voting advice businesses. These conditions require compliance with disclosure and procedural requirements, including conflicts of interest disclosures by proxy voting advice businesses and two principles-based requirements. In addition, the amendments codify the Commission’s interpretation that proxy voting advice generally constitutes a solicitation within the meaning of the Securities Exchange Act of 1934. Finally, the amendments clarify when the failure to disclose certain information in proxy voting advice may be considered misleading within the meaning of the antifraud provision of the proxy rules, depending upon the particular facts and circumstances.

Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End.	12/04/19 02/03/20	84 FR 66518
Final Action	09/03/20	85 FR 55082

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dan Greenspan, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-3623, *Email:* greenspand@sec.gov.

RIN: 3235-AM50

SECURITIES AND EXCHANGE COMMISSION (SEC)

Division of Investment Management

Proposed Rule Stage

491. Investment Company Shareholder Report and Modernization of Certain Investment Company Disclosure

E.O. 13771 Designation: Independent agency.

Legal Authority: 15 U.S.C. 77e ; 15 U.S.C. 77g; 15 U.S.C. 77j; 15 U.S.C.77s; 15 U.S.C. 78c(b); 15 U.S.C. 77f; 15 U.S.C. 78j; 15 U.S.C. 78m; 15 U.S.C. 78n; 15 U.S.C. 78o; 15 U.S.C. 78mm; 15 U.S.C. 80a-6; 15 U.S.C. 80a-8; 15 U.S.C. 80a-20; 15 U.S.C. 80a-24; 15 U.S.C. 80a-29; 15 U.S.C. 80a-37; 44 U.S.C. 3506; 44 U.S.C. 3507

Abstract: The Division is considering recommending that the Commission propose a new streamlined shareholder report under the Investment Company

Act of 1940. The Division is also considering recommending that the Commission propose rule and form amendments to improve and modernize certain aspects of the current disclosure framework under the Investment Company Act.

Timetable:

Action	Date	FR Cite
NPRM	11/05/20	85 FR 70716
NPRM Comment Period End.	01/04/21	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Michael Kosoff, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-6754, *Email:* kosoffm@sec.gov.

RIN: 3235-AM52

492. Amendments to the Family Office Rule

E.O. 13771 Designation: Independent agency.

Legal Authority: 15 U.S.C. 80b-2(a)(11)(G); 15 U.S.C. 80b-6a

Abstract: The Division is considering recommending that the Commission propose targeted amendments to the family office rule under section 202(a)(11) of the Investment Advisers Act of 1940. Family offices, as so defined in the Act, are excluded from the Act's definition of investment adviser, and are thus not subject to any of the provisions of the Act.

Timetable:

Action	Date	FR Cite
NPRM	05/00/21	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Alexis Palascak, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-6246.

RIN: 3235-AM67

SECURITIES AND EXCHANGE COMMISSION (SEC)

Division of Investment Management

Final Rule Stage

493. Use of Derivatives by Registered Investment Companies and Business Development Companies

E.O. 13771 Designation: Independent agency.

Legal Authority: 15 U.S.C. 80a-6(c); 15 U.S.C. 80a-60; 15 U.S.C. 80a-12(a);

15 U.S.C. 80a-37; 15 U.S.C. 80a-8; 15 U.S.C. 80a-22(c); 15 U.S.C. 80a-18; 15 U.S.C. 78c; 15 U.S.C. 78c-5; 15 U.S.C. 78j; 15 U.S.C. 78o; 15 U.S.C. 78m; 15 U.S.C. 78o-10; 15 U.S.C. 78q; 15 U.S.C. 78w; 15 U.S.C. 78mm; 15 U.S.C. 80b-6; 15 U.S.C. 80b-6a; 15 U.S.C. 80b-8; 15 U.S.C. 80b-aa; 15 U.S.C. 77f; 15 U.S.C. 77g; 15 U.S.C. 77j; 15 U.S.C. 77s; 15 U.S.C. 78ll

Abstract: The Division is considering recommending that the Commission adopt a new rule designed to enhance the regulation of the use of derivatives by registered investment companies, including mutual funds, exchange-traded funds, closed-end funds, and business development companies.

Timetable:

Action	Date	FR Cite
NPRM	12/28/15	80 FR 80884
NPRM Comment Period End.	03/28/16	
Second NPRM	01/24/20	85 FR 4446
Second NPRM Comment Period End.	03/04/20	
Final Action	11/00/20	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Brian Johnson, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-6740, *Email:* johnsonbm@sec.gov.

RIN: 3235-AL60

494. Investment Adviser Advertisements; Compensation for Solicitations

E.O. 13771 Designation: Independent agency.

Legal Authority: 15 U.S.C. 80b-b(4); 15 U.S.C. 80b-11a; 15 U.S.C. 80b-(4)

Abstract: The Division is considering recommending that the Commission adopt amendments to rules 206(4)-1 and 206(4)-3 under the Investment Advisers Act of 1940 regarding marketing communications and practices by investment advisers.

Timetable:

Action	Date	FR Cite
NPRM	12/10/19	84 FR 67518
NPRM Comment Period End.	02/10/20	
Final Action	05/00/21	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Melissa Harke, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549,

Phone: 202 551-6722, *Email:* harkem@sec.gov.

RIN: 3235-AM08

495. Investment Company Fair Value

E.O. 13771 Designation: Independent agency.

Legal Authority: 15 U.S.C. 80a-2(a); 15 U.S.C. 80a-6(c); 15 U.S.C. 80a-37(a)

Abstract: The Division is considering recommending that the Commission adopt a rule regarding the valuation practices and the role of the board of directors with respect to the fair value of the investments of a registered investment company or business development company.

Timetable:

Action	Date	FR Cite
NPRM	05/13/20	85 FR 28734
NPRM Comment Period End.	07/21/20	
Final Action	12/00/20	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Thoreau Adrian Bartmann, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-6745, *Email:* bartmann@sec.gov.

RIN: 3235-AM71

SECURITIES AND EXCHANGE COMMISSION (SEC)

Division of Investment Management

Long-Term Actions

496. Reporting of Proxy Votes on Executive Compensation and Other Matters

E.O. 13771 Designation: Independent agency.

Legal Authority: 15 U.S.C. 78m; 15 U.S.C. 78w(a); 15 U.S.C. 78mm; 15 U.S.C. 78x; 15 U.S.C. 80a-8; 15 U.S.C. 80a-29; 15 U.S.C. 80a-30; 15 U.S.C. 80a-37; 15 U.S.C. 80a-44; Pub. L. 111-203, sec. 951

Abstract: The Division is considering recommending that the Commission repropose rule amendments to implement section 951 of the Dodd-Frank Act. The Commission previously proposed amendments to rules and Form N-PX that would require institutional investment managers subject to section 13(f) of the Exchange Act to report how they voted on any shareholder vote on executive compensation or golden parachutes pursuant to sections 14A(a) and (b) of the Exchange Act.

Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End. Next Action Unde- termined.	10/28/10 11/18/10	75 FR 66622

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Pamela Ellis, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-3506, *Email:* ellisp@sec.gov.
RIN: 3235-AK67

497. Amendments to Form 13F Filer Threshold

E.O. 13771 Designation: Independent agency.

Legal Authority: 15 U.S.C. 78c(b); 15 U.S.C. 78m(f); 15 U.S.C. 78w; 15 U.S.C. 78x; 15 U.S.C. 78mm

Abstract: Form 13F is the reporting form filed by institutional investment managers pursuant to Section 13(f) of the Securities Exchange Act of 1934. Institutional investment managers that exercise investment discretion over \$100 million or more in Section 13(f) securities must file Form 13F. The Commission proposed rule and related form amendments regarding, among other things, the thresholds for Form 13F filers. The Division is considering recommendations for next steps, including whether to recommend targeted amendments to Form 13F and targeted exemptions from the filing requirements where duplicative filings exist.

Timetable:

Action	Date	FR Cite
NPRM Next Action Unde- termined.	07/31/20	85 FR 46016

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Zeena Abdul-Rahman, Senior Counsel, Divisions of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-4099, *Email:* abdulrahmanz@sec.gov.
RIN: 3235-AM65

498. Amendments to the Custody Rules for Investment Companies

E.O. 13771 Designation: Independent agency.

Legal Authority: 15 U.S.C. 80a-6(c); 15 U.S.C. 80a-17(f); 15 U.S.C. 80a-26; 15 U.S.C. 80a-28; 15 U.S.C. 80a-29; 15 U.S.C. 80a-30; 15 U.S.C. 80a-31; 15 U.S.C. 80a-36; 15 U.S.C. 80a-37; 15 U.S.C. 80a-37(a)

Abstract: The Division is considering recommending that the Commission propose amendments to rules concerning custody under the Investment Company Act of 1940.

Timetable: Next Action Undetermined.

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mr. Bradley Gude, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-5590, *Email:* gudeb@sec.gov.
RIN: 3235-AM66

499. Amendments to Rule 17A-7 Under the Investment Company Act

E.O. 13771 Designation: Independent agency.

Legal Authority: 15 U.S.C. 80a-6(c); 15 U.S.C. 80a-10(f); 15 U.S.C. 80a-17(d); 15 U.S.C. 80a-37(a)

Abstract: The Division is considering recommending that the Commission propose amendments to rule 17a-7 under the Investment Company Act of 1940 concerning the exemption of certain purchase or sale transactions between an investment company and certain affiliated persons.

Timetable: Next Action Undetermined.

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Adam Lovell, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-6637, *Email:* lovella@sec.gov.
RIN: 3235-AM69

500. Amendments To Improve Fund Proxy System

E.O. 13771 Designation: Independent agency.

Legal Authority: 15 U.S.C. 78m; 15 U.S.C. 78w; 15 U.S.C. 78mm; 15 U.S.C. 80a-2; 15 U.S.C. 80a-6; 15 U.S.C. 80a-20; 15 U.S.C. 80a-30; 15 U.S.C. 80a-37

Abstract: The Division is considering recommending that the Commission propose rule and form amendments to address the fund proxy system and the unique challenges that funds as issuers may experience in seeking shareholder approvals.

Timetable: Next Action Undetermined.

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Amanda Wagner, Branch Chief, Investment Company Regulation Office, Securities and Exchange Commission, Division of Investment Management, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-6762, *Email:* wagnera@sec.gov.
RIN: 3235-AM73

SECURITIES AND EXCHANGE COMMISSION (SEC)

Division of Investment Management

Completed Actions

501. Fund of Funds Arrangements

E.O. 13771 Designation: Independent agency.

Legal Authority: 15 U.S.C. 80a-8(b); 15 U.S.C. 80a-6(c); 15 U.S.C. 80a-12(d)(1)(G) ; 15 U.S.C. 80a-12(d)(1)(J); 15 U.S.C. 80a-17(b); 15 U.S.C. 80a-29(a); 15 U.S.C. 80a-37(a)

Abstract: The Commission adopted new rules and rule amendments to allow funds to acquire shares of other funds (i.e., “fund of funds” arrangements), including arrangements involving exchange-traded funds, without first obtaining exemptive orders from the Commission.

Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End.	02/01/19 05/02/19	84 FR 1286
Final Action Final Action Effec- tive.	11/19/20 01/19/21	85 FR 73924

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Melissa Gainor, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, *Phone:* 202 551-6805, *Email:* gainorm@sec.gov.
RIN: 3235-AM29

502. Amendments to Procedures With Respect to Applications Under the Investment Company Act of 1940

E.O. 13771 Designation: Independent agency.

Legal Authority: 15 U.S.C. 80a-6(c); 15 U.S.C. 80a-37(a)

Abstract: The Commission adopted amendments to rule 0-5 under the Investment Company Act of 1940 to establish an expedited review procedure for certain applications.

Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End.	10/30/19 11/29/19	84 FR 58075
Final Action Final Action Effec- tive.	09/15/20	85 FR 57089

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Steven Amchan, Attorney, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE,

Washington, DC 20549, Phone: 202 551-6826, Email: amchans@sec.gov.
RIN: 3235-AM51

SECURITIES AND EXCHANGE COMMISSION (SEC)

Division of Trading and Markets

Long-Term Actions

503. Removal of Certain References to Credit Ratings Under the Securities Exchange Act of 1934

E.O. 13771 Designation: Independent agency.

Legal Authority: Pub. L. 111-203, sec. 939A

Abstract: Section 939A of the Dodd-Frank Act requires the Commission to remove certain references to credit ratings from its regulations and to substitute such standards of creditworthiness as the Commission determines to be appropriate. The Commission amended certain rules and one form under the Exchange Act applicable to broker-dealer financial responsibility and confirmation of transactions. The Commission has not yet finalized amendments to certain rules regarding the distribution of securities.

Timetable:

Action	Date	FR Cite
NPRM	05/06/11	76 FR 26550

Action	Date	FR Cite
NPRM Comment Period End.	07/05/11	79 FR 1522
Final Action	01/08/14	
Final Action Effective.	07/07/14	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John Guidroz, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, Phone: 202 551-6439, Email: guidrozj@sec.gov.

RIN: 3235-AL14

SECURITIES AND EXCHANGE COMMISSION (SEC)

Offices and Other Programs

Final Rule Stage

504. Amendments to Certain Provisions of the Auditor Independence Rules

E.O. 13771 Designation: Independent agency.

Legal Authority: 15 U.S.C. 77(f); 15 U.S.C. 77(g); 15 U.S.C. 77(h); 15 U.S.C. 77(j); 15 U.S.C. 77(s); 15 U.S.C. 77(z-2); 15 U.S.C. 77(z-3); 15 U.S.C. 77(aa(25)); 15 U.S.C. 77(aa(26)); 15 U.S.C. 77(nn(25)); 15 U.S.C. 77(nn(26)); 15 U.S.C. 78(c); 15 U.S.C. 78(j-1); 15 U.S.C.

78(l); 15 U.S.C. 78(m); 15 U.S.C. 78(n); 15 U.S.C. 78(o(d)); 15 U.S.C. 78(q); 15 U.S.C. 78(u-5); 15 U.S.C. 78(w); 15 U.S.C. 78(ll); 15 U.S.C. 78(mm); 15 U.S.C. 80(a-8); 15 U.S.C. 80(a-20); 15 U.S.C. 80(a-29); 15 U.S.C. 80(a-30); 15 U.S.C. 80(a-31); 15 U.S.C. 80(a-37(a)); 15 U.S.C. 80(b-3); 15 U.S.C. 80(b-11); 15 U.S.C. 7202; 15 U.S.C. 7262; Pub. L. 112-106, sec. 102(c); 126 Stat. 310 (2012)

Abstract: The Office of the Chief Accountant is considering recommending that the Commission adopt amendments to update certain auditor independence rules to facilitate capital formation, in a manner consistent with investor protection.

Timetable:

Action	Date	FR Cite
NPRM	01/15/20	85 FR 2332
NPRM Comment Period End.	03/16/20	
Final Action	11/00/20	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Duc Dang, Attorney, Office of Chief Accountant, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549, Phone: 202 551-3386, Email: dangd@sec.gov.

RIN: 3235-AM63

[FR Doc. 2021-04360 Filed 3-30-21; 8:45 am]

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Part XXVIII

Surface Transportation Board

Semiannual Regulatory Agenda

SURFACE TRANSPORTATION BOARD

49 CFR Chapter X

[STB Ex Parte No. 536 (Sub-No. 49)]

Semiannual Regulatory Agenda

AGENCY: Surface Transportation Board.
ACTION: Semiannual regulatory agenda.

SUMMARY: The Chairman of the Surface Transportation Board is publishing the Regulatory Flexibility Agenda for fall 2020.

FOR FURTHER INFORMATION CONTACT: A contact person is identified for each of the rules listed below.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, sets forth a number of requirements for agency rulemaking. Among other things, the RFA requires that, semiannually, each agency shall publish in the **Federal Register** a Regulatory Flexibility Agenda, which shall contain:

(1) A brief description of the subject area of any rule that the agency expects to propose or promulgate, which is

likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable about the items listed in paragraph (1).

Accordingly, a list of proceedings appears below containing information about subject areas in which the Board is currently conducting rulemaking proceedings or may institute such proceedings in the near future. It also contains information about existing regulations being reviewed to determine whether to propose modifications through rulemaking.

The agenda represents the Chairman's best estimate of rules that may be considered over the next 12 months, but does not necessarily reflect the views of

any other individual Board Member. However, section 602(d) of the RFA, 5 U.S.C. 602(d), provides: "Nothing in [section 602] precludes an agency from considering or acting on any matter not included in a Regulatory Flexibility Agenda or requires an agency to consider or act on any matter listed in such agenda."

The Chairman is publishing the agency's Regulatory Flexibility Agenda for fall 2020 as part of the Unified Agenda of Federal Regulatory and Deregulatory Actions (Unified Agenda). The Unified Agenda is coordinated by the Office of Management and Budget (OMB), pursuant to Executive Orders 12866 and 13563. The Board is participating voluntarily in the program to assist OMB and has included rulemaking proceedings in the Unified Agenda beyond those required by the RFA.

Dated: September 4, 2020.

By the Board, Chairman Begeman.

Jeffrey Herzig,
Clearance Clerk.

SURFACE TRANSPORTATION BOARD—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
505	Review of Commodity, Boxcar, and TOFC/COFC Exemptions, EP 704 (Sub-No. 1)	2140-AB29

SURFACE TRANSPORTATION BOARD (STB)

Prerule Stage

505. Review of Commodity, Boxcar, and TOFC/COFC Exemptions, EP 704 (Sub-No. 1)

E.O. 13771 Designation: Independent agency.

Legal Authority: 49 U.S.C. 10502; 49 U.S.C. 13301

Abstract: The Board proposed to revoke the class exemptions for the rail transportation of: (1) Crushed or broken stone or riprap; (2) hydraulic cement; and (3) coke produced from coal, primary iron or steel products, and iron or steel scrap, wastes, or tailings. On March 19, 2019, the Board issued a decision waiving the prohibition on ex parte communications in this proceeding and providing a 90-day

period for meetings with Board members. By decision served September 30, 2020 (published October 5, 2020), the Board invited public comment on a new approach its Office of Economics has developed for possible use in considering class exemption and revocation issues.

Timetable:

Action	Date	FR Cite
NPRM	03/28/16	81 FR 17125
NPRM Comment Period End.	07/26/16	
NPRM Reply Comment Period End.	08/26/16	
Request for Further Comment in Rulemaking Proceeding.	10/05/20	85 FR 62689
Comment Period End.	12/04/20	

Action	Date	FR Cite
Replies to Comments.	01/04/21	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Amy Ziehm, Branch Chief, Office of Proceedings, Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001, *Phone:* 202 245-0391, *Email:* amy.ziehm@stb.gov.

Francis O'Connor, Deputy Director, Office of Economics, Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001, *Phone:* 202 245-0331, *Email:* francis.o'connor@stb.gov.

RIN: 2140-AB29

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Part XXIX

Federal Permitting Improvement Steering
Council

Semiannual Regulatory Agenda

FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL

40 CFR Part 1900

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Federal Permitting Improvement Steering Council.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda contains the proposed regulatory actions that the Federal Permitting Improvement Steering Council (Permitting Council or FPISC) plans to undertake in the 12 months following the Permitting Council’s spring 2020 edition of its semiannual regulatory agenda, which included the Permitting Council’s previous regulatory agenda. The Permitting Council developed this agenda consistent with Executive Order 12866 “Regulatory Planning and Review,” Executive Order 13771 “Reducing Regulation and Controlling Regulatory Costs,” and Executive Order 13563 “Improving Regulation and Regulatory Review.”

FOR FURTHER INFORMATION CONTACT: John Cossa, General Counsel, Federal Permitting Improvement Steering

Council, Office of the Executive Director, 1800 G Street NW, Suite 2400, Washington, DC 20405, (202) 255–6936, john.cossa@fpisc.gov.

SUPPLEMENTARY INFORMATION: Title 41 of the Fixing America’s Surface Transportation Act (FAST–41), 42 U.S.C. 4370m *et seq.*, created the Permitting Council, which is comprised of an Office of the Executive Director, 13 Federal Agency Council members, and additional Council members Council on Environmental Quality and Office of Management and Budget. 42 U.S.C. 4370m–1(a) & (b). The Permitting Council is charged with improving the timeliness, predictability, and transparency of the federal environmental review and authorization process for certain critical and high economic value infrastructure projects across a broad range of industry sectors, including renewable and conventional energy production, electricity transmission, surface transportation, aviation, ports and waterways, water resource projects, broadband, pipelines, and manufacturing. Certain actions of the Permitting Council are rules of general applicability that affect the rights of the public and the regulated community and warrant informal rulemaking pursuant to the

Administrative Procedure Act, 5 U.S.C. 553.

The Permitting Council’s complete Unified Agenda will be available online at www.reginfo.gov and www.regulations.gov in a format that offers users an enhanced ability to obtain information from the Unified Agenda database. Publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (RFA), 5 U.S.C. 602. Accordingly, the Permitting Council’s printed agenda entries will include only:

(1) Rules that are included in the regulatory flexibility agenda pursuant to the RFA because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Rules that have been identified for periodic review under the RFA, 5 U.S.C. 610.

Printing of the semiannual regulatory agenda entries is limited to fields that contain information required by the RFA’s Unified Agenda requirements.

Dated: March 3, 2021.

Amber Levofsky,
Senior Advisor and Executive Operations Manager.

FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
506	FPISC Case 2020–001, Adding Mining as a Sector of Projects Eligible for Coverage Under Title 41 of the Fixing America’s Surface Transportation Act (FAST–41).	3121–AA01
507	Adding Land Revitalization as a Sector of Projects Eligible for Coverage Under Title 41 of the Fixing America’s Surface Transportation Act (FAST–41).	3121–AA02

FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
508	FPISC Case 2018–001; Fees for Governance, Oversight, and Processing of Environmental Reviews and Authorizations.	3121–AA00

FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL (FPISC)

Proposed Rule Stage

506. FPISC Case 2020–001, Adding Mining as a Sector of Projects Eligible for Coverage Under Title 41 of the Fixing America’s Surface Transportation Act (FAST–41)

E.O. 13771 Designation: Regulatory. *Legal Authority:* 42 U.S.C. 4370m(6)(A)

Abstract: Title 41 of the Fixing America’s Surface Transportation Act (FAST–41), 42 U.S.C. 4370m *et seq.*,

established the Federal Permitting Improvement Council (Permitting Council), which is comprised of an Office of the Executive Director, 13 Federal Agency Council members, and additional Council members Council on Environmental Quality and Office of Management and Budget. The Permitting Council is charged with improving the timeliness, predictability, and transparency of the federal environmental review and authorization process for “covered” infrastructure projects across a statutorily-identified range of industry sectors, including renewable and conventional energy

production, electricity transmission, surface transportation, aviation, ports and waterways, water resource projects, broadband, pipelines, and manufacturing. FAST–41 authorizes the Permitting Council, by majority vote of the Council members, to add classes of projects to those eligible for FAST–41 coverage. 42 U.S.C. 4370m(6)(A). Pursuant to that authority, and consistent with Executive Orders 13807 and 13817, the Permitting Council is proposing to include mining as a sector of projects eligible for coverage under FAST–41. Inclusion of mining on the covered sector list does not guarantee

that any particular mining project will be covered under FAST-41 or receive the benefits of enhanced coordination under the statute. A project sponsor seeking the benefits of FAST-41 must apply to the Permitting Council for project coverage.

Timetable:

Action	Date	FR Cite
NPRM	12/00/20	
NPRM Comment Period End.	01/00/21	
Final Rule	03/00/21	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: John Cossa, General Counsel, Office of the Executive Director, Federal Permitting Improvement Steering Council, 1800 F Street NW, Washington, DC 20006, *Phone:* 202 607-3498, *Email:* john.cossa@fpisc.gov, *RIN:* 3121-AA01

507. Adding Land Revitalization as a Sector of Projects Eligible for Coverage Under Title 41 of the Fixing America’s Surface Transportation Act (FAST-41)

E.O. 13771 Designation: Regulatory. *Legal Authority:* 42 U.S.C. 4370m(6)(A)

Abstract: Title 41 of the Fixing America’s Surface Transportation Act (FAST-41), 42 U.S.C. 4370m *et seq.*, established the Federal Permitting Improvement Council (Permitting Council), which is comprised of an Office of the Executive Director, 13 Federal Agency Council members and additional Council members Council on Environmental Quality and the Office of Management and Budget. The Permitting Council is charged with improving the timeliness, predictability, and transparency of the Federal

environmental review and authorization process for covered infrastructure projects across a statutorily-identified range of industry sectors, including renewable and conventional energy production, electricity transmission, surface transportation, aviation, ports and waterways, water resource projects, broadband, pipelines, and manufacturing. FAST-41 authorizes the Permitting Council, by majority vote of the Council members, to add classes of projects to those eligible for FAST-41 coverage. 42 U.S.C. 4370m(6)(A). Pursuant to that authority, and consistent with Executive Orders 13807 and 13817, the Permitting Council is proposing to include land revitalization as a sector of projects eligible for coverage under FAST-41. Inclusion of land revitalization on the covered sector list does not guarantee that any particular land revitalization project will be covered under FAST-41 or receive the benefits of enhanced coordination under the statute. A project sponsor seeking the benefits of FAST-41 must apply to the Permitting Council for project coverage.

Timetable:

Action	Date	FR Cite
NPRM	03/00/21	
NPRM Comment Period End.	04/00/21	
Final Rule	06/00/21	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Nicholas A. Falvo, Attorney—Advisor, Federal Permitting Improvement Steering Council, 1800 G Street NW, Suite 2400, Washington, DC 20006, *Phone:* 202 430-4463, *Email:* nicholas.falvo@fpisc.gov, *RIN:* 3121-AA02

FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL (FPISC)

Final Rule Stage

508. FPISC Case 2018-001; Fees for Governance, Oversight, and Processing of Environmental Reviews and Authorizations

E.O. 13771 Designation: Fully or Partially Exempt.

Legal Authority: 42 U.S.C. 4370m-8

Abstract: The Permitting Council is considering finalizing the regulation proposed on September 4, 2018, 83 FR 44846, that would establish a fee structure to reimburse the Permitting Council for reasonable costs incurred in coordinating environmental reviews and authorizations pursuant to title 41 of the Fixing America’s Surface Transportation Act (FAST-41), 42 U.S.C. 4370m *et seq.*

Timetable:

Action	Date	FR Cite
NPRM	09/04/18	83 FR 44846
NPRM Comment Period End.	11/05/18	
Final Rule	03/00/21	

Regulatory Flexibility Analysis

Required: Yes.

Agency Contact: Amber Levofsky, Senior Advisor and Executive Operations Manager, Federal Permitting Improvement Steering Council, 1800 G Street NW, Suite 2400, Washington, DC 20006, *Phone:* 202 412-2064, *Email:* amber.levofsky@fpisc.gov.

RIN: 3121-AA00

[FR Doc. 2021-04811 Filed 3-30-21; 8:45 am]

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H.R. 1651/P.L. 117-5
COVID-19 Bankruptcy Relief Extension Act of 2021 (Mar. 27, 2021; 135 Stat. 249)

H.R. 1799/P.L. 117-6
PPP Extension Act of 2021 (Mar. 30, 2021; 135 Stat. 250)
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